

RANG UNDANG-UNDANG KERJA (PINDAAN) 1976

FASAL 12 - Potong semua.

FASAL-FASAL 13 HINGGA 22 - Menomborkannya semula masing-masing sebagai Fasal-Fasal 12 hingga 21.

FASAL 23 - Gantikan perenggan (a) dengan yang berikut -
"(a) dengan memasukkan seksyen-kecil (1A) yang berikut selepas seksyen-kecil (1) -
"(1A) Notwithstanding subsection (1) and the interpretation of the expression "day" in subsection (1) of section 2, in the case of an employee engaged in shift work any continuous period of not less than thirty hours shall constitute a rest day."

FASAL-FASAL 22 HINGGA 44 - Menomborkannya semula masing-masing sebagai Fasal-fasal 22 hingga 43.

HURAIAN - Menomborkan semula angka "21" dalam perenggan 3 sebagai "20".

HURAIAN

Pindaan kepada fasal 12 Rang Undang-Undang bertujuan untuk memotong suatu peruntukan yang membolehkan Menteri mengecualikan mana-mana majikan atau klas majikan daripada perjalanan kuatkuasa seksyen 16 Ordinan.

Pindaan kepada fasal 23 bertujuan untuk menggantikan hari rehat bagi pekerja-pekerja yang bertugas dalam kerja syif dari dua puluh empat jam yang ada sekarang ini kepada suatu tempoh berterusan tiga puluh jam.

Pindaan-pindaan lain adalah berbangkit.
Menteri Undang-Undang dan Peguam Negara.

13 Julai, 1976

Naskah saheh—Bahasa Inggeris

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Ordinan Kerja 1955.

[]

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 Kerja (Pindaan) 1976 dan hendaklah mula berkuatkuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahu dalam *Warta*. Tajuk ringkas dan mula berkuatkuasa.
2. Seksyen 2 Ordinan Kerja 1955, yang dalam Akta ini disebut sebagai Ordinan, adalah dipinda— Pindaan bagi seksyen 2, 38/55.
 - (a) dalam seksyen-kecil (1) dengan memotong takrif-takrif bagi “day” dan “labourer” dan memasukkan takrif-takrif berikut bagi “approved amenity or approved service”, “day”, “employee” dan “shift work” di tempat-tempatnya yang wajar—

“approved amenity or approved service” means any amenity or service—

 - (a) approved by the Director General on application made to him by an employer for its inclusion in a contract of service; or
 - (b) provided for in any award made by the Industrial Court or in any collective agreement;’

“day” means—

- (a) a continuous period of twenty-four hours beginning at midnight; or
- (b) for the purposes of Part XII in respect of an employee engaged in shift work, a continuous period of twenty-four hours beginning at any point of time; ;

“employee” means any person or class of persons—

- (a) included in any category in the First Schedule to the extent specified therein; or
- (b) in respect of whom the Minister makes an order under subsection (3) or section 2A, ;

“shift work” means work which by reason of its nature requires to be carried on continuously or continually, as the case may be, by two or more shifts; ;

(b) dalam seksyen-kecil (1) dengan menggantikan perkataan-perkataan “amenity or services excluded by general or special order of the Minister published in the *Gazette*” dalam perenggan (a) pada takrif bagi “wages” dengan perkataan-perkataan “approved amenity or approved service”; dan

(c) dengan menggantikan seksyen-seksyen kecil (2), (3) dan (4) dengan yang berikut—

“(2) The Minister may by order amend the First Schedule.

(3) The Minister may by order declare such provisions of this Ordinance and any other written law as may be specified in the order to be applicable to any person or class of persons employed, engaged or contracted with to carry out work in any occupation in any agricultural or industrial undertaking, constructional work, statutory body, local government authority, trade, business or place of work, and upon the coming into force of any such order—

- (a) any person or class of persons specified in the order shall be deemed to be an employee or employees;

- (b) the person, statutory body or local government authority employing, engaging or contracting with every such person or class of persons shall be deemed to be an employer;
- (c) the employer and the employee shall be deemed to have entered into a contract of service with one another;
- (d) the place where such employee carries on work for his employer shall be deemed to be a place of employment; and
- (e) the remuneration of such employee shall be deemed to be wages,

for the purposes of such specified provisions of this Ordinance and any other written law.

(4) The Minister may make regulations in respect of the terms and conditions upon which the person or class of persons specified pursuant to subsection (3) may be employed.”.

3. Ketetapan Dewan Rakyat yang diluluskan pada 22hb Jun 1967 dan disiarkan sebagai P.U. 342 tahun 1967 pada 3hb Ogos 1967 adalah dibatalkan. Pembatalan ketetapan. P.U. 342/67.

4. Ordinan adalah dipinda dengan memasukkan seksyen-seksyen 2A dan 2B berikut selepas seksyen 2— Seksyen-seksyen baru 2A dan 2B.

