



# **LAWS OF MALAYSIA**

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**REPRINT**

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**Act 156**

## **INDUSTRIAL CO-ORDINATION ACT 1975**

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**INDUSTRIAL CO-ORDINATION ACT 1975**

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# **LAWS OF MALAYSIA**

## **Act 156**

### **INDUSTRIAL CO-ORDINATION ACT 1975**

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## LAWS OF MALAYSIA

### Act 156

#### INDUSTRIAL CO-ORDINATION ACT 1975

An Act to provide for the co-ordination and orderly development of manufacturing activities in Malaysia, for the establishment of an Industrial Advisory Council and for other matters connected therewith or incidental thereto.

[1 May 1976, P.U. (B) 248/1976]

**BE IT ENACTED** by the 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:

#### **Short title, application and commencement**

1. (1) This Act may be cited as the Industrial Co-ordination Act 1975, and shall apply throughout Malaysia.

(2) This Act shall come into force on such date as the Minister may by notification in the *Gazette* appoint.

#### **Interpretation**

2. In this Act, unless the context otherwise requires—

“Council” means the Industrial Advisory Council established under section 11A;

“licence” means a licence issued under this Act to engage in any manufacturing activity;

“licensing officer” means any public officer appointed to be a licensing officer under section 3A;

“manufacturer” means a person who is engaged in any manufacturing activity;

“manufacturing activity” with its grammatical variations and cognate expressions means the making, altering, blending, ornamenting, finishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or

disposal and includes the assembly of parts and ship repairing but shall not include any activity normally associated with retail or wholesale trade;

“Minister” means the Minister charged with the responsibility for industrial development;

“product” means any article, thing, substance or service produced as a result of any manufacturing activity and includes a range of products.

### **Licence required for manufacturing activity**

3. (1) No person shall engage in any manufacturing activity unless he is issued a licence in respect of such manufacturing activity.

(2) Any person who fails to comply with subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding two thousand ringgit or to a term of imprisonment not exceeding six months and to a further fine not exceeding one thousand ringgit for every day during which such default continues.

### **Licensing officer to be appointed by Prime Minister**

3A. The Prime Minister may appoint any public officer to be a licensing officer for the purposes of this Act and any such appointment made prior to the coming into force of this section shall, upon such coming into force, be deemed to have been made under this section.

### **Application for and issue and conditions of licence**

4. (1) An application for a licence shall be made in the prescribed form to the licensing officer.

(2) One application may be made for one or more products manufactured in one or more places of manufacturing activity but a separate licence shall be issued for each place of manufacturing activity.

(3) The licensing officer shall, in deciding whether an application for a licence should be approved or refused, consider whether the issue of a licence is consistent with national economic and social objectives and would promote the orderly development of manufacturing activities in Malaysia.

(4) The licensing officer in issuing a licence, may, in furtherance of the aforesaid objectives impose such conditions as he may think fit and such conditions may be varied on the application of the manufacturer or on the licensing officer's own motion after consultation with the manufacturer in respect of whom the conditions in the licence are to be varied.

(5) Every licence issued shall be in the prescribed form and shall be subject to such fee as may be prescribed.

### **Existing manufacturers**

5. Every person who on the commencement of this Act is engaged in any manufacturing activity may continue to do so but shall not later than one year from the date of the commencement of this Act apply for a licence in the prescribed form to the licensing officer.

### **Revocation of licence**

6. (1) The licensing officer may in his discretion revoke a licence if the manufacturer to whom a licence is issued—

- (a) has not complied with any condition imposed in the licence;
- (b) is no longer engaged in the manufacturing activity in respect of which the licence is issued; or
- (c) has made a false statement in his application for the licence.

(2) Before exercising his power to revoke a licence the licensing officer may call upon the manufacturer to show within such period as may be prescribed due cause why his licence should not be revoked.

(3) The licensing officer may withhold or suspend the revocation of a licence if he is satisfied that the act or omission on the part of the manufacturer under subsection (1) was due to some cause beyond his control and there is a reasonable prospect of such act or omission being remedied within such period as the licensing officer may direct.

### **Transfer of licence**

7. (1) No licence shall be transferable from a manufacturer to any person without the prior approval of the licensing officer.

