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WARTA KERAJAAN PERSEKUTUAN

*FEDERAL GOVERNMENT
GAZETTE*

PERATURAN-PERATURAN PENCEN (PINDAAN) 2012

PENSIONS (AMENDMENT) REGULATIONS 2012



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AKTA PENCEN 1980

PERATURAN-PERATURAN PENCEN (PINDAAN) 2012

PADA menjalankan kuasa yang diberikan oleh seksyen 5 Akta Pencen 1980 [*Akta 227*], Yang di-Pertuan Agong membuat peraturan-peraturan yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Peraturan-peraturan ini bolehlah dinamakan **Peraturan-Peraturan Pencen (Pindaan) 2012**.

(2) Peraturan 2, 5, 6, 7 dan 8 disifatkan telah mula berkuat kuasa pada 1 Januari 2009.

(3) Perenggan 3(*a*) dan (*b*) disifatkan telah mula berkuat kuasa pada 1 Januari 2012.

(4) Dalam perenggan 3(*c*)—

(*a*) perenggan baru 6(1)(*ja*) disifatkan telah mula berkuat kuasa pada 1 Januari 1992; dan

(*b*) perenggan baru 6(1)(*jb*) disifatkan telah mula berkuat kuasa pada 30 April 1997;

(5) Dalam peraturan 4—

(*a*) rujukan kepada perenggan 6(1)(*ja*) disifatkan telah mula berkuat kuasa pada 1 Januari 1992; dan

(*b*) rujukan kepada perenggan 6(1)(*jb*) disifatkan telah mula berkuat kuasa pada 30 April 1997.

Pindaan peraturan 4

2. Peraturan-Peraturan Pencen 1980 [*P.U. (A) 176/1980*], yang disebut “Peraturan-Peraturan ibu” dalam Peraturan-Peraturan ini, dipinda dalam peraturan 4 dengan menggantikan perkataan “setengah” di mana-mana jua terdapat dengan perkataan “tiga per lima”.

Pindaan peraturan 6

3. Peraturan 6 Peraturan-Peraturan ibu dipinda—

(a) dengan memasukkan selepas perenggan (1)(a) perenggan yang berikut:

“(aa) tempoh perkhidmatan lalu yang terputus disebabkan peletakan jawatan atau pelepasan jawatan bagi pegawai yang dilantik semula sama ada dalam perkhidmatan awam atau perkhidmatan Pihak Berkuasa Berkanun atau Tempatan pada atau selepas 1 Januari 2012;”;

(b) dalam proviso kepada perenggan (1)(g), dengan memasukkan selepas perkataan “yang terdahulu itu” perkataan “tetapi syarat mendapat pelepasan secara bertulis daripada pihak berkuasa berkenaan bagi perkhidmatannya yang terdahulu itu tidak terpakai bagi seseorang pegawai yang dilantik pada atau selepas 1 Januari 2012”; dan

(c) dengan memasukkan selepas perenggan (1)(j) perenggan yang berikut:

“(ja) perkhidmatan seorang pegawai yang terputus pada atau sebelum 29 April 1997 kerana peletakan jawatan untuk menyertai perkhidmatan swasta sebelum kembali semula untuk berkhidmat dengan Kerajaan sebelum 1 Januari 2012 menurut perenggan 94 Pekeliling Perkhidmatan Bilangan 9 Tahun 1991, dengan syarat bahawa pegawai itu telah memilih opsyen Sistem Saraan Baru atau telah dilantik di bawah Sistem Saraan Baru atau apa-apa sistem saraan lain yang berkuat kuasa selepas itu;

- (jb)* perkhidmatan seorang pegawai yang terputus pada atau selepas 30 April 1997 kerana peletakan jawatan atas sebab untuk menyertai perkhidmatan swasta sebelum kembali semula untuk berkhidmat dengan Kerajaan sebelum 1 Januari 2012 menurut Surat Pekeliling Perkhidmatan Bilangan 2 Tahun 1997, dengan syarat bahawa pegawai itu—
- (i) telah memilih opsyen Sistem Saraan Baru atau telah dilantik di bawah Sistem Saraan Baru atau apa-apa sistem saraan lain yang berkuat kuasa selepas itu; dan
- (ii) telah mendapat kelulusan bertulis daripada Jabatan Perkhidmatan Awam untuk menyertai agensi swasta yang tertentu sebelum meletakkan jawatan;”.