“Minister may prohibit employment other than under contract of service.

2A. (1) The Minister may by order prohibit the employment, engagement or contracting of any person or class of persons to carry out work in any occupation in any agricultural or industrial undertaking, constructional work, statutory body, local government authority, trade, business or place of work other than under a contract of service entered into with—

- (a) the principal or owner of that agricultural or industrial undertaking, constructional work, trade, business or place of work; or
- (b) that statutory body or that authority.

(2) Upon the coming into force of any such order, the person or class of persons employed, engaged or contracted with to carry out the work shall be deemed to be an employee or employees and—

(a) the principal or owner of the agricultural or industrial undertaking, constructional work, trade, business or place of work; or

(b) the statutory body or local government authority,

shall be deemed to be the employer for the purposes of such provisions of this Ordinance and any other written law as may be specified in the order.

(3) Notwithstanding subsection (1), the Minister may by order approve the employment of any person or class of persons by such other person or class of persons (not being the principal or owner) as he may specify but subject to such conditions as he may deem fit to impose.

(4) Any person who contravenes any order made under this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand ringgit.

General
power to
exempt or
exclude.

2B. The Minister may by order exempt or exclude, subject to such conditions as he may deem fit to impose, any person or class of persons from all or any of the provisions of this Ordinance.”.

Pindaan bagi
seksyen 3.

5. Seksyen-kecil (3) seksyen 3 Ordinan adalah dipinda dengan menggantikan titik-tindih dengan suatu noktah dan memotongkan proviso.

Pindaan bagi
seksyen 6.

6. Ordinan adalah dipinda dengan menggantikan seksyen 6 dengan yang berikut—

“Saving of
existing
contracts.

6. Every agreement lawfully entered into between an employer and an employee before the coming into force of this Ordinance shall if it is still legally binding upon the parties continue in force for such period as may be specified in the agreement and the parties thereto shall be subject to, and shall be entitled to the benefits of, the provisions of this Ordinance.”.

7. Ordinan adalah dipinda dengan menggantikan seksyen 7 dengan yang berikut— **Pindaan bagi seksyen 7.**

“More favourable conditions of service under the Ordinance to prevail.

7. Subject to section 7A, any term or condition of a contract of service or of an agreement, whether such contract or agreement was entered into before or after the coming into force of this Ordinance, which provides a term or condition of service which is less favourable to an employee than a term or condition of service prescribed by this Ordinance shall be void and of no effect to that extent and the more favourable provisions of this Ordinance shall be substituted therefor.”.

8. Ordinan adalah dipinda dengan memotong perkataan-perkataan “other than sections 60G and 60H” dalam seksyen 7A. **Pindaan bagi seksyen 7A.**

9. Seksyen-kecil (1) seksyen 10 Ordinan adalah dipinda dengan menggantikan titik-tindih dengan suatu noktah dan memotong proviso. **Pindaan bagi seksyen 10.**

10. Seksyen 14 Ordinan adalah dipinda dengan menggantikan seksyen-kecil (1) (a) dengan yang berikut— **Pindaan bagi seksyen 14.**

“(1) An employer may, on the grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of his service, after due inquiry—

(a) dismiss without notice the employee; or”.

11. Seksyen-kecil (2) seksyen 15 Ordinan adalah dipinda dengan menggantikan perkataan “for” dalam perenggan (b) dengan perkataan-perkataan “prior to or at the earliest opportunity during”. **Pindaan bagi seksyen 15.**

12. Seksyen 16 Ordinan adalah dipinda dengan memasukkan seksyen-kecil (3) berikut selepas seksyen-kecil (2)— **Pindaan bagi seksyen 16.**

“(3) Notwithstanding the provisions of subsections (1) and (2), the Minister may by order exempt any employer or class of employers from the operation of this section subject to such conditions as the Minister may deem fit to impose and such order shall be final.”.

13. Ordinan adalah dipinda dengan memotong seksyen 17. **Pemotongan seksyen 17.**

14. Ordinan adalah dipinda dengan menggantikan perkataan “17” dalam seksyen 17A dengan perkataan “16”. **Pindaan bagi seksyen 17A.**

Pindaan bagi
seksyen 21.

15. Seksyen-kecil (1) seksyen 21 Ordinan adalah dipinda—

- (a) dengan memotong perkataan-perkataan “sub-section (1) of” sebelum perkataan-perkataan “section 13” dan memasukkan perkataan-perkataan “paragraph (a) of” selepas perkataan-perkataan “section 13 or” dalam baris tiga;
- (b) dengan menggantikan perkataan “(2)” dalam baris tujuh dengan perkataan “(3)”;
- (c) dalam perenggan (b) dengan memotong perkataan-perkataan “without notice” dan “paragraph (a) of”; dan
- (d) dengan menggantikan perkataan “fifth” dalam baris yang kedua terakhir dengan perkataan “fourth”.

