MALAYSIA

Warta Kerajaan

SERI PADUKA BAGINDA

DI-TERBITKAN DENGAN KUASA

HIS MAJESTY'S GOVERNMENT GAZETTE

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DI-MANSOHKAN
Act. A. 60/71

UNDANG² MALAYSIA

Ordinan 38

ORDINAN No. 38 (KUASA² PERLU) DHARURAT, 1970

Suatu Ordinan di-ishtiharkan oleh Yang di-Pertuan Agong di-bawah Perkara 150 (2) Perlembagaan Persekutuan.

[*15hb Julai, 1970.*]

BAHAWA SA-NYA oleh sebab ada-nya dharurat besar menganchan keselamatan Malaysia, suatu Perishtiharan Dharurat telah di-keluarkan oleh Yang di-Pertuan Agong di-bawah Perkara 150 Perlembagaan; *P.U. (A) 145/69.*

DAN BAHAWA SA-NYA Parlimen telah di-bubarkan pada dua puloh haribulan Mach, 1969, dan bahawa pilehan raya bagi Dewan Ra'ayat baharu belum lagi selesai; *P.U. (A) 94/69.*

DAN BAHAWA SA-NYA Yang di-Pertuan Agong ada-lah berpuashati bahawa tindakan segera ada-lah di-kehendaki untok mengishtiharkan suatu Ordinan bagi meminda Akta Chukai Pendapatan, 1967; *47/1967.*

MAKA ADA-LAH DENGAN INI DI-PERBUAT UNDANG² oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong menurut Fasal (2) Perkara 150 dalam Perlembagaan saperti berikut:

1. Ordinan ini boleh-lah di-namakan Ordinan No. 38 (Kuasa² Perlu) Dharurat, 1970. Nama.

Pindaan kapada Akta 47/1967.

2. (1) Akta Chukai Pendapatan, 1967 hendak-lah di-bacha tertaklok kapada pindaan² yang di-nyatakan dalam Jadual bersama ini.

(2) Pindaan² yang di-nyatakan dalam Jadual bersama ini hendak-lah di-sifatkan sa-bagai telah berkuatkuasa atau hendak-lah berkuatkuasa pada tarikh² yang di-nyatakan dalam Jadual tersebut.

JADUAL

Pindaan kapada Akta Chukai Pendapatan, 1967

1. *Seksyen 2* ... (1) Masokkan taarif yang berikut sa-lepas sahaja taarif "company" yang terdapat dalam-nya—

"composite assessment" means a composite assessment made in accordance with section 96A."

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah mula berkuatkuasa pada 1hb Januari, 1970.

2. *Sekshen 13* ... (1) (*a*) Gantikan suatu koma bernokhtah dan perkataan "or" bagi koma yang terdapat sa-lepas perkataan "Malaysia" di-hujong perenggan (*c*) sekshen-kechil (2); dan

(*b*) masokkan perenggan² (*d*) dan (*e*) yang berikut sa-lepas perenggan (*c*) sekshen-kechil (2)—

"(*d*) for any period during which a person is a director of a company and that company is resident in Malaysia for the basis year for a year of assessment and within that basis year that period or part of that period falls; or

(*e*) for any period during which the employment is exercised aboard a ship or aircraft used in a business operated by a person who is resident in Malaysia for the basis year for a year of assessment and within that basis year that period or part of that period falls.".

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa bagi tahun taksiran 1968 dan tahun² taksiran kemudian-nya.

3. *Sekshen 33* ... (1) (*a*) Bagi kurongan dan perkataan "(being one of a class of implements, utensils or articles which as a class have a working life under normal conditions of use of less than two years or are subject to substantial wastage or loss annually or more frequently)", yang terdapat dalam perenggan (*c*) sekshen-kechil (1), gantikan suatu koma dan perkataan "other than implements, utensils, articles (the expenditure on which would be qualifying plant expenditure for the purposes of Schedule 3) or any means of conveyance";

(*b*) potongkan kurongan dan perkataan "(other than an implement, utensil or article or such a class)" yang terdapat dalam perenggan-kechil (ii) sekshen-kechil (1) (*c*);

(*c*) sa-lepas sahaja perkataan "in that period" yang terdapat dalam line 9 sekshen-kechil (2), masokkan perkataan "and it appears to the Comptroller-General that the loan or any part thereof or the investment or any part thereof has been financed wholly or partly, or directly or indirectly out of the borrowed money";

(*d*) sa-lepas sahaja perkataan "that borrowed money" yang terdapat pada hujong perenggan (*b*) sekshen-kechil (2), masokkan perkataan "or by an amount which in the opinion of the Comptroller-General is just and reasonable in all the circumstances";

(*e*) sa-lepas sahaja perkataan "to nil" yang terdapat di-hujong perenggan (*c*) sekshen-kechil (2), masokkan perkataan "or to an amount which in the opinion of the Comptroller-General is just and reasonable in all the circumstances".

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa bagi tahun taksiran 1968 dan tahun² taksiran kemudian-nya.

