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Act 605

STATUTORY BODIES (DISCIPLINE AND SURCHARGE) ACT 2000

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**STATUTORY BODIES (DISCIPLINE AND
SURCHARGE) ACT 2000**

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Act 605

STATUTORY BODIES (DISCIPLINE AND SURCHARGE) ACT 2000

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LAWS OF MALAYSIA**Act 605****STATUTORY BODIES (DISCIPLINE AND
SURCHARGE) ACT 2000**

An Act to provide for matters relating to the discipline of, and the imposition of surcharge on, officers of statutory bodies incorporated by federal law, and for matters connected therewith.

[1 November 2000, P.U. (B) 361/2000]

ENACTED by the Parliament of Malaysia as follows:

PART I**PRELIMINARY****Short title and commencement**

1. (1) This Act may be cited as the Statutory Bodies (Discipline And Surcharge) Act 2000.

(2) This Act shall come into operation on a date to be appointed by the Prime Minister by notification in the Gazette.

Application

2. (1) This Act shall apply to all statutory bodies except the statutory bodies listed in the First Schedule.

(2) Notwithstanding subsection (1), the statutory bodies listed in the First Schedule shall ensure that disciplinary provisions applicable to their officers conform as closely as their incorporating law and organizational and remuneration systems permit to the provisions in the Regulations.

Relationship of this Act and incorporating law

3. This Act shall be read together and construed as one with the incorporating law of a statutory body.

Interpretation

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

“Board” means the statutory body itself or, where the incorporating law provides for a separate board, council or committee by whatever name called to carry out the functions of the statutory body and to have charge of the general management and administration of the statutory body, that board, council or committee;

“Director General” means the person, by whatever name called, who is charged with the day to day administration and management of the affairs of a statutory body;

“Disciplinary Appeal Committee” means the committee referred to in section 7;

“Disciplinary Committee” means the committee referred to in section 6;

“disciplinary offence” means the breach of any provision of the code of conduct set out in the Regulations and includes any act or omission in respect of which disciplinary action may be taken under the Regulations;

“emoluments” means any remuneration, inclusive of salary, fixed rewards, incentive payments and monthly allowances, which is due to be paid to an officer each month;

“federal law” means an Act of Parliament or an Ordinance which relates to any matter with respect to which Parliament may make laws or subsidiary legislation made under an Act of Parliament or such Ordinance;

“Head of Department” means an officer who is responsible for a department, division, unit or branch of a statutory body, and includes any officer authorized in writing by the Board to carry out the functions of a Head of Department for any period of time;

“incorporating law” means the federal law by which a statutory body is incorporated;

“Minister”, in relation to a statutory body, means the Minister charged with the responsibility for the statutory body under the incorporating law or under the Ministerial Functions Act 1969 [Act 2];

“Ministry” means the Ministry responsible for a statutory body;

“officer” means a person who is employed on a permanent, temporary or contractual basis by a statutory body, and is paid emoluments by the statutory body, and includes a person who is seconded to any subsidiary corporation or company of the statutory body or any other statutory body or any Ministry, department or agency of the Federal Government or any department or agency of the Government of any State or any company in which the Federal Government or the Government of any State has an interest;

“Regulations” means the Regulations in the Second Schedule;

“salary” means the basic salary of an officer;

“statutory body” means a body, by whatever name called, incorporated by federal law for the purposes of the Federal Government, but does not include a local authority.

PART II

DISCIPLINE

Application of Regulations

5. The Regulations shall apply in respect of the discipline of officers of a statutory body.

Disciplinary authority

6. (1) The disciplinary authorities in respect of the various categories of officers shall be the Disciplinary Committees established in accordance with Part I of the Third Schedule and the provisions of that Part shall apply to, and be complied with by, every Disciplinary Committee so established.

(2) In the exercise of its disciplinary jurisdiction, the Disciplinary Committees shall comply with the procedures set out in the Regulations and shall have the power to take the disciplinary action and impose the disciplinary punishments set out in the Regulations.

Appeals

7. An officer who has been found guilty of a disciplinary offence by a Disciplinary Committee may appeal against such decision to the appropriate Disciplinary Appeal Committee established in accordance with Part II of the Third Schedule and the Appendix to that Schedule and the provisions of that Part shall apply to, and be complied with by, every Disciplinary Appeal Committee so established.

Disciplinary proceedings in special cases

8. (1) Where the Director General or his deputy is appointed by the Yang di-Pertuan Agong, the Disciplinary Committee in respect of such Director General or such deputy shall consist of the Minister as chairman and two members of the Board appointed by the Minister.

(2) Where the Director General or his deputy is appointed by the Minister, the Disciplinary Committee in respect of such Director General or such deputy shall consist of the Secretary General of the Ministry and two members of the Board appointed by such Secretary General.

(3) A Disciplinary Committee established under subsection (1) or (2) shall have the power to conduct disciplinary proceedings against the Director General or his deputy over whom it has jurisdiction and may make any recommendation to the Yang di-Pertuan Agong or the Minister by whom the Director General or his deputy was appointed as to the punishment to be imposed on or any other action to be taken against such Director General or his deputy.

(4) The decision of the Yang di-Pertuan Agong or the Minister as the case may be, in respect of a Director General or his deputy shall be final.

PART III

TERMINATION IN THE PUBLIC INTEREST

Termination of service

9. (1) Where the Board finds or where representations are made to the Board that it is desirable that the service of an officer be terminated in the public interest, the Board may direct the superior officer of the officer against whom the representations are made to submit to the Board a full report which shall contain particulars relating to the work and conduct of that officer, and the comments of that officer's Head of Department.

(2) If, after considering the report submitted under subsection (1), the Board is satisfied that, having regard to the conditions of service, the work, the conduct and the usefulness of the officer and all other circumstances of the case, it is desirable in the public interest to do so, the Board may terminate the service of that officer from such date as the Board shall specify.

Recommendation by Disciplinary Committee

10. (1) It shall be lawful for a Disciplinary Committee to recommend to the Board that the service of an officer over whom that Committee exercises disciplinary jurisdiction be terminated in the public interest even though no disciplinary proceedings have been carried out under this Act.

(2) A recommendation to the Board under subsection (1) shall be accompanied by a full report of the grounds upon which such recommendation is based.

(3) The Board may direct the superior officer of the officer referred to in subsection (1) to submit to the Board any additional information in respect of the officer as the Board may require.

(4) If, after considering the report submitted under subsection (2) and any additional information submitted under subsection (3) the Board is satisfied that, having regard to the conditions of service, the work, the conduct and the usefulness of the officer and all other circumstances of the case, it is desirable in the public interest to do so, the Board may terminate the service of that officer from such date as the Board shall specify.

Opportunity to be heard

11. Notwithstanding anything in this Act and any other law to the contrary, before the Board makes a decision under section 9 or 10 to terminate the service of an officer, the Board shall give that officer an opportunity to be heard.

Termination of service is not dismissal

12. The termination of an officer under section 9 or 10 is not and shall not be regarded as a dismissal notwithstanding that the termination involves an element of punishment or is connected with conduct in relation to his office which the Board regards as unsatisfactory or blameworthy.

Retirement in the public interest

13. Notwithstanding sections 9 and 10, the Board may, with the consent of the pensions authority, require any officer to retire from the service of a statutory body under paragraph 10(5)(d) of the Statutory and Local Authorities Pensions Act 1980 [Act 239].

PART IV**SURCHARGE****Grounds for surcharge**

14. A person who is or was in the employment of a statutory body may be surcharged if it appears to the Board that the person—

- (a) did not or has failed to collect any moneys owing to the statutory body the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of moneys from the statutory body or for any payment of moneys not duly approved;
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any money, stores or other property of the statutory body;

- (d) being or having been an accounting officer, did not or has failed to keep or monitor proper accounts or records of the statutory body; or
- (e) did not or has failed to make any payment, or is or was responsible for any delay in the payment of moneys from the statutory body to any person to whom the payment is due under any law or under any contract, agreement or arrangement entered between that person and the statutory body.

Notice to show cause

15. The Board shall, before a person is surcharged, serve upon him a written notice requesting him to show cause why he should not be surcharged.

Imposition of surcharge

16. If a satisfactory explanation is not received within 14 days from the date of service of a notice on a person under section 15, the Board may—

- (a) in the case of an act or omission described in paragraph 14(a), (b) or (c), surcharge against the person a sum of money not exceeding the amount not collected or of the improper payment made or of the value of the deficiency in the property or the value of the property destroyed; and
- (b) in the case of an act or omission described in paragraph 14(d) or (e), surcharge against the person such sum of money as the Board deems fit, having regard to the circumstances of the case.

Notification of surcharge

17. Where a person is surcharged under section 16, the Board shall notify him in writing of the imposition of the surcharge.

Withdrawal of surcharge

18. Notwithstanding sections 16 and 17, the Board may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been imposed, and the Board shall immediately notify the person surcharged of that withdrawal.

