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LAWS OF MALAYSIA

Act A1753

LABOUR ORDINANCE OF SABAH (AMENDMENT) ACT 2025

An Act to amend the Labour Ordinance of Sabah.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Labour Ordinance of Sabah (Amendment) Act 2025.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

General amendments

2. The Labour Ordinance of Sabah [*Sabah Cap. 67*], which is referred to as the “Ordinance” in this Act, is amended—

(a) in sections 4, 5, 6, 96, 97, 108, 125, 128 and 129, by substituting for the word “Commissioner” wherever appearing the word “Director”;

- (b) in sections 4, 6, 10, 91, 96, 102 and 110, by substituting for the word “worker” wherever appearing the word “employee”;
- (c) in subsection 96(2) and subsection 102(3), by substituting for the words “the Colony” wherever appearing the word “Sabah”; and
- (d) in section 100 and paragraph 130o(2)(j), by substituting for the words “domestic servants” wherever appearing the words “domestic employees”.

Amendment of section 2

3. Section 2 of the Ordinance is amended—

(a) in subsection (1)—

- (i) by inserting after the definition of “agricultural undertaking” the following definition:

‘ “apprentice” means any person who has entered into an apprenticeship contract;’;

- (ii) in the definition of “apprenticeship contract”, by substituting for the words “shall not be less than two years” the words “shall be for a minimum period of six months and a maximum period of twenty-four months”;
- (iii) in the definition of “confinement”, by substituting for the words “twenty-eight weeks” the words “twenty-two weeks”;
- (iv) by inserting after the definition of “confinement” the following definition:

‘ “constructional contractor” means any person, firm, corporation or company who or which is established for the purpose of undertaking, either exclusively or in addition to or in conjunction with any other business, any type of constructional work, and who or

which is carrying out such constructional work for or on behalf of some other person under a contract entered into by him or them with such other person, and includes his or their heirs, executors, administrators, assignees and successors;’;

(v) in the definition of “contract of service”, by substituting for the word “other” the word “employee”;

(vi) by inserting after the definition of “contractor” the following definition:

‘ “contractor for labour” means a person who contracts with a principal, contractor or subcontractor to supply the labour required for the execution of the whole or any part of any work which a contractor or subcontractor has contracted to carry out for a principal or contractor, as the case may be;’;

(vii) by deleting the definition of “dependants”;

(viii) by substituting for the definition of “Director” the following definition:

‘ “Director” means the Director of Labour appointed under subsection (1) of section 3 and for the purposes of Part IVA, includes any suitable person who has been appointed under section 121AP;’;

(ix) in the definition of “domestic servant”, by substituting for the words “domestic servant” the words “domestic employee”;

(x) by inserting after the definition of “domestic servant” the following definition:

‘ “eligible period” means a period of maternity leave of not less than ninety-eight consecutive days;’;

- (xi) in the definition of “employee”—
- (a) in paragraph (a), by substituting for the word “Schedule” the words “First Schedule”; and
 - (b) in paragraph (b), by substituting for the words “under subsection (7) of section 2A” the words “under subsection (7) or section 2A”;
- (xii) by deleting the definition of “family”;
- (xiii) in the definition of “Minister”, by substituting for the words “responsible for labour matters” the words “charged with the responsibility for human resources”;
- (xiv) by substituting for the definition of “overtime” the following definition:
- ‘ “overtime” means—
 - (a) the number of hours of work carried out in excess of the normal hours of work per day; or
 - (b) if any work is carried out after the spread over period of ten hours, the whole period beginning from the time that such spread over period ends up to the time that the employee ceases work for the day;’;
- (xv) by substituting for the definition of “part-time employee” the following definition:
- ‘ “part-time employee” means a person included in the First Schedule whose average hours of work per week as agreed between him and his employer are more than thirty per centum but do not exceed seventy per centum of the normal hours of work per week of a full-time employee employed in a similar capacity in the same enterprise;’;

(xvi) by substituting for the definition of “place of employment” the following definition:

‘ “place of employment”, except for section 121J, means—

(a) any place where work is carried on for an employer by an employee;

(b) any place declared by the Minister under paragraph (d) of subsection (7); or

(c) for the purposes of Part IVA, any place specified under paragraph (a) or (b), and includes any place in which an employee is housed by an employer;’;

(xvii) by deleting the definition of “recruit”;

(xviii) by inserting after the definition of “repatriation” the following definition:

‘ “sexual harassment” means any unwanted conduct of a sexual nature, whether verbal, non-verbal, visual, gestural or physical, directed at a person which is offensive or humiliating or is a threat to his well-being, arising out of and in the course of his employment;’;

(xix) by deleting the definition of “ship”;

(xx) by inserting after the deleted definition of “ship” the following definition:

‘ “spread over period of ten hours” means a period of ten consecutive hours to be reckoned from the time the employee commences work for the day, inclusive of any period or periods of leisure, rest or break within such period of ten consecutive hours;’; and

(xxi) by inserting after the definition of “underground work” the following definition:

‘ “vessel” means any type of ship, boat or floating platform used in the maritime environment including any submersible craft;’;

- (b) in paragraph (3)(c), by inserting after the words “a daily” the words “or an hourly”;
- (c) in subsection (4), by inserting after the words “on a daily” the words “or an hourly”; and
- (d) in subsection (6), by substituting for the word “Schedule” the words “First Schedule, Second Schedule or Third Schedule”.

Substitution of section 2B

4. The Ordinance is amended by substituting for section 2B the following section:

“General power to exempt or exclude. **2B.** The Minister may, by order published in the *Gazette*, exempt or exclude, subject to such conditions as he may deem fit to impose, any person or class of persons or any building or class of buildings from all or any of the provisions of this Ordinance.”.

Amendment of section 3

5. Section 3 of the Ordinance is amended—

- (a) in the marginal note, by substituting for the words “Commissioner of Labour” the words “Director of Labour”;
- (b) in subsection (2)—
 - (i) by substituting for the words “an order under Chapter II^A” the words “a decision or order under section 7^A or 7^I, subsection (4) of section 7^T or subsection (1) of section 18^A or Part IV^A”; and

(ii) by substituting for the word “fourteen” the words “twenty-one”; and

(c) in subsection (3), by substituting for the words “Commissioner of Labour” the word “Director”.

Amendment of section 6

6. Section 6 of the Ordinance is amended by deleting subsection (2).

Amendment of section 7A

7. The Ordinance is amended by substituting for paragraph 7A(2)(b) the following paragraph:

“(b) a contractor for labour against a principal, contractor or subcontractor for any sum of money which the contractor for labour claims to be due to him in respect of any labour provided by him under his contract with the contractor or subcontractor; or”.

Deletion of sections 7C, 7D and 7E

8. The Ordinance is amended by deleting sections 7C, 7D and 7E.

Amendment of section 7F

9. Section 7F of the Ordinance is amended by substituting for the words “sections 7A, 7C and 7D” the words “sections 7A and 18A”.

Amendment of section 7I

10. Subsection 7I(1) of the Ordinance is amended by substituting for the words “section 7A, 7C or 7D” the words “section 7A or 18A”.

Amendment of section 7M

11. Subsection 7M(1) of the Ordinance is amended by substituting for the words “section 7A, 7C, 7D or 7I” the words “section 7A or 7I, subsection (4) of section 7T or section 18A”.

New Chapter IIb

12. The Ordinance is amended by inserting after section 7P the following chapter:

“CHAPTER IIb.

Sexual harassment.

Interpretation. **7Q.** For the purposes of this Chapter, “complaint of sexual harassment” means any complaint relating to sexual harassment made—

(a) by an employee against another employee;

(b) by an employee against any employer;
or

(c) by an employer against an employee.

Inquiry into complaints of sexual harassment.

7R. (1) Upon receipt of a complaint of sexual harassment, an employer or any class of employers shall inquire into the complaint in a manner prescribed by the Minister.

(2) Subject to subsection (3), where an employer refuses to inquire into the complaint of sexual harassment as required under subsection (1), he shall, as soon as practicable but in any case not later than thirty days after the date of the receipt of the complaint, inform the complainant of the refusal and the reasons for the refusal in writing.

(3) Notwithstanding subsection (2), an employer may refuse to inquire into any complaint of sexual harassment as required under subsection (1) if—

- (a) the complaint of sexual harassment has previously been inquired into and no sexual harassment has been proven; or
- (b) the employer is of the opinion that the complaint of sexual harassment is frivolous, vexatious or is not made in good faith.

(4) Any complainant who is dissatisfied with the refusal of the employer to inquire into his complaint of sexual harassment, may refer the matter to the Director.

(5) The Director shall, after reviewing the matter referred to him under subsection (4)—

- (a) if he thinks the matter should be inquired into, direct the employer to conduct an inquiry; or
- (b) if he agrees with the decision of the employer not to conduct the inquiry, inform the person who referred the matter to him that no further action will be taken.

Findings of inquiry by employer.

7s. Where the employer conducts an inquiry into a complaint of sexual harassment received under subsection (1) of section 7R, and the employer is satisfied that sexual harassment is proven, the employer shall—

- (a) in the case where the person against whom the complaint of sexual harassment is made is an employee, take disciplinary action which may include the following:
 - (i) dismissing the employee without notice;

- (ii) downgrading the employee;
or
 - (iii) imposing any other lesser punishment as he deems just and fit, and where the punishment of suspension without wages is imposed, it shall not exceed a period of two weeks; and
- (b) in the case where the person against whom the complaint of sexual harassment is made is a person other than an employee, recommend that the person be brought before an appropriate disciplinary authority to which the person is subject to.

Complaints
of sexual
harassment
made to the
Director.

7T. (1) If a complaint of sexual harassment is made to the Director, the Director shall assess the complaint and may direct an employer to inquire into such complaint.

(2) The employer shall inquire into the complaint of sexual harassment when directed to do so under subsection (1) and submit a report of the inquiry to the Director within thirty days from the date of such direction.

(3) If a complaint of sexual harassment received by the Director is made against an employer who is a sole proprietor, the Director shall inquire into such complaint himself in a manner prescribed by the Minister.

(4) Upon inquiry by the Director of the complaint of sexual harassment under subsection (3), the Director shall decide whether sexual harassment is proven or not and such decision shall be informed to the complainant as soon as practicable.