Pindaan bagi
seksyen 24.

16. Seksyen 24 Ordinan adalah dipinda—

- (a) dalam seksyen-kecil (2) dengan memasukkan perkataan-perkataan “or subsection (2) of section 15” selepas perkataan-perkataan “section 13” dalam perenggan (c) dan memasukkan suatu koma dan perkataan-perkataan “employees’ welfare scheme” selepas perkataan-perkataan “provident fund” dalam perenggan (e) (i);
- (b) dalam proviso kepada seksyen-kecil (4) dengan memotong perkataan-perkataan “paragraph (a) of sub-section (1) of section 13 or under sub-section (2) of” dalam baris-baris tiga dan empat; dan
- (c) dalam seksyen-kecil (4) dengan menggantikan noktah di hujung proviso dengan suatu titik-tindih dan memasukkan proviso selanjutnya berikut—

“Provided further that the limitation imposed by this subsection may, with the prior permission in writing of Director General, be exceeded by an additional amount equivalent to not more than twenty-five per centum of the wages earned where such additional amount constitutes any repayment of a housing loan, wholly or in part.”.

Pindaan bagi
seksyen 29.

17. Seksyen 29 Ordinan adalah dipinda dengan memasukkan perkataan “approved” sebelum perkataan “amenity” dalam baris empat dan sebelum perkataan “service” dalam baris lima.

18. Seksyen-kecil (1) seksyen 33 Ordinan adalah dipinda— **Pindaan bagi seksyen 33.**

- (a) dengan memasukkan perkataan-perkataan "or a housing developer" selepas perkataan-perkataan "constructional contractor" dalam baris terakhir bagi proviso (a); dan
- (b) dengan menggantikan perkataan "thirty" dalam baris lima bagi proviso (c) dengan perkataan "ninety".

19. Seksyen 34 Ordinan adalah dipinda—

Pindaan bagi seksyen 34.

- (a) dengan menomborkan semula peruntukan yang sedia ada sebagai seksyen-kecil (1) dan memasukkan perkataan-perkataan "or any exemption granted under the proviso to this subsection," selepas perkataan "Ordinance" dalam baris dua;
- (b) dengan menggantikan noktah dalam baris enam dengan suatu titik-tindih dan memasukkan proviso berikut kepada seksyen-kecil (1)—

"Provided that the Director General may, on application made to him in any particular case, exempt in writing any female employee or class of female employees from any restriction in this subsection, subject to any conditions he may impose."; dan

- (c) dengan memasukkan seksyen-seksyen kecil (2) dan (3) berikut selepas seksyen-kecil (1)—

"(2) Any person—

- (a) who is affected by any decision made or condition imposed under the proviso to subsection (1); and
- (b) who is dissatisfied with such decision or condition,

may within thirty days of such decision or condition being communicated to him appeal in writing therefrom to the Minister.

(3) In deciding any appeal made to him under subsection (2), the Minister may make such decision or order thereon, including the alteration or removal of any condition imposed or the imposition of any further condition, as appears just and such decision or order shall be final."

Pindaan bagi
seksyen 36,

20. Seksyen 36 Ordinan adalah dipinda dengan menggantikan perkataan-perkataan "House of Representatives" dengan perkataan "Minister" dan menggantikan perkataan "resolution" dengan perkataan "order".

Pindaan bagi
Bahagian IX.

21. Ordinan adalah dipinda dengan menggantikan Bahagian IX dengan yang berikut—

"PART IX

MATERNITY PROTECTION

Length of
eligible
period and
entitlement
to maternity
allowance.

37. (1) (a) Every female employee shall be entitled to maternity leave for a period not exceeding sixty consecutive days (also referred to in this Part as the eligible period) in respect of each confinement and, subject to the provisions of this Part, she shall be entitled to receive from her employer a maternity allowance to be calculated or prescribed as provided in subsection (2) in respect of the eligible period.

(b) Subject to the provisions of section 40, maternity leave may commence from any day within a period of thirty days immediately preceding the confinement of a female employee or from the day immediately following her confinement.

(c) Notwithstanding the provisions of paragraph (a), a female employee shall not be entitled to any maternity allowance if at the time of her confinement she has three or more surviving children.

(d) For the purposes of this Part, "children" means all natural children, irrespective of age.

(2) Every female employee who at any time during the four months immediately preceding her confinement was employed by an employer by whom she had been employed for a period of, or periods amounting in the aggregate to, not less than ninety days during the nine months immediately preceding her confinement shall be entitled to receive from such employer for each day of the eligible period a maternity allowance at her

ordinary rate of pay for one day, or at the rate prescribed by the Minister pursuant to subsection (2) (c) of section 102, whichever is the greater :

Provided that where a female employee claims the maternity allowance under this section from more than one employer, she shall not be entitled to receive an amount exceeding in the aggregate the amount which she would be entitled to receive if her claim was made against one employer only.