Record of surcharge

19. Every surcharge imposed on an officer under this Part shall be recorded in the Records of Service of the officer.

Recovery of surcharge

20. The amount of any surcharge imposed under section 16 and not withdrawn under section 18 shall be a debt due to the statutory body from the person surcharged and may be sued for and recovered in any court by the statutory body and may also, if the Board so directs, be recovered by deduction—

- (a) from the salary of the person surcharged; or
- (b) from the pension of the person surcharged,

by equal monthly instalments, each instalment not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

Composition of the Board in special cases

21. In any action for surcharge against the Director General, the composition of the Board for the purposes of sections 14, 15, 16, 17, 18 and 20 shall not include the Director General.

Surcharge shall not bar disciplinary action

22. Any action taken against an officer under this Part shall not bar any disciplinary action from being instituted against him in accordance with the Regulations.

PART V

POWERS OF THE PRIME MINISTER AND MINISTER

Power to amend Schedules

23. (1) The Prime Minister may, from time to time, by order published in the Gazette amend the Second or Third Schedule.

(2) No amendment shall be made under subsection (1) which has the effect of depriving any person of an opportunity to be heard before a decision is made in any disciplinary proceeding against him.

(3) The Prime Minister may by order published in the Gazette amend the First Schedule by adding to the list in the Schedule any statutory body whose remuneration scheme has been segregated.

Power to issue directives

24. For the purpose of ensuring that the provisions of this Act are complied with by every statutory body for which he is responsible, the Minister may issue such directives as he thinks necessary or expedient.

Power to exempt or vary

25. (1) The Minister may, with the concurrence of the Prime Minister, exempt any statutory body for which he is responsible from any provision of the Regulations or the Third Schedule or vary any provision of the Regulations or the Third Schedule in its application to that statutory body.

(2) The power conferred in subsection (1) shall be exercised only for the purpose of adapting the Regulations or the Third Schedule to the organizational or management structure of the statutory body as provided in its incorporating law.

PART VI

GENERAL

The Public Authorities Protection Act 1948

26. The Public Authorities Protection Act 1948 [Act 198] shall apply in respect of any action, litigation, prosecution or proceedings against the Board or any member, officer or agent of the Board in relation to any act done in pursuance or execution or intended execution of any of the provisions of this Act or in respect of any alleged neglect or default in the execution of any of such provisions.

Administrative directives by the Board

27. (1) The Board may from time to time issue any administrative directive in relation to the conduct and discipline of officers of the statutory body, or the procedure for the imposition of surcharge on such officers.

(2) No directive which is inconsistent with this Act shall be issued under subsection (1).

PART VII

CESSATION OF APPLICATION, SAVING AND
TRANSITIONAL**Cessation of application of certain provisions of incorporating law**

28. Upon the commencement of this Act the provisions which relate to discipline, termination of service in the public interest and surcharge in the incorporating law of a statutory body and all subsidiary legislation made under or pursuant to those provisions shall cease to apply to that statutory body except as provided in section 29.

Saving and transitional

29. (1) Any proceedings pending on the commencement of this Act before the appropriate disciplinary authority or appellate authority established or provided for in the incorporating law of a statutory body or in subsidiary legislation made under that law shall be continued in accordance with the provisions applicable to those proceedings in the incorporating law or subsidiary legislation made under that law and the disciplinary authority or appellate authority may make such order or decision as it is empowered to make under those provisions.

(2) Any disciplinary offence committed or alleged to have been committed by an officer of a statutory body before the commencement of this Act shall be dealt with under the provisions of the incorporating law of the statutory body.

(3) Notwithstanding subsection (2), the officer referred to in that subsection shall be notified that he may elect to have the disciplinary offence dealt with under this Act, and if he so elects the disciplinary offence shall be dealt with in accordance with this Act.

FIRST SCHEDULE

[Subsection 2(1)]

STATUTORY BODIES TO WHICH THIS ACT
DOES NOT APPLY

1. Central Bank of Malaysia
2. Employees' Provident Fund Board
3. Inland Revenue Board of Malaysia
4. Lembaga Tabung Angkatan Tentera
5. Lembaga Tabung Haji
6. Social Security Organisation
7. National Savings Bank
8. Securities Commission.
9. Malaysian Communications and Multimedia Commission.

 SECOND SCHEDULE

[Section 5]

STATUTORY BODIES DISCIPLINARY REGULATIONS

PART I

PRELIMINARY

Application

1. (1) These Regulations shall apply to an officer of a statutory body throughout the period of his service and, in respect of an officer who has not opted into the New Remuneration System, shall apply with such modifications as are necessary and proper having regard to his conditions of service.

(2) The breach by an officer of any provision of the code of conduct set out in these Regulations shall render him liable to disciplinary action.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—

“child” means—

(a) a child under the age of eighteen years of an officer, including—

- (i) a posthumous child, a dependent step-child and an illegitimate child of the officer;

(ii) a child adopted by the officer under any written law relating to adoption or under any custom or usage, upon satisfactory evidence of that adoption; and

(b) a child of any age who is mentally retarded or physically and permanently incapacitated and is incapable of supporting himself;

“conviction” or “convicted”, in relation to an officer, means a finding by a criminal court, including a Syariah Court, which has competent jurisdiction under any written law that such officer is guilty of a criminal offence;

“co-operative society” means a co-operative society registered under the Co-operative Societies Act 1993 [Act 502];

“court” means a court, including a Syariah Court, which has competent jurisdiction to try a person for a criminal offence;

“financial institution” means a bank or financial institution licensed under the Banking and Financial Institutions Act 1989 [Act 372] or an Islamic bank licensed under the Islamic Banking Act 1983 [Act 276];

“insurer” means an insurer licensed under the Insurance Act 1996 [Act 553] or a takaful operator registered under the Takaful Act 1984 [Act 312];

“New Remuneration System” means the salary scheme and conditions of service of officers of statutory bodies as revised and amended by the Federal Government, effective as from 1 January 1992.

(2) Unless the context otherwise requires, a reference to an officer in relation to a statutory body is a reference to an officer employed by that statutory body and a reference to a statutory body in relation to an officer is a reference to a statutory body by whom that officer is employed.

PART II

CODE OF CONDUCT

General

3. (1) An officer shall at all times give his undivided loyalty to the Yang di-Pertuan Agong, the country, the Government and the statutory body.

(2) An officer shall not—

(a) subordinate his duty to the statutory body to his private interests;

(b) conduct himself in such a manner as is likely to bring his private interests into conflict with his duty to the statutory body;

- (c) conduct himself in any manner likely to cause a reasonable suspicion that—
 - (i) he has allowed his private interests to come into conflict with his duty to the statutory body so as to impair his usefulness as an officer of the statutory body; or
 - (ii) he has used his position as an officer of the statutory body for his personal advantage;
- (d) conduct himself in such a manner as to bring the statutory body into disrepute or to bring discredit to the statutory body;
- (e) lack efficiency or industry;
- (f) be dishonest or untrustworthy;
- (g) be irresponsible;
- (h) bring or attempt to bring any form of outside influence or pressure to support or advance any claim relating to or against the statutory body, whether the claim is his own claim or that of any other officer of the statutory body;
- (i) be insubordinate or conduct himself in any manner which can be reasonably construed as being insubordinate; and
- (j) be negligent in performing his duties.

Outside employment

4. (1) Unless and to the extent that he is required or authorized to do so in the course of his duties as an officer of a statutory body, an officer shall not—

- (a) take part, either directly or indirectly, in the management or dealings of any commercial, agricultural or industrial undertaking;
- (b) undertake for reward any work with any institution, company, firm or private individual;
- (c) as an expert, furnish any report or give any evidence, whether gratuitously or for reward.

(2) Notwithstanding subregulation (1), an officer may, with the prior written permission of his Head of Department, carry on any of the activities or perform any of the services specified in that subregulation, either for his benefit or for the benefit of his close relatives or any non-profit-making body of which he is an office-bearer.

(3) In considering whether or not permission should be granted to any officer under subregulation (2), the Head of Department shall have regard to the code of conduct as laid down in regulation 3 and shall ensure that the activity or service—

- (a) does not take place during office hours and during such time when the officer is required to perform his official duties;

- (b) does not in any way tend to impair the officer's usefulness as an officer of the statutory body; and
- (c) does not in any way tend to conflict with the interests of the statutory body, or be inconsistent with the officer's position as an officer of the statutory body.

(4) Except as may otherwise be determined by the statutory body, all sums of money received by an officer as remuneration for carrying on any of the activities or performing any of the services mentioned in subregulation (1) shall be deposited with the statutory body pending the decision of the Director General as to the amount, if any, which may be retained by the officer personally and by any other officer who assists such officer in carrying on the activity or performing the service.

Dress etiquette

5. (1) An officer on duty shall always be properly attired in such manner as may be specified by the statutory body through directives issued from time to time by the Board.

(2) An officer who is required to attend an official function shall be attired as specified for the function, and if the dress etiquette for such function is not specified, he shall be appropriately attired for such function.

Drugs

6. (1) An officer shall not use or consume any dangerous drug, except as may be prescribed for his consumption for medicinal purposes by a medical practitioner who is registered under the Medical Act 1971 [*Act 50*], or abuse or be addicted to any dangerous drug.

(2) If a Government Medical Officer certifies that an officer is using or consuming, other than for medicinal purposes, a dangerous drug or is abusing or addicted to a dangerous drug, that officer shall be liable to disciplinary action with a view to dismissal.