(5) Notwithstanding subsection (3), the Director may refuse to inquire into any complaint of sexual harassment received under subsection (3) if—

- (a) the complaint of sexual harassment has previously been inquired into by the Director and no sexual harassment has been proven; or
- (b) the Director is of the opinion that the complaint of sexual harassment is frivolous, vexatious or is not made in good faith.

(6) Where the Director refuses to inquire into the complaint of sexual harassment received under subsection (3), he shall, as soon as practicable but in any case not later than thirty days after the date of the receipt of the complaint, inform the complainant of the refusal and the reasons for the refusal in writing.

Effect of
decisions of
the Director.

7U. (1) Where the Director decides under subsection (4) of section 7T that sexual harassment is proven, the complainant may terminate his contract of service without notice.

(2) If the complainant terminates the contract of service under subsection (1), the complainant is entitled to—

- (a) wages as if the complainant has given the notice of the termination of contract of service; and
- (b) termination benefits and indemnity,

as provided for under the Ordinance or the contract of service, as the case may be.

Notice on sexual harassment.

7v. An employer shall, at all times, exhibit conspicuously at the place of employment, a notice to raise awareness on sexual harassment.

Offence.

7w. Any employer who fails—

- (a) to inquire into complaints of sexual harassment under subsection (1) of section 7R;
- (b) to inform the complainant of the refusal and the reasons for the refusal as required under subsection (2) of section 7R;
- (c) to inquire into complaints of sexual harassment when directed to do so by the Director under paragraph (a) of subsection (5) of section 7R or subsection (2) of section 7T;
- (d) to submit a report of inquiry into sexual harassment to the Director under subsection (2) of section 7T; or
- (e) to exhibit a notice to raise awareness on sexual harassment under section 7v,

commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.”.

Amendment of section 13

13. Section 13 of the Ordinance is amended by inserting after subsection (3) the following subsection:

“(4) For the purposes of this section, “dependants” means—

- (a) the husband of an employee;
- (b) the wife or wives of an employee;
- (c) a child, step-child or adopted child, who is unmarried and under the age of eighteen years, of an employee; or

(d) natural or legally adoptive father or mother of an employee.”.

Amendment of section 18

14. Subsection 18(1) of the Ordinance is amended by substituting for the words “shall be in writing” the words “shall be made by the employer in writing”.

New sections 18A and 18B

15. The Ordinance is amended by inserting after section 18 the following sections:

“Discrimination in employment. **18A.** (1) The Director may inquire into and decide any dispute between an employee and his employer in respect of any matter relating to discrimination in employment, and the Director may, pursuant to such decision, make an order.

(2) An employer who fails to comply with any order of the Director issued under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit, and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Forced labour. **18B.** Any employer who threatens, deceives or forces an employee to do any activity, service or work and prevents that employee from proceeding beyond the place or area where such activity, service or work is done, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.”.

New section 70A

16. The Ordinance is amended by inserting after section 70 the following section:

“Interpretation. **70A.** In this Chapter, unless the context otherwise requires—

“employment” means any employment in any labour for the purposes of gain, whether the gain be to a child, young person or to any other person;

“family” means the father, mother, sibling or any guardian who has custody, of a child or young person;

“light work” means any work performed by a child or young person which is not likely—

(a) to be harmful to his health, mental or physical capacity; or

(b) to prejudice his attendance at school that includes any place which teaches any religion, his participation in vocational orientation or training programmes approved by the competent authority or his capacity to benefit from the instruction received;

“public entertainment” means entertainment to which the public or any section of the public is admitted or in connection with which any charge, whether for admission or not, is made or at which any collection or subscription is received and includes performances for the making of films for public exhibition other than news films but does not include any entertainment given by the pupils of any school registered under the Education Act 1996 [Act 550] at or under the auspices of such school, or any entertainment promoted by a voluntary, social or welfare body which has been approved by the Director.”.

Amendment of section 72

17. Section 72 of the Ordinance is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) No child or young person shall be, or be required or permitted to be, engaged in any hazardous work, or any employment other than those specified in this section.”;

(b) by inserting after subsection (1) the following subsection:

“(1A) Notwithstanding subsection (1), a young person may be engaged in any hazardous work with personal supervision if he is—

(a) under an apprenticeship contract; or

(b) undergoing a vocational training.”;

(c) in paragraph (2)(d), by inserting after the words “a written apprenticeship contract” the words “approved by the Director with whom a copy of such contract has been filed”;

(d) by inserting after subsection (2) the following subsection:

“(2A) The age of admission to light work as specified in paragraph (a) of subsection (2) shall not be less than thirteen years.”;

(e) in subsection (3)—

(i) by deleting paragraph (b);

(ii) in paragraph (c)—

(A) by deleting the words “bars,”; and

(B) by deleting the words “, club”;

(iii) in paragraph (e), by substituting for the colon at the end of the paragraph a full stop; and

(iv) by deleting the provisos;

(f) by substituting for subsection (5) the following subsection:

“(5) No child or young person shall be, or be required or permitted to be, engaged in any employment contrary to the provisions of the Electricity Supply Act 1990 [Act 447] or the Occupational Safety and Health Act 1994 [Act 514].”; and

(g) by inserting after subsection (5) the following subsections:

“(6) Notwithstanding subsections (2) and (3), no child or young person shall be, or be required or permitted to be, engaged in any employment specified in the Second Schedule.

(7) For the purposes of this section, “hazardous work” means work specified in the Third Schedule.”.

Amendment of section 73B

18. Paragraph 73B(1)(a) of the Ordinance is amended by substituting for the words “8 o’clock” the words “6 o’clock”.

Amendment of section 73c

19. Subsection 73c(1) of the Ordinance is amended by substituting for paragraph (a) the following paragraph:

“(a) to work between the hours of 6 o’clock in the evening and 7 o’clock in the morning;”.

Deletion of section 74A

20. The Ordinance is amended by deleting section 74A.

Deletion of Chapter XI_A

21. The Ordinance is amended by deleting Chapter XI_A.

Amendment of Chapter XI_B

22. Chapter XI_B of the Ordinance is amended in the heading by substituting for the words “*Maternity protection.*” the words “*Pregnancy and maternity.*”.

Amendment of section 83

23. Section 83 of the Ordinance is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Every female employee shall be entitled—

(a) to maternity leave for an eligible period in respect of each confinement; and

(b) subject to this Chapter, to receive from her employer a maternity allowance to be calculated or prescribed as provided in this section in respect of the eligible period.”;

(b) by substituting for subsection (2) the following subsection:

“(2) Where a female employee is entitled to maternity leave under paragraph (a) of subsection (1), whether or not she is entitled to receive maternity allowance from her employer for the eligible period under subsection (5), or whether or not she has fulfilled the conditions set out in subsection (6), she may, with the consent of her employer, commence work at any time during the eligible period if she has been certified fit to resume work by a registered medical practitioner.”; and

(c) in subsection (7)—

(i) by substituting for the words “this section” the words “subsection (1)”; and

(ii) by substituting for the words “Chapter XVI_B” the words “paragraph (c) of subsection (2) of section 130o”.

New section 86A

24. The Ordinance is amended by inserting after section 86 the following section:

“Restriction on termination of pregnant female employee.

86A. (1) Where a female employee is pregnant or is suffering from an illness arising out of her pregnancy, it shall be an offence for her employer to terminate of her services or give her notice of termination of service, except on the grounds of—

(a) wilful breach of a condition of the contract of service under subsection (2) of section 12;

(b) misconduct under subsection (1) of section 13; or

(c) closure of the employer’s business.

(2) Where the service of a female employee under subsection (1) is terminated, the burden of proving that such termination is not on the ground of her pregnancy or on the ground of illness arising out of her pregnancy, shall rest on the employer.”.

Amendment of section 91A

25. Section 91A of the Ordinance is amended—

(a) in the marginal note, by substituting for the word “dismissal” the word “termination”; and

(b) in subsection (2), by substituting for the word “dismissed” the word “terminated”.

Amendment of section 96

26. Section 96 of the Ordinance is amended—

(a) in paragraph (1)(d), by substituting for the words “by notice or otherwise” the words “by the employer”; and

(b) by inserting after subsection (6) the following subsection:

“(7) For the purposes of this section, “dependant” means—

(a) the husband of an employee;

(b) the wife or wives of an employee;

(c) a child, step-child or adopted child, who is unmarried and under the age of eighteen years, of an employee; or

(d) natural or legally adoptive father or mother of an employee.”.

Amendment of Chapter XIII

27. Chapter XIII of the Ordinance is amended in the heading by substituting for the words “*Domestic service.*” the words “*Domestic employees.*”.

Amendment of section 100

28. Section 100 of the Ordinance is amended in the marginal note by substituting for the words “Domestic servants” the words “Domestic employees”.

New section 100A

29. The Ordinance is amended by inserting after section 100 the following section:

“Termination of contract. **100A.** Subject to any express provision to the contrary contained therein, a contract to employ and to serve as a domestic employee may be terminated either by the person employing the domestic employee or by the domestic employee giving the other party fourteen days’ notice of his intention to terminate the contract, or by the paying of an indemnity equivalent to the wages which the domestic employee would have earned in fourteen days:

Provided that any such contract may be terminated by either party without notice and without the paying of an indemnity on the ground of conduct by the other party inconsistent with the terms and conditions of the contract.”.

Amendment of section 102

30. Section 102 of the Ordinance is amended—

(a) in subsection (1), by inserting after paragraph (e) the following paragraphs:

“(ea) to enable him to purchase a computer;

(eb) to enable him to pay for medical expenses for himself or his immediate family members;

(ec) to enable him to pay for daily expenses pending receipt of any periodical payments for temporary disablement under the Employees’ Social Security Act 1969 [Act 4];

(ed) to enable him to pay for educational expenses for himself or his immediate family members;”;
and

(b) by inserting after subsection (4) the following subsection:

“(5) For the purposes of this section, “immediate family members” means the employee’s father, mother, spouse, children, siblings or any other person under the employee’s guardianship.”.