(3) Where there are more employers than one from whom the female employee would be entitled to claim maternity allowance in accordance with the provisions of subsection (2) the employer who pays the maternity allowance shall be entitled to recover from such other employer, as a civil debt, a contribution which shall bear the same proportion to the amount of the maternity allowance paid to the female employee as the number of days on which she worked for such other employer during the period of nine months immediately preceding her confinement bears to the total number of days on which she worked during the said period :

Provided that if the female employee has failed to comply with the provisions of subsection (1) or (2) of section 40, the employer who pays the maternity allowance shall not thereby be prevented from recovering contribution calculated in accordance with the provisions of this subsection.

Payment of
maternity
allowance.

38. The maternity allowance referred to in subsection (2) of section 37 and accruing in each wage period under the contract of service of the female employee shall be paid in the same manner as if such allowance were wages earned during such wage period as provided in section 19.

Payment of
allowance
to nominee
on death
of female
employee.

39. If a female employee, after giving notice to her employer that she expects to be confined, commences her maternity leave and dies from any cause during the eligible period, her employer or any employer who would have been, but for the death of the female employee, liable to pay any

maternity allowance shall pay to the person nominated by her under section 41 or, if there is no such person, to her legal personal representative, an allowance at the rate calculated or prescribed as provided in subsection (2) of section 37 from the day she commenced her maternity leave to the day immediately preceding her death but no employer shall be liable to pay such allowance in respect of a period exceeding sixty days.

Loss of maternity allowance for failure to notify employer.

40. (1) A female employee who is about to leave her employment and who knows or has reason to believe that she will be confined within four months from the date upon which she leaves shall before leaving her employment notify her employer of her pregnancy and if she fails so to do, she shall not be entitled to receive any maternity allowance from such employer.

(2) A female employee shall within a period of sixty days immediately preceding her expected confinement notify her employer of it and the date from which she intends to commence her maternity leave and if she commences such leave without so notifying her employer, the payment of maternity allowance to her may be suspended, notwithstanding the provisions of section 38, until such notice is given to her employer.

(3) Any employer who dismisses a female employee from her employment during the period in which she is entitled to maternity leave shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand ringgit.

(4) Any female employee whose employer provides free medical treatment for his employees and who when she is pregnant persistently refuses or fails to submit to such medical treatment offered free by her employer as a registered medical practitioner certifies to be necessary or desirable in connection with her pregnancy, expected confinement or confinement shall, if she would otherwise be entitled to receive any maternity allowance, forfeit such allowance to the extent of seven days.

(5) The want of or any defect or inaccuracy in any notice required to be given in accordance with the provisions of this section shall not be a bar to the maintenance of any claim to maternity allowance unless the employer is proved to have been prejudiced by the want, defect or inaccuracy of such notice.

(6) The failure to give any such notice within the period specified in this section shall not prejudice the right of a female employee to receive any maternity allowance if it is found that the failure was occasioned by mistake or other reasonable cause:

Provided that any dispute as to whether such failure was occasioned by mistake or other reasonable cause shall be referred under section 69 to the Director General for his decision.

(7) Notice to an employer or, if there is more than one employer, to one of such employers, may be given either in writing or orally or to the foreman or other person under whose supervision the female employee was employed or to any person designated for the purpose by the employer.

Payment of allowance to nominee.

41. A female employee may nominate some other person to whom the maternity allowance may be paid on her behalf and any payment of the maternity allowance made to the person so nominated shall, for the purposes of this Ordinance, be deemed to be a payment to the female employee herself.

Restriction on dismissal of female employee after eligible period.

42. (1) Where a female employee remains absent from her work after the expiration of the eligible period as a result of illness certified by a registered medical practitioner to arise out of her pregnancy and confinement and to render her unfit for her work, it shall be an offence, until her absence exceeds a period of ninety days after the expiration of the eligible period, for her employer to dismiss her or give her notice of dismissal at such time that the notice would expire during such absence.

(2) Subject to the provisions of subsection (1), where a female employee is dismissed from her employment with wages in lieu of notice at any time during the period of four months immediately preceding her confinement, she shall, in computing the period of her employment for the purposes of this Part, be deemed to have been employed as if she had been given due notice instead of wages in lieu thereof.

Conditions contrary to Part void.

43. Any condition in a contract of service whereby a female employee relinquishes or is deemed to relinquish any right under this Part shall be void and of no effect and the right conferred under this Part shall be deemed to be substituted for such condition.

Register of allowances paid.

44. Every employer shall keep a register, in a form to be prescribed by the Minister by regulations made under this Ordinance, of all payments made to female employees under the provisions of this Part and of such other matters incidental thereto as may be prescribed by such regulations.

When female employee not entitled to maternity allowance.

