



LAWS OF MALAYSIA

Act 186

PUBLIC SERVICE TRIBUNAL ACT 1977

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LAWS OF MALAYSIA

Act 186

PUBLIC SERVICE TRIBUNAL ACT 1977

An Act to establish a body to inquire into and resolve anomalies affecting the remunerations and terms and conditions of service in the public service.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Public Service Tribunal Act 1977. Short title.

2. In this Act unless the context otherwise requires— Interpretation.
“anomaly” means—

(a) any situation, affecting the remunerations or terms or conditions of service of any public officer or class or group of public officers and arising from the implementation of the recommendations of a salaries commission, that constitutes a departure or deviation from the principles underlying the recommendations of the salaries commission and which remains a departure or deviation from the principles in the recommendations of the Cabinet Committee; or

(b) any situation, affecting the remunerations or terms or conditions of service of any public officer or class or group of public officers and arising from the implementation of the recommendations of the Cabinet Committee, that constitutes a departure or deviation from the principles underlying the recommendations of the Cabinet Committee; or

(c) but does not include any situation that creates another anomaly to arise in consequence only of the determination of an anomaly under this Act;

d/A A 822

A A 822

P.U. (B)
191/75.

“Cabinet Committee” means the Cabinet Committee appointed by Cabinet to examine the Revised Report of the Royal Salaries Commission, 1975;

“Government” means the Federal Government or a State Government;

“proscribed industrial action” means—

- (a) any act or omission by any public officer which is intended to or does result in any limitation or restriction or cessation of or dilatoriness in the performance or execution of the whole or any part of the duties connected with his employment; or
- (b) any refusal or failure by any public officer to comply with any direction issued by his superior officer in regard to the performance of the duties of his employment, where such refusal or failure is intended to or does result in any limitation or reduction or cessation of or dilatoriness in the performance or execution of the whole or any part of the duties connected with his employment; or
- (c) any act or omission by any public officer which is described in the Schedule to be a proscribed industrial action for the purpose of this Act;

“public officer” means any person holding any office or employment in or under any public service;

“public service” means—

- (a) any of the public services referred to in Article 132 of the Constitution, ~~other than the police force and the armed forces;~~
- (b) any local authority;
- (c) any statutory authority established under any Federal or State law;
- (d) the parliamentary service; and
- (e) any person, tribunal, body, institution or authority whatsoever which may be declared by the Yang di-Pertuan Agong, by order published in the *Gazette*, to be a public service for the purpose of this definition;

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"salaries commission" means the Suffian Commission, the Aziz Commission and the Harun Commission appointed to inquire, review and report and make recommendations on the remunerations and terms and conditions of service in the public service;

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2361/66.G.N.
1513/67.P.U. (B)
41/70.P.U. (B)
202/71.

← AH 822

"Special ---

"strike" means cessation of work by a body of persons employed in the public service acting in combination, or a concerted refusal or a refusal under a common understanding of a number of persons who are or who have been so employed to continue to work or to accept employment;

"trade union" means any association or combination of public officers registered under any law relating to the registration of trade unions, but does not include a federation of trade unions.

3. (1) There shall be established a Public Service Tribunal, which in this Act is referred to as the Tribunal, to be appointed by the Yang di-Pertuan Agong which shall consist of—

Public
Service
Tribunal.

(a) a Chairman; and

(b) a panel of persons who shall be persons who have experience and knowledge in matters of administration.

(2) A member of the Tribunal shall be appointed for a term of three years or for such shorter period as the Yang di-Pertuan Agong may determine.

(3) A member may at any time resign his office but shall not be removed from office except by the Yang di-Pertuan Agong.

(4) The Yang di-Pertuan Agong may, from time to time, add to the persons named in the panel and in any case, appoint a new member in the place of a member who dies or resigns or desires to be discharged or becomes incapable of acting.

4. The functions of the Tribunal shall be to determine any dispute in regard to any anomaly which is referred to it under the provisions of this Act.

Functions
of the
Tribunal.

5. (1) In the performance of its functions the Chairman and two other members selected by the Chairman from the panel shall constitute the Tribunal.

Performance
of functions.

(2) The decision of the Tribunal shall be in accordance with the opinion of the majority.

Powers
of the
Tribunal.

6. (1) The tribunal shall have the following powers—

- (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witness as the Tribunal may think it necessary or desirable to procure or examine;
- (b) to require the evidence (whether written or oral) of any witness to be made on oath or affirmation (such oath or affirmation to be that which could be required of the witness if he were giving evidence in the High Court) or by statutory declaration;
- (c) subject to subsection (2) to summon any person to attend any meeting of the Tribunal to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession;
- (d) to hear and determine the dispute in regard to the anomaly referred to it notwithstanding the failure of any party to submit any written statement required by the Tribunal within such time as may be prescribed by the Chairman or in the absence of any party to the dispute who has been served with a summons or notice to appear;
- (e) to issue a warrant of arrest to compel the attendance of any person who, after having been summoned to attend, fails to do so, and does not excuse such failure to the satisfaction of the Tribunal;
- (f) notwithstanding any written law relating to evidence, to admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings;
- (g) to conduct its proceedings or any part thereof in private;
- (h) subject to any direction of the Chairman—
 - (i) to admit or exclude the public from the proceedings or any part thereof; and
 - (ii) to admit or exclude the press from the proceedings or any part thereof.