4. *Sekshen 45* ... (1) Potongkan kurongan dan perkataan "(otherwise than on death)" yang terdapat dalam perenggan-kechil (*a*) dan (*b*) dalam sharat kapada sekshen-kechil (1).

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa bagi tahun taksiran 1970 dan tahun² taksiran kemudian-nya.

6. *Sekshen 61* ... (1) Gantikan titek dua bagi nokhtah di-hujong sekshen-kechil (3) dan tambah sharat yang berikut—

"Provided that where—

(*a*) the trust was created outside Malaysia by a person or persons who were not citizens; and

(*b*) the income of that trust body for that basis year is wholly derived from outside Malaysia; and

(*c*) the trust is administered for the whole of that basis year outside Malaysia; and

(*d*) at least one-half of the number of the member trustees are not ordinarily resident in Malaysia for that basis year,

that trust body shall not be regarded as resident in Malaysia for that basis year.".

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa bagi tahun taksiran 1968 dan tahun² taksiran kemudian-nya.

7. *Sekshen 80* ... (1) (*a*) Potongkan perkataan "other" yang terdapat dalam sekshen-kechil (1); dan

(*b*) masokkan perkataan "and may search such lands, buildings and places" sa-lepas sahaja perkataan "and other documents" yang terdapat dalam sekshen-kechil (1).

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa pada 1hb Januari, 1968.

8. *Sekshen 81* ... (1) (*a*) Bagi perkataan "concerning his or any other person's income, assets or liabilities" yang terdapat dalam-nya gantikan perkataan "or particulars";

(*b*) sa-lepas sahaja perkataan "Act" yang terdapat dalam-nya masokkan perkataan "and which may be in the possession of that person".

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa bagi tahun taksiran 1968 dan tahun² kemudian-nya.

9. *Sekshen baharu 96*A (1) Masokkan sa-lepas sahaja sekshen 96, sekshen baharu 96A yang berikut—

"Composite assessment.

96A. (1) Where a person—

(*a*) makes default in furnishing a return in accordance with section 77 (1); or

(*b*) fails to give notice of chargeability in accordance with section 77 (2) or (3); or

(*c*) makes an incorrect return by omitting or understating any income of which he is required by this Act to make a return on behalf of himself or another person; or

(*d*) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

for any year or years of assessment (that year or those years being referred to in this section as the relevant year or relevant years), the Comptroller-General and that person may come to an agreement in writing as to the payment by that person of a sum of money (in this section referred to as the total amount) being—

(i) the amount of tax which has been undercharged or not charged for that relevant year or those relevant years in consequence of such default in furnishing a return or failure to give notice of chargeability or making an incorrect return or giving any incorrect information; and

(ii) the amount of any penalty or penalties which that person may be required to pay for that relevant year or those relevant years pursuant to section 112 (3) or section 113 (2) or both (or where such penalty is abated or remitted under section 124 (3) so much, if any, of the penalty which has not been abated or remitted).

(2) Where the Comptroller-General and a person have come to an agreement pursuant to subsection (1), the Comptroller-General may make a composite assessment in respect of that person in the total amount.

(3) As soon as may be after a composite assessment has been made, the Comptroller-General shall cause a notice of composite assessment to be served on the person in respect of whom the composite assessment was made.

(4) A notice served under subsection (3) shall be in the prescribed form and shall indicate in addition to any other material included therein—

(*a*) the relevant year or relevant years;

(*b*) the amount or aggregate amount of tax undercharged or not charged in the relevant year or relevant years;

(*c*) the amount or aggregate amount of any penalty imposed by virtue of section 112 (3) or section 113 (2) or both (or where such penalty is abated or remitted under section 124 (3) so much, if any, of the penalty which has not been abated or remitted); and

(*d*) the place at which payment of the total amount is to be made.

(5) The total amount shall be collected as if it were part of the tax payable by the person in respect of whom the composite assessment has been made but shall not be treated as tax so payable for the purposes of the provisions of this Act other than sections 103 to 106.

(6) Notwithstanding any other provision of this Act—

(a) a composite assessment made under this section shall be final and conclusive for the purposes of this Act;

(b) no appeal shall lie against a composite assessment.

(7) For the purposes of this section, references to sections of this Act in subsections (1), (4) and (5) shall be deemed to include references to the corresponding sections of the repealed laws, and references to year of assessment in subsection (1) shall be deemed to include a reference to pre-year of assessment; the repealed laws and pre-year of assessment having the same meaning as in paragraph 1 (1) of Part I of Schedule 9.".

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai berkuatkuasa mulaī pada 1hb Januari, 1970.

10. *Sekshen 101* ... (1) (*a*) Potongkan perkataan "the Comptroller-General may serve on the appeallant a written request for the proposals to be accepted and," yang terdapat dalam sekshen-kechil 4;

(*b*) gantikan perkataan "thirty" bagi perkataan "twenty-one" yang terdapat dalam baris 8 sekshen-kechil (4);

(*c*) potongkan perkataan "so" dalam baris 8 sekshen-kechil (4); dan

(*d*) masokkan perkataan "with such proposals" sa-lepas sahaja perkataan "served" yang terdapat dalam baris 9 sekshen-kechil (4).