Amendment of section 103

31. Section 103 of the Ordinance is amended—

(a) in paragraph (1)(a)—

- (i) by substituting for the word “fourteen” the word “fifteen”;
- (ii) by substituting for the word “four” the word “five”;
- (iii) in subparagraph (iii), by deleting the word “and” at the end of the subparagraph;
- (iv) in subparagraph (iv), by substituting for the words “the Workers’ Day:” the words “the Labour Day; and”; and
- (v) by inserting after subparagraph (iv) the following subparagraph:

“(v) the Malaysia Day:”; and

(b) in paragraph (1)(b), by substituting for the proviso the following proviso:

“Provided that if any of the public holidays referred to in paragraphs (a) and (b) falls on—

- (i) a rest day; or
- (ii) any other public holiday referred to in paragraphs (a) and (b),

the working day following immediately the rest day or the other public holiday shall be a paid holiday in substitution of the first mentioned public holiday.”.

Amendment of section 104

32. Section 104 of the Ordinance is amended—

- (a) in the marginal note, by inserting after the word “work” the words “and working at night”;
- (b) in subsection (1), by substituting for the words “forty-eight” wherever appearing the words “forty-five”; and
- (c) in subsection (10), by inserting after the word “rates” the words “and prescribing matters relating to working at night”.

Amendment of section 104A

33. Section 104A of the Ordinance is amended—

- (a) in subsection (1), by substituting for the words “forty-eight” wherever appearing the words “forty-five”; and
- (b) by inserting after the subsection (4) the following subsection:

“(5) The Minister may make rules relating to the entitlement of allowance during shift work.”.

Amendment of section 104c

34. Subsection 104c(3) of the Ordinance is amended by inserting after the word “monthly” the words “or weekly”.

Amendment of section 104E

35. Paragraph 104E(1)(ab) of the Ordinance is amended—

- (a) by deleting the first proviso; and

(b) in the further proviso, by substituting for the words “And provided further” the word “Provided”.

New section 104EA

36. The Ordinance is amended by inserting after section 104E the following section:

“Paternity
leave.

104EA. (1) Subject to subsection (3), a married male employee shall be entitled to a paid paternity leave at his ordinary rate of pay for a period of seven consecutive days in respect of each confinement.

(2) The paternity leave under subsection (1) shall be restricted to five confinements irrespective of the number of spouses.

(3) A married male employee shall be entitled to paternity leave from his employer if—

(a) he has been employed by the same employer at least twelve months immediately before the commencement of such paternity leave; and

(b) he has notified his employer of the pregnancy of his spouse at least thirty days from the expected confinement or as early as possible after the birth.

(4) A married male employee referred to under subsection (1) employed on a monthly rate of pay shall be deemed to have received the paternity leave pay if he continues to receive his monthly wages during his abstention from work during the paternity leave without abatement in respect of the abstention for the month in which he takes such paternity leave.”.

New section 107c

37. The Ordinance is amended by inserting after section 107B the following section:

“Calculation of wages for incomplete month’s work.

107c. Notwithstanding subsection (3) of section 2, an employee who is employed on a monthly rate of pay and has not completed a whole month of service—

- (a) where he commenced employment after the first day of the month;
- (b) where his employment was terminated before the end of the month;
- (c) where he took leave of absence without pay for one or more days of the month; or
- (d) where he took leave of absence by reason of having been called up for national service under the National Service Training Act 1952 [Act 425], to present himself for national service training as required under the National Service Training Act 2003 [Act 628] or to comply with any other written law relating to national service,

shall be paid wages due to him for that month calculated according to the following formula:

$$\frac{\text{Monthly wages}}{\text{Number of days of the particular wage period}} \times \text{Number of days eligible in the wage period.}”.$$

Substitution of section 108

38. The Ordinance is amended by substituting for section 108 the following section:

“Time of
payment of
wages.

108. (1) Subject to subsection (2), every employer shall pay to each of his employees not later than the seventh day after the last day of any wage period the wages, less lawful deductions earned by such employee during such wage period.

(2) Wages for work done on a rest day, gazetted public holiday referred to in paragraphs (a) and (b) of subsection (1) of section 103 and overtime referred to in section 104 shall be paid not later than the last day of the next wage period.

(3) Notwithstanding subsections (1) and (2), if the Director is satisfied that payment within such time is not reasonably practicable, he may, on the application of the employer, extend the time of payment by such number of days as he thinks fit.”.

New sections 108A and 108B

39. The Ordinance is amended by inserting after section 108 the following sections:

“Payment
on normal
termination of
contract.

108A. The wages, less lawful deductions, earned by but not yet paid to an employee whose contract of service terminates in accordance with subsection (1) of section 10A or of section 11 shall be paid to such employee not later than the day on which such contract of service so terminates.

Payment on termination of contract in special circumstances and on breach of contract.

108B. (1) Where an employer terminates the contract of service of an employee without notice in accordance with section 12 or paragraph (a) of subsection (1) of section 13—

(a) the wages, less any deductions which the employer is entitled to make under section 113, earned by such employee up to and including the day immediately preceding the day on which the termination of the contract of service takes effect; and

(b) in addition, where the employer terminates the contract of service under subsection (1) of section 12, the indemnity payable to the employee under that subsection,

shall be paid by the employer to the employee not later than the day on which such contract of service is so terminated.

(2) Where an employee terminates his contract of service with an employer without notice in accordance with section 12 or subsection (3) of section 13, the wages, less any deductions which the employer is entitled to make under section 113, earned by such employee up to and including the day immediately preceding the day on which the termination of the contract of service takes effect shall be paid by the employer to the employee not later than the third day after the day on which the contract of service is so terminated.”.

Substitution of section 110

40. The Ordinance is amended by substituting for section 110 the following section:

“Wages to be paid through financial institution.

110. (1) The entire amount of wages earned by, or payable to, any employee in respect of any work done by him less any lawful deductions, shall be actually paid to him through payment into an account opened by a financial institution, being an account in the name of the employee or an account in the name of the employee jointly with one or more other persons as stipulated by the employee.

(2) Every employee shall be entitled to recover in the courts so much of his wages, exclusive of sums lawfully deducted under section 113, as shall not have been actually paid to him in accordance with subsection (1).

(3) For the purposes of this Chapter, “financial institution” includes—

(a) a licensed bank and an approved issuer of a designated payment instrument under the Financial Services Act 2013 [*Act 758*];

(b) a licensed Islamic bank and an approved issuer of a designated Islamic payment instrument under the Islamic Financial Services Act 2013 [*Act 759*]; and

(c) a prescribed institution under the Development Financial Institutions Act 2002 [*Act 618*].

(4) The Minister may, by order published in the *Gazette*, specify any approved issuer of a designated payment instrument or any approved issuer of a designated Islamic payment instrument under paragraphs (a) and (b) of subsection (3) to be a recognized approved issuer of a designated payment instrument or approved issuer of a designated Islamic payment instrument for the purpose of payment of wages under this Ordinance.”.

Substitution of section 110A

41. The Ordinance is amended by substituting for section 110A the following section:

“Payment of wages other than through financial institution.

110A. (1) Notwithstanding subsection (1) of section 110, an employer may, upon a written request of the employee and subject to subsection (2), make payment of his employee’s wages—

(a) in legal tender; or

(b) by cheque made payable to or to the order of the employee.

(2) The employer shall, upon the written request of his employee under subsection (1), obtain approval from the Director for the payment of wages to be paid in legal tender or by cheque.

(3) The Director may impose any condition as he may deem fit on the approval granted under subsection (2).

(4) The request by the employee under subsection (1) may be withdrawn by the employee, at any time, by notice in writing, to the employer.

(5) The notice referred to in subsection (4) shall take effect at, but not before, the end of the period of four weeks beginning with the day on which the notice is given.

(6) The request of the employee to the mode of payment of wages under subsection (1) shall not be unreasonably withheld by the employer upon obtaining the approval under subsection (2).

(7) Any dispute arising out of the request by the employee under subsection (1) shall be referred to the Director whose decision on the matter shall be final.

(8) Section 7A shall not apply in respect of any dispute under subsection (7).”.

Amendment of section 116

42. Section 116 of the Ordinance is amended—

- (a) in subsection (1), by substituting for the words “or approved service” the words “, approved service or approved incentive payment scheme”; and
- (b) in subsection (2), by substituting for the words “any amenity or service as an approved amenity or approved service” the words “any amenity, service or incentive payment scheme as an approved amenity, service or incentive payment scheme”.

New section 116D

43. The Ordinance is amended by inserting after section 116C the following section:

“Information relating to supply of employees.

116D. (1) A contractor for labour who intends to supply or undertakes to supply any employee shall register with the Director in the prescribed form within fourteen days before supplying the employee.

(2) A contractor for labour referred to in subsection (1) who supplies any employee to a principal, contractor or subcontractor shall enter into a contract for labour and shall make such contract or any other document relating to such contract available for inspection.

(3) If a contractor for labour referred to in subsection (1) supplies any employee, he shall keep or maintain one or more registers containing information regarding each employee supplied by him and shall make such registers available for inspection.

(4) A contractor for labour shall submit the register under subsection (3) to the Director within fourteen days from the date on which the contract for labour was entered.

(5) A contractor for labour who—

(a) supplies his employee without registering with the Director as required under subsection (1);

(b) fails to make such contract or any other document relating to such contract available for inspection as required under subsection (2);

(c) fails to keep or maintain any register, or make available any register for inspection as required under subsection (3); or

(d) fails to submit any register to the Director as required under subsection (4),

commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.”.

Amendment of section 118A

44. Section 118A of the Ordinance is amended by inserting after subsection (2) the following subsections:

“(3) If the service of a non-resident employee is terminated—

(a) by the employer;

(b) by the non-resident employee;

(c) by reason of the expiry of the employment pass issued by the Immigration Department of Malaysia to the non-resident employee; or

(d) by reason of the repatriation or deportation of the non-resident employee,

the employer shall inform the Director of the termination in a manner as may be prescribed in the Licence to Employ Non-Resident Employee under section 118 and paragraph (n) of subsection (2) of section 130o of the Ordinance.

(4) If a non-resident employee absconds from the place of employment, the employer shall, within fourteen days of the non-resident employee’s absence, inform the Director in the manner as may be determined by the Director.”.

Deletion of section 118B

45. The Ordinance is amended by deleting section 118B.

New Chapter XIVB

46. The Ordinance is amended by inserting after section 120 the following chapter:

“CHAPTER XIVB.

Flexible working arrangement.

Flexible
working
arrangement.

120A. (1) Subject to Chapter XIV or anything in the contract of service, an employee may apply to an employer for a flexible working arrangement to vary hours of work, days of work or place of work in relation to his employment.