44A. No female employee shall be entitled to receive any maternity allowance if during her abstention from work during the eligible period she receives from her employer wages equivalent to or in excess of the amount she would be entitled to receive as maternity allowance for that period.”.

Pindaan bagi seksyen 58.

22. Ordinan adalah dipinda dengan menggantikan perkataan-perkataan “five hundred dollars a month or such other amount as may be fixed from time to time by the Minister” dalam seksyen 58 dengan perkataan-perkataan “the amount specified in paragraph 2 (1) of the First Schedule”.

Pindaan bagi seksyen 59.

23. Seksyen 59 Ordinan adalah dipinda—

(a) dalam seksyen-kecil (1) dengan menggantikan noktah dengan suatu titik-tindih dan memasukkan proviso berikut—

“Provided that in the case of an employee engaged in shift work any continuous period of not less than twenty-four hours shall constitute a rest day.”;

- (b) dengan menggantikan perkataan-perkataan "Where the rest day of a labourer is determined by his employer, the" dalam seksyen-kecil (2) dengan perkataan "The"; dan
- (c) dengan memasukkan seksyen-seksyen kecil (3) dan (4) berikut selepas seksyen-kecil (2)—

"(3) Every such roster and every particular recorded therein shall be preserved and shall be made available for inspection for a period not exceeding six years from the last day of the month in respect of which the roster was prepared or cause to be prepared.

(4) Any employer who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand ringgit."

24. Seksyen 60 Ordinan adalah dipinda—

Pindaan bagi seksyen 60.

- (a) dalam seksyen-kecil (1) dengan memasukkan perkataan-perkataan "or continually" selepas perkataan "continuously" dan menggantikan perkataan-perkataan "a succession of" dengan perkataan-perkataan "two or more";
- (b) dengan memotong seksyen-kecil (2); dan
- (c) dengan menggantikan seksyen-kecil (3) dengan yang berikut—

"(3) (a) In the case of an employee employed on a daily, hourly or other similar rate of pay who works on a rest day, he shall be paid for any period of work—

- (i) which does not exceed half his normal hours of work, one day's wages at the ordinary rate of pay; and
- (ii) which is more than half but does not exceed his normal hours of work, two days' wages at the ordinary rate of pay.

(b) In the case of an employee employed on a monthly rate of pay who works on a rest day, he shall be paid for any period of work—

- (i) which does not exceed half his normal hours of work, wages equivalent to half the ordinary rate of pay for work done on that day; and

(ii) which is more than half but which does not exceed his normal hours of work, one day's wages at the ordinary rate of pay for work done on that day.

(c) For any work carried out in excess of the normal hours of work on a rest day by an employee mentioned in paragraph (a) or (b) of this subsection, he shall be paid at a rate which is not less than twice his hourly rate of pay.

(d) In the case of an employee employed on piece rates who works on a rest day, he shall be paid twice his ordinary rate per piece.”.

Pindaan bagi seksyen 60A. 25. Seksyen 60A Ordinan adalah dipinda—

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

“(3) (a) For any overtime work carried out in excess of the normal hours of work, the employee shall be paid at a rate not less than one and a half times his hourly rate of pay irrespective of the basis on which his rate of pay is fixed.

(b) In this section “overtime” means the number of hours of work carried out in excess of the normal hours of work:

Provided that work carried out on any rest day or any of the seven gazetted public holidays referred to in subsection (1) of section 60D shall not be construed as overtime work.

(c) For the purposes of this section, section 60, subsections (3) (a) and (3) (c) of section 60D and section 60I, “normal hours of work” means the number of hours of work as agreed between an employer and an employee in the contract of service to be the usual hours of work per day or per week, as the case may be, and such hours of work shall not exceed the limits of hours prescribed in subsection (1).”;

- (b) dalam seksyen-kecil (4) dengan menggantikan proviso kepada perenggan (a) dengan yang berikut—

“Provided that the Director General may on application made to him in writing permit any employee or class of employees in any particular industry or undertaking to exceed the limit of hours prescribed in this paragraph but subject to any conditions he may impose.”;

- (c) dalam seksyen-kecil (4) dengan memasukkan perenggan-perenggan (aa) dan (ab) selepas proviso kepada perenggan (a)—

“(aa) Any person who is dissatisfied with any decision of the Director General made under paragraph (a) may, within thirty days of such decision being communicated to him, appeal in writing therefrom to the Minister.

(ab) In deciding any appeal made to him under paragraph (aa), the Minister may make such decision or order thereon as appears just and such decision or order shall be final.”;

- (d) dalam seksyen-kecil (4) dengan menggantikan koma dalam baris tiga perenggan (b) dengan suatu noktah dan memotong perkataan-perkataan yang berikut selepasnya dalam perenggan itu; dan

- (e) dengan memotong seksyen-kecil (5).