(3) Notwithstanding subregulation (2), the service of an officer whom a Government Medical Officer has certified to be using or consuming, other than for medicinal purposes, a dangerous drug or abusing or addicted to a dangerous drug may be terminated in the public interest under Part III of this Act.

(4) For the purpose of this regulation, "dangerous drug" means any drug or substance listed in the First Schedule to the Dangerous Drugs Act 1952 [*Act 234*].

Presents, etc.

7. (1) An officer shall not receive or give nor shall he allow his spouse or any other person to receive or give on his behalf any present, whether in a tangible form or otherwise, from or to any person, association, body or group of persons if the receipt or giving of such present is in any way connected, either directly or indirectly, with his official duties.

(2) The Head of Department of an officer may, if he thinks fit, permit the officer to receive a letter of recommendation from any person, association, body or group of persons on the occasion of the officer's retirement or transfer so long as such letter of recommendation is not enclosed in a receptacle of value.

(3) The Head of Department may permit the collection of spontaneous contributions by officers under his charge for the purpose of making a presentation to an officer in his Department on the occasion of the officer's retirement, transfer or marriage or any other appropriate occasion.

(4) If—

- (a) an officer is in doubt as to whether the form, amount or value of a present received by him is commensurate with the purpose for which such present is given; or
- (b) the circumstances make it difficult for an officer to refuse a present or token of value, the receipt of which is prohibited by this regulation,

such present may be formally accepted but the officer shall, as soon as practicable, submit to his Head of Department a written report containing a full description and the estimated value of the present and the circumstances under which it was received.

(5) Upon receipt of a report made under subregulation (4), the Head of Department shall—

- (a) permit the officer to retain the present; or
- (b) direct that the present be returned, through the Head of Department, to the giver.

Entertainment

8. An officer may give to or accept from any person any kind of entertainment if—

- (a) the entertainment does not in any manner influence the performance of his duties as an officer of the statutory body in the interest of that person; and
- (b) the giving or acceptance of such entertainment is not in any way inconsistent with regulation 3.

Ownership of property

9. (1) An officer shall, on his appointment to the service of a statutory body or at any time thereafter as may be required by the Board, declare in writing to the appropriate Disciplinary Committee, through his Head of Department, all properties owned by him or by his spouse or child or held by any person on his behalf or on behalf of his spouse or child.

(2) An officer who does not own any property shall make a declaration in writing to that effect.

(3) Where, after making a declaration under subregulation (1), an officer or his spouse or child acquires any property, either directly or indirectly, or any property acquired by him or by his spouse or child is disposed of, that officer shall immediately, through his Head of Department, declare such acquisition or disposal of property to the appropriate Disciplinary Committee.

(4) Where an officer or his spouse or child intends to acquire any property, and the acquisition is inconsistent with regulation 3, the acquisition shall not be made without the prior written permission of the appropriate Disciplinary Committee.

(5) In deciding whether or not to grant permission under subregulation (4), the appropriate Disciplinary Committee shall have regard to the following matters:

- (a) the size, amount or value of the property in relation to the officer's emoluments and any legitimate private means;
- (b) whether the acquisition or holding of such property will or is likely to conflict with the interests of the statutory body or with the officer's position as an officer of the statutory body, or be in any way inconsistent with regulation 3;
- (c) the Head of Department's comments pertaining to the acquisition or ownership of the property;
- (d) any other factor which the appropriate Disciplinary Committee may consider necessary for upholding the integrity and efficiency of the statutory body and officers of the statutory body.

(6) The appropriate Disciplinary Committee shall, if it is satisfied with the declaration of property made by the officer, direct the Head of Department to record in the officer's Records of Service that the declaration has been made.

(7) Every declaration under subregulation (1) shall be classified as secret and every person who gains information under this regulation of any such declaration shall preserve its secrecy.

(8) For the purpose of this regulation, "property" means any property, whether movable or immovable, which the officer is required from time to time by the Board to declare, being property which has been acquired by the officer through purchase, gift, inheritance or other means, and includes property acquired or held by the officer's spouse or child.

Maintaining a standard of living beyond emoluments and legitimate private means

10. (1) Where the Head of Department is of the opinion that an officer is or appears to be—

- (a) maintaining a standard of living which is beyond his emoluments and other legitimate private means, if any; or

- (b) in control or in possession of pecuniary resources or property, movable or immovable, the value of which is disproportionate to, or which could not reasonably be expected to have been acquired by the officer with his emoluments and other legitimate private means,

the Head of Department shall, by notice in writing, call upon the officer to give a written explanation within a period of thirty days from the date of receipt of such notice on how he is able to maintain such standard of living or how he obtained such pecuniary resources or property.

(2) The Head of Department shall, upon receipt of the explanation under subregulation (1) or, where the officer fails to give any explanation within the specified period, upon the expiry of such period, report this fact to the appropriate Disciplinary Committee together with the officer's explanation, if any.

(3) Upon receipt of the report under subregulation (2), the appropriate Disciplinary Committee may take disciplinary action against the officer or take such other action against the officer as it deems fit.

Borrowing money

11. (1) No officer may borrow from any person or stand as surety to any borrower, or in any manner place himself under a pecuniary obligation to any person—

- (a) who is directly or indirectly subject to his official authority;
- (b) with whom the officer has or is likely to have official dealings;
- (c) who resides or possesses land or carries on business within the local limits of his official authority; or
- (d) who carries on the business of money lending.

(2) Notwithstanding subregulation (1), an officer may borrow money from, or stand as surety to any person who borrows money from, any financial institution, insurer or co-operative society or incur debt through the acquisition of goods by means of hire-purchase agreements, if—

- (a) the financial institution, insurer or co-operative society from which the officer borrows is not directly subject to his official authority;
- (b) the borrowing does not and will not lead to public scandal and cannot be construed as an abuse by the officer of his position as an officer of the statutory body to his private advantage; and
- (c) the aggregate of his debts does not or is not likely to cause the officer to be in serious pecuniary indebtedness as defined under subregulations 12(7) and (8).

(3) Subject to subregulation (2), an officer may incur debts arising from—

- (a) sums borrowed on the security of land charged or mortgaged, where the sums borrowed do not exceed the value of the land;

- (b) overdrafts or other credit facilities approved by financial institutions;
- (c) sums borrowed from insurers on the security of insurance policies;
- (d) sums borrowed from the Government, the statutory body or any co-operative society; or
- (e) payment due on goods acquired by means of hire-purchase agreements.

Serious pecuniary indebtedness

12. (1) An officer shall not in any manner cause himself to be in serious pecuniary indebtedness.

(2) Serious pecuniary indebtedness from whatever cause, other than as a result of unavoidable misfortune not contributed to in any way by the officer himself, shall be regarded as bringing disrepute to the statutory body and shall render the officer liable to disciplinary action.

(3) Where serious pecuniary indebtedness has occurred as a result of unavoidable misfortune, the Board may give to the officer such assistance as the circumstances may warrant.

(4) If an officer finds that his debts cause or are likely to cause serious pecuniary indebtedness to him, or civil proceedings arising from the debts have been instituted against him, he shall immediately report this fact to his Head of Department.

(5) An officer who fails or delays in reporting his serious pecuniary indebtedness or who reports his serious pecuniary indebtedness but fails to disclose its full extent or gives a false or misleading account of such indebtedness commits a breach of discipline and shall be liable to disciplinary action.

(6) Without prejudice to the other provisions of this regulation, where an officer's debts amount to serious pecuniary indebtedness but he has not been adjudged a bankrupt, the Head of Department shall monitor and, from time to time, review the case.

(7) For the purpose of this regulation, the expression "serious pecuniary indebtedness" means the state of an officer's indebtedness which, having regard to the amount of debts incurred by him, has actually caused serious financial hardship to him.

(8) Without prejudice to the general meaning of the expression "serious pecuniary indebtedness" set out in subregulation (7), an officer shall be deemed to be in serious pecuniary indebtedness if—

- (a) the aggregate of his unsecured debts and liabilities at any given time exceeds six times his monthly emoluments;
- (b) he is a judgement debtor and the judgement debt has not been settled within the period specified in the judgement; or
- (c) he is a bankrupt, for so long as he is not discharged from bankruptcy or his adjudication of bankruptcy has not been annulled.

Report of serious pecuniary indebtedness

13. (1) If an officer reports under subregulation 12(4) that civil proceedings have been instituted against him or if the Head of Department receives any report from any party that civil proceedings have been instituted against an officer, the Head of Department shall obtain from the court an extract of the court's final decision in those proceedings.

(2) The Director General shall make arrangements with the appropriate court authority for the Head of Department of an officer to obtain from such authority a report in respect of the officer if—

- (a) the officer, being a judgement debtor, does not appear from the file of the suit to have settled the debt within the period specified in the judgement;
- (b) the officer has filed his own petition in bankruptcy; or
- (c) a creditor's petition in bankruptcy has been presented against the officer.