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa mulaī pada 1hb Januari, 1970.

11. *Sekshen 103* ... (1) (*a*) Masokkan perkataan "or a composite assessment" sa-lepas sahaja perkataan "under an assessment" yang terdapat dalam sekshen-kechil (1); dan

(*b*) masokkan perkataan "or notice of composite assessment" sa-lepas sahaja perkataan "notice of assessment" dalam sekshen-kechil (1).

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa mulaī pada 1hb Januari, 1970.

12. *Sekshen 108* ... (1) Masokkan koma dan perkataan "composite assessment" sa-lepas sahaja perkataan "assessment" yang terdapat dalam baris 2 sekshen-kechil (8).

(2) Masokkan sa-lepas sahaja sekshen-kechil (10) sekshen-kechil (11) yang berikut—

"(11) For the purposes of this section the word 'company' shall not include any co-operative society the income of which is exempt from tax pursuant to the provisions of paragraph 12 of Part I of Schedule 6.".

(3) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa mulai pada 1hb Januari, 1970.

(4) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa bagi tahun taksiran 1968 dan tahun² taksiran kemudian-nya.

13. *Sekshen 120* ... (1) Masokkan perkataan "or to imprisonment for a term not exceeding six months or to both" sa-lepas sahaja perkataan "dollars" yang terdapat dalam-nya.

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa pada 1hb Mei, 1970.

14. *Jadual 3* ... (1) (*a*) Masokkan dalam perenggan 2 perenggan-kechil (*c*) baharu yang berikut—

"(*c*) expenditure incurred on fish ponds, animal pens, chicken houses, cages, buildings (other than those used wholly or partly for the living accommodation of a director, an individual having control of that business or an individual who is a member of the management, administrative or clerical staff engaged in the business), and other structural improvements on land which are used for the purposes of poultry, farms, animal farms, inland fishing industry or other agricultural or pastoral pursuits.";

(*b*) masokkan perkataan "or such other fraction as may be prescribed" sa-lepas sahaja perkataan "one-fiftieth" yang terdapat dalam perenggan 16;

(*c*) masokkan perkataan "or such other fraction as may be prescribed" sa-lepas sahaja perkataan "fraction" yang terdapat dalam perenggan 17 (1);

(*d*) masokkan koma dan angka "22A" sa-lepas sahaja perkataan dan angka "paragraph 22" yang terdapat dalam perenggan 20;

(*e*) gantikan perenggan 22 dengan yang berikut—

"22. Subject to this Schedule where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying plantation expenditure on the construction of—

(*a*) a building for the welfare of persons or as living accommodation for a person referred to in paragraph 7 (1) (*d*) there shall be made to him in relation to the source consisting of that business for that year and for each of the four following years of assessment an allowance equal to one-fifth of that expenditure; and

(*b*) any other building referred to in paragraph 7 (1) (*d*) there shall be made to him in relation to the source consisting of that business for that year and for each of the nine following years of assessment an allowance equal to one-tenth of that expenditure.";

(*f*) masokkan perenggan 22A baharu yang berikut sa-lepas sahaja perenggan 22—

"22A. Subject to this Schedule, where in the basis period for a year of assessment prior to the year of assessment 1970 a person has for the purposes of a business of his incurred qualifying plantation expenditure on the construction of a building of the kind referred to in paragraph 22 (*a*) and a plantation allowance was made to him in relation to the source consisting of that business for a year of assessment prior to the year of assessment 1970 in respect of that expenditure there shall be allowed to him for the year of assessment 1970 and for each of the four following years of assessment an allowance equal to one-fifth of the difference between that qualifying plantation expenditure and the plantation allowances made to him in respect of that qualifying expenditure for years of assessment prior to the year of assessment 1970.";

(*g*) masokkan koma dan angka "30A" sa-lepas sahaja perkataan dan huruf "paragraph 30" yang terdapat dalam perenggan 28;

(*h*) gantikan perenggan 30 dengan yang berikut—

"30. Subject to this Schedule, where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying forest expenditure on the construction of—

(*a*) a building of the kind referred to in paragraph 8 (1) (*b*) there shall be allowed to him in relation to the source consisting of that business for that year and for each of the four following years of assessment an allowance equal to one-fifth of that expenditure; and

(*b*) a road or building of the kind referred to in paragraph 8 (1) (*a*) there shall be made to him in relation to the source consisting of that business for that year and for each of the nine following years of assessment an allowance equal to one-tenth of that expenditure.";