26. Seksyen 60c Ordinan adalah dipinda—

Pindaan bagi seksyen 60c.

- (a) dalam seksyen-kecil (1) dengan memotong perkataan “regular” dalam baris tiga;

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

“(2) Except in the circumstances described in paragraphs (a), (b), (c), (d) and (e) of subsection (2) of section 60A, no employee who is engaged under this contract of service in shift work shall work for more than twelve hours in any one day.”; dan

- (c) dengan memotong seksyen-kecil (3).

Pindaan bagi seksyen 60D. 27. Seksyen 60D Ordinan adalah dipinda—

- (a) dengan menggantikan perkataan “five” dalam baris dua seksyen-kecil (1) dengan perkataan “seven”; dan
- (b) dengan menggantikan seksyen-kecil (3) dengan yang berikut—

“(3) (a) Notwithstanding the provisions of subsection (1), any employee may be required by his employer to work on any holiday to which he would be entitled under the said subsection and in such event, he shall be paid wages on the same basis as for work on a rest day as provided in subsection (3) of section 60.

(b) An employee who works on a holiday shall be entitled to a travelling allowance for that day if payable to him under the terms of his agreement with his employer but such employee shall not be entitled under the provisions of this subsection to receive double any housing allowance or food allowance.”.

Pindaan bagi seksyen 60E. 28. Seksyen 60E Ordinan adalah dipinda dengan memasukkan seksyen-kecil (3A) berikut selepas seksyen-kecil (3)—

“(3A) Where the employer has failed to grant such leave or any part thereof to which the employee is entitled, the employer shall be guilty of an offence against this Ordinance and shall also pay the employee his ordinary rate in respect of every day of such leave not so granted.”.

Pindaan bagi seksyen 60F. 29. Seksyen 60F Ordinan adalah dipinda—

- (a) dalam seksyen-kecil (1) dengan memotong perkataan-perkataan “who has served an employer for a period of not less than twelve months” dalam baris-baris satu dan dua, dan menggantikan perkataan-perkataan “less than forty-six days” dalam baris-baris satu dan dua bagi proviso pertama dengan perkataan-perkataan “forty-six days or less”; dan

(b) dalam seksyen-kecil (3) dengan memasukkan perkataan "or" selepas perkataan "60D" dalam baris tiga bagi proviso pertama dan memasukkan suatu koma dan perkataan-perkataan "benefits under the Employees' Social Security Act 1969, or maternity allowance under Part IX" selepas perkataan "1952" dalam baris terakhir bagi proviso selanjutnya. Akta 4.

30. Ordinan adalah dipinda dengan memotong seksyen-seksyen 60G dan 60H. Pemotongan seksyen-seksyen 60G dan 60H.

31. Ordinan adalah dipinda dengan menggantikan seksyen 60I dengan yang berikut— Pindaan bagi seksyen 60I.

"Interpretation of "ordinary rate of pay" and "hourly rate of pay".

60I. (1) For the purposes of sections 37, 60, 60A, 60D, 60E and 60F, "ordinary rate of pay" means the total wages in cash, including cash allowance but excluding travelling allowances, which an employee is entitled under the terms of his agreement with his employer to receive for the normal hours of work for one day and "hourly rate of pay" means the ordinary rate of pay divided by the normal hours of work:

Provided that—

(a) in the case of an employee employed on a daily rate of pay the ordinary rate of pay shall be calculated by dividing the total wages earned by the employee during the period of thirty days on which he had worked immediately preceding the day on which his entitlement to payment accrues or commences by the number of days on which the employee actually worked during such period of thirty days;

(b) in the case of an employee employed on a monthly rate of pay the ordinary rate of pay shall be calculated according to the following formula—

twelve months multiplied by monthly rate of pay and divided by fifty-two weeks multiplied by four-eight hours, the result

to be multiplied by eight hours, as follows—

$$\frac{12 \times \text{monthly rate of pay}}{52 \times 48} \times \frac{8}{1};$$

and

(c) in the case of an employee employed on piece rates the ordinary rate of pay shall be calculated by dividing the total wages earned by such employee during the period of fourteen days on which he had worked immediately preceding the day on which his entitlement to payment accrues or commences by the number of days on which such employee actually worked during such period of fourteen days.

(2) Notwithstanding the provisions of subsection (1), an employer may adopt any other method or formula for calculating the ordinary rate of pay which results in a rate not less favourable to the employee than any of the rates arrived at by adopting any of the methods or formulae specified in subsection (1)."

Pindaan bagi seksyen 60j.

32. Seksyen 60j Ordinan adalah dipinda—

- (a) dengan menggantikan perkataan-perkataan "one thousand dollars" dalam seksyen-kecil (1) dengan perkataan-perkataan "two thousand ringgit"; dan
- (b) dengan memotong perkataan-perkataan "other than sections 60G and 60H" dalam seksyen-kecil (2).