(2) Where there is a collective agreement, any application made by employee under subsection (1) shall be consistent with the terms and conditions in the collective agreement.

Application for
flexible working
arrangement.

120B. (1) The employee shall make an application for flexible working arrangement under section 120A in writing and in the form and manner as may be determined by the Director.

(2) Upon application made under subsection (1), an employer shall, within sixty days from the date such application is received, approve or refuse the application.

(3) The employer shall inform the employee in writing of the employer’s approval or refusal of the application under subsection (1) and in the case of a refusal, the employer shall state the ground of such refusal.”.

New Part IVA

47. The Ordinance is amended by inserting after section 121 the following part:

“PART IVA.

SPECIAL PROVISIONS RELATING TO EMPLOYEES’
MINIMUM STANDARDS OF HOUSING,
ACCOMMODATIONS AND AMENITIES.

Interpretation. **121A.** In this Part, unless the context otherwise requires—

“dependant”, except for Chapter XV B,
means—

- (a) a spouse of an employee;
- (b) a father or a mother—
 - (i) including a stepfather or a stepmother of an employee;
 - (ii) of illegitimate child of an employee;
 - (iii) of any person by whom the employee was adopted in accordance with any written law relating to adoption;
- (c) a grandfather or a grandmother of an employee;
- (d) a child whether illegitimate child or a child adopted in accordance with any written law relating to adoption including stepchild of an employee;
- (e) a brother or a sister including a half-brother, a half-sister, a stepbrother or a stepsister of an employee;

“District Engineer” means any engineer in the service of the Federal or State Government who is for the time being carrying out the duties of the Public Works Department for that district and, for the purposes of subsection (1) of section 121AR, includes any officer authorized in writing in that behalf by the District Engineer;

“estate” means any agricultural land exceeding twenty hectares in extent upon which agricultural operations of any kind are carried on or upon which the produce of any plants or trees is collected or treated, or any mine or any other place of employment so declared by the Minister under section 121B;

“Medical Officer of Health” means any medical practitioner in the service of the Government or any local authority who is for the time being carrying out the duties of a Medical Officer of Health in any area, district, or local authority area, and includes the Director General, the Deputy Director General of Health, the Director of Health Services, any Deputy Director of Health Services, any State Director of Medical and Health Services and any State Deputy Director of Medical and Health Services and, for the purposes of subsection (1) of section 121AR, includes any officer authorized in writing in that behalf by the Medical Officer of Health;

“resident manager” means any employer or agent of an employer who resides on, or is in immediate charge of, the estate in which the employees are employed;

“resident registered medical practitioner” means any registered medical practitioner employed by the employer and who resides on the estate in which the employees are employed.

Power of
Minister to
declare place
of employment
as an estate.

121B. The Minister may, by order published in the *Gazette*, declare any place of employment as an estate.

CHAPTER XVa.

Housing and other amenities.

Interpretation.

121c. In this Chapter, unless the context otherwise requires, “building” means any building used for the housing of employees and includes a nursery and a community hall.

Building to
comply with
requirements.

121d. (1) Except as provided in subsection (2), no employer shall house or cause or permit to be housed any employee employed by him or by any other person (with whom he has contracted for the purpose of executing any work for or connected with his business, trade, operation or interest) in any building either owned by him or is within his possession or control which does not comply with the provisions of this Part or any regulation made thereunder.

(2) Any building, which immediately before the commencement of this Part was used for the housing of employees, as a nursery or as a community hall, by an employer and was erected or converted in accordance with the requirements of any written law in force at the time of its erection or conversion may continue to be used by such employer:

Provided that such building be converted to comply with the provisions of this Part or any regulations made thereunder.

(3) Notwithstanding the provision in subsection (2), the Director may, upon application by an employer, permit subject to any condition as he may impose, such building to continue to be used without conversion for such period as he deems fit.

(4) Pursuant to any investigation carried out on any place of employment, where the Director is satisfied that any building, which immediately before or after the commencement of this Part, was used for the housing of employees or their dependants, or as a nursery or as a community hall, does not comply with the provisions of this Part or any regulations made under this Part, the Director may issue to the employer concerned a notice, of not less than three months, of his intention to order demolition and replacement, alteration, repair or making good any deficiency or defect thereof.

(5) Where, upon the expiry of the notice under subsection (4), the employer fails to take such action as required to the satisfaction of the Director, the Director may issue to the employer concerned, an order in writing requiring the employer to demolish and replace, alter or repair such building or to make good any deficiency or defect thereof within six months from the date of the order and subject to such conditions as the Director may specify in the order.

(6) The order under subsection (5) may include a directive that no employee or his dependants shall be permitted to occupy any such building pending such demolition and replacement, alteration or repair, or the making

good of any defect or deficiency thereof, or until the requirements of the order have been complied with:

Provided that where an appeal has been made under section 121AS in respect of the order issued under this subsection, then such order shall be suspended pending the determination of the appeal.

Supply of water and electricity and maintenance of houses.

121E. (1) Where employees and their dependants are provided with housing at their place of employment, it shall be the duty of the employer of such place of employment—

- (a) to provide free and adequate piped water drawn from a public main, or where the Director so permits in writing, to provide free and adequate supply of potable piped water drawn from any other source which shall be filtered and treated in a manner approved by the Director;
- (b) to provide adequate electricity supply;
- (c) to ensure that the buildings are kept in a good state of repair and painted to present a satisfactory appearance; and
- (d) to ensure that no unauthorized extensions or structural alterations are made to the buildings.

(2) For the purposes of this section, the adequacy of water and electricity supply shall be as determined by the Director:

Provided that the Director may, if he is satisfied in any case that it is impracticable to provide piped water supply for each house, approve any other means of water supply:

Provided further that the Director may, in any case where he is satisfied that the provision of electricity supply is not practicable or viable, exempt the employer in writing from the requirement of such provision.

(3) Where water supply is drawn from a source other than a public main, the Director may, for the purpose of ensuring that the water supply is suitable for consumption, cause the Medical Officer of Health to take samples of water supply for analysis and report, the costs of which shall be borne by the employer.

(4) Where water supply is obtained from a public main and is piped to each house, the Director may, on application made to him, partly or wholly exempt the employer in writing from the requirement to provide free water supply to the employees subject to such conditions as the Director may impose.

(5) Where any extension or structural alteration has been made to the buildings without the permission of the Director, the Director may, after giving one month's notice, require the employer to have the extension or structural alteration demolished.

Erection of building intended to be used for the housing of employees, as a nursery or as a community hall.

121F. (1) In relation to a building which is to be erected or converted for the housing of employees or for use as a nursery or as a community hall, the employer shall submit the plans of the building and of its site to the Director for the approval of the approving authority as provided in subsection (2) and no work relating to the aforesaid building shall be begun unless and until the plans so submitted have been approved.

(2) The approving authority referred to in subsection (1) shall be—

- (a) in the case of a plan of a building, the local authority; and
- (b) in the case of a plan of the site of the building and of the sanitary arrangements, the Medical Officer of Health.

(3) For the purpose of securing that the minimum standards required under this Part or any regulations made under this Part are complied with, the approving authority may approve such plans including their alterations, subject to such conditions as he may deem fit to impose thereon.

Building
endangering
health or safety.

121G. (1) The Director shall cause to be inspected—

- (a) by a Medical Officer of Health, any building, estate hospital, group estate hospital or clinic on a place of employment which, by reason of its design, site, size, sanitation, the quantity and quality of the water supply provided for the occupants of such buildings or other conditions, appears to the Director to be likely to endanger health; and
- (b) by the District Engineer, any building, estate hospital, group estate hospital or clinic on a place of employment which, by reason of its construction, state of repair or condition, appears to the Director to be likely to endanger the safety of any person.

(2) The Medical Officer of Health or the District Engineer or both, as the case may be, shall, after inspecting any building, estate hospital, group estate hospital or clinic under this section, submit to the Director a report of his or their findings, together with any recommendation made thereon relating to the necessary measures required to be taken in respect of such building, estate hospital, group estate hospital or clinic.

(3) Subject to subsection (4), on receipt of such report referred to in subsection (2), the Director may issue to the employer concerned, an order in writing requiring the employer to demolish and replace, alter or repair the building, estate hospital, group estate hospital or clinic or to make good any deficiency or defect within such time and subject to such conditions as the Director may specify in the order and such order may direct that no employee or his dependants shall be permitted to occupy any building, estate hospital, group estate hospital or clinic pending such demolition and replacement, alteration or repair or until the order has been complied with:

Provided that where an appeal has been made under section 121A5 in respect of the order, then such order shall be suspended pending the decision of the appeal.

(4) No order under subsection (3) shall be issued unless a copy of the report under subsection (2) received by the Director has been furnished to the employer by the Director, and in making such order, the Director shall give due consideration to any representation that may be made by the employer in respect of the report.

Building not originally built for the housing of employees.

121H. (1) Except as provided in subsection (2), a building originally built for a purpose other than the housing of employees shall not be used for, or be converted for, the purpose of the housing of employees by an employer without an approval by the Director.

(2) An employer may make an application to the Director in the manner specified under subsection (3) for the approval for the purpose specified under subsection (1).

(3) The application required to be made under subsection (2) shall be accompanied by a plan of the site of the building and a plan setting out the details of the building or of the conversion proposed to be made thereto and subsections (2) and (3) of section 121F shall apply to such plan as they apply to a plan of a building or of the site of a building mentioned in that section.

Nursery.

121I. (1) Where there are employees residing on the place of employment and such employees have together no less than five dependants under four years of age living with them, the Director may, by order, require the employer of such employees to construct at the aforesaid place of employment within such reasonable time as may be specified therein, a nursery of a size capable of accommodating such number of employees' dependants, as may be specified therein, and on being so required, the employer shall construct such nursery accordingly:

Provided that any subsequent reduction in the number of dependants after the order has been issued shall not invalidate such order.

(2) The employer shall maintain the nursery and shall accommodate therein the dependants of the employees during the period in which such employees are away working for the employer:

Provided that he shall not accommodate therein such dependants in excess of the number specified in the order mentioned in subsection (1).

(3) On each day a dependant is accommodated at the nursery, the employer, at his own expense, shall provide for such dependant with play equipment and a supply of milk—

(a) in sufficient quantity; and

(b) of good quality.