(3) In addition to such arrangements as may be made under subregulation (2), the Director General shall make arrangements with the *Director General of Insolvency for the *Director General of Insolvency to communicate to the Head of Department of an officer who is a bankrupt a report containing the following matters:

- (a) the statement of affairs filed by the officer in accordance with the bankruptcy law for the time being in force;
- (b) the amount of instalment payment ordered or proposed to be made;
- (c) whether or not the Official *Director General of Insolvency to initiate any further proceedings and, if so, a brief indication relating to the nature of those further proceedings;
- (d) the main cause of the bankruptcy;
- (e) whether in the opinion of the *Director General of Insolvency the case involves unavoidable misfortune, dishonourable conduct or any other special circumstances, favourable or unfavourable to the officer; and
- (f) any other matter which the *Director General of Insolvency, in his discretion, thinks it proper to mention.

(4) The Head of Department shall forward the report of the officer and the extract of the court's decision received under subregulation (1) and the reports received under subregulations (2) and (3) to the appropriate Disciplinary Committee together with his report on the officer's work and conduct before and since his serious pecuniary indebtedness.

*NOTE—Previously known as the “Official Assignee”—see section 17 of the Bankruptcy (Amendment) Act 2003 [Act A1197].

(5) After considering all the reports and extract forwarded to it under subregulation (4), the appropriate Disciplinary Committee shall decide whether to take disciplinary action against the officer.

(6) If the disciplinary action taken against the officer results in a punishment of deferment of salary movement, the appropriate Disciplinary Committee may, upon the expiry of the period of deferment of salary movement, order that an amount equivalent to the amount of the restored salary movement be added to the instalments payable to the *Official Assignee or to any judgement creditor.

(7) An officer who has been discharged from bankruptcy or whose adjudication of bankruptcy has been annulled shall be treated as having fully restored his financial credit.

Lending money

14. (1) An officer shall not lend money at interest, whether with or without security.

(2) The placing of money on fixed deposit or into an account in any financial institution or co-operative society or in bonds issued by the Government or by any statutory body shall not be regarded as lending of money at interest for the purposes of this regulation.

Involvement in the futures market

15. No officer shall involve himself as a buyer or seller or otherwise in the futures market, whether a local or foreign market.

Raffles and lotteries, etc.

16. An officer shall not hold or organize or participate in, any raffles or lotteries other than for purposes of charity.

Publication of books, etc.

17. An officer shall not publish or write any book, article or other work which is based on classified official information.

Making public statements

18. (1) An officer shall not, either orally or in writing or in any other manner—

- (a) make any public statement that is detrimental to any policy, programme or decision of the statutory body or the Government on any issue;
- (b) make any public statement which may embarrass or bring disrepute to the statutory body or the Government;

NOTE—Previously known as the “Official Assignee”—see section 17 of the Bankruptcy (Amendment) Act 2003 [Act A1197].

- (c) make any comments on any weaknesses of any policy, programme or decision of the statutory body or the Government;
 - (d) circulate such statement or comments, whether made by him or any other person.
- (2) An officer shall not, either orally or in writing or in any other manner—
- (a) make any comments on the advantages of any policy, programme or decision of the statutory body or the Government;
 - (b) give any factual information relating to the exercise of the functions of the statutory body;
 - (c) give any explanation in respect of any incident or report which involves the statutory body or the Government; or
 - (d) disseminate any such comment, information or explanation whether made by him or any other person,

unless the prior written permission, either generally or specifically, has first been obtained from the Minister.

(3) Subregulation (2) shall not apply to any comment, information or explanation made, given or disseminated where the contents of the comment, information or explanation had been approved by the Minister.

(4) For the purpose of this regulation, “public statement” includes any statement or comment made to the press or to the public or in the course of any public lecture or speech or in any broadcast or publication, regardless of the means.

Prohibition on acting as an editor, etc., in any publication

19. An officer shall not act as the editor of, or take part directly or indirectly in the management of, or in any way make any financial contribution or otherwise to, any publication, including any newspaper, magazine or journal, regardless of the means by which it is published, except the following publications:

- (a) departmental publications;
- (b) professional publications;
- (c) publications of non-political voluntary organizations; and
- (d) publications approved in writing by the Director General for the purposes of this regulation.

Taking part in politics

20. (1) An officer in the Top Management Group or the Managerial and Professional Group shall not take an active part in political activities or wear any emblem of a political party, and in particular, he shall not—

- (a) make any public statement, whether orally or in writing, that would convey a partisan view on any matter which is an issue between political parties;

- (b) publish or circulate any material setting forth his partisan views or the views of other persons, on any matter pertaining to any political party;
- (c) engage in canvassing in support of any candidate at an election to the Dewan Rakyat or to any State Legislative Assembly or any election to any office in any political party;
- (d) act as an election agent or a polling agent or in any capacity for or on behalf of a candidate at an election to the Dewan Rakyat or to any State Legislative Assembly;
- (e) stand for election for any post in any political party; or
- (f) hold any post in any political party.

(2) An officer in the Support Group may, after obtaining the written approval of the Board, be permitted to stand for election or hold office or be appointed to any post in a political party.

(3) Notwithstanding subregulation (1), an officer who has been granted leave until the date of his retirement for the purpose of finishing his accumulated leave may participate in political activities if—

- (a) he has obtained the prior written approval of the Board to do so; and
- (b) by being so engaged he does not contravene the provisions of the Official Secrets Act 1972 [Act 88].

(4) An application for approval under paragraph (3)(a) shall be made not less than three months before the date the officer is allowed to go on leave prior to retirement.

(5) Nothing in this regulation shall preclude an officer from being an ordinary member of any political party.

Duty to exercise disciplinary control and supervision

21. (1) It is the duty of every officer to exercise disciplinary control and supervision over his subordinates and to take appropriate action for any breach of the provisions of these Regulations.

(2) An officer who fails to exercise disciplinary control and supervision over his subordinates, or to take action against his subordinate who breaches any provision of these Regulations shall be deemed to have been negligent in the performance of his duties and to be irresponsible, and he shall be liable to disciplinary action.

PART III

ABSENCE WITHOUT LEAVE

Absence from duty

22. In this Part “absence”, in relation to an officer, includes a failure to be present for any length of time at a time and place where the officer is required to be present for the performance of his duties.

Disciplinary action for absence without leave

23. An officer's absence from duty without leave or without prior permission or without reasonable cause shall render him liable to disciplinary action.

Procedure in cases of absence without leave

24. (1) Where an officer is absent from duty without leave or without prior permission or without reasonable cause, his Head of Department shall, as soon as possible, report that fact together with the dates and circumstances of such absence and any further information in respect of such absence to the appropriate Disciplinary Committee.

(2) The appropriate Disciplinary Committee may, after considering the report of the Head of Department under subregulation (1), institute disciplinary action against the officer.

Procedure where officer is absent without leave and cannot be traced

25. (1) Where an officer is absent from duty without leave or without prior permission or without reasonable cause for seven consecutive working days and cannot be traced, his Head of Department shall cause a letter to be delivered personally or sent by A.R. registered post to the officer at his last-known address, directing the officer to immediately report for duty.

(2) If, after the letter is delivered—

- (a) the officer reports for duty; or
- (b) the officer fails to report for duty or no news is heard from him,

his Head of Department shall submit a report to the appropriate Disciplinary Committee and the Disciplinary Committee shall institute disciplinary action against the officer.

(3) If the letter cannot be delivered in person to the officer by reason of the fact that he is no longer residing at his last-known address or if the A.R. registered letter is returned undelivered, the Head of Department shall report the matter to the Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank upon the officer.

(4) The appropriate Disciplinary Committee shall, upon receiving the report referred to in subregulation (3), take steps to publish a notice in at least one daily newspaper published in the national language and having national circulation as determined by the Disciplinary Committee—

- (a) of the fact that the officer has been absent from duty and cannot be traced; and
- (b) requiring the officer to report for duty within seven days from the date of such publication.

(5) If the officer reports for duty within seven days from the date of publication of the notice referred to in subregulation (4), his Head of Department shall report the matter to the appropriate Disciplinary Committee and the Disciplinary Committee shall institute disciplinary proceedings against the officer.

(6) If the officer fails to report for duty within seven days from the date of the publication of the notice referred to in subregulation (4), the officer shall be deemed to have been dismissed from the service of the statutory body with effect from the date he was absent from duty.

(7) The dismissal of an officer by virtue of subregulation (6) shall be notified in the *Gazette*.

Forfeiture of emoluments due to absence from duty

26. (1) Where an officer has been found guilty for being absent from duty without leave or without prior permission or without reasonable cause, he shall not be entitled to any emolument for the period of his absence and all such emoluments shall be deemed to have been forfeited notwithstanding that the appropriate Disciplinary Committee may not have ordered such forfeiture.

(2) An officer whose emoluments are forfeited under subregulation (1) shall be notified in writing of the forfeiture.

(3) The forfeiture of emoluments by virtue of subregulation (1) is not a disciplinary punishment.

PART IV

OFFICERS SUBJECT TO CRIMINAL PROCEEDINGS, *ETC.*

Procedure where criminal proceedings are instituted against an officer

27. (1) An officer shall immediately inform his Head of Department if any criminal proceedings are instituted against him in any court.