(2) Without prejudice to subsection (1) the licensing officer may in the event of the death, incapacity, bankruptcy, or, in the case of a company, liquidation of the holder of a licence, or where a receiver or manager is appointed in relation to the business of the holder of a licence, or where for any reason the licensing officer is satisfied it would be unjust not to do so authorize the transfer of the licence.

(3) An application for the transfer of a licence shall be made in writing to the licensing officer.

### **Variation**

7A. (1) A manufacturer shall not manufacture any product other than those specified in a licence without the prior approval of the licensing officer.

(2) A manufacturer may suspend or discontinue the manufacture of a product that is specified in a licence after notifying the licensing officer in writing of his intention to do so.

(3) An application for an approval under subsection (1) shall be made in writing to the licensing officer.

### **Compliance with other laws**

8. The issue of a licence shall not be deemed to relieve the manufacturer to whom a licence is issued from compliance with any other written law relating to the manufacturing activity for which the licence is issued.

### **Enforcement**

9. (1) The Minister may authorize in writing any public officer to exercise the powers under this section.

(2) In exercising any of the powers under this section the authorized officer shall on demand produce to the person against whom he is acting under this Act or any rule made thereunder the authority issued to him by the Minister.

(3) Wherever it appears to any Magistrate upon written information on oath and after any enquiry which he may think necessary that there is reasonable cause to believe that in any building or place

there is manufactured, concealed, deposited or kept any product, manufacturing equipment or other thing in respect of which an offence against this Act or any rule made thereunder has been committed, he may issue a warrant authorizing any authorized officer named therein by day or night and with or without assistance to enter such building or place and there search for and seize any product, manufacturing equipment or other thing in respect of which any such offence is suspected to have been committed and may also seize any book or document which may reasonably be believed to contain information as to any offence so suspected of having been committed.

(4) Wherever it appears to any authorized officer that there is a reasonable cause to believe that in any building or place there is manufactured, concealed, deposited or kept any product, manufacturing equipment or other thing in respect of which an offence against this Act or any rule made thereunder has been committed and if he has reasonable grounds for believing that by reason of the delay in obtaining a search warrant, such product, manufacturing equipment or other thing is likely to be removed, such officer may exercise in or upon or in respect of such building or place all the powers mentioned in subsection (3) as if he were authorized to do so by a warrant issued under that subsection.

(5) Every authorized officer who is exercising his power under subsection (4) shall, before exercising such power, obtain the written approval of the Minister.

(6) Any person who obstructs or impedes any authorized officer in the lawful exercise of any of his powers under this Act or under any rule made thereunder is guilty of an offence and is liable to a fine of five hundred ringgit or to imprisonment for a term not exceeding six months or to both.

### **Returns or other information to be furnished on being required so to do by notice in writing**

**10.** (1) The licensing officer may by notice in writing require any manufacturer to furnish him or the Department of Statistics or both, within such time as may be specified in the notice, with returns or other information pertaining to any manufacturing activity of the manufacturer but the manufacturer shall not be required to furnish information which would disclose any secret manufacturing process or other trade secret.

(2) Any manufacturer who—

- (a) fails to furnish within the specified time any return or other information required under subsection (1) is guilty of an offence and is liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both and he is also liable to a further fine not exceeding five hundred ringgit for every day during which such default continues; or
- (b) furnishes any return or other information that is false or misleading in any material respect is guilty of an offence and is liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### **Exemption**

**11.** The Minister may by order exempt any manufacturing activity from all or any of the provisions of this Act.

### **Establishment and composition of Industrial Advisory Council**

**11A.** (1) There is established a body called the Industrial Advisory Council whose function is to advise the Minister on matters pertaining to this Act.

(2) The Council shall consist of the following members to be appointed by the Minister by name:

- (a) a chairman;
- (b) a representative of the Ministry;
- (c) a representative of the Ministry of Finance;
- (d) a representative of the Economic Planning Unit of the Prime Minister's Department;
- (e) a representative of the Ministry responsible for primary industries;
- (f) a representative of the Malaysian Industrial Development Authority;
- (g) one representative from each of the States of Sabah and Sarawak whom the Minister shall appoint after consultation with the Governments of those States;

- (h) five members to represent the institutions of commerce and manufacturing industries;
- (i) two members to represent the interests of persons engaged in manufacturing activities in the States of Sabah and Sarawak; and
- (j) at the discretion of the Minister, not more than two other members.