(*i*) masokkan perenggan 30A baharu yang berikut sa-lepas sahaja perenggan 30—

"30A. Subject to this Schedule, where in the basis period for a year of assessment prior to the year of assessment 1970 a person has for the purposes of a business of his incurred qualifying forest expenditure on the construction of a building of the kind referred to in paragraph 8 (1) (*b*) and a forest allowance was made to him in relation to the source consisting of that business for a year of assessment prior to the year of assessment 1970 in respect of that expenditure there shall be allowed to him for the year of assessment 1970 and for each of the four following years of assessment an allowance equal to one-fifth of the difference between that qualifying forest expenditure and the forest allowances made to him in respect of that qualifying expenditure for years of assessment prior to the year of assessment 1970.";

(*j*) masokkan perkataan dan angka "or 30A" sa-lepas sahaja perkataan dan angka "perenggan 30" di-mana² ia terdapat dalam perenggan 31;

(*k*) masokkan koma dan angka "30A" sa-lepas sahaja perkataan dan angka "paragraph 30" yang terdapat dalam baris 7 perenggan 32 (1); dan

(*l*) potongkan perkataan "or both those paragraphs" yang terdapat dalam baris 7 perenggan 32 (1).

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa bagi tahun taksiran 1970 dan tahun² taksiran kemudian-nya.

(1) (*a*) Gantikan "1972" bagi "1969" yang terdapat dalam perenggan 2 (1);

(*b*) potongkan perkataan "of" yang terdapat dalam baris 5 perenggan 43 dan masokkan perenggan-kechil yang baharu—

"(*a*) by which capital expenditure incurred prior to the commencement of the basis period for the year of assessment 1948 exceeds the residue of capital expenditure for that year of assessment as computed in accordance with rule 2 (vii) (*a*) of the Income Tax (Mining Operations) Rules, 1949;";

(*c*) masokkan perkataan "of" di-permulaan perenggan-kechil (*a*) dan (*b*) sekarang dan nomborkan sa-mula perenggan² (*a*) dan (*b*) itu sabagai masing² (*b*) dan (*c*);

(*d*) potongkan koma bernokhtah yang terdapat di-hujong taarif perkataan "allowance" yang terdapat dalam perenggan-kechil 56 (2) dan tambahkan perkataan[2] berikut—

"or any amount which was deducted from the capital expenditure under the provisions of any repealed law in connection with the computation of the value of an asset acquired before the basis period for the first year of assessment under any repealed law;";

(*e*) gantikan perkataan "fifty-five" bagi perkataan "sixty" yang terdapat dalam perenggan[2] 71 (*a*) dan (*c*);

(*f*) gantikan koma bernokhtah dan perkataan "or" bagi titek dua yang terdapat di-hujong perenggan 71 (*f*);

(*g*) masokkan perenggan-kechil (*g*) dan (*h*) salepas sahaja perenggan 71 (*f*)—

"(*g*) on his satisfying the Comptroller-General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or

(*h*) on his satisfying the Comptroller-General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income:";

(*h*) gantikan yang berikut bagi sharat kapada perenggan 71 yang berikut—

"Provided that sub-paragraph (*d*) shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise; or

(ii) a source from which interest arises; or

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commence on his departure or at the end of a period of travel which commences on his departure.";

(*i*) gantikan perkataan "fifty-five" bagi perkataan "sixty" yang terdapat dalam perenggan 83 (*a*) dan (*c*);

(*j*) gantikan koma bernokhtah dan perkataan "or" bagi titek dua yang terdapat di-hujong perenggan 38 (*f*);

(*k*) masokkan perenggan[2] (*g*) dan (*h*) yang baharu sa-lepas sahaja perenggan 83 (*f*)—

"(*g*) on his satisfying the Comptroller-General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or

(*h*) on his satisfying the Comptroller-General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income:";

(*l*) gantikan sharat kapada perenggan 83 dengan yang berikut—

"Provided that sub-paragraph (*d*) shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise; or

(ii) a source from which interest arises; or

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commence on his departure or at the end of a period of travel which commences on his departure.";

(*m*) gantikan perkataan "fifty-five" bagi perkataan "sixty" yang terdapat dalam perenggan 107 (*a*) dan (*c*);

(*n*) gantikan koma bernokhtah dan perkataan "or" bagi titek dua yang terdapat di-hujong perenggan 107 (*f*);

(*o*) masokkan perenggan[2]-kechil (*g*) dan (*h*) baharu yang berikut sa-lepas sahaja perenggan 107 (*f*)—

"(*g*) on his satisfying the Comptroller-General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or

(*h*) on his satisfying the Comptroller-General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income:";

(*p*) gantikan sharat kapada perenggan 107 dengan yang berikut—

"Provided that sub-paragraph (*d*) shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise; or

(ii) a source from which interest arises; or

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commences on his departure or at the end of a period of travel which commences on his departure.".

(2) Pindaan dalam perenggan (1) hendak-lah di-sifatkan sa-bagai telah berkuatkuasa bagi tahun taksiran 1968 dan tahun[2] kemudian-nya.

Di-ishtiharkan di-Istana Negara, Kuala Lumpur, pada 15 haribulan Julai, 1970.

[MGN. (PA) R. 21.11/Jld. 5.]