(2) No public officer shall be liable to produce any document in proceedings before the Tribunal which in the opinion of the Government is not in the public interest to produce; the decision of the Government in this regard shall not be liable to be questioned or reviewed by the Tribunal or any court or any authority.

7. (1) The remuneration of members of the Tribunal shall consist of such salary or fixed allowance, allowances and privileges as may be determined by the Yang di-Pertuan Agong. Remuneration.

(2) The sum required for the remuneration payable under this Act shall be charged on the Consolidated Fund.

8. (1) The Chairman shall appoint a Secretary to the Tribunal and may appoint such other officers and servants as he may consider necessary. Appointment of Secretary.

(2) The duties of the Secretary and other officers and servants shall be as the Chairman may direct.

9. Every member, officer and servant of the Tribunal shall be deemed to be a public servant within the meaning of the Penal Code. Public servants. F.M.S. Cap. 45.

10. The Tribunal shall, save as otherwise expressly provided in this Act and subject to any regulations that may be made in that behalf, regulate its own procedure. Procedure.

11. (1) For the purpose of this Act, any of the following persons (referred to in this Act as an aggrieved person) may refer an anomaly affecting any public service to the Federal Government for the purpose of negotiation; that is to say— Aggrieved person.

(a) a trade union where the alleged anomaly affects any of its members;

(b) an association of public officers not being a trade union where the alleged anomaly affects any of its members;

(c) a public officer who is not a member of a trade union or an association where an alleged anomaly affects him; or

(d) ...

(2) For the purpose of negotiation under subsection (1) only an office-bearer of the trade union or of the association mentioned in (a) and (b) in subsection (1) shall represent the aggrieved person and in the case of (c) the person concerned.

(2A)....

(a)

AA687

← AA687

(and (d)) AA687

← AA687

(3) Where an anomaly referred under this section is resolved by negotiation, the decision shall have the like force and effect as a decision of the Tribunal.

Reference of anomalies.

11.A. (3) ---
12. Where an anomaly exists under section 11 and that anomaly is not otherwise resolved by negotiation, the dispute in regard to the anomaly shall be referred to the Tribunal by either party to the dispute.

← AA822

Sub. AA687

Management prerogative.

13. The following matters shall be construed as management prerogative and shall not be raised or made a subject-matter of negotiation or reference to the Tribunal under this Act by any aggrieved person—

Subs. AA822

- (a) the creation and grading of posts;
- (b) the creation and grading of schemes of service;
- (c) the promotion of a public officer from a lower grade to a higher grade;
- (d) the transfer of a public officer;
- (e) the appointment of any person in the event of a vacancy arising in the public service;
- (f) the termination of the services of a public officer by reasons of redundancy or reorganisation;
- (g) the dismissal and reinstatement of a public officer; and
- (h) the assignment or allocation of duties in the public service.

Decision on anomalies.

14. (1) Where a dispute in regard to an anomaly exists, and the anomaly has not been resolved under section 11, the Tribunal shall investigate the circumstances of the anomaly referred to it, and make a decision thereon.

(2) In making a decision in respect of an anomaly the Tribunal shall have regard to the national interest, the financial implications and the effect of the decision on the economy of the country.

Decision of Tribunal final, conclusive and binding.

(3) ---
15. (1) The decision of the Tribunal on any anomaly referred to it shall be final and conclusive, and shall be binding on the Government and on all parties to the anomaly; and no decision shall be challenged, appealed against, reviewed, quashed or called in question in any court.

← AA822

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(2) The decision of the Tribunal shall be implemented as soon as practicable, but not later than six months from the date of the decision being given.

(3) Any anomaly referred to the Tribunal and on which the Tribunal has given a decision shall not be raised or be a subject of further reference to the Government in any guise or form by any public officer or a trade union or an association of public officers not being a trade union.

(4) The Tribunal shall not entertain any claim by any public officer or a trade union or an association of public officers not being a trade union purporting to be an anomaly consequent upon the effect of a decision on any anomaly under section 11 or 14.

(5) The decision of the Tribunal on any anomaly referred to it may be made applicable to any public officer on the same scheme of service who is not a party to the anomaly.

16. No member of a salaries commission or of the Cabinet Committee or any Minister shall be liable to be summoned to give evidence before the Tribunal.

← AA687
Salaries commission not liable to summons.

17. Notwithstanding anything to the contrary in any written law, no member of the Tribunal shall be compelled by any court to appear as a witness or party in any proceedings in relation to any act matter or thing performed by him under this Act.

Protection of members.