Pindaan peraturan 7

4. Peraturan 7 Peraturan-Peraturan ibu dipinda dalam perenggan *(d)* dengan menggantikan perkataan “peraturan 6(1)(e)” dengan perkataan “perenggan 6(1)(e), *(ja)* dan *(jb)*”.

Pindaan peraturan 21

5. Peraturan 21 Peraturan-Peraturan ibu dipinda—

- (a)* dengan menggantikan subperaturan (1) dengan subperaturan yang berikut:

“(1) Jika disebabkan kepentingan perkhidmatan seseorang pegawai yang gajinya dibayar daripada Kumpulan Wang Disatukan Persekutuan tidak dapat mengambil cuti rehat tahunannya, pegawai itu boleh dibenarkan mengumpul sehingga setengah daripada kelayakan cuti rehatnya bagi tahun itu yang dia layak diberikan award wang tunai tetapi tertakluk kepada maksimum sebanyak lima belas hari dalam setahun,

dengan syarat bahawa jumlah cuti rehat terkumpul itu hendaklah tertakluk kepada maksimum satu ratus lima puluh hari.”;

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

“(1A) Walau apa pun subperaturan (1), pada tahun akhir perkhidmatannya, seseorang pegawai itu dibenarkan untuk mengumpul cuti rehat yang dia layak bagi tahun itu dan apa-apa baki cuti rehat yang dia layak pada tahun sebelumnya bagi maksud pemberian award wang tunai, dengan syarat bahawa jumlah keseluruhan cuti rehat terkumpul bagi maksud pemberian award wang tunai itu tidak melebihi satu ratus lima puluh hari.

(1B) Jika seseorang pegawai bersara atau mati dalam perkhidmatan, dia atau tanggungannya boleh diberikan award wang tunai bagi setiap hari cuti rehat terkumpulnya yang dihitung berdasarkan formula yang berikut:

$1/30 \times \text{gaji yang akhir diterima} \times \text{jumlah bilangan cuti rehat terkumpul}$ tertakluk kepada maksimum satu ratus lima puluh hari.

(1C) Bagi maksud penghitungan award wang tunai bagi cuti rehat terkumpul, “gaji yang akhir diterima” ertinya gaji hakiki bulanan yang akhir diterima termasuk apa-apa elaun, imbuhan atau unsur lain yang ditentukan oleh Kerajaan mulai 1 Ogos 1993 sebagaimana yang boleh diambil kira bagi tujuan pembayaran award wang tunai, tetapi tidak termasuk elaun berpencen.

(1D) Bagi maksud subperaturan (1), (1A), (1B) dan (1C), jumlah maksimum cuti rehat terkumpul bagi pegawai yang berada dalam perkhidmatan dan bersara atau mati dalam perkhidmatan antara

1 Ogos 2003 hingga 31 Disember 2008 hendaklah tertakluk kepada maksimum satu ratus dua puluh hari.

Peraturan baru 21A

6. Peraturan-Peraturan ibu dipinda dengan memasukkan selepas peraturan 21 peraturan yang berikut:

“Pengumpulan cuti rehat bagi pegawai dalam perkhidmatan pendidikan

21A. (1) Jika disebabkan kepentingan perkhidmatan seseorang pegawai dalam perkhidmatan pendidikan yang gajinya dibayar daripada Kumpulan Wang Disatukan Persekutuan tidak dapat mengambil cuti rehat tahunan yang diperuntukkan baginya, pegawai itu boleh dibenarkan mengumpul cutinya itu sehingga maksimum sebanyak tujuh hari setahun bagi maksud pemberian award wang tunai, dengan syarat bahawa jumlah cuti rehat terkumpul itu hendaklah tertakluk kepada maksimum satu ratus lima puluh hari.

(2) Jumlah cuti rehat terkumpul di bawah subperaturan (1) hendaklah dihitung berdasarkan formula sebagaimana dalam subperaturan 21(1B) apabila pegawai bersara atau mati dalam perkhidmatan.

(3) Subperaturan (1) dan (2) terpakai hanya bagi pegawai dalam perkhidmatan pendidikan yang mengajar di sekolah atau institusi pengajian.

(4) Cuti rehat terkumpul di bawah subperaturan (1) boleh diagregatkan dengan cuti rehat terkumpul mengikut subperaturan 21(1) dalam hal apabila pegawai dalam perkhidmatan pendidikan itu berkhidmat selain mengajar di sekolah atau institusi pengajian bagi maksud pemberian award wang tunai.