(4) Any employer who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Allotment of land.

121J. (1) Where there are employees residing on the place of employment, the employer of such employees shall set aside land which has been cleared, for allotment to such employees for cultivation, grazing or partly cultivation and partly grazing:

Provided that an employer is not required to excise any permanent cultivation which has been planted by him at least twelve months previously.

(2) An employee residing on the place of employment who has been employed for a period of not less than six months by the employer aforesaid shall be entitled to have allotted to him an area of 250 square metres of the land so set aside.

(3) If an area of land allotted for cultivation (whether wholly or partly) shall remain unplanted for a period of six months from the date of the allotment, or if an employee uses the area of land allotted to him for a purpose different from that for which it was allotted, or if he does not use it at all for the purpose for which it was allotted, the employer may terminate such allotment and thereafter may allot such area of land to another employee.

(4) In relation to the setting aside of land under this section—

(a) land allotted to employees shall be situated as near as possible to the houses of the employees; and

(b) land for grazing shall, except with the permission in writing of a Medical Officer of Health, be situated at a distance of not less than 183 metres from the houses of the employees.

(5) The Director may, for sufficient reason, exempt to such extent as may be stated in such exemption, any employer from compliance with this section on such terms and conditions and for such period as he may deem fit.

(6) Any employer who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

(7) For the purposes of this section, “place of employment” means an estate or such other place as may be prescribed by the Minister by notification in the *Gazette* to be a place of employment.

Community hall, sports and other recreational facilities.

121K. (1) The Director may, by order, require the employer in any place of employment where there are not less than one hundred employees residing at the place of employment—

- (a) to construct at the place of employment, within such reasonable time as may be specified, a community hall capable of accommodating such number of persons as may be specified; and
- (b) to provide facilities for sports and other recreational activities as may be specified.

(2) The employer shall maintain the community hall, sports and other recreational facilities in a satisfactory condition as the Director thinks fit.

(3) Any employer who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

No rent or charge to be levied for benefits under this Chapter.

121L. An employee shall not be required to make any payment for rent or charge in respect of any housing, nursery, community hall, sports and other recreational facilities, sanitation, or allotment of land provided for the employee under this Chapter.

CHAPTER XVb.

Health, hospital, medical treatment and sanitation.

Definition of dependant.

121M. For the purposes of this Chapter, “dependant” means such member of the employee’s family, namely, spouse, father, mother and children under the age of eighteen, including children adopted in accordance with any written law, who are living with and dependent on the employee.

Employer to construct and maintain estate hospital.

121N. (1) The Director may, at any time, by order in writing, require any employer to construct within a reasonable time to be stated in such order and thereafter to maintain at his own expense, a hospital, hereinafter called “estate hospital”, on or in the immediate neighbourhood of any estate upon which employees are employed by him with accommodation for such number of patients as may be stated in such order.

(2) Where there is already a hospital maintained by the employer, the Director may, by order in writing, require the employer to enlarge or add to such hospital so as to provide accommodation for a further number of patients as may be stated in the order.

(3) For the purposes of subsection (1) or (2), the Director may further require the employer to employ a registered medical practitioner to reside at and have charge of such hospital or any hospital maintained by such employer, and to provide such medical practitioner with fit and proper house accommodation to the satisfaction of the Medical Officer of Health.

(4) In the case where two or more estates are so situated that the required accommodation for patients from such estates can be conveniently provided in one hospital, the Director may,

instead of ordering each employer to construct and maintain a separate hospital, order all the employers concerned to construct within a reasonable time to be stated in such order and thereafter to maintain at their own expense one hospital, hereinafter called a “group estate hospital”, for all such estates with accommodation for such number of patients as may be stated in the order.

(5) In the case of there is already a group estate hospital erected and maintained jointly by two or more employers (whether constructed under the provisions of this section or not), the Director may order all or any such employers to enlarge or add to such hospital so as to provide accommodation for such further number of patients from their estates as may be stated in the order.

(6) For the purposes of subsections (4) and (5), the Director may further require the employers to employ a registered medical practitioner to have charge of such group hospital and to provide such medical practitioner with fit and proper house accommodation to the satisfaction of the Medical Officer of Health.

(7) Where there already exists an estate hospital or group estate hospital, the Director may order the employers concerned to join such estate hospital or group estate hospital, as the case may be, and be jointly responsible for the maintenance of such hospital.

(8) Every employer referred to in this section and the resident manager of every estate concerned shall be responsible for the registration and the due maintenance of the estate hospital or group estate hospital, as the case may be, registered in accordance with the provisions of the Private Healthcare Facilities and Services Act 1998 [Act 586] and any regulations made thereunder.

(9) No employer who has constructed and maintained an estate hospital or a group estate hospital, whether in pursuance of an order of the Director under this section or otherwise, shall reduce the number of beds or discontinue the maintenance and operation of such estate hospital or group estate hospital without prior written permission of the Director.

Duty to provide medical care, etc., and recovery of medical expenses.

121o. (1) It shall be the duty of every employer to provide for every employee employed on an estate with medical attendance, care and treatment including diet at the estate hospital or group estate hospital established under section 121N or at the estate clinic established under section 121R.

(2) The employer may recover from such employee the expenses of such care, treatment and maintenance at such rate as the Minister may prescribe by notification in the *Gazette* in respect of any period in excess of thirty days during which such employee shall have remained in the hospital.

(3) For the purposes of this section, employee includes his dependants who reside on such estate or on any other land owned or leased by or is within the control of the employer.

Sick employees being admitted to a Government hospital.

121p. (1) If an employee at the time of his admission to a Government hospital was employed and residing on any estate, the employer shall pay the expenses of maintenance and treatment in the Government hospital of the employee and of any dependant of such employee at the rate as the Minister may prescribe.

(2) The expenses incurred under subsection (1) shall, whatever be the amount, be recoverable from the employer in a civil court at the suit of the Medical Officer in charge of the Government hospital, and the certificate of the Medical Officer shall be sufficient *prima facie* evidence that the amount therein specified is due from the employer:

Provided that not more than thirty days' expenses in the Government hospital in respect of any employee or dependant shall be recoverable.

(3) No expenses paid by an employer under subsection (1) shall be recoverable from the employee.

Transportation of sick employees to hospital.

121Q. (1) It shall be the duty of the employer and of the resident manager at their own expenses—

- (a) to have every employee employed on an estate and any dependant of such employees who requires medical treatment to be transported safely without delay to and from the estate hospital or group estate hospital or, if there is no such hospital, to and from the nearest Government hospital; and
- (b) to make arrangements and to provide appliances for the safe transport of a sick employee or any sick dependant of an employee to and from hospital as the Medical Officer of Health or any Medical Officer may, from time to time, require.

(2) The Medical Officer of Health or any Medical Officer may require the employer or resident manager to remove any employee on the estate who requires medical treatment to an estate hospital or a group estate hospital or a Government hospital, as the case may be.

(3) Any employer or resident manager who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Medical treatment in estate on which a hospital is not maintained.

121R. (1) On any estate where there is no estate hospital or a group estate hospital available, the Director may, by order, after consultation with the Medical Officer of Health, require an employer to establish and maintain a clinic or make such other provisions as are necessary for the treatment of sick employees and their dependants.

(2) The Director shall specify in such order the services, medicine, equipment and staff to be provided and the hours during which the treatment facilities shall be made available to the employees and their dependants.

(3) Where a clinic exists on any estate or is established pursuant to an order under subsection (1), it shall be the duty of the employer to arrange for a registered medical practitioner to visit the clinic at least once a fortnight to supervise the operations and management of the clinic and to provide medical treatment to employees and their dependants.

(4) No employer who has established and maintained a clinic, whether pursuant to an order of the Director made under this section or otherwise, shall reduce the services, facilities or staff or discontinue the maintenance and operation of such clinic without prior written permission of the Director.

Duty to report suspected cases of infectious disease.

121s. (1) It shall be the duty of the resident registered medical practitioner or, in his absence or if there is no resident registered medical practitioner, the resident manager—

- (a) to isolate at once any employee or other person on an estate whom he may suspect to be suffering from any infectious disease as defined in the Prevention and Control of Infectious Diseases Act 1988 [Act 342];
- (b) to detain under observation any other person whom he may deem likely to have contracted such disease; and
- (c) to notify the nearest Medical Officer of the action taken under paragraphs (a) and (b) with the least possible delay.

(2) Pending the arrival of the Medical Officer of Health on the estate, the resident registered medical practitioner or the resident manager shall take appropriate preventive measures and thereafter consult the Medical Officer of Health on any further action to be taken.

(3) Any person who neglects to perform the duty imposed upon him or contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Duty of employer to segregate employee suffering from infectious disease.

121r. (1) On the occurrence of any infectious disease on any estate, it shall be the duty of the employer forthwith, if so directed by the Medical Officer of Health or a Medical Officer—

- (a) to provide a place where an employee may be segregated in the interest of public health or of any other employee employed on the estate; and
- (b) to make at his own expense such arrangements as deemed necessary to the Medical Officer of Health or such Medical Officer—
 - (i) for the maintenance of all the employees while so segregated; and
 - (ii) for the treatment of any employee suffering from such disease.

(2) It shall be lawful for the Medical Officer of Health or Medical Officer to cause such employee to be removed to such place as he may direct and continued to be detained in such place until discharged by order in writing of the Medical Officer of Health or a Medical Officer if at any time it appears to the Medical Officer of Health or a Medical Officer—

- (a) that an employee employed on any estate is suffering from any infectious disease; or
- (b) that it is otherwise necessary in the interest of public health or of the health of any other employee employed on the estate.

Power of Medical Officer of Health to order immunization against infectious disease.

121u. The Medical Officer of Health may, at any time if it appears to him necessary for the health of the employees employed on any estate, by order in writing, direct any employer or resident manager, at his own expense, to make arrangements so that all or any of the employees and their dependants be given immunization against any infectious disease.

Weekly inspection of employees' housing.

121v. (1) It shall be the duty of the employer of a place of employment where employees and their dependants are provided with housing accommodation to ensure that—

- (a) the area surrounding the employees' housing is kept clear of undergrowth and maintained in a clean and sanitary condition;
- (b) the perimeter drains around each dwelling or block of dwellings including all outlet drains are kept in a good state of repair and clear of refuse or undergrowth to permit free flow of water;
- (c) all refuse in the housing site is collected daily and disposed of satisfactorily; and
- (d) all communal latrines and bathrooms are kept in a clean, sanitary and working condition.