Pindaan bagi seksyen 61.

33. Seksyen-kecil (2) seksyen 61 Ordinan adalah dipinda dengan menggantikan perkataan "three" dalam baris tiga dengan perkataan "six".

Seksyen baru 63A.

34. Ordinan adalah dipinda dengan memasukkan seksyen 63A berikut selepas seksyen 63—

"Duty to give notice and other information.

63A. (1) Any person or employer who proposes—

- (a) to operate any agricultural or industrial undertaking or any establishment where any commerce, trade or business is carried on; or
- (b) to take over or commence business in such undertaking or establishment,

in which any employee is employed or is likely to be employed shall, within ninety days of such

commencing of operation, taking over or commencing of business, as the case may be, give notice in writing thereof to the Director of Labour of the State in which that undertaking or establishment is located and furnish him with—

- (i) the registered name, address and nature of business of;
- (ii) the name of the manager or person in charge of; and
- (iii) a statement of the categories and total number of employees employed in, that undertaking or establishment.

(2) Where any undertaking or establishment as is referred to in subsection (1) is already in operation or has commenced business, such notice shall be given within ninety days of the coming into force of this section.

(3) Any person or employer who fails to give notice as required by this section or gives such notice containing any false particulars shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand ringgit.”

35. Ordinan adalah dipinda dengan menggantikan seksyen 64 dengan yang berikut— Pindaan bagi seksyen 64.

“Duty to display notice boards.

64. The owner of any—

- (a) estate of twenty-five acres or more;
- (b) mine;
- (c) factory;
- (d) trade, business or manufacturing activity carried on in any premises,

on or in which not less than five employees are employed shall, if such estate, mine, factory or premises is outside the limits of a City, Municipality, Town Council, Town Board or other local authority, cause to be erected where practicable in a conspicuous place at or adjacent to the place where the access road to such estate, mine, factory or premises joins the main road or a railway or river, as the case may be, a notice board on which shall be set out in the National Language

the name of such estate, mine, factory, trade, business or manufacturing activity and the address of the registered or other office thereof.”.

Pindaan bagi seksyen 65. 36. Seksyen 65 Ordinan adalah dipinda dengan memotong perkataan “reasonable” dalam baris dua.

Pindaan bagi seksyen 69. 37. Seksyen 69 Ordinan adalah dipinda dengan memasukkan seksyen-seksyen-kecil (3) dan (4) berikut selepas seksyen-kecil (2)—

“(3) In addition to the powers conferred by the provisions of subsections (1) and (2), the Director General may inquire into and confirm or set aside any decision made by an employer to down-grade or suspend an employee under section 14 and the Director General may make such further consequential orders as may be necessary to give effect to his decision.

(4) Any person who fails to comply with any order made under subsection (3) of this section shall be guilty of an offence against this Ordinance.”.

Seksyen baru 69A. 38. Ordinan adalah dipinda dengan memasukkan seksyen 69A berikut selepas seksyen 69—

“Limitation on power conferred by section 69. 69A. Notwithstanding the provisions of section 69, the Director General shall not inquire into, hear, decide or make any order in respect of any claim, dispute or purported dispute which, in accordance with the provisions of the Industrial Relations Act 1967—

35/67.

(a) has been referred to, or is pending in any proceeding before, the Industrial Court; or

(b) is pending in any inquiry under that Act.”.

Pindaan bagi Bahagian XVII. 39. Ordinan adalah dipinda dengan menggantikan perkataan-perkataan “five hundred dollars” dan “two thousand dollars” di mana jua didapati dalam Bahagian XVII masing-masing dengan perkataan-perkataan “two thousand ringgit” dan “five thousand ringgit”.

Pindaan bagi seksyen 93. 40. Ordinan adalah dipinda dengan menggantikan perkataan-perkataan “resolution” dan “House of Representative” dalam seksyen 93 masing-masing dengan perkataan-perkataan “order” dan “Minister”.

41. Ordinan adalah dipinda dengan memasukkan seksyen 99A berikut selepas seksyen 99— Seksyen baru 99A.

“General penalty,

99A. Any person who contravenes any provision of or any order made under this Ordinance in respect of which no penalty is provided shall be liable, on conviction, to a fine not exceeding two thousand ringgit.”.

42. Seksyen-kecil (2) seksyen 102 Ordinan adalah dipinda— Pindaan bagi seksyen 102.

(a) dengan menggantikan perkataan-perkataan “before and after confinement” dalam perenggan (c) dengan perkataan-perkataan “during the eligible period”; dan

(b) dengan memasukkan perenggan (da) berikut selepas perenggan (d)—

“(da) prescribing entitlement to and payment of retrenchment and retirement benefits;”.