(5) Bagi maksud subperaturan (1), (2), (3) dan (4), jumlah maksimum cuti rehat terkumpul bagi pegawai perkhidmatan pendidikan yang berada dalam perkhidmatan dan bersara atau mati dalam perkhidmatan antara 1 Mac 2004

hingga 31 Disember 2008 hendaklah tertakluk kepada maksimum satu ratus dua puluh hari.

(6) Bagi maksud peraturan ini, “cuti rehat” ertinya apa-apa cuti, walau apa pun sebutannya, apabila bilangan, kelayakan atau kaedah pengambilan cuti itu ditentukan oleh Kerajaan bagi mana-mana pegawai dalam perkhidmatan pendidikan dan cuti itu dibenarkan oleh Kerajaan untuk diambil kira sebagai ganti pembayaran award wang tunai.”

Pindaan peraturan 23

7. Peraturan 23 Peraturan-Peraturan ibu dipinda—

(a) dengan menggantikan subperaturan (3) dengan subperaturan yang berikut:

“(3) Jika kad pesara itu hilang atau rosak, suatu kad baru bolehlah dikeluarkan oleh Ketua Pengarah.”; dan

(b) dengan memotong perenggan (4).

Kecualian dan peralihan

8. Apa-apa pengumpulan cuti rehat di bawah subperaturan 21A(1) yang diberikan kepada pegawai pendidikan pengajian tinggi sebelum 1 Januari 2009 sebagaimana yang ditentukan oleh Kerajaan boleh diagregatkan dengan cuti rehat tahunan yang terkumpul mengikut subperaturan 21(1), tertakluk kepada syarat dan kaedah permohonan cuti rehat itu yang diberikan kepada pegawai itu sebelum tarikh itu.

Dibuat 27 November 2012

[JPA/PEN(R)228/26/6-13 Jld.2; PN(PU2)423/II]

Dengan Titah Perintah

DATO' SRI DR. ALI HAMSA
Setiausaha Jemaah Menteri

PENSIONS ACT 1980

PENSIONS (AMENDMENT) REGULATIONS 2012

IN exercise of the powers conferred by section 5 of the Pensions Act 1980 [Act 227], the Yang di-Pertuan Agong makes the following regulations:

Short title and commencement

1. (1) These regulations may be cited as the **Pensions (Amendment) Regulations 2012**.

(2) Regulations 2, 5, 6, 7 and 8 are deemed to have come into operation on 1 January 2009.

(3) Paragraphs 3(a) and (b) are deemed to have come into operation on 1 January 2012.

(4) In paragraph 3(c)—

(a) the new paragraph 6(1)(ja) is deemed to have come into operation on 1 January 1992; and

(b) the new paragraph 6(1)(jb) is deemed to have come into operation on 30 April 1997;

(5) In regulation 4—

(a) the reference to paragraph 6(1)(ja) is deemed to have come into operation on 1 January 1992; and

(b) the reference to paragraph 6(1)(jb) is deemed to have come into operation on 30 April 1997.

Amendment of regulation 4

2. The Pensions Regulations 1980 [*P.U. (A) 176/1980*], which is referred to as the “principal Regulations” in these Regulations, is amended in regulation 4 by substituting for the word “half” wherever appearing the word “three-fifths”.

Amendment of regulation 6

3. Regulation 6 of the principal Regulations is amended—

(a) by inserting after paragraph (1)(a) the following paragraph:

“(aa) periods of past service interrupted due to resignation or released from the post of an officer who has been reappointed either in the public service or service of a statutory or local authority on or after 1 January 2012;”;

(b) in the proviso to paragraph (1)(g), by inserting after the words “former service” the words “but the condition to obtain the release in writing from the relevant authority of his former service is not applicable to an officer who is appointed on or after 1 January 2012”; and

(c) by inserting after paragraph (1)(j) the following paragraph:

“(ja) service of an officer interrupted on or before 29 April 1997 due to resignation to join a private service before returning to serve the Government before 1 January 2012 pursuant to paragraph 94 of the Service Circular No. 9 of 1991, provided that the officer has opted for the New Remuneration System or been appointed under the New Remuneration System or any other remuneration system which comes into operation thereafter;

(jb) service of an officer interrupted on or after 30 April 1997 due to resignation to join a private service before returning to serve the

Government before 1 January 2012 pursuant to the Service Circular Letter No. 2 of 1997, provided that the officer—

- (i) has opted for the New Remuneration System or has been appointed under the New Remuneration System or any other remuneration system which comes into operation thereafter; and
- (ii) has obtained a written approval from the Public Service Department to join a particular private agency before resigning;”.