18. (1) Notwithstanding anything to the contrary in any written law relating to industrial relations, it shall be unlawful for any member of a trade union or any member of an association of public officers which is an aggrieved person or any aggrieved person to go on a strike or to do anything proscribed in the Act as a proscribed industrial action at any time after an anomaly is referred under section 11 or 12 or during the pendency of the proceedings of the Tribunal or at any time after its decision.

Prohibition of strikes and proscribed industrial action.

⊂ this AA687
⊂ Sub. AA687

(2) No organisation, body or a trade union or group of trade unions shall express or do anything which may be construed as expressing support or sympathy for any aggrieved person when any anomaly is referred under section 11 or 12 or during the pendency of the proceedings of the Tribunal or at any time after its decision.

Unauthorised publication and disclosure of information.

19. No member of the Tribunal nor any other person shall, without the written permission of the Yang di-Pertuan Agong, publish or disclose to any unauthorised person or otherwise than in the course of duty the contents of any document, communication or information whatsoever which has come to his knowledge in the course of his duty as such member in respect of any matter relating to the exercise by the Tribunal of any of its functions.

Punishment of office-bearers.

20. (1) Where any offence has been committed under this Act, whether or not any person has been convicted in respect thereof, and such offence has been committed or purports to have been committed in the name or on behalf of any trade union or an association of public officers not being a trade union, every office-bearer of such trade union or such association managing or assisting in the management of such trade union or such association at the time of the commission of such offence shall be liable to the punishment prescribed in subsection (3), unless he establishes to the satisfaction of the court that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of the offence.

(2) Any office-bearer of a trade union or an association of public officers not being a trade union managing or assisting in the management of such trade union or such association as referred to in subsection (1) shall be liable to be prosecuted under this section, notwithstanding that he may not have taken part in the commission of the offence.

(3) Any office-bearer of a trade union or an association of public officers not being a trade union managing or assisting in the management of such trade union or such association as referred to in subsection (1) shall, on conviction, be liable to a fine of five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

General penalty.

21. Every person who, and every trade union or any association of public officers not being a trade union which, contravenes any provision of this Act for which no other punishment is provided shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

22. (1) A prosecution under this Act shall not be instituted except by or with the consent of the Public Prosecutor. Consent of Public Prosecutor to prosecutions.

(2) Notwithstanding that the consent of the Public Prosecutor has not been obtained, a person charged with such offence may be arrested or a warrant for his arrest may be issued and executed. Such person may be remanded in custody or released on bail, but the case shall not be further prosecuted until the consent has been obtained.

(3) Where a person is brought before a court before the Public Prosecutor has consented to the prosecution, the charge shall be explained to him but he shall not be called upon to plead, and the law for the time being in force relating to criminal procedure shall be modified accordingly.

23. (1) The Yang di-Pertuan Agong may make rules and regulations not inconsistent with the provisions of this Act, for carrying out the purpose of this Act. Rules.

(2) The Yang di-Pertuan Agong may add to, delete from, or otherwise amend or vary the Schedule in any manner he deems fit.

SCHEDULE

(Sections 2 and 23 (2))

- (1) instigating or inciting any other person to take part in, or to continue or to support by money or otherwise, or to do any other act in contemplation or furtherance of a dispute in regard to an anomaly;
- (2) take part in or be a member of any meeting or assembly, whether in a public place or a private place, of five or more persons called for the purpose of instigating or inciting any person to take part in, or to continue, or to support by money or otherwise, or to do any other act in contemplation or furtherance of a dispute in regard to an anomaly;
- (3) to hold, organise, convene or call or cause to be held, organised, convened or called, or be in any manner involved in holding, organising, convening or calling, or in causing to be held, organised, convened or called, or in doing any act towards holding, organising, convening or calling, in any place, whether a public place or a private place, any meeting or assembly of five or more persons, which contravenes paragraph (2) above;
- (4) attend at or near any place, whether a public place or a private place in furtherance of a dispute in regard to an anomaly, provided that no participation in, nor any attendance at, nor any other act done at a meeting by any member of a trade union or any member of an association of public officers which is an aggrieved person or any aggrieved person to consider the anomaly or matters connected with the anomaly shall be deemed to be a proscribed industrial action;

- (5) in contemplation or furtherance of a dispute in regard to an anomaly use a loudspeaker, loud hailer, amplifier, or any other similar appliance;
- (6) in contemplation or furtherance of a dispute in regard to an anomaly—
 - (i) make or cause to be made or do any act towards making or causing to be made; or
 - (ii) fly, exhibit, display or in any manner make use of, or cause to be flown, exhibited, displayed or in any manner made use of; or
 - (iii) have in his possession, custody or control;
any flag, banner, placard, poster, emblem or other device whatsoever;
- (7) in contemplation or furtherance of a dispute in regard to an anomaly, make any communication, whether orally or in writing, to the public or to the press.

KUALA LUMPUR

DICETAK OLEH KETUA PENGARAH PERCETAKAN DAN DITERBITKAN DENGAN PERINTAH PADA
1119 SEPTEMBER 1977

Harga: 50 sen.