(3) The Minister may revoke the appointment of a member of the Council who is appointed under this section or an alternate member thereof who is appointed under subsection 11B(1) without assigning any reason therefor and where he so does the revocation shall be final and shall not be questioned in any court.

### **Appointment of alternate member of Council**

**11B.** (1) The Minister may in respect of each member of the Council, other than a member appointed under paragraph 11A(2)(a) or (j), appoint another person from the same body or representing the same interests as that member to be that member's alternate and such alternate member may attend the meetings of the Council in place of that member if that member is for any reason unable to attend.

(2) When attending a meeting of the Council or in the absence of the member in respect of whom he is appointed to be an alternate, an alternate member shall for all purposes be deemed to be a member of the Council.

(3) An alternate member shall, unless he sooner resigns his office or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate is deemed to have vacated his office or otherwise ceases to be a member of the Council pursuant to the provisions of this Act but this shall be without prejudice to such alternate member being appointed as a member or reappointed as an alternate member.

### **Schedule to apply to Council and members**

**11c.** The provisions of the Schedule shall apply in respect of the Council, its members and alternate members.

**Rules**

**12.** The Minister may make rules generally for the better carrying into effect of the provisions of this Act and, without prejudice to the generality of the foregoing, such rules may—

- (a) provide for the procedure for application and issue of replacement and duplicate licences in case of loss, damage or destruction;
- (b) prescribe the procedure for appeals under this Act and the fees payable therefor; and
- (c) prescribe anything required by this Act to be prescribed.

**Person aggrieved may appeal to Minister whose decision shall be final**

**13.** (1) Any person who—

- (a) being an applicant for the issue of a licence is aggrieved by a refusal to issue such licence;
- (b) being the holder of a licence is aggrieved by—
  - (i) the imposition of any condition in his licence;
  - (ii) the variation of, or the refusal to vary, any condition imposed in his licence; or
  - (iii) the revocation of his licence, or
- (c) is aggrieved by a refusal to approve the transfer of a licence,

may, within forty-five days from the date on which the decision of the licensing officer was communicated to him, appeal to the Minister in the prescribed manner.

(2) The Minister may after hearing the appeal make such order as he deems fit and that order shall be final and shall not be questioned in any court.

**Continuation of licence pending appeal**

**14.** (1) Where any person lodges an appeal under paragraph 13(1)(b) or 13(1)(c) the licence shall continue in force as though no decision had been made by the licensing officer until the appeal has been disposed of.

(2) Notwithstanding subsection (1), the licensing officer may in the meantime exercise any of the powers conferred upon him by this Act in relation to the licence on any ground not covered by the appeal.

### **Revocation to be published**

**15.** (1) In the event that there is no appeal against the revocation of a licence by the licensing officer within the prescribed period, the Minister shall by notification in the *Gazette* publish such revocation.

(2) In the event that the Minister makes an order for a revocation of a licence the Minister shall by notification in the *Gazette* publish such revocation.

### **Failure to comply with or give effect to order made under section 13 to be an offence**

**15A.** Any person who fails to comply with or give effect to an order made under subsection 13(2) commits an offence and is liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both and where the person continues to commit the offence after the first commission thereof, he is also liable to a further fine not exceeding two hundred ringgit for every day during which he so continues to commit the offence.

### **Saving of existing licence**

**16.** Every licence which has been issued by the Minister under section 4 before the coming into operation of the Industrial Coordination (Amendment) Act 1977 [*Act A401*] shall on the coming into operation of that amendment be deemed to be a licence issued by the licensing officer under this Act and subject to the terms and conditions attached to such licence.

### **Power to compound certain offences**

**17.** (1) Where any person commits an offence under subsection 10(2) or section 15A, the licensing officer may at any time before the commencement of the hearing of the case against that person compound the offence and order him to pay such sum of money, not exceeding the amount of the maximum fine, as the licensing officer thinks fit.

(2) Where the licensing officer intends to compound an offence, he shall give notice in writing of his intention so to do to such person and the notice shall also specify—

- (a) the date and place of the commission of the offence and the offence committed;
- (b) the sum of money to be paid to compound the offence; and
- (c) the date by which payment of the sum of money is to be made.

