



LAWS OF MALAYSIA

REPRINT

Act 195

WAGES COUNCILS ACT 1947

Incorporating all amendments up to 1 January 2006

PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
IN COLLABORATION WITH
PERCETAKAN NASIONAL MALAYSIA BHD
2006

WAGES COUNCILS ACT 1947

First enacted 1947 (Ordinance No. 41
of 1947)

Revised 1977 (Act 195 w.e.f.
1 December 1977)

PREVIOUS REPRINT

First Reprint 2001

LAWS OF MALAYSIA

Act 195

WAGES COUNCILS ACT 1947

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

ESTABLISHMENT OF WAGES COUNCILS

3. Power of Minister to establish wages councils
4. Applications for wages council orders and reference to commission of inquiry
5. References to commission of inquiry without application for wages council order
6. Proceedings on reference to commission of inquiry
7. Making of wages council orders
8. Variation and revocation of wages council orders
9. General provisions as to wages councils
10. Central co-ordinating committees
11. General provisions as to commissions of inquiry

PART III

WAGES REGULATION ORDERS

12. Powers to fix remuneration and holidays
13. Effect and enforcement of wages regulation orders
14. Permits to infirm and incapacitated persons

Section

15. Computation of remuneration
16. Records and notices
17. Criminal liability of agent and superior employer
18. Officers
19. Penalty for false entry in records, producing false records or giving false information
20. Orders and regulations

FIRST SCHEDULE

SECOND SCHEDULE

LAWS OF MALAYSIA

Act 195

WAGES COUNCILS ACT 1947

An Act to provide for the establishment of Wages Councils, and otherwise for the regulation of the remuneration and conditions of employment of workers in certain circumstances.

[*Peninsular Malaysia—1 September 1947;*
Sarawak—1 January 1965;
Sabah—2 February 1967]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Wages Councils Act 1947.

Interpretation

2. (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:

*“Director General” means the Director General of Labour and such other officers as the Minister may, by notification in the *Gazette*, declare to be vested with all the powers conferred and duties imposed upon the Director General by this Act;

“Minister” means the minister charged with responsibility for the settlement of labour disputes;

*NOTE—In Sarawak, references in this Act to “Director General” shall be construed as references to the Commissioner for Labour, Sarawak, and such other officers as the Minister may, by notification in the *Gazette*, declare to be vested with all or any of the powers conferred and duties imposed upon the Director General by this Act—*see* L.N. 461/1964.

*NOTE—In Sabah, reference in this Act to “Director General” shall be construed as references to the Commissioner of Labour, Sabah and such other officers as the Minister may, by notification in the *Gazette*, declare to be vested with all or any of the powers conferred and duties imposed upon the “Director General” by this Act—*see* P.U. 78/1967.

“organization” includes in relation to workers, an association of trade unions, and in relation to employers, an association of organizations of employers;

“outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

“statutory minimum remuneration” means remuneration fixed by a wages regulation order under section 12;

“superannuation scheme” means any enactment, rules, deed or other instrument, providing for the payment of annuities or lump sums to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise, whether with or without any further or other benefits;

“thrift scheme” means any arrangement for savings, for providing money for holidays or for other purposes under which a worker is entitled to receive in cash sums equal to or greater than the aggregate of any sums deducted from his remuneration or paid by him for the purposes of the scheme;

“trade union” includes an association of trade unions;

“wages council” and “commission of inquiry” mean respectively a wages council and a commission of inquiry established or set up under this Act;

“worker” means any person who has entered into or works under a contract with an employer, whether the contract be for manual labour, clerical work or otherwise, be expressed or implied, oral or in writing and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour, except that “worker” does not include any person who is employed casually and otherwise than for the purposes of the employer’s business.

(2) Any power conferred by this Act to prescribe the manner in which anything is to be published shall include a power to prescribe the date which is to be taken for the purposes of this Act as the date of the publication.

PART II

ESTABLISHMENT OF WAGES COUNCILS

Power of Minister to establish wages councils

3. (1) Subject to the provisions of this Part, the Minister may by order establish a wages council to perform, in relation to the workers described in the order and their employers, the functions specified in the subsequent provisions of this Act.

(2) An order establishing a wages council (hereafter in this Act referred to as a “wages council order”) may be made by the Minister—

- (a) if he is of opinion that no adequate machinery exists for the effective regulation of the remuneration or conditions of employment of the workers described in the order and that, having regard to the remuneration existing amongst those workers or any of them, it is expedient that such a council should be established; or
- (b) in the circumstances hereinafter specified, in pursuance of a wages council recommendation made in accordance with the subsequent provisions of this Part.

Applications for wages council orders and reference to commission of inquiry

4. (1) An application for the establishment of a wages council with respect to any workers and their employers may be made to the Minister either—

- (a) by a joint industrial council, conciliation board or other similar body constituted by organizations representative respectively of those workers and their employers; or
- (b) by any organization of workers, or by any organization of employers, which claims to be an organization that habitually takes part in the settlement of remuneration and conditions of employment for those workers, or which represents a substantial proportion of the employers or workers in the industry,

on the ground, in either case, that no machinery exists for the settlement of remuneration and conditions of employment for those workers, or that the existing machinery is likely to cease to exist or be adequate for that purpose.