43. Ordinan adalah dipinda dengan menggantikan Jadual Pertama dengan berikut— Pindaan bagi Jadual Pertama.

“FIRST SCHEDULE
(Section 2 (1))

Employee

Provisions of
the Ordinance not
applicable

1. Any person who has entered into a contract of service with an employer in pursuance of which—

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

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

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

| Employee | Provisions of the Ordinance not applicable |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| (3) he supervises or oversees other employees engaged in manual labour employed by the same employer in and throughout the performance of their work; | |
| (4) he is engaged in any capacity in any vessel registered in the States of Malaya and who— | Part XII |
| (a) is not an officer certificated under the Merchant Shipping Acts of the United Kingdom, as amended from time to time; | |
| 70152. (b) is not the holder of a local certificate as defined in Part VII of the Merchant Shipping Ordinance 1952; or | |
| (c) has not entered into an agreement under the provisions of Part III of the Merchant Shipping Ordinance 1952; or | |
| (5) he is engaged as a domestic servant. | Sections 12, 14, 16, 22, 61 and 64 and Parts IX and XII |
| 2. (1) Any person, irrespective of his occupation, who has entered into a contract of service with an employer under which such person's wages do not exceed seven hundred and fifty ringgit a month. | |
| (2) For the purposes of this paragraph "wages" shall not include any payment by way of commission, subsistence allowance and overtime payment." | |

Pindaan am. 44. Ordinan adalah dipinda dengan menggantikan perkataan-perkataan "a labourer", "labourer" dan "labourers" di mana jua perkataan-perkataan itu didapati masing-masing dengan perkataan-perkataan "an employee", "employee" dan "employees".

HURAIAN

Rang Undang-undang ini bertujuan untuk meminda Ordinan Kerja 1955 supaya ia menjadi lebih lengkap dan senang dijalankan dalam keadaan amalan-amalan gunakhidmat sekarang ini.

Suatu perubahan besar yang dicadangkan ialah mengadakan suatu seksyen baru 2A (*diadakan oleh fasal 2*) yang membolehkan Menteri dengan perintah melarang pengambilan kerja, penugasan atau pengikatan kontrek mana-mana orang atau klas orang untuk menjalankan kerja dalam sesuatu pekerjaan dalam mana-mana perusahaan pertanian dan perindustrian, kerja pembinaan, badan berkanun, pihak-berkuasa kerajaan tempatan, pertukangan, perniagaan atau tempat kerja secara lain daripada di bawah suatu kontrek perkhidmatan yang dibuat dengan pemunya atau prinsipal perusahaan, kerja pembinaan, pertukangan, perniagaan atau tempat kerja itu, atau dengan badan berkanun atau pihakberkuasa kerajaan tempatan itu. Apabila perintah itu dibuat, semua orang atau klas orang yang dinyatakan dalam perintah itu akan menjadi majikan dan pekerja bagi maksud peruntukan-peruntukan yang dinyatakan bagi Ordinan dan mana-mana undang-undang bertulis yang lain. Adalah juga dicadangkan bahawa Menteri diberi kuasa untuk mengecualikan orang-orang dan klas-klas orang daripada perjalanan kuatkuasa mana-mana peruntukan Ordinan (seksyen 2B baru).

Fasal 21 bertujuan untuk menggantikan Bahagian IX Ordinan dengan Bahagian IX baru. Perkara-perkara yang terkemuka dalam Bahagian IX baru itu ialah pertukaran, mengenai cuti bersalin, daripada tempoh-tempoh cuti sebelum bersalin dan cuti selepas bersalin kepada suatu tempoh enam puluh hari berturut-turut bagi cuti bersalin (juga disebutkan "the eligible period"), dan peruntukan bagi menghadkan cuti bersalin kepada tiga kali bersalin. Peruntukan-peruntukan lain bagi Bahagian IX baru itu membuat pindaan-pindaan yang berbangkit.

Rang Undang-undang juga bertujuan untuk mewakili kuasa-kuasa Dewan Rakyat di bawah Ordinan kepada Menteri dan, dalam hal-hal tertentu, kuasa-kuasa Menteri kepada Ketua Pengarah. Pindaan-pindaan lain yang dicadangkan ialah—

- (a) mengenai peruntukan-peruntukan yang berkaitan bagi Ordinan dan yang perlu dipinda oleh sebab pindaan-pindaan besar;
- (b) mengenai peruntukan-peruntukan berhubung dengan berbagai-bagai faedah di bawah Ordinan dan berhubung dengan pengiraan atau penghitungan faedah-faedah itu;
- (c) mengenai peruntukan-peruntukan yang pada amnya ialah untuk menyekat penyalahgunaan kuasa-kuasa tertentu di bawah Ordinan oleh majikan-majikan; dan
- (d) untuk membuat pertukaran-pertukaran kecil dan yang berbangkit.

IMPLIKASI KEWANGAN

Rang Undang-undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan kewangan tambahan. [PN. (U²) 642.]