TUANKU ISMAIL NASIRUDDIN SHAH,
Yang di-Pertuan Agong

Repealed by Act. A. 68/71

LAWS OF MALAYSIA

Ordinance 38

EMERGENCY (ESSENTIAL POWERS) ORDINANCE No. 38, 1970

An Ordinance promulgated by the Yang di-Pertuan Agong under Article 150 (2) of the Constitution.

[*15th July, 1970.*]

P.U. (A) 145/69. WHEREAS by reason of the existence of a grave emergency threatening the security of Malaysia, a Proclamation of Emergency has been issued by the Yang di-Pertuan Agong under Article 150 of the Constitution;

P.U. (A) 94/69. AND WHEREAS Parliament was dissolved on the twentieth day of March, 1969 and elections to the new Dewan Ra'ayat have not been completed;

AND WHEREAS the Yang di-Pertuan Agong is satisfied that immediate action is required for an Ordinance to be promulgated to amend the Income Tax Act, 1967; *47/1967.*

IT IS HEREBY ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong pursuant to Clause (2) of Article 150 of the Constitution as follows:

1. This Ordinance may be cited as the Emergency (Essential Powers) Ordinance, No. 38, 1970. Citation

2. (1) The Income Tax Act, 1967 shall be read subject to the amendments specified in the Schedule hereto. Amendment of Act *47/1967.*

(2) The amendments specified in the Schedule hereto shall be deemed to have effect or shall have effect on such dates as may be specified in the said Schedule.

SCHEDULE

Amendments of the Income Tax Act, 1967

1. *Section 2* ... (1) Insert the following definition immediately after the definition of "company" appearing therein—

"composite assessment" means a composite assessment made in accordance with section 96A."

(2) The amendment in paragraph (1) shall be deemed to have effect from 1st January, 1970.

2. *Section 13* ... (1) (*a*) Substitute a semi-colon and the word "or" for the comma appearing after the word "Malaysia" at the end of paragraph (*c*) of subsection (2) thereof; and

(*b*) insert the following new paragraph (*d*) and (*e*) after paragraph (*c*) of subsection (2) thereof—

"(*d*) for any period during which a person is a director of company and that company is resident in Malaysia for the basis year for a year of assessment and within that basis year that period or part of that period falls; or

(*e*) for any period during which the employment is exercised aboard a ship or aircraft used in a business operated by a person who is resident in Malaysia for the basis year for a year of assessment and within that basis year that period or part of that period falls.".

(2) The amendment in paragraph (1) shall be deemed to have effect for the year of assessment 1968 and subsequent years of assessment.

3. *Section 33* ... (1) (*a*) For the brackets and the words "(being one of a class of implements, utensils or articles which as a class have a working life under normal conditions of use of less than two years or are subject to substantial wastage or loss annually or more frequently)", appearing in paragraph (*c*) of subsection (1) thereof,

substitute a comma and the words "other than implements, utensils, articles (the expenditure on which would be qualifying plant expenditure for the purposes of Schedule 3) or any means of conveyance";

(*b*) delete the brackets and the words "(other than an implement, utensil or article of such a class)" appearing in sub-paragraph (ii) of subsection (1) (*c*) thereof;

(*c*) immediately after the words "in that period" appearing in line 9 of subsection (2) thereof, insert the words "and it appears to the Comptroller-General that the loan or any part thereof or the investment or any part thereof has been financed wholly or partly or directly or indirectly out of the borrowed money";

(*d*) immediately after the words "that borrowed money" appearing at the end of paragraph (*b*) of subsection (2) thereof insert the words "or by an amount which in the opinion of the Comptroller-General is just and reasonable in all the circumstances";

(*e*) immediately after the words "to nil" appearing at the end of paragraph (*c*) of subsection (2) thereof, insert the words "or to an amount which in the opinion of the Comptroller-General is just and reasonable in all the circumstances".

(2) The amendment in paragraph (1) shall be deemed to have effect for the year of assessment 1968 and subsequent years of assessment.

4. *Section 45* ... (1) Delete the brackets and the words "(otherwise than on death)" appearing in subsection (2) thereof.

(2) The amendment in paragraph (1) shall be deemed to have effect for the year of assessment 1970 and subsequent years of assessment.

5. *Section 47* ... (1) Delete the brackets and the words "(otherwise than on death)" appearing in sub-paragraphs (*a*) and (*b*) of the proviso to subsection (1) thereof.

(2) The amendment in paragraph (1) shall be deemed to have effect for the year of assessment 1970 and subsequent years of assessment.

6. *Section 61* ... (1) Substitute a colon for the full stop at the end of subsection (3) thereof and add thereto the following proviso—

"Provided that where—

(*a*) the trust was created outside Malaysia by a person or persons who were not citizens; and

(*b*) the income of that trust body for that basis year is wholly derived from outside Malaysia; and

(c) the trust is administered for the whole of that basis year outside Malaysia; and

(d) at least one-half of the number of the member trustees are not ordinarily resident in Malaysia for that basis year,

that trust body shall not be regarded as resident in Malaysia for that basis year.".