(2) Subject to the provisions of this and the next succeeding subsection, where such an application as aforesaid is made to the Minister, the Minister shall—

- (a) if he is satisfied, in the case of an application under paragraph (b) of the preceding subsection, that the claim of the organization habitually to take part in the settlement of remuneration and conditions of employment for those workers or to represent a substantial proportion of them is well-founded and, in any case, that there are sufficient grounds to justify the reference of the application to a commission of inquiry, refer the application to such a commission to inquire into and report on the application;
- (b) if he is not so satisfied, notify the applicants to that effect, in which case no further steps shall be taken on the application unless and until the Minister is so satisfied by fresh facts brought to his notice:

Provided that before taking either of the said courses, the Minister may require the applicants to furnish such information, if any, in relation to the application as he considers necessary.

(3) If, on considering an application under subsection (1), it appears to the Minister either—

- (a) that there is a joint industrial council, conciliation board or other similar body constituted by organizations of workers and organizations of employers, being a council, board or body which would or might be affected by the establishment of a wages council in pursuance of the application; or
- (b) that there are organizations of workers and organizations of employers representative respectively of workers other than workers to whom the application relates and their employers, who would or might be affected by the establishment of a wages council as aforesaid,

being a council, board or body, or, as the case may be, organizations, which are parties to joint voluntary machinery for the settlement of remuneration and conditions of employment but are not parties to the application for a wages council, the Minister shall, before deciding to refer the application to a commission of inquiry, give notice of the application to that council, board or body or, as the case may be, to those organizations, and shall consider any observations in writing which may be submitted to him by them within such

period as he may direct, not being less than one month from the date of the notice, and, if he decides to refer the application to a commission of inquiry, shall transmit a copy of the observations to the commission.

(4) If, before an application is referred to a commission of inquiry, it is withdrawn by the applicant, no further proceedings shall be had thereon.

References to commission of inquiry without application for wages council order

5. Without prejudice to the provisions of the last preceding section, the Minister, if, in his opinion, no adequate machinery exists for the effective regulation of the remuneration or conditions of employment of any workers, or if the existing machinery is likely to cease to exist or be adequate for that purpose and a reasonable standard of remuneration or conditions of employment amongst those workers will not be maintained, may, without any such application as is mentioned in that section, refer to a commission of inquiry the question whether a wages council should be established with respect to any of those workers and their employers.

Proceedings on reference to commission of inquiry

6. (1) Where the Minister makes a reference to a commission of inquiry under either of the two last preceding sections, it shall be the duty of the commission to consider not only the subject matter of the reference but also any other question or matter which, in the opinion of the commission, is relevant thereto, and in particular to consider whether there are any other workers (being workers who, in the opinion of the commission, are engaged in work which is complementary, subsidiary or closely allied to the work performed by the workers specified in the reference or any of them) whose position should be dealt with together with that of the workers, or some of the workers, specified as aforesaid; and, in relation to any such reference to a commission of inquiry, any reference in this Part to the workers with whom the commission is concerned shall be construed as a reference to the workers specified as aforesaid and any such other workers as aforesaid.

(2) If the commission is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the commission, be separately dealt with—

(a) that there exists machinery set up by agreement between organizations representing workers and employers respectively which is, or which can, by improvements which it is practicable to secure, be made, adequate for regulating the remuneration and conditions of employment of those workers; and

(b) that there is no reason to believe that that machinery is likely to cease to exist or to be adequate for that purpose,

the commission shall report to the Minister accordingly and may include in its report any suggestions which it may think fit to make as to the improvement of that machinery.

(3) Where any such suggestions are so included, the Minister shall take such steps as appear to him to be expedient and practicable to secure the improvements in question.

(4) If the commission is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the commission, be separately dealt with—

(a) that machinery for regulating the remuneration and conditions of employment of those workers is not, and cannot, by any improvements which it is practicable to secure, be made, adequate for that purpose, or does not exist; or

(b) that the existing machinery is likely to cease to exist or to be adequate for that purpose,

and that as a result a reasonable standard of remuneration amongst those workers is not being or will not be maintained, the commission may make a report to the Minister embodying a recommendation (in this Act referred to as a “wages council recommendation”) for the establishment of a wages council in respect of those workers and their employers.

(5) (*Deleted by L.N. 332/1958*).

(6) In considering for the purposes of this section whether any machinery is, or is likely to remain, adequate for regulating the remuneration and conditions of employment of any workers, the commission shall consider not only what matters are capable of

being dealt with by that machinery, but also to what extent those matters are covered by any agreements or awards arrived at or given thereunder, and to what extent the practice is, or is likely to be, in accordance with those agreements or awards.

Making of wages council orders

7. (1) Before making a wages council order, whether in pursuance of a wages council recommendation or not, the Minister shall cause to be published, in the prescribed manner, notice of intention to make the order, specifying a place where copies of a draft thereof may be obtained and the time, which shall not be less than twenty-one days from the date of the publication, within which any objection made with respect to the draft order must be sent to an officer mentioned in the notice.

(2) Every objection so made must be in writing and must state—

- (a) the specific groups of objection; and
- (b) the omissions, additions or modifications asked for,

and the Minister shall consider any such objection made by or on behalf of any person appearing to him to be