(2) It shall be the duty of the employer to ensure that all buildings used for the housing of employees, nurseries or community halls are visited and inspected weekly by a medical assistant registered under the Medical Assistants (Registration) Act 1977 [*Act 180*] or any other officers registered under any other written laws who are carrying out the same or similar

functions of a medical assistant or any other responsible person authorized by the employer who shall report to the resident manager if the buildings are not kept clean or if any refuse is allowed to accumulate in the neighbourhood of the buildings, and who shall also examine and if necessary take, or cause to be taken, to hospital any employee found in the buildings who appears to be suffering from any health complaint and report to the resident manager accordingly.

(3) The findings of the medical assistant or any other authorized person shall be recorded in a book kept at the place of employment and be made available to the Director or Medical Officer of Health for inspection.

(4) In any case where the Medical Officer of Health shall consider that the visits, inspections or other duties, referred to in subsection (2) are not satisfactorily carried out, he may notify the resident manager accordingly, specifying the matters in respect whereof he is not satisfied, and the resident manager shall thereupon make further or other arrangements as the Medical Officer of Health may require.

Onus of proof. **121w.** In all proceedings under this Chapter, the onus of proving that he is not the employer or resident manager or the person whose duty it is under the provisions of this Chapter to do or to abstain from doing anything shall be on the person who alleges that he is not the employer, resident manager or other person, as the case may be.

CHAPTER XVc.

Accommodations.

Application. **121x.** This Chapter shall apply to employees who are employed otherwise than to work in an estate.

Interpretation. **121y.** In this Chapter—

“accommodation” means any permanent or temporary building or structure including any house, hut, shed or roofed enclosure used for the purpose of human habitation and includes centralized accommodation;

“centralized accommodation” means any building used for the housing of employees employed by one or more employers;

“centralized accommodation provider” means any person who provides and manages a centralized accommodation and supervises the services provided therein for one or more employers, but does not include an employer who provides accommodations for his own employees;

“person in charge of accommodation” means any person appointed by an employer or centralized accommodation provider to be responsible for the management of the accommodation, and safety and health of the employees and other amenities in the accommodation.

Requirement for accommodation. **121z.** (1) The Minister may prescribe any class, category or description of employees that shall be provided with accommodation under this Chapter.

(2) All employers, whose class, category or description of employees is prescribed by the Minister, shall provide such employees with accommodation.

(3) Any employer who fails to provide accommodation or contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Functions
and powers
of Director
in relation to
accommodation.

121AA. (1) For the purposes of this Chapter, the Director shall have the following functions:

- (a) to administer and regulate all matters relating to an accommodation;
- (b) to direct employer or centralized accommodation provider to submit any information and documents relating to an employee's accommodation;
- (c) to issue any directions to an employer or a centralized accommodation provider to provide any other amenities relating to an accommodation;
- (d) to issue a Certificate for Accommodation; and
- (e) to do anything incidental to any of his functions under this Chapter.

(2) The Director shall have the powers to do all things necessary or expedient for or in connection with the performance of his functions under this Chapter.

(3) The Director may, in issuing directions to any employer or centralized accommodation provider pursuant to the exercise of his functions and powers under subsection (1) or (2), direct that any expenses incurred in complying with such direction to be borne by the employer or the centralized accommodation provider.

Accommodation to be certified with Certificate for Accommodation.

121AB. (1) No accommodation shall be provided to an employee unless certified with a Certificate for Accommodation.

(2) An application for a Certificate for Accommodation shall be made by an employer or a centralized accommodation provider to the Director in the form and manner as may be determined by the Director and shall be accompanied by the prescribed processing fee.

(3) An employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

(4) A centralized accommodation provider who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Employer to give notice of occupation.

121AC. (1) An employer shall, within thirty days from the date an accommodation is occupied by his employee, inform the Director of such occupation in the form and manner as may be determined by the Director.

(2) Any employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Accommodation to comply with minimum standards.

121AD. An employer or a centralized accommodation provider shall ensure that every accommodation provided for employees complies with the minimum standards required under this Part or any subsidiary legislation made thereunder.

Power of Director to direct replacement, alteration and repair of accommodation and amenities.

121AE. (1) If the Director finds that any accommodation or amenities provided by an employer or a centralized accommodation provider to an employee does not comply with the minimum standards required under this Part, the Director may issue a notice to the employer or centralized accommodation provider, as the case may be, to direct the employer or centralized accommodation provider to replace, alter or repair the accommodation or amenities within the period as the Director may specify in the notice.

(2) All expenses incurred by the employer or centralized accommodation provider in complying with the direction given under subsection (1) shall be borne by the employer or centralized accommodation provider.

(3) The employer or centralized accommodation provider shall not recover from the employee the expenses incurred by the employer or centralized accommodation provider in complying with the direction given under subsection (1).

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Power of Director to direct employer or centralized accommodation provider to provide temporary accommodation.

121AF. (1) The Director may, if he thinks necessary for the safety and well-being of the employees, issue a notice to the employer or centralized accommodation provider, as the case may be, to further direct the employer or centralized accommodation provider to whom the direction has been given under subsection (1) of section 121AE to provide the employees with temporary accommodation in the manner as may be determined by the Director in the course of replacement, alteration or repair of the accommodation or amenities.

(2) The Director may impose any conditions to the employer or centralized accommodation provider relating to the temporary accommodation provided to the employees under subsection (1).

(3) Section 121AB shall not apply to temporary accommodation referred to in subsection (1).

(4) All expenses incurred by the employer or centralized accommodation provider in complying with the direction given under subsection (1), including the cost for transportation of employees from the accommodation to the temporary accommodation, rent of temporary accommodation and travelling of employees between his place of employment and the temporary accommodation shall be borne by the employer or centralized accommodation provider.

(5) The employer or centralized accommodation provider shall not recover from the employees the expenses incurred by the employer or centralized accommodation provider in complying with the direction given under subsection (1).

(6) Any person who contravenes subsection (1), (2), (4) or (5) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Deductions in respect of rent or charge for accommodation.

121AG. (1) Subject to any conditions as may be prescribed by the Minister, an employer may collect from an employee any sum for rent or charge in respect of any accommodation provided by the employer or any centralized accommodation provider under this Chapter.

(2) The sum collected under subsection (1) shall be made by deductions from the wages of the employee.

Accommodation to comply with the laws of local authorities.

121AH. (1) Notwithstanding section 121AB, no employer or centralized accommodation provider shall use any building as accommodation if the building is unfit for human habitation in accordance with the relevant written laws.

(2) Any employer or centralized accommodation provider who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Amenities.

121AI. An employer or a centralized accommodation provider shall provide decent and adequate amenities in accordance with this Part or any subsidiary legislation made thereunder.

Duties and responsibilities in respect of safety and health.

121AJ. An employer or a centralized accommodation provider who provides accommodation for an employee under this Chapter shall have the following duties and responsibilities:

- (a) to provide separate accommodation to employees of the opposite gender;
- (b) to take necessary preventive measures to ensure employees' safety and well-being;
- (c) to take fire safety measures in accordance with the relevant written laws;
- (d) to ensure that the electrical wiring systems comply with safety requirements in accordance with the relevant written laws;
- (e) to ensure that the employees receive the necessary medical assistance; and
- (f) to take preventive measures to contain the spread of infectious diseases as ordered by the Medical Officer of Health in accordance with the relevant written laws and the employer shall, at his own expense, make arrangements as ordered by the Medical Officer of Health so that all or any of the employees be given immunization against any infectious disease.

Maintenance.

121AK. An employer and a centralized accommodation provider shall ensure that every accommodation provided for employees under this Chapter is maintained as directed by the Director.

Appointment
of person
in charge of
accommodation.

121AL. (1) An employer or a centralized accommodation provider shall appoint at least one person in charge of accommodation provided under this Chapter, who will be responsible for the safety and well-being of the employees and the management of the accommodations and amenities, in accordance with the provisions of this Part or any regulations made thereunder.

(2) It shall be the duty of the person in charge of accommodation—

- (a) to ensure that employees comply with any disciplinary rules as may be determined by the employer;
- (b) to visit and inspect the accommodation at least twice a month and keep a record of the inspection as may be determined by the Director in the place of employment; and
- (c) to ensure an employee is taken to a clinic or hospital if the employee complains of his health, or appears to be unwell or suffering from any disease or medical condition, and keeps a record of complaints as may be determined by the Director in the place of employment.

Notice to vacate
accommodation.

121AM. (1) Subject to subsection (2), if an employee resigns under a contract of service or his employment is otherwise terminated by not less than four weeks' notice, the employee shall vacate the accommodation upon the effective date of his resignation or the date the contract of service is terminated.

(2) Notwithstanding subsection (1), an employee whose contract of service is terminated by less than four weeks' notice or is terminated with immediate effect shall vacate the accommodation within four weeks from the date of the notice or the date the contract of service is terminated.

Employer not obligated to provide accommodation for employees' dependants.

121AN. Nothing in this Chapter shall render an employer obligated to provide accommodation for the dependants of an employee who is provided with accommodation under this Chapter.

CHAPTER XVD.

Regulations.

Power to make regulations.

121AO. (1) The Minister may, upon consultation with the State Authority, make such regulations as may be necessary or expedient for giving full effect to the provisions of this Part, or for the further, better or more convenient implementation of the provisions of this Part.

(2) Without prejudice to the generality of subsection (1), regulations may be made—

- (a) to prescribe the minimum requirements for various classes of buildings (including temporary buildings) to be used for the housing of employees, or as nurseries or community halls, the minimum sanitary requirements, water supplies, potable water supplies and electricity supplies and other matters pertaining to health in respect of such buildings;

- (b) to prescribe the minimum requirements for various classes of buildings to be used for the accommodation and centralized accommodation of employees and the minimum sanitary requirements, water supplies, potable water supplies and electricity supplies and other matters pertaining to health in respect of such buildings;
- (c) to prescribe any class, category or description of employees that is required to be provided with accommodation under Chapter XVc;
- (d) to prescribe the maximum rental or charges for accommodation that may be collected under Chapter XVc;
- (e) to prescribe the minimum equipment and staff for nurseries and the type and amount of milk, play equipment and play activity programmes to be provided for the dependants accommodated therein under section 121i;
- (f) to prescribe, in consultation with the Minister of Health—
 - (i) as regards clinics, the minimum equipment, surgical and medical appliances, drugs, staff and the types of services to be provided and the registers and records to be kept; and
 - (ii) as regards water supply, the manner in which water is to be filtered and treated;
- (g) to prescribe the procedure for the submission and approval of plans of buildings and their sites;

- (h) to prescribe the form of any register, summons or order required to be kept, issued or made under this Part; and
- (i) to prescribe anything which may be prescribed under this Part.