(2) The amendment in paragraph (1) shall be deemed to have effect for the year of assessment 1968 and subsequent years of assessment.

7. *Section 80* ... (1) (a) Delete the word "other" appearing in subsection (1) thereof; and

(b) insert the words "and may search such lands, buildings and places" immediately after the words "and other documents" appearing in subsection (1) thereof.

(2) The amendment in paragraph (1) shall be deemed to have effect from 1st January, 1968.

8. *Section 81* ... (1) (a) For the words "concerning his or any other person's income, assets or liabilities" appearing therein substitute the words "or particulars";

(b) immediately after the word "Act" appearing therein insert the words "and which may be in the possession of that person".

(2) The amendment in paragraph (1) shall be deemed to have effect for the year of assessment 1968 and subsequent years of assessment.

9. *New Section 96A* (1) Insert immediately after section 96, the following new section 96A—

"Composite assessment. 96A. (1) Where a person—

(a) makes default in furnishing a return in accordance with section 77 (1); or

(b) fails to give notice of chargeability in accordance with section 77 (2) or (3); or

(c) makes an incorrect return by omitting or understating any income of which he is required by this Act to make a return on behalf of himself or another person; or

(d) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

for any year or years of assessment (that year or those years being referred to in this section as the relevant year or relevant years), the Comptroller-General and that person may come to an agreement in writing as to the payment by that person of a sum of money (in this section referred to as the total amount) being—

(i) the amount of tax which has been undercharged or not charged for that relevant year or those relevant years in consequence of such default in furnishing a return or failure to give notice of chargeability or making an incorrect return or giving any incorrect information; and

(ii) the amount of any penalty or penalties which that person may be required to pay for that relevant year or those relevant years pursuant to section 112 (3) or section 113 (2) or both (or where such penalty is abated or remitted under section 124 (3) so much, if any, of the penalty which has not been abated or remitted).

(2) Where the Comptroller-General and a person have come to an agreement pursuant to subsection (1), the Comptroller-General may make a composite assessment in respect of that person in the total amount.

(3) As soon as may be after a composite assessment has been made, the Comptroller-General shall cause a notice of composite assessment to be served on the person in respect of whom the composite assessment was made.

(4) A notice served under subsection (3) shall be in the prescribed form and shall indicate in addition to any other material included therein—

(*a*) the relevant year or relevant years;

(*b*) the amount or aggregate amount of tax undercharged or not charged in the relevant year or relevant years;

(*c*) the amount or aggregate amount of any penalty imposed by virtue of section 112 (3) or section 113 (2) or both (or where such penalty is abated or remitted under section 124 (3) so much, if any, of the penalty which has not been abated or remitted); and (*d*) the place at which payment of the total amount is to be made.

(5) The total amount shall be collected as if it were part of the tax payable by the person in respect of whom the composite assessment has been made but shall not be treated as tax so payable for the purposes of the provisions of this Act other than sections 103 to 106.

(6) Notwithstanding any other provision of this Act—

(*a*) a composite assessment made under this section shall be final and conclusive for the purposes of this Act;

(*b*) no appeal shall lie against a composite assessment.

(7) For the purposes of this section, references to sections of this Act in subsections (1), (4) and (5) shall be deemed to include references to the corresponding sections of the repealed laws, and references to year of assessment in subsection (1) shall be deemed to include a reference to pre-year of assessment; the repealed laws and pre-year of assessment having the same meaning as in paragraph 1 (1) of Part I of Schedule 9.".

(2) The amendment in paragraph (1) shall be deemed to have effect from 1st January, 1970.

10. *Section 101* ... (1) (*a*) Delete the words "the Comptroller-General may serve on the appellant a written request for the proposals to be accepted and," appearing in subsection (4) thereof;

(*b*) substitute the word "thirty" for the word "twenty-one" appearing in line 8 of subsection (4) thereof;

(*c*) delete the word "so" in line 8 of subsection (4) thereof; and

(*d*) insert the words "with such proposals" immediately after the word "served" appearing in line 9 of subsection (4) thereof.

(2) The amendment in paragraph (1) shall be deemed to have effect from 1st January, 1970.

11. *Section 103* ... (1) (*a*) Insert the words "or a composite assessment" immediately after the words "under an assessment" appearing in subsection (1) thereof; and

(*b*) insert the words "or notice of composite assessment" immediately after the words "notice of assessment" in subsection (1) thereof.

(2) The amendment in paragraph (1) shall be deemed to have effect from 1st January, 1970.