(3) If such person agrees to have the offence compounded, he shall admit the commission of the offence and shall pay the specified sum of money by the specified date whereupon the licensing officer shall make an order that the offence is compounded and the order shall, *mutatis mutandis*, also contain the particulars specified in paragraphs (2)(a), (b) and (c).

(4) An order made under this section compounding an offence shall be final and shall not be subject to any appeal.

### **Person in respect of whom offence compounded not to be liable to prosecution in respect of that offence**

**18.** (1) Any person in respect of whom an offence is compounded under section 17 shall not be liable to prosecution in respect of that offence and if any prosecution is brought, it shall be a good defence for him to prove that the offence was compounded under that section.

(2) An order made under subsection 17(3) shall, on its production before any court, be treated as proof of the commission of the offence that is compounded and of the other matters set out therein.

### **Liability of certain persons for offences committed by company, partnership or body of persons**

**19.** (1) Where an offence under this Act or any rule made thereunder has been committed by a person or a manufacturer being a company, partnership or body of persons, any person who at the time of the commission of the offence was a director, manager or other officer serving in a managerial capacity or was a partner of the company, partnership or body of persons or purported to act in any such

capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, consent and connivance and that he had exercised all necessary diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and all the prevailing circumstances.

(2) Nothing in this section shall be construed as exempting a company, partnership or body of persons from any liability for an offence under this Act or any rule made thereunder or under any other written law.

(3) For the purposes of this section the expressions “company” and “partnership” shall respectively have the meanings assigned to those expressions in the written laws relating to companies and to partnerships.

### **Service of returns or other information, notice, certificate, decision and order**

**20.** (1) Returns or other information pertaining to the manufacturing activity of a manufacturer required to be furnished or a notice given, a certificate issued, a decision or an order made under this Act or any rule made thereunder may be served personally or be sent by registered post.

(2) Such returns or other information or notice, certificate, decision or order which is sent by registered post shall be deemed to have been served on the person (including a partnership) to whom it is addressed on the day succeeding the day on which the returns or other information or notice, certificate, decision or order would have been received in the ordinary course of post if it is addressed—

- (a) in the case of the Minister or the licensing officer, to either of them, as the case may require, at the Ministry;
- (b) in the case of a company, a partnership or body of persons having a registered office in Malaysia, to that registered office or, where there is no such registered office to the company’s, partnership’s or body’s principal place of business in Malaysia or, where there is no such principal place of business, to the place where any other activity of the company, partnership or body is carried on; and
- (c) in the case of an individual, to his last-known address.

**Certificate of licensing officer to be *prima facie* evidence of certain matters stated therein**

21. Where in proceedings for an offence under this Act or any rule made thereunder, it is necessary to prove that—

- (a) any person was or was not licensed on a certain date;
- (b) a licence was subject to any particular condition;
- (c) a licence was revoked,

a certificate in writing purporting to be signed by the licensing officer stating that—

- (i) such person was or was not licensed on that date;
- (ii) the licence was issued subject to a particular condition;
- (iii) that the licence was revoked,

shall be *prima facie* evidence of the matters stated therein and the licensing officer shall not be examined on the contents of such certificate unless he has been served with three clear days' notice before the commencement of the hearing of the case of the intention so to do and further stating the particulars which are intended to be challenged:

Provided that the certificate shall have been served on the defence at least ten clear days before such commencement.

**Sessions Court to have full jurisdiction**

22. Notwithstanding the provisions of any written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Act or any rule made thereunder and to award the full punishment for such offence.

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SCHEDULE

[Section 11C]

**Disqualification for being appointed as or from being members of Council; vacating of office; term of office**

1. (1) Any of the following persons shall be disqualified for being appointed as or from being members of the Council:

- (a) a person who is of unsound mind or is otherwise incapable of performing his duties as a member;
- (b) a person who is guilty of an offence involving fraud, dishonesty or moral turpitude; and
- (c) a person who is bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or enters into any arrangement or composition with his creditors.

(2) A member of the Council shall be deemed to have vacated his office—

- (a) upon his death;
- (b) upon his resignation or the revocation of his appointment;
- (c) upon his failure to attend three consecutive meetings of the Council without permission from the Minister; or
- (d) if he becomes disqualified under any of the provisions of subparagraph (1);

and in any such instance, a new member shall be appointed in his place in accordance with the provisions of this Act.