(2) Where it comes to the knowledge of the Head of Department of an officer from any source that criminal proceedings have been instituted in any court against the officer, the Head of Department shall obtain from the Registrar, Deputy Registrar or Senior Assistant Registrar of the court in which the proceedings were instituted a report containing the following information:

- (a) the charge or charges against the officer;
- (b) if the officer was arrested, the date and time of his arrest;
- (c) whether or not the officer is on bail; and
- (d) such other information as is relevant.

(3) Upon receipt of the report referred to in subregulation (2), the Head of Department shall forward the report to the appropriate Disciplinary Committee together with his recommendation as to whether or not the officer should be interdicted from duty.

(4) Upon consideration of the report and the Head of Department's recommendation forwarded to it under subregulation (3), the appropriate Disciplinary Committee may, if it deems fit, interdict the officer from the exercise of his duties.

(5) Upon the completion of the criminal proceedings against the officer, his Head of Department shall obtain from the Registrar, Deputy Registrar or Senior Assistant Registrar of the court before whom the case was disposed of and forward to the appropriate Disciplinary Committee—

- (a) the decision of that court; and
- (b) information relating to appeals, if any, filed by that officer or the Public Prosecutor.

(6) Where criminal proceedings against an officer result in his conviction, the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank shall, whether or not the officer appeals against the conviction, suspend the officer from the exercise of his duties with effect from the date of his conviction pending the decision of the Disciplinary Committee under regulation 28.

(7) Where criminal proceedings against an officer result in his acquittal and there is no appeal by or on behalf of the Public Prosecutor against such acquittal, the officer shall be allowed to resume his duties and he shall be entitled to receive any emoluments which had not been paid during the period of his interdiction as well as the annual leave to which he was entitled during the period of his interdiction.

(8) Where the criminal proceedings against the officer result in his acquittal and an appeal is lodged by the Public Prosecutor, the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank shall decide whether or not the officer should continue to be interdicted until the appeal is determined.

(9) Where criminal proceedings against an officer result in his conviction but on appeal the officer is acquitted, the officer shall be allowed to resume his duties and he shall be entitled to receive any emoluments which had not been paid during the period of his interdiction or suspension or both as well as to any annual leave to which he was entitled during the period of his interdiction or suspension or both.

(10) Where criminal proceedings against an officer result in his acquittal but on appeal the officer is convicted, the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank shall suspend the officer from the exercise of his duties with effect from the date of his conviction pending the decision of the Disciplinary Committee under regulation 28.

(11) For the purpose of this regulation, the word “acquittal” includes a discharge not amounting to an acquittal.

Responsibility of Head of Department if officer is convicted of criminal offence

28. (1) Where criminal proceedings against an officer result in his conviction and he does not appeal against such conviction, or where his appeal against the conviction has been dismissed or where the Public Prosecutor’s appeal against his acquittal results in his conviction, his Head of Department shall immediately obtain a copy of the court’s decision from the Registrar, Deputy Registrar or Senior Assistant Registrar of the court by which he was convicted or his appeal is dismissed.

(2) Upon receipt of the decision referred to in subregulation (1), the Head of Department shall forward it to the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank together with the officer’s Records of Service and the recommendation of the Head of Department that—

- (a) the officer should be dismissed or reduced in rank;
- (b) the officer should be punished with any punishment other than dismissal or reduction in rank;
- (c) the service of the officer should be terminated in the public interest; or
- (d) no punishment should be imposed,

depending on the nature and seriousness of the offence committed in relation to the degree of disrepute which the conviction has brought to the statutory body.

(3) If, after considering the report, the Records of Service and the Head of Department’s recommendation forwarded to it under subregulation (2), the appropriate Disciplinary Committee is of the opinion that—

- (a) the officer should be dismissed or reduced in rank, the Disciplinary Committee shall impose the punishment of dismissal or reduction in rank, as it deems appropriate;
- (b) the offence of which the officer was convicted does not warrant a punishment of dismissal or reduction in rank but warrants the imposition of a lesser punishment, the Disciplinary Committee shall impose upon the officer any one or more of the punishments other than dismissal or reduction in rank as specified in regulation 40 as it deems appropriate; or
- (c) no punishment should be imposed on the officer, the Disciplinary Committee shall acquit him.

(4) Where a punishment other than dismissal has been imposed on an officer or where no punishment has been imposed on him, the appropriate Disciplinary Committee shall direct the officer to resume his duties.

Disciplinary action shall not be taken until criminal proceedings are completed

29. (1) Where criminal proceedings have been instituted against an officer and are still pending, no disciplinary action shall be taken against the officer based on the same grounds as the criminal charge in the criminal proceedings.

(2) Nothing in subregulation (1) shall be construed so as to prevent disciplinary action from being taken against the officer during the pendency of such criminal proceedings if the action is based on any other ground arising out of his conduct in the performance of his duties.

Consequences of an acquittal

30. (1) An officer who is acquitted of a criminal charge in any criminal proceedings shall not be subject to disciplinary action on the same charge.

(2) Nothing in subregulation (1) shall be construed so as to prevent disciplinary action from being taken against the officer on any other ground arising out of his conduct in relation to the criminal charge, whether or not connected to the performance of his duties, as long as the grounds for the disciplinary action do not raise substantially the same issues as those in the criminal proceedings in relation to the criminal charge of which the officer was acquitted.

Procedure where there is an order of detention, banishment, etc.

31. (1) Where—

- (a) an order of detention other than an order of remand pending trial or for purposes of investigation;
- (b) an order of supervision, restricted residence, banishment or deportation;
or
- (c) an order which imposes any form of restriction or supervision, whether with bond or otherwise,

has been made against an officer under any law relating to the security of Malaysia or any part of Malaysia, the prevention of crime, preventive detention, restricted residence, banishment, immigration, or the protection of women and girls or of children, the officer's Head of Department shall apply for a copy of the order from the appropriate authority.

(2) Upon receipt of a copy of the order referred to in subregulation (1), the Head of Department shall forward it to the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank together with the officer's Records of Service and the recommendation of the Head of Department that—

- (a) the officer should be dismissed or reduced in rank;
- (b) the officer should be punished with any punishment other than dismissal or reduction in rank;

- (c) the service of the officer should be terminated in the public interest; or
- (d) no punishment should be imposed,

depending on the degree of disrepute which the officer has brought to the statutory body.

(3) If, after considering the report, the Records of Service and the Head of Department's recommendation forwarded to it under subregulation (2), the appropriate Disciplinary Committee is of the opinion that—

- (a) the officer should be dismissed or reduced in rank, the Disciplinary Committee shall impose the punishment of dismissal or reduction in rank, as it deems appropriate;
- (b) the grounds on which the order was made against the officer do not warrant a punishment of dismissal or reduction in rank but warrant the imposition of a lesser punishment, the Disciplinary Committee shall impose upon the officer any one or more of the punishments other than dismissal or reduction in rank as specified in regulation 40 as it deems fit and proper; or
- (c) no punishment should be imposed on the officer, the Disciplinary Committee shall acquit him.

(4) Where a punishment other than dismissal has been imposed on an officer or where no punishment has been imposed on him, the appropriate Disciplinary Committee shall direct the officer to resume his duties.

PART V

DISCIPLINARY PROCEDURES

Chapter 1—General

Opportunity to be heard in disciplinary proceedings with a view to dismissal or reduction in rank

32. (1) Subject to subregulation (2), in all disciplinary proceedings under these Regulations, no officer shall be dismissed or reduced in rank unless he has first been informed in writing of the grounds on which such action is proposed and he has been afforded a reasonable opportunity of being heard.

(2) Subregulation (1) shall not apply in the following cases:

- (a) where an officer is dismissed or reduced in rank under subregulation 28(3) or 31(3);
- (b) where the appropriate Disciplinary Committee is satisfied that for some reason, to be recorded by it in writing, it is not reasonably practicable to carry out the requirements of subregulation (1);
- (c) where the Board is satisfied that in the interest of the security of Malaysia or any part thereof it is not expedient to carry out the requirements of subregulation (1).

Chairman of Disciplinary Committee to determine nature of breach of discipline

- 33.** (1) Where an officer is alleged to have committed a disciplinary offence—
- (a) the Chairman of the Disciplinary Committee appropriate to that officer; or
 - (b) if there is more than one tier of Disciplinary Committee in respect of such officer, the Chairman of the Disciplinary Committee having the jurisdiction to impose a punishment other than dismissal or reduction in rank,

shall, before commencing any disciplinary proceedings in respect of the officer, consider and determine whether the disciplinary offence complained of is of a nature which warrants a punishment of dismissal or reduction in rank or a punishment lesser than dismissal or reduction in rank.

(2) If the Chairman of the Disciplinary Committee referred to in paragraph (1)(a) or (b) determines that the disciplinary offence complained of is of a nature which warrants a punishment of dismissal or reduction in rank, he shall refer the case to the Disciplinary Committee which has the power to impose such punishment.

Chapter 2—Disciplinary proceeding not with a view to dismissal or reduction in rank

Procedure in disciplinary cases not with a view to dismissal or reduction in rank

34. (1) If it is determined under regulation 33 that the disciplinary offence complained of against an officer is of a nature that warrants a punishment lesser than dismissal or reduction in rank, the appropriate Disciplinary Committee referred to in paragraph 33(1)(a) or (b), on being satisfied that there exists a disciplinary offence, shall inform the officer in writing of the facts of the disciplinary offence alleged to have been committed by him and shall give to the officer an opportunity to make a written representation within a period of twenty-one days from the date he is informed of the facts.