CHAPTER XVE.

General provisions, appeals and offences.

Minister may appoint any suitable person with powers and duties.

121AP. The Minister may, subject to such restrictions and conditions as may be determined, appoint any suitable person to carry out all or any of the powers conferred upon the Director by this Part and every duty so performed and every power so exercised shall be deemed to have been performed and exercised for the purposes of this Part.

Power to issue directions.

121AQ. The Minister may issue such directions as he considers necessary for the purpose of ensuring compliance with this Part.

Power of Director, etc. to inspect, investigate and to issue summons.

121AR. (1) The Director, Medical Officer of Health or District Engineer shall have power at all times without the need for previous notice—

- (a) to enter and inspect any place of employment or any building which he believes is used by an employer for the housing of his employees or as a nursery or as a community hall;
- (b) to enter and inspect any place of employment or any building which he believes is used by an employer or centralized accommodation provider for the accommodation of the employees;

- (c) to enter and inspect any estate hospital, group estate hospital and clinic where employees are provided with medical attendance, care and treatment; and
- (d) to make such inquiry or investigation as he considers necessary in relation to any matter within the provisions of this Part.

(2) In the course of an inspection under this Part, the Director, Medical Officer of Health or District Engineer may—

- (a) put questions relating to matters covered under the provisions of this Part, either in private or in the presence of witnesses, as they may choose, to the owner or occupier of the place of employment, or his representative, to the employer of any employee employed thereat or his representative, to any person in charge of the employees, to the employees themselves and to any other person whose evidence he may consider necessary; and all such persons shall be legally bound to answer such questions truthfully to the best of their ability;
- (b) require the employer to produce before him all or any of the employees employed by him together with any records, registers and documents relating to matters covered under the provisions of this Part including any contract of service, book of account of wages, register or any other document relating to such employees or their employment and to answer such questions in respect thereof as he may think fit to ask;

- (c) copy or make extracts from such record, contract of service, book of account of wages, register and any other document referred to in paragraph (b);
- (d) take possession of such record, contract of service, book of account of wages, register and any other document where in his opinion—
 - (i) the inspection, copying or the making of extracts from such record, contract of service, book of account of wages, register or any other document cannot reasonably be undertaken without taking possession of them;
 - (ii) they may be interfered with or destroyed unless he takes possession of them; or
 - (iii) they may be needed as evidence in any legal proceedings under this Part; and
- (e) take samples of water supplies for examination and analysis.

(3) As respects the power to inspect, inquire and investigate aforesaid, the Director may by summons in the prescribed form require any person, whom he has reason to believe to be able to give any information relevant to the matter in question, to give such information, and any person so summoned shall be bound to attend before the Director and to answer truthfully any question put to him by the Director relating to the said matter.

(4) Section 129 of this Ordinance shall apply to the service of a summons issued under this Part.

Appeals. **121AS.** (1) Subject to subsection (2), any employer or centralized accommodation provider aggrieved by any order or decision made under this Part or any regulations made thereunder may, within thirty days of such order or decision in writing being received by him, appeal to the Minister.

(2) An appeal against the order or decision of an officer appointed under subsection (1A) of section 3 or any suitable person appointed under section 121AP shall not be brought to the Minister unless and until such appeal shall have first been brought to the Director within the time stipulated in subsection (1).

(3) The decision of the Minister in respect of an appeal under this section shall be final.

Failure to comply with order under section 121D, 121G, 121K, 121N or 121R.

121AT. Any employer who fails to comply with any order made under section 121D, 121G, 121K, 121N or 121R commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Failure to comply with section 121S or 121T.

121AU. Any resident manager who fails to comply with section 121S or with any requirement of the Medical Officer of Health under section 121T commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.”.

New section 122A

48. The Ordinance is amended by inserting after section 122 the following section:

“Jurisdiction. **122A.** (1) Notwithstanding the provisions of the Subordinate Courts Act 1948 [*Act 92*], all penalties for offences against this Ordinance may be had and recovered in the Sessions Court or the Court of a First Class Magistrate on complaint by any person aggrieved or by the Director or any person authorized by him in writing in that behalf.

(2) Notwithstanding the provisions of any written law to the contrary, the court of a First Class Magistrate shall have jurisdiction to try any offence under this Ordinance and to award the full punishment for any such offence.”.

New section 123BA

49. The Ordinance is amended by inserting after section 123B the following section:

“Court order for payments due to employee. **123BA.** (1) Where an employer has been convicted of an offence relating to the payment of wages or any other payments payable to the employee under this Ordinance, the court before which he is convicted may order the employer to pay any payment due to the employee in relation to that offence.

(2) Where an employer fails to comply with an order made under subsection (1), the court shall, on the application of the employee, issue a warrant to levy the employer’s property for any payments due under that subsection in the following manner:

(a) by way of distress and sale of employer’s property in accordance with the same procedure of execution under the

Rules of Court 2012 [P.U.(A) 205/2012] and this execution shall apply *mutatis mutandis* notwithstanding the amount in the order; or

- (b) in the same manner as a fine as provided under section 283 of the Criminal Procedure Code [Act 593].”.

Substitution of section 125A

50. The Ordinance is amended by substituting for section 125A the following section:

“Protection of officers. **125A.** (1) No action shall lie or be brought, instituted or maintained in any court against—

- (a) the Director, the Deputy Director or any other officer duly appointed or authorized under this Ordinance for or on account of or in respect of any act ordered or done for the purpose of carrying out this Ordinance into effect;
- (b) any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Director, the Deputy Director or any other officer duly appointed or authorized under this Ordinance; or
- (c) any person appointed under section 121AP in respect of any act ordered or done for the purpose of carrying out Part IVA into effect,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it.”.

Amendment of section 127

51. Section 127 of the Ordinance is amended by inserting after the words “under section 7A” the words “, subsection (4) of section 7T or section 18A”.

Amendment of section 129

52. Section 129 of the Ordinance is amended—

(a) in subsection (1)—

- (i) by substituting for the words “A summons” the words “Any summons”;
- (ii) by deleting the words “in accordance with section 6 and Chapter II A”;
- (iii) in paragraph (a), by inserting after the word “summoned” the words “cannot be found and”;
and
- (iv) in paragraph (b)—
 - (A) by deleting the word “male”; and
 - (B) by substituting for the words “domestic servant” the words “domestic employee”;
and

(b) in paragraph 2(b)—

- (i) by substituting for the word “post” the words “registered post”; and
- (ii) by substituting for the words “the Colony” the word “Malaysia”.

New section 129B

53. The Ordinance is amended by inserting after section 129A the following section:

“Limitation of actions. **129B.** (1) Subject to subsection (2), no complaints or dispute shall be referred to the Director in respect of any matters under section 7A or 7I, subsection (4) of section 7T or subsection (1) of section 18A after the expiration of six years from the date of which the cause of action accrued.

(2) The limitation referred to under subsection (1) shall not apply to—

(a) claims by an employee against any person liable under section 116C as provided under paragraph (a) of subsection (2) of section 7A; or

(b) complaint by an employee to the Director to inquire any decision of an employer in pursuant to subsection (1) of section 13 as provided under subsection (3) of section 7A.”.

Amendment of section 130A

54. Section 130A of the Ordinance is amended—

(a) by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”; and

(b) by substituting for the words “one hundred ringgit” the words “one thousand ringgit”.

Amendment of section 130C

55. Section 130C of the Ordinance is amended—

(a) by substituting for the words “subsection (1) of section 7A, subsection (1) of section 7C or subsection (1) of section 7D” the words “Chapter IIA”;

- (b) by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”; and
- (c) by substituting for the words “one hundred ringgit” the words “one thousand ringgit”.

Amendment of section 130D

56. Section 130D of the Ordinance is amended by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”.

Amendment of section 130E

57. Section 130E of the Ordinance is amended—

- (a) in paragraph (c), by substituting for the words “paragraph (a)” the words “paragraph (b)”; and
- (b) by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”.

Amendment of section 130F

58. Subsection 130F(1) of the Ordinance is amended—

- (a) by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”; and
- (b) by inserting after the word “both” the words “and, in the case of the second or subsequent offence, shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both”.

Deletion of section 130G

59. The Ordinance is amended by deleting section 130G.

Amendment of section 130H

60. Section 130H of the Ordinance is amended—

- (a) in paragraph (d), by substituting for the word “dismisses” the word “terminates”;
- (b) by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”; and
- (c) in paragraph (aa), by substituting for the words “Chapter XI^A” the words “Chapter XI^B”.

Amendment of section 130I

61. Section 130I of the Ordinance is amended by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”.

Amendment of section 130J

62. Section 130J of the Ordinance is amended—

- (a) in paragraph (f), by substituting for the word “employer” the word “employee”; and
- (b) by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”.

Amendment of section 130L

63. Section 130L of the Ordinance is amended—

- (a) by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit”; and
- (b) by substituting for the words “six months” the words “a term not exceeding one year”.

Substitution of section 130M

64. The Ordinance is amended by substituting for section 130M the following section:

“General
penalty.

130M. (1) Any person who contravenes any provision of this Ordinance or any subsidiary legislation made thereunder, commits an offence, in respect of which no penalty is provided, shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

(2) For the purposes of Part IVA, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.”.

Amendment of section 130N

65. Section 130N of the Ordinance is amended—

(a) by substituting for the words “may, compound” the words “may compound, with the consent in writing of the Public Prosecutor,”; and

(b) by substituting for the words “any rule” the words “any subsidiary legislation”.

New sections 130NA and 130NB

66. The Ordinance is amended by inserting after section 130N the following sections:

“Offences by
body corporate,
etc.