(3) Every member of the Council shall, unless he sooner resigns his office or his appointment is sooner revoked, hold office for a term not exceeding two years and shall be eligible for reappointment:

Provided that a new member who is appointed pursuant to subparagraph (2) shall hold office for the remainder of the term of the member he replaces but he shall be eligible for reappointment.

(4) The provisions of this paragraph shall be without prejudice to the powers of the Minister exercisable under subsection 11A (3).

**Dispute as to whether member of Council is to be deemed to have vacated office to be referred to Minister whose decision shall be final**

2. (1) Any dispute as to whether a member of the Council is to be deemed to have vacated his office shall be referred to the Minister whose decision thereon shall be final and shall not be questioned in any court.

(2) For the purposes of paragraph 1 and this paragraph, the expression “member of the Council” includes an alternate member thereof.

**Calling of, quorum at, voting procedure to be followed at, and the keeping of minutes of, meetings of the Council**

3. (1) The Council shall meet twice annually and shall in addition meet whenever five members or more make a request in writing addressed to the chairman that the Council do meet.

(2) Nine members shall form a quorum at a meeting of the Council.

(3) If on any matter to be determined by the Council there is an equality of votes, the chairman or, in his absence, the member presiding shall have a casting vote in addition to his deliberative vote.

(4) Subject to this Act, the Council shall determine its own procedure.

(5) Minutes shall be kept of all proceedings of the Council and copies thereof shall be submitted to the Minister.

**Chairman, or in his absence member to be elected, to preside at meetings of the Council**

4. (1) The chairman of the Council shall preside at all its meetings.

(2) If, owing to absence or inability to act due to illness or any other cause, the chairman is unable to preside at any meeting of the Council, the members present shall elect one of their number to preside at that meeting and the person so elected may exercise all the powers of the chairman during that meeting.

(3) No business shall be transacted at a meeting of the Council in the absence of the chairman until a member has been elected to preside over that meeting.

**Payment of allowance to member and alternate member of Council**

5. Every member and alternate member of the Council may be paid such allowance as may be determined by the Minister.

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**LAWS OF MALAYSIA****Act 156****INDUSTRIAL CO-ORDINATION ACT 1975****LIST OF AMENDMENTS**

| Amending law      | Short title                                      | In force from |
|-------------------|--------------------------------------------------|---------------|
| Act A401          | Industrial Co-ordination<br>(Amendment) Act 1977 | 01-02-1978    |
| Act A462          | Industrial Co-ordination<br>(Amendment) Act 1979 | 15-01-1980    |
| P.U. (A) 357/1980 | Subordinate Courts Act<br>(Extension) Order 1980 | 01-06-1981    |

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# LAWS OF MALAYSIA

## Act 156

### INDUSTRIAL CO-ORDINATION ACT 1979

#### LIST OF SECTIONS AMENDED

| Section    | Amending Authority   | In force from            |
|------------|----------------------|--------------------------|
| Long Title | Act A462             | 15-01-1980               |
| 2          | Act A401<br>Act A462 | 01-02-1978<br>15-01-1980 |
| 3A         | Act A462             | 15-01-1980               |
| 4-6        | Act A401             | 01-02-1978               |
| 7          | Act A401<br>Act A462 | 01-02-1978<br>15-01-1980 |
| 7A         | Act A401             | 01-02-1978               |
| 9          | Act A401             | 01-02-1978               |
| 10         | Act A401<br>Act A462 | 01-02-1978<br>15-01-1980 |
| 11A-11C    | Act A462             | 15-01-1980               |
| 12         | Act A401             | 01-02-1978               |
| 13         | Act A401<br>Act A462 | 01-02-1978<br>15-01-1980 |
| 14         | Act A401<br>Act A462 | 01-02-1978<br>15-01-1980 |
| 15         | Act A401             | 01-02-1978               |
| 15A        | Act A462             | 15-01-1980               |
| 16         | Act A401             | 01-02-1978               |
| 17-22      | Act A462             | 15-01-1980               |
| Schedule   | Act A462             | 15-01-1980               |