(2) If the appropriate Disciplinary Committee is of the opinion that the officer's representation requires further clarification, the Disciplinary Committee may require the officer to furnish further clarification within such period as the Disciplinary Committee may specify.

(3) If after considering the officer's representation and, if further clarification is furnished, his further clarification, the appropriate Disciplinary Committee—

- (a) finds the officer guilty of the disciplinary offence alleged to have been committed by him, the Disciplinary Committee shall impose upon the officer any one or more of the punishments other than dismissal or reduction in rank as specified in regulation 40 as it deems appropriate; or
- (b) finds the officer not guilty, the Disciplinary Committee shall acquit him.

Chapter 3—Disciplinary proceeding with a view to dismissal or reduction in rank

Procedure in disciplinary cases with a view to dismissal or reduction in rank

35. (1) If it is determined under regulation 33 that the disciplinary offence complained of against an officer is of a nature that warrants a punishment of dismissal or reduction in rank, the appropriate Disciplinary Committee to which the case is referred shall consider all the available information.

(2) If it appears to the appropriate Disciplinary Committee that there exists a *prima facie* case against the officer, the appropriate Disciplinary Committee shall—

(a) direct that a charge containing the facts of the disciplinary offence alleged to have been committed by the officer and the grounds on which it is proposed to dismiss the officer or reduce his rank be sent to the officer; and

(b) call upon the officer to make, within a period of twenty-one days from the date he receives the charge, a written representation containing the grounds upon which he relies to exculpate himself.

(3) If, after considering the representation made pursuant to subregulation (1), the appropriate Disciplinary Committee is of the opinion that the disciplinary offence committed by the officer does not warrant a punishment of dismissal or reduction in rank, the appropriate Disciplinary Committee may impose upon the officer any of the lesser punishments specified in regulation 40 as it deems appropriate.

(4) If the officer does not make any representation within the period specified in paragraph (2)(b), or if the officer made such a representation but the representation does not exculpate himself to the satisfaction of the appropriate Disciplinary Committee, the Disciplinary Committee shall then proceed to consider and decide on the dismissal or reduction in rank of the officer.

(5) If the appropriate Disciplinary Committee is of the opinion that the case against the officer requires further clarification, the Disciplinary Committee may establish an Investigation Committee for the purpose of obtaining such further clarification.

Investigation Committee

36. (1) The Investigation Committee shall be comprised of not less than two officers of the statutory body or the Ministry.

(2) Members of the Investigation Committee shall be higher in rank than the officer under investigation but the Head of Department of the officer under investigation shall not be a member of the Investigation Committee.

Procedure to be followed by the Investigation Committee

37. (1) The Investigation Committee—

- (a) shall inform the officer under investigation of the date when the question of his dismissal or reduction in rank will be brought before the Investigation Committee; and
- (b) may call and examine any witness or take any action as it thinks necessary and proper for obtaining further clarification regarding the case.

(2) If the Investigation Committee is of the view that the officer should be allowed to be present before the Investigation Committee to exculpate himself, the officer shall present himself before the Committee for such purpose.

(3) If witnesses are called and examined by the Investigation Committee, the officer shall be given an opportunity to be present and to cross-examine the witnesses on his own behalf.

(4) No documentary evidence shall be used against an officer unless the officer has previously been supplied with a copy of the evidence or given access to the evidence.

(5) The Investigation Committee may permit the statutory body or the officer to be represented by an officer of the statutory body or, in exceptional cases, by an advocate and solicitor, but the Investigation Committee may withdraw such permission subject to any reasonable and necessary adjournment to enable the officer to present his case in person.

(6) If the Investigation Committee permits the statutory body to be represented, it shall also permit the officer under investigation to be similarly represented.

(7) If the officer under investigation who is required to appear before the Investigation Committee fails to appear on the date and at the time appointed and if no sufficient ground is shown for an adjournment, the Investigation Committee may proceed to consider and decide on the complaint or may adjourn the proceeding to another date.

(8) Upon the completion of its investigation, the Investigation Committee shall submit a report on such investigation to the appropriate Disciplinary Committee.

(9) If the appropriate Disciplinary Committee is of the opinion that the report submitted to it under subregulation (8) is vague in particular matters or that further investigation is required, the appropriate Disciplinary Committee may refer the matter back to the Investigation Committee for further investigation.

Further grounds for dismissal

38. (1) If, in the course of an investigation by the Investigation Committee, further grounds for the dismissal of the officer under investigation are disclosed, the Investigation Committee shall inform the appropriate Disciplinary Committee of the further grounds.

(2) If the Disciplinary Committee thinks fit to proceed against the officer on such further grounds, the officer shall be given a written statement of those grounds, and the procedures set out in regulations 35, 36 and 37 shall apply in respect of the further grounds as they apply in respect of the original grounds.

Powers of the Disciplinary Committee

39. If, after considering the officer's representation and the report of the Investigation Committee, if any, the appropriate Disciplinary Committee—

- (a) finds the officer guilty of the disciplinary offence alleged to have been committed by him and that the officer should be dismissed or reduced in rank, the Disciplinary Committee shall impose the punishment of dismissal or reduction in rank, as it deems appropriate;
- (b) finds the officer guilty of the disciplinary offence alleged to have been committed by him but that, after taking into consideration the circumstances in which the disciplinary offence was committed and other mitigating factors, such offence does not warrant a punishment of dismissal or reduction in rank but warrants the imposition of a lesser punishment, the Disciplinary Committee shall impose upon the officer any one or more of the punishments other than dismissal or reduction in rank as specified in regulation 40 as it deems appropriate; or
- (c) finds the officer not guilty, the Disciplinary Committee shall acquit him.

PART VI

DISCIPLINARY PUNISHMENTS

Types of disciplinary punishments

40. If an officer is found guilty of a disciplinary offence, any one or any combination of two or more of the following punishments, depending upon the seriousness of the offence, may be imposed on the officer:

- (a) warning;
- (b) fine;
- (c) forfeiture of emoluments;
- (d) deferment of salary movement;
- (e) reduction of salary;
- (f) reduction in rank;
- (g) dismissal.

Fine or forfeiture of emoluments

41. (1) A punishment of fine or forfeiture of emoluments shall be made in accordance with subregulations (2), (3), (4), (5) and (6).

(2) Any fine imposed on any one occasion shall not exceed an amount equivalent to seven days' emoluments of the officer concerned.

(3) If an officer is fined on more than one occasion in any calendar month, the aggregate of the fines imposed on him in that month shall not exceed an amount equivalent to forty-five per cent of his monthly emoluments.

(4) Where the punishment is imposed as a consequence of the officer being absent from duty without leave or without prior permission or without reasonable cause, any forfeiture of the officer's emoluments shall, unless otherwise decided by the appropriate Disciplinary Committee, be calculated by having regard to the actual period the officer is absent.

(5) The punishment of a fine or forfeiture of emoluments shall not be imposed on an officer who was absent without leave or without prior permission or without reasonable cause where the officer's emoluments has been forfeited, in respect of such absence from duty, under regulation 26.

(6) All fines or forfeitures of emoluments shall be deducted from the officer's monthly emoluments and shall be paid into the revenue of the statutory body.

Deferment of salary movement

42. (1) The punishment of deferment of salary movement may be imposed by the appropriate Disciplinary Committee for a period of—

- (a) three months;
- (b) six months;
- (c) nine months; or
- (d) twelve months,

as the Disciplinary Committee deems appropriate.

(2) The punishment of deferment of salary movement imposed on an officer shall be executed on the next anniversary of the salary movement of that officer after the date of imposition of the punishment by the appropriate Disciplinary Committee.

(3) An officer on whom the punishment of deferment of salary movement is imposed shall not be entitled to receive any salary movement for and during the period in which the punishment is in force.

(4) A punishment of deferment of salary movement shall have the following consequences on the officer on whom the punishment is imposed:

- (a) his salary movement shall be altered to the nearest date of salary movement after the expiry of the period of punishment; and
- (b) the date of his salary movement shall remain at the date altered under paragraph (a) until the officer reaches the maximum step in his salary schedule.

Reduction of salary

43. (1) The appropriate Disciplinary Committee may impose a punishment of reduction of salary on an officer in accordance with the following provisions:

- (a) the salary can only be reduced horizontally in the same salary level;
- (b) the reduction of salary shall not exceed three salary movements; and
- (c) the duration of the punishment shall not be less than twelve months but shall not be more than thirty-six months on any one occasion.

(2) The punishment of reduction of salary imposed on an officer shall be implemented on the date as specified by the appropriate Disciplinary Committee.

(3) The date of salary movement of an officer on whom the punishment of reduction of salary is imposed shall be altered to the date of the next salary movement after the punishment expires.

(4) An officer on whom the punishment of reduction of salary is imposed shall not be entitled to receive any salary movement for and during the period in which the punishment is in force.