12. *Section 108* ...	(1) Insert a comma and the words "composite assessment" immediately after the word "assessment" appearing in line 2 of subsection (8) thereof.
	(2) Insert immediately after subsection (10) thereof the following new subsection (11)—
	"(11) For the purposes of this section the word 'company' shall not include any co-operative society the income of which is exempt from tax pursuant to the provisions of paragraph 12 of Part I of Schedule 6.".
	(3) The amendment in paragraph (1) shall be deemed to have effect from 1st January, 1970.
	(4) The amendment in paragraph (2) shall be deemed to have effect for the year of assessment 1968 and subsequent years of assessment.
13. *Section 120* ...	(1) Insert the words "or to imprisonment for a term not exceeding six months or to both" immediately after the word "dollars" appearing therein.
	(2) The amendment in paragraph (1) shall be deemed to have effect from 1st May, 1970.
14. *Schedule 3* ...	(1) (*a*) Insert in paragraph 2 thereof, the following new sub-paragraph (*c*)—
	"(*c*) expenditure incurred on fish ponds, animal pens, chicken houses, cages, buildings (other than those used wholly or partly for the living accommodation of a director, an individual having control of that business or an individual who is a member of the management, administrative or clerical staff engaged in the business), and other structural improvements on land which are used for the purposes of poultry farms, animal farms, inland fishing industry or other agricultural or pastoral pursuits.";
	(*b*) insert the words "or such other fraction as may be prescribed" immediately after the word "one-fiftieth" appearing in paragraph 16 thereof;
	(*c*) insert the words "or such other fraction as may be prescribed" immediately after the word "fraction" appearing in paragraph 17 (1) thereof;
	(*d*) insert a comma and the figure "22A" immediately after the word and figure "paragraph 22" appearing in paragraph 20 thereof;
	(*e*) for paragraph 22 thereof, substitute the following—
	"22. Subject to this Schedule where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying plantation expenditure on the construction of—
	(*a*) a building for the welfare of persons or as living accommodation for a person referred to in paragraph 7 (1) (*d*) there

shall be made to him in relation to the source consisting of that business for that year and for each of the four following years of assessment an allowance equal to one-fifth of that expenditure; and

(*b*) any other building referred to in paragraph 7 (1) (*d*) there shall be made to him in relation to the source consisting of that business for that year and for each of the nine following years of assessment an allowance equal to one-tenth of that expenditure.";

(*f*) insert the following new paragraph 22A immediately after paragraph 22 thereof—

"22A. Subject to this Schedule, where in the basis period for a year of assessment prior to the year of assessment 1970 a person has for the purposes of a business of his incurred qualifying plantation expenditure on the construction of a building of the kind referred to in paragraph 22 (*a*) and a plantation allowance was made to him in relation to the source consisting of that business for a year of assessment prior to the year of assessment 1970 in respect of that expenditure there shall be allowed to him for the year of assessment 1970 and for each of the four following years of assessment an allowance equal to one-fifth of the difference between that qualifying plantation expenditure and the plantation allowances made to him in respect of that qualifying expenditure for years of assessment prior to the year of assessment 1970.";

(*g*) insert a comma and the figure "30A" immediately after the word and figure "paragraph 30" appearing in paragraph 28 thereof;

(*h*) for paragraph 30 thereof, substitute the following—

"30. Subject to this Schedule, where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying forest expenditure on the construction of—

(*a*) a building of the kind referred to in paragraph 8 (1) (*b*) there shall be allowed to him in relation to the source consisting of that business for that year and for each of the four following years of assessment an allowance equal to one-fifth of that expenditure; and

(*b*) a road or building of the kind referred to in paragraph 8 (1) (*a*) there shall be made to him in relation to the source consisting of that business for that year and each of the nine following years of assessment an allowance equal to one-tenth of that expenditure.";

(*i*) insert the following new paragraph 30A immediately after paragraph 30 thereof—

"30A. Subject to this Schedule, where in the basis period for a year of assessment prior to the year of assessment 1970 a person has for the purposes of a business of his incurred qualifying forest expenditure on the construction of a building of the kind referred to in paragraph 8 (1) (*b*) and a forest allowance was made to him in relation to the source consisting of that business for a year of assessment prior to the year of assessment 1970 in respect of that expenditure there shall be allowed to him for the year of assessment 1970 and for each of the four following years of assessment an allowance equal to one-fifth of the difference between that qualifying forest expenditure and the forest allowances made to him in respect of that qualifying expenditure for years of assessment prior to the year of assessment 1970.";

(*j*) insert the word and figure "or 30A" immediately after the word and figure "paragraph 30" wherever they appear in paragraph 31 thereof;

(*k*) insert a comma and figure "30A" immediately after the word and figure "paragraph 30" appearing in line 7 of paragraph 32 (1) thereof; and

(*l*) delete the words "or both those paragraphs" appearing in line 7 of paragraph 32 (1) thereof.

(2) The amendment in paragraph (1) shall be deemed to have effect for the year of assessment 1970 and subsequent years of assessment.