130NA. Where any person who commits an offence under this Ordinance is a company, limited liability partnership, firm, society, trade union or other body of persons, a person who at the time of the commission of the offence was a director, compliance officer, partner, manager, secretary or other similar officer of the company, limited liability partnership,

firm, society or other body of persons or was purporting to act in the capacity or was in any manner or to any extent responsible for the management of any of the affairs of the company, limited liability partnership, firm, society or other body of persons or was assisting in its management—

(a) may be charged severally or jointly in the same proceedings with the company, limited liability partnership, firm, society or the body of persons; and

(b) if the company, limited liability partnership, firm, society or the body of persons is found guilty of the offence, shall be deemed to be guilty of that offence and shall be liable to the same punishment or penalty as an individual unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—

(i) that the offence was committed without his knowledge; or

(ii) that the offence was committed without his consent or connivance and that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

Presumption as to who is employee and employer.

130NB. (1) In any proceeding under this Ordinance or any other written law, in the absence of a written contract of service relating to any category of employee in the First Schedule, it shall be presumed until the contrary is proved that a person is an employee—

(a) where his manner of work is subject to the control or direction of another person;

- (b) where his hours of work are subject to the control or direction of another person;
- (c) where he is provided with tools, materials or equipments by another person to execute work;
- (d) where his work constitutes an integral part of another person's business;
- (e) where his work is performed solely for the benefit of another person; or
- (f) where payment is made to him in return for work done by him at regular intervals and such payment constitutes the majority of his income.

(2) For the purposes of subsection (1), it shall be presumed until the contrary is proved that a person is an employer—

- (a) where he controls or directs the manner of work of another person;
- (b) where he controls or directs the hours of work of another person;
- (c) where he provides tools, materials or equipments to another person to execute work;
- (d) where the work of another person constitutes an integral part of his business;
- (e) where another person performs work solely for his benefit; or

(f) whether or not payment is made by him in return for work done for him by another person.

(3) The first-mentioned person in subsection (2) includes the agent, manager or factor of such first-mentioned person.”.

Amendment of section 130o

67. Subsection 130o(2) of the Ordinance is amended—

(a) by deleting paragraph (b);

(b) in paragraph (d), by substituting for the word “dismissal” the word “termination”;

(c) by inserting after paragraph (e) the following paragraphs:

“(ea) prescribing matters relating to rest day;

(eb) prescribing matters relating to flexible working arrangement;”;

(d) in paragraph (h)—

(i) by substituting for the words “under section 7A” the words “and proceedings under sections 7A and 18A,”; and

(ii) by inserting after the words “Chapter IIA” the words “and Chapter IIB”;

(e) in paragraph (m)—

(i) in subparagraph (i), by inserting after the semicolon at the end of the subparagraph the word “and”;

(ii) in subparagraph (ii), by deleting the word “and” at the end of the subparagraph; and

(iii) by deleting subparagraph (iii);

- (f) in subparagraph (n)(vi), by deleting the word “and” at the end of the subparagraph;
- (g) in paragraph (o), by deleting the word “and” at the end of the paragraph; and
- (h) in paragraph (p)—
- (i) by substituting for the full stop at the end of the paragraph the semicolon; and
 - (ii) by inserting after paragraph (p) the following paragraphs:

“(q) to prescribe the procedure to inquire into complaints of sexual harassment under Chapter IIB; and

(r) to prescribe all matters relating to permits.”.

Substitution of Schedule

68. The Ordinance is amended by substituting for the Schedule the following schedule:

“FIRST SCHEDULE

[Subsection (1) of section 2]

(1)	(2)
Employee	Provision of the Ordinance Not Applicable
1. Any person who has entered into a contract of service	
2. Notwithstanding paragraph 1, the person whose wages exceeds four thousand ringgit a month	Definitions of “normal hours of work” and “overtime” in section 2, subsections (6) and (10) of section 103, subsection (6) of section 104, subsection (5) of section 104A, subsections (2), (3), (4) and (5) of section 104C, section 104F and Part IVA

(1)
Employee

(2)
Provision of the Ordinance
Not Applicable

3. Any person who, irrespective of the amount of wages he earns in a month, has entered into a contract of service with an employer in pursuance of which—

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

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

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

(c) he supervises or oversees other employees engaged in manual labour employed by the same employer in and throughout the performance of their work

(d) he is engaged in recruiting employees

(e) he is engaged in any capacity in any vessel registered in Malaysia and who—

Definitions of “approved incentive payment scheme”, “hourly rate of pay”, “normal hours of work”, “ordinary rate of pay” and “overtime” in section 2, subsections (3), (4), (5) of section 2, sections 103,

(1)	(2)
Employee	Provision of the Ordinance Not Applicable
	104, 104A, 104B, 104C, 104D, 104E, 104EA, subsection (2) of section 105, and paragraph (b) of section 130J
(i) is not an officer certificated under the Merchant Shipping Acts of the United Kingdom as amended from time to time	
(ii) is not the holder of a local certificate as defined in Part VII of the Merchant Shipping Ordinance 1952 [<i>Ordinance 70/1952</i>]	
(iii) has not entered into an agreement under Part III of the Merchant Shipping Ordinance 1952	
(f) he is engaged as a domestic employee	Definitions of “approved incentive payment scheme”, “hourly rate of pay”, “normal hours of work”, “ordinary rate of pay” and “overtime” in section 2, subsections (3), (4) and (5) of section 2, sections 10, 11, 13, 57 and 58, Chapter XIVB, sections 102, 103, 104, 104A, 104C, 104D, 104E, 104EA, 104F, subsection (2) of section 105, sections 118A, 118C, 118D and 118E, Part IVA and paragraph (b) of section 130J

4. For the purposes of this First Schedule, “wages” means wages as defined in section 2, but shall not include any payment by way of commission, subsistence allowance and overtime payment

”.

New Second and Third Schedules

69. The Ordinance is amended by inserting after the First Schedule the following schedules:

“SECOND SCHEDULE

[Subsection (6) of section 72]

Employment in which children or young persons shall not be required, permitted to be or engaged in—

1. All kind of employment that make use of, procure, or offer children or young persons for prostitution.
2. All kind of employment as social escorts, hostesses and any other related activities.
3. All kind of employment that require children or young persons to involve in the production or trade of alcoholic beverages.
4. All kind of employment related to gambling and lotteries activities.
5. All kind of employment that require children or young persons to work in any activities related to massage services or reflexology services.
6. All kind of employment that make use of, procure, or offer children or young persons for any kind of job related to pornography.
7. All kind of employment that make use of, procure, or involve children or young persons for the production and trade of drugs, narcotics, psychotropic substances and other addictive substances which are prohibited under any written law in operation.

THIRD SCHEDULE

[Subsection (7) of section 72]

LIST OF HAZARDOUS WORK

A. WORK RELATED TO MACHINES, INSTALLATIONS AND OTHER EQUIPMENT

1. Machinery
 - (a) Any machine tools or production machine which can pose high risk such as drilling machines, grinding machines, cutting machines, lathes machines, scraping machines, power press machine, knitting machines, weaving machines, packaging machines and bottling machines;

- (b) Steam boiler or internal combustion engine such as diesel engines, turbines and engines for generating electricity;
 - (c) Hoisting and loading machine such as lift, hoist, crane, escalators, conveyor belts, gondolas and forklift;
 - (d) High pressure vessels.
2. Heavy-duty machine such as tractors, rock breakers, graders, asphalt mixers, piling machine and agriculture machinery.
 3. Installations such as pressure pipe, electricity, firefighting system and electricity transmission lines.

B. WORK CONDUCTED IN HAZARDOUS ENVIRONMENT

1. Work that is exposed to physical hazards
 - (a) Underground work, underwater or in a confined space such as a well or a tunnel;
 - (b) Working at height which can lead to serious bodily injury;
 - (c) Working environment which involves electricity at high voltage power line;
 - (d) Working in a caisson with limited ventilation;
 - (e) Work that uses electric welding machines or gas welding machines;
 - (f) Work in an environment with extreme temperature and moisture or high-speed wind;
 - (g) Work in an environment with noise or vibration where intensity exceeds the permissible exposure limits;
 - (h) Work to handle, store, use and transport radioactive substances;
 - (i) Work that produces ionizing radiation or work in an environment with ionizing radiation;
 - (j) Work in a dusty environment that is detrimental to health;
 - (k) Work which may lead to electrocution, fire or explosion;
 - (l) Manual handling works which may pose high risk such as lifting, lowering, pushing, pulling, carrying or moving a load.

2. Work that is exposed to chemical hazards
 - (a) Work in relation to production, processing, handling, storage, transport, removal, disposal or treatment of hazardous chemical as defined in the Occupational Safety and Health (Classification, Labelling and Safety Data Sheet of Hazardous Chemicals) Regulations 2013 [*P.U. (A) 310/2013*];
 - (b) Work in relation to production, processing, handling, storage, transport, removal, disposal or treatment of pesticides and schedule waste as defined in the Pesticides Act 1974 [*Act 149*] and the Environmental Quality (Scheduled Wastes) Regulations 2005 [*P.U. (A) 294/2005*].

3. Work that is exposed to biological hazards

Work in an environment that relates to germs, bacteria, viruses, fungi, parasites and other biological agents such as works in clinical laboratories, slaughter house, meat processing place and silo or storage for storing crops.

C. WORK INVOLVING CERTAIN HAZARDOUS CONDITION AND OF A HAZARDOUS NATURE

1. Construction work including construction of building, bridges, roads, or irrigation project.
2. Work in timber industry such as cutting, transporting and unloading trees.
3. Work offshore such as working in a petroleum platform.
4. Work above or near water where the risk of drowning exists such as lifeguard, fishing activities and work in water treatment plant.”.

Saving and transitional

70. (1) Any action, complaint, examination, investigation, inquiry, trial, prosecution, proceedings or appeal done, taken or commenced under the Ordinance immediately before the date of coming into operation of this Act, shall be dealt with, continued and concluded under and in accordance with the provisions of the Ordinance as if the Ordinance had not been amended by this Act.

(2) Any approval or permission granted under the Ordinance before the date of coming into operation of this Act shall continue to be valid until the expiry of the approval or permission as if the Ordinance had not been amended by this Act.

(3) All applications for approval or permission of the Director which are pending before the date of coming into operation of this Act shall, on the date of coming into operation of this Act, be dealt with by the Director under the provisions of the Ordinance as amended by this Act.