Reduction in rank

44. The appropriate Disciplinary Committee may impose the punishment of reduction in rank on an officer in the following manner:

- (a) by reducing the grade of the officer to a lower grade in the same scheme of service; and
- (b) by determining that the officer's new salary shall be at a salary point in the salary schedule of such reduced grade such that the salary is lower than, but nearest to, the last-drawn salary of the officer before the punishment is imposed on him.

PART VII

INTERDICTION AND SUSPENSION

Interdiction for the purpose of investigation

45. (1) Without prejudice to regulations 27 and 46, if an officer is alleged or reasonably suspected of having committed a criminal offence or a serious disciplinary offence, the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank on such officer may interdict the officer for a period not exceeding two months for the purpose of facilitating investigation against the officer.

(2) In deciding whether to interdict an officer under subregulation (1), the appropriate Disciplinary Committee shall take into account the following factors:

- (a) whether the allegation or the suspected offence is directly related to the officer's duties; and
- (b) whether the presence of the officer in the office would hamper investigation.

(3) If, during the period an officer is under interdiction—

- (a) criminal proceedings are instituted against the officer in any court; or
- (b) disciplinary action is taken against him with a view to his dismissal or reduction in rank,

the interdiction order made under subregulation (1) shall cease to have effect from the date such criminal proceedings are instituted or disciplinary action is taken against the officer; and the appropriate Disciplinary Committee shall take such further action as it thinks fit under regulation 46.

(4) An officer who has been interdicted under this regulation shall be entitled to receive full emoluments during the period of his interdiction.

Interdiction

46. (1) The appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank may, if it thinks fit and proper and having regard to the matters specified in subregulation (4), interdict an officer from the exercise of his duties if—

- (a) criminal proceedings have been instituted against the officer; or
- (b) disciplinary proceedings with a view that a punishment of dismissal or reduction in rank be imposed on him have been instituted against the officer.

(2) If an officer is interdicted under paragraph (1)(a), his interdiction may be made effective from the date he was arrested or from the date the summons were served on him.

(3) If an officer is interdicted under paragraph (1)(b), his interdiction may be made effective from such date as may be determined by the appropriate Disciplinary Committee.

(4) In deciding whether to interdict an officer under subregulation (1), the appropriate Disciplinary Committee shall take into account the following factors:

- (a) whether the nature of the offence with which the officer is charged is directly related to his duties;
- (b) whether the presence of the officer in the office would hamper investigation;

- (c) whether the presence of the officer in the office to exercise his normal duties and responsibilities may be a source of embarrassment to, or may adversely affect the name or image of, the statutory body; and
- (d) whether, taking into account the nature of the offence with which the officer is charged, the interdiction of the officer would result in the statutory body incurring a loss.

(5) If the appropriate Disciplinary Committee recalls an officer who has been interdicted under subregulation (1) to resume his duties whilst criminal proceedings or disciplinary proceedings with a view to his dismissal or reduction in rank are still pending, then—

- (a) the order of interdiction shall cease to have effect from the date the officer resumes his duties;
- (b) the officer shall be paid his full emoluments from the date he resumes his duties; and
- (c) any part of his emoluments which has not been paid during his interdiction shall not be paid until the criminal proceedings or disciplinary proceedings with a view to his dismissal or reduction in rank have been completed and a decision as regards such emoluments has been made by the appropriate Disciplinary Committee.

(6) During the period of his interdiction under this regulation, an officer shall be entitled, unless and until he has been suspended or dismissed, to receive not less than half of his emoluments as the appropriate Disciplinary Committee deems fit.

(7) Without prejudice to subregulation 27(7), where an officer has been acquitted of a criminal charge or has been discharged but such discharge does not amount to an acquittal or has been acquitted of any disciplinary charge, any part of his emoluments which has not been paid to him while he was interdicted shall be paid to him.

Suspension

47. (1) The appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank may suspend an officer from the exercise of his duties if—

- (a) the officer has been convicted by any criminal court; or
- (b) an order as specified in regulation 31 has been made against the officer.

(2) The period of suspension under this regulation shall commence from the date of conviction or the effective date of the order, as the case may be.

- (3) An officer who is suspended from the exercise of his duties—
- (a) shall not be allowed to receive any part of his emoluments which has not been paid during the period of his interdiction under regulation 46; and
 - (b) shall not be entitled to receive any emolument throughout the period of his suspension.

(4) The decision by the appropriate Disciplinary Committee to suspend an officer shall be notified to him in writing.

Unpaid emoluments

48. (1) Where disciplinary proceedings against an officer result in the officer being dismissed, he shall not be entitled to any part of the emoluments which has not been paid to him during the period of his interdiction or suspension.

(2) Where disciplinary proceedings against an officer result in a punishment other than dismissal being imposed on the officer, he shall be entitled to receive any part of his emoluments which has not been paid to him during the period of his interdiction or suspension.

Resumption of duties

49. Where an officer is interdicted under regulation 46 or suspended under regulation 47, and the disciplinary proceedings against the officer result in a punishment other than dismissal being imposed on the officer, the appropriate Disciplinary Committee shall order the officer to resume his duties.

Disciplinary procedures for an officer serving outside Malaysia

50. Where criminal proceedings have been instituted against an officer outside Malaysia, the officer shall be interdicted in accordance with regulation 46, and if he is convicted, disciplinary action shall be taken under these Regulations against him.

Officer shall not leave Malaysia without written permission

51. (1) An officer who has been interdicted or suspended from the exercise of his duties shall not leave Malaysia without the prior written permission of the Chairman of the appropriate Disciplinary Committee.

(2) If the officer who has been interdicted or suspended from the exercise of his duties is serving outside Malaysia, he shall be immediately recalled to Malaysia and he shall not leave Malaysia without the prior written permission of the Chairman of the appropriate Disciplinary Committee.

(3) Notwithstanding the provisions of subregulation 46(6), the appropriate Disciplinary Committee shall take all the necessary steps to stop the payment of any emoluments to an officer who has been interdicted but has left Malaysia without the prior written permission from the Chairman of the appropriate Disciplinary Committee.

PART VIII

MISCELLANEOUS

Particulars of the offence and punishment to be recorded

52. Every disciplinary action taken against an officer which results in a punishment being imposed upon the officer under these Regulations shall be recorded in the officer's Records of Service by stating the particulars of the offence committed and the punishment imposed.

Service of notice, document, etc.

53. (1) Every officer shall furnish to his Head of Department the address of his residence or any change of that address and that address shall be his address for the purpose of serving on him any notice or document required to be served under these Regulations or for the purpose of communicating with him on any matter in relation to these Regulations.

(2) Any notice, document or communication left at or posted to or sent by any other reasonable means to the address for service furnished under subregulation (1) shall be deemed to have been duly served on or communicated to the officer.

Signature on letters and other correspondence

54. Any correspondence between the appropriate Disciplinary Committee and the officer who is subject to disciplinary action shall be signed by the Chairman of the appropriate Disciplinary Committee or by any member of the Disciplinary Committee on behalf of the Chairman.

THIRD SCHEDULE

[Sections 6 and 7]

COMPOSITION AND JURISDICTION OF DISCIPLINARY
COMMITTEES AND DISCIPLINARY APPEAL
COMMITTEES OF STATUTORY BODIES

PART I

DISCIPLINARY COMMITTEES

Establishment of Disciplinary Committees

1. There shall be established for a statutory body such Disciplinary Committees as are specified in the Appendix.

Jurisdiction of Disciplinary Committee

2. The Disciplinary Committee having jurisdiction over all matters relating to the conduct and discipline of each category of officers specified in the first column of the Appendix is the Disciplinary Committee which is comprised of the members specified in the third column of the Appendix in relation to that category.

Disciplinary Committee shall comply with the Regulations

3. In exercising its functions under this Act, every Disciplinary Committee shall comply with the Regulations in the Second Schedule.

Declaration of interest

4. (1) If the Chairman or any member of a Disciplinary Committee has any interest in any disciplinary proceedings, he shall declare the nature of that interest and such declaration shall be recorded in the minutes of the meeting at which the declaration is made.

(2) The Chairman or any member of a Disciplinary Committee who has an interest in any disciplinary proceeding shall not take part in the deliberation or decision of the Disciplinary Committee in that proceeding.

Appointment of substitute member

5. (1) The Board may, for reasons which shall be recorded, appoint any member of the Board or officer of the statutory body or nominate an officer of the Ministry to sit as the Chairman or a member of a Disciplinary Committee in place of the Chairman or a member specified in the Appendix in any disciplinary proceedings against an officer.

(2) The officer to be appointed under subparagraph (1) as the Chairman or a member of a Disciplinary Committee shall be higher in rank than the officer who is the subject of the disciplinary proceedings.

Meetings of Disciplinary Committee

6. For the purpose of performing its functions, a Disciplinary Committee shall meet on a date and at a place and time to be determined by the Chairman of the Disciplinary Committee.

Quorum for meetings of Disciplinary Committee

7. The Chairman and two other members of a Disciplinary Committee shall form the quorum for every meeting of the Disciplinary Committee.

Voting in meetings of Disciplinary Committee

8. All questions raised in the meetings of a Disciplinary Committee shall be decided by the votes of the majority of members present and voting, and if the number of votes are equal, then the Chairman shall have the casting vote.