13. *Schedule 9* ... (1) (*a*) Substitute "1972" for "1969" appearing in paragraph 2 (1) thereof;

(*b*) delete the word "of" appearing in line 5 of paragraph 43 thereof and insert the following new sub-paragraph—

"(*a*) by which capital expenditure incurred prior to the commencement of the basis period for the year of assessment 1948 exceeds the residue of capital expenditure for that year of assessment as computed in accordance with rule 2 (vii) (*a*) of the Income Tax (Mining Operations) Rules, 1949;";

(*c*) insert the word "of" at the beginning of the existing sub-paragraphs (*a*) and (*b*) and renumber the existing sub-paragraphs (*a*) and (*b*) as (*b*) and (*c*) respectively;

(*d*) delete the semi-colon appearing at the end of the definition of the word "allowance" appearing in sub-paragraph 56 (2) thereof and add thereto the following words—

"or any amount which was deducted from the capital expenditure under the provisions of any repealed law in connection with the computation of the value of an asset acquired before the basis period for the first year of assessment under any repealed law;";

(*e*) substitute the word "fifty-five" for the word "sixty" appearing in paragraphs 71 (*a*) and (*c*) thereof;

(*f*) substitute a semi-colon and the word "or" for the colon appearing at the end of paragraph 71 (*f*) thereof;

(*g*) insert the following new sub-paragraphs (*g*) and (*h*) immediately after paragraph 71 (*f*) thereof—

"(*g*) on his satisfying the Comptroller-General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or

(*h*) on his satisfying the Comptroller-General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income:";

(*h*) for the proviso to paragraph 71 thereof, substitute the following—

"Provided that sub-paragraph (*d*) shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise; or

(ii) a source from which interest arises; or

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commences on his departure or at the end of a period of travel which commences on his departure.";

(*i*) substitute the word "fifty-five" for the word "sixty" appearing in paragraphs 83 (*a*) and (*c*) thereof;

(*j*) substitute a semi-colon and the word "or" for the colon appearing at the end of paragraph 83 (*f*) thereof;

(*k*) insert the following new sub-paragraphs (*g*) and (*h*) immediately after paragraph 83 (*f*) thereof—

"(*g*) on his satisfying the Comptroller-General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or (*h*) on his satisfying the Comptroller-General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income.";

(*l*) for the proviso to paragraph 83 thereof, substitute the following—

"Provided that sub-paragraph (*d*) shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise; or

(ii) a source from which interest arises; or

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commences on his departure or at the end of a period of travel which commences on his departure.";

(*m*) substitute the word "fifty-five" for the word "sixty" appearing in paragraphs 107 (*a*) and (*c*) thereof;

(*n*) substitute a semi-colon and the word "or" for the colon appearing at the end of paragraph 107 (*f*) thereof;

(*o*) insert the following new sub-paragraphs (*g*) and (*h*) immediately after paragraph 107 (*f*) thereof—

"(*g*) on his satisfying the Comptroller-General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or

(*h*) on his satisfying the Comptroller-General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income.";

(*p*) for the proviso to paragraph 107 thereof, substitute the following—

"Provided that sub-paragraph (*d*) shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise; or

(ii) a source from which interest arises; or

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commences on his departure or at the end of a period of travel which commences on his departure.".

(2) The amendment in paragraph (1) shall be deemed to have effect for the year of assessment 1968 and subsequent years of assessment.

Promulgated at Istana Negara, Kuala Lumpur, on 15th day of July, 1970.

[MGN. (PA) R. 21.11/Jld. 5.]

TUANKU ISMAIL NASIRUDDIN SHAH,
Yang di-Pertuan Agong

P.U. (A) 257.

UNDANG² MALAYSIA Repealed by Act 26

Ordinan 39

ORDINAN No. 39 (KUASA² PERLU) DHARURAT, 1970

Suatu Ordinan di-ishtiharkan oleh Yang di-Pertuan Agong di-bawah Perkara 150 (2) Perlembagaan Persekutuan.

[*15hb Julai, 1970.*]

BAHAWA SA-NYA oleh sebab ada-nya dharurat besar mengancham keselamatan Malaysia, suatu Perishtiharan Dharurat telah di-keluarkan oleh Yang di-Pertuan Agong di-bawah Perkara 150 Perlembagaan; *P.U. (A) 145/69.*

DAN BAHAWA SA-NYA Parlimen telah di-bubarkan pada dua puloh haribulan Mach, 1969, dan bahawa pilehan raya bagi Dewan Ra'ayat baharu belum lagi selesai; *P.U. (A) 94/69.*

DAN BAHAWA SA-NYA Yang di-Pertuan Agong ada-lah berpuashati bahawa tindakan segera ada-lah di-kehendaki bagi mengishtiharkan suatu Ordinan untok mengadakan bantuan dan nasihat guaman dengan chara lebeh mudah bagi orang² yang terhad kemampuan-nya, bagi membolehkan kos bagi bantuan atau nasihat guaman yang di-beri kapada orang² itu di-bayar kesemua atau sa-bahagian-nya dari wang awam dan bagi maksud² lain yang berkenaan:

MAKA ADA-LAH DENGAN INI DI-PERBUAT UNDANG² oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong menurut Perkara 150 (2) Perlembagaan saperti berikut:

1. (1) Ordinan ini boleh-lah di-namakan Ordinan No. 39 (Kuasa² Perlu) Dharurat 1970. Nama, mula berkuatkuasa dan pemakaian.