Amendment of regulation 7

4. Regulation 7 of the principal Regulations is amended in paragraph *(d)* by substituting for the words “regulation 6(1)(e)” the words “paragraphs 6(1)(e), *(ja)* and *(jb)*”.

Amendment of regulation 21

5. Regulation 21 of the principal Regulations is amended—

- (a)* by substituting for subregulation (1) the following subregulation:

“(1) Where in exigency of service an officer whose salary is paid out of the Federal Consolidated Fund cannot avail his annual vacation leave, the officer may be permitted to accumulate up to half of his vacation leave eligibility which he is entitled to be granted a cash award for that year but subject to a maximum of fifteen days in a year, provided that the total number of the accumulated vacation leave shall be subject to a maximum of one hundred and fifty days.”;

(b) by inserting after subregulation (1) the following subregulations:

“(1A) Notwithstanding subregulation (1) and subject to subregulation (1B), on the last year of his service, an officer is permitted to accumulate his vacation leave which he is entitled to for that year and any balance of his vacation leave which he is entitled to from the previous year for the purpose of granting the cash award, provided that the total accumulated vacation leave for the purpose of granting of the cash award shall not be more than one hundred and fifty days.

(1B) Where an officer retires or dies in service, he or his dependant may be granted a cash award for each day of his accumulated vacation leave calculated based on the following formula:

$1/30 \times \text{last drawn salary} \times \text{total numbers of accumulated vacation leave}$ subject to a maximum of one hundred and fifty days.

(1C) For the purpose of calculating the cash award for the accumulated vacation leave, “last drawn salary” means substantive last drawn salary inclusive of any allowance, affixes or other elements determined by the Government from 1 August 1993 that may be taken into account for the purpose of the payment of a cash award, but does not include pensionable allowance.”.

(1D) For the purposes of subregulations (1), (1A), (1B) and (1C), the maximum number of accumulated vacation leave of an officer who has been in service and retired or died in service between 1 August 2003 to 31 December 2008 shall be subject to a maximum of one hundred and twenty days.

New regulation 21A

6. The principal Regulations are amended by inserting after regulation 21 the following regulation:

“Accumulation of vacation leave of the officer in the education service

21A. (1) Where in exigency of service an officer in the education service whose salary is paid out of the Federal Consolidated Fund cannot avail his vacation leave which is provided for him, the officer may be permitted to accumulate his vacation leave up to a maximum of seven days a year for the purpose of granting the cash award, provided that the total number of the accumulated vacation leave shall be subject to a maximum of one hundred and fifty days.

(2) The total accumulated vacation leave under subregulation (1) shall be calculated based on the formula as specified in subregulation 21(1B) when the officer retires or dies in service.

(3) Subregulations (1) and (2) shall apply only to an officer in the education service who teaches in school or institution of learning.

(4) Accumulated vacation leave under subregulation (1) may be aggregated with accumulated vacation leave in accordance with subregulation 21(1) in the case when an officer in the education service whose service is other than by teaching in school or institution of learning for the purpose of granting the cash award.

(5) For the purpose of subregulations (1), (2), (3) dan (4), the maximum number of accumulated vacation leave of the officer in the education service who has been in service and retired or died in service between 1 March 2004 to 31 December 2008 shall be subject to a maximum of one hundred and twenty days.

(6) For the purpose of this regulation, “vacation leave” means any leave, notwithstanding its references, when the number, eligibility or rules of application for such leave are determined by the Government for any officer in the education service and that leave is allowed by the Government to be taken into account in lieu of payment of cash award.”.

Amendment of regulation 23

7. Regulation 23 of the principal Regulations is amended—

(a) by substituting for subregulation (3) the following subregulation:

“(3) Where the pensioner’s card is lost or damaged, a new card may be issued by the Director General.”; and

(b) by deleting paragraph (4).

Savings and transitional

8. Any accumulated vacation leave under subregulation 21A(1) granted to the officer of the higher education service before 1 January 2009 as determined by the Government may be aggregated with the annual vacation leave accumulated under subregulation 21(1), subject to the eligibility and rules of application for such leave granted to the officer before such date.

Made 27 November 2012
[JPA/PEN(R)228/26/6-13 Jld.2; PN(PU2)423/II]

By Command

DATO’ SRI DR. ALI HAMSA
Secretary to the Cabinet