Record of meetings of Disciplinary Committee

9. The Chairman of a Disciplinary Committee shall ensure that the records of every disciplinary proceeding and the minutes of every meeting of the Disciplinary Committee are properly kept.

Disciplinary Committee may require investigation be carried out

10. (1) Before making any decision on any matter which it is required to determine in any disciplinary proceedings, a Disciplinary Committee may cause an investigation be carried out by an investigation committee for the purpose of obtaining an explanation, clarification or recommendation in respect of that matter.

(2) An investigation committee shall consist of at least two officers of the statutory body or of the Ministry and the officers must be higher in rank than the officer under investigation.

(3) The investigation procedures provided for in respect of an Investigation Committee in the Regulations in the Second Schedule shall apply to an investigation committee carrying out investigation under this paragraph.

Decision of Disciplinary Committee to be communicated to officer

11. Every Disciplinary Committee shall ensure that its decision in any disciplinary proceedings is communicated in writing to the officer who is the subject of the disciplinary proceedings.

PART II

DISCIPLINARY APPEAL COMMITTEES

Establishment of Disciplinary Appeal Committees

12. There shall be established for a statutory body such Disciplinary Appeal Committees as are specified in the Appendix.

Jurisdiction of the Disciplinary Appeal Committee

13. (1) The Disciplinary Appeal Committee shall have the power to receive, consider and determine any appeal submitted by an officer against the decision of a Disciplinary Committee.

(2) The Disciplinary Appeal Committee in respect of each category of officers specified in the first column of the Appendix is the Disciplinary Appeal Committee which is comprised of the members specified in the fourth column of the Appendix in relation to that category.

Declaration of interest

14. (1) If the Chairman or any member of a Disciplinary Appeal Committee has any interest in any appeal brought before the Disciplinary Appeal Committee, he shall declare the nature of that interest and such declaration shall be recorded in the minutes of the meeting at which the declaration is made.

(2) The Chairman or any member of a Disciplinary Appeal Committee who has an interest in any appeal brought before the Disciplinary Appeal Committee shall not take part in the deliberation or decision of the Disciplinary Appeal Committee in relation to that appeal.

Appointment of substitute member

15. (1) Where the Chairman of a Disciplinary Appeal Committee is the Minister the Prime Minister may, for reasons which shall be recorded, appoint another Minister to sit as the Chairman of the Disciplinary Appeal Committee in place of the Minister.

(2) Where the Chairman of a Disciplinary Appeal Committee is the Secretary General of the Ministry, the Chief Secretary to the Government may, for reasons which shall be recorded, appoint the Secretary General of another Ministry to sit as the Chairman of the Disciplinary Appeal Committee in place of the Secretary General specified in the Appendix.

(3) The Minister may, for reasons which shall be recorded, appoint any member of the Board or any officer of the Ministry to sit as a member of a Disciplinary Appeal Committee in place of the member specified in the Appendix.

(4) The officer appointed under subparagraph (3) shall be higher in rank than the officer who is making the appeal.

Meetings of Disciplinary Appeal Committee

16. For the purpose of performing its functions, a Disciplinary Appeal Committee shall meet on a date and at a place and time to be determined by the Chairman of the Disciplinary Appeal Committee.

Quorum for meetings of Disciplinary Appeal Committee

17. The Chairman and two other members of a Disciplinary Appeal Committee shall form the quorum for every meeting of the Disciplinary Appeal Committee.

Voting in meetings of Disciplinary Appeal Committee

18. All questions raised in the meetings of a Disciplinary Appeal Committee shall be decided by the votes of the majority of members present and voting, and if the number of votes are equal, then the Chairman shall have the casting vote.

Record of meetings of Disciplinary Appeal Committee

19. The Chairman of a Disciplinary Appeal Committee shall ensure that the records of every disciplinary appeal proceeding and the minutes of every meeting of the Disciplinary Appeal Committee are properly kept.

Appeal procedures

20. (1) An appeal by any officer who has been found guilty by a Disciplinary Committee shall be made in writing, through his Head of Department, to the appropriate Disciplinary Appeal Committee within a period of fourteen days from the date the decision of the Disciplinary Committee is served on him.

(2) The Head of Department shall, not later than fourteen days from the date he receives such appeal, submit that appeal together with his comments to the Disciplinary Committee against whose decision the appeal is made.

(3) Within a period of thirty days from the date it receives the appeal and the Head of Department's comments, the Disciplinary Committee against whose decision the appeal is made shall cause a copy of the records of disciplinary proceedings against that officer to be sent to the Disciplinary Appeal Committee together with the grounds of its decision.

(4) The Chairman of the Disciplinary Appeal Committee may extend the periods specified in subparagraphs (1), (2) and (3) on the application of the officer concerned and on sufficient cause being shown.

Hearing of appeal

21. (1) Immediately after receiving the appeal documents as provided in paragraph 20, the Chairman of the appropriate Disciplinary Appeal Committee shall convene a meeting of the Disciplinary Appeal Committee to consider such appeal.

(2) The Disciplinary Appeal Committee shall decide every appeal solely on the merits of the grounds of such appeal without admitting any further statement or additional evidence.

(3) Notwithstanding subparagraph (2), the Disciplinary Appeal Committee may, if it thinks just and necessary, and subject to the officer's right to be heard, request for any further statement or additional evidence from any other person.

Decision of the Disciplinary Appeal Committee

22. (1) In considering an appeal under paragraph 21 against the decision of a Disciplinary Committee, the Disciplinary Appeal Committee may—

- (a) remit the case for reconsideration to the Disciplinary Committee;
- (b) confirm the decision of the Disciplinary Committee;
- (c) confirm the decision of the Disciplinary Committee as regards the misconduct of that officer, but vary the punishment to a lesser punishment; or
- (d) reverse the decision and punishment of the Disciplinary Committee and acquit that officer from the charge against him.

(2) The decision of the Disciplinary Appeal Committee is final.

Officer to be notified of decision of Disciplinary Appeal Committee

23. As soon as practicable after making its decision under paragraph 22 on an appeal made by an officer, the Disciplinary Appeal Committee shall notify the officer of that decision.

APPENDIX
[Paragraphs 1, 2 and 12]
COMPOSITION AND JURISDICTION OF DISCIPLINARY COMMITTEES AND DISCIPLINARY APPEAL
COMMITTEES FOR STATUTORY BODIES

DISCIPLINARY COMMITTEES		DISCIPLINARY APPEAL COMMITTEES
<i>Category of Officers</i>	<i>Jurisdiction</i>	<i>Composition of Disciplinary Appeal Committees</i>
Director General Deputy Director General Top Management Group Management and Professional Group Group A under the Cabinet Committee Report 1976 Director General Deputy Director General	Disciplinary action with a view to dismissal or reduction in rank	Chairman: Chairman of the Board Members: Secretary General of the Ministry 2 members of the Board, appointed by the Chairman of the Board
	Disciplinary action not with a view to dismissal or reduction in rank	Chairman: Minister Members: 2 members of the Board, appointed by the Chairman of the Board

DISCIPLINARY COMMITTEES		DISCIPLINARY APPEAL COMMITTEES
<i>Category of Officers</i>	<i>Jurisdiction</i>	<i>Composition of Disciplinary Appeal Committees</i>
Top Management Group		<p>Members: 2 members of the Board, appointed by the Chairman of the Board</p>
Management and Professional Group Group A under the Cabinet Committee Report 1976	Disciplinary action not with a view to dismissal or reduction in rank	<p>Chairman: Secretary General of the Ministry</p> <p>Members: 2 members of the Board, appointed by the Chairman of the Board</p>

<p>Support Group Group B, C and D under the Cabinet Committee Report 1976</p>	<p>Disciplinary action with a view to dismissal or reduction in rank</p>	<p>Chairman: Director General</p> <p>Members: Deputy Secretary General of the Ministry (Administration) Legal Adviser of the Ministry 2 members of the Board, appointed by the Chairman of the Board</p>	<p>Chairman: Secretary General of the Ministry</p> <p>Members: 2 members of the Board, appointed by the Chairman of the Board</p>
<p>Support Group Group B, C and D under the Cabinet Committee Report 1976</p>	<p>Disciplinary action not with a view to dismissal or reduction in rank</p>	<p>Chairman: Deputy Director General</p> <p>Members: Head of the division responsible for administrative matters in the Ministry Legal Adviser of the Ministry 2 members of the Board, appointed by the Chairman of the Board</p>	<p>Chairman: Director General</p> <p>Members: Deputy Secretary General of the Ministry (Administration) 1 member of the Board, appointed by the Chairman of the Board</p>

LAWS OF MALAYSIA**Act 605****STATUTORY BODIES (DISCIPLINE AND
SURCHARGE) ACT 2000**

LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U. (A) 96/2001	Statutory Bodies (Discipline and Surcharge) (Amendment of First Schedule) Order 2001	01-11-2000

LAWS OF MALAYSIA**Act 605****STATUTORY BODIES (DISCIPLINE AND
SURCHARGE) ACT 2000****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
First Schedule	P.U. (A) 96/2001	01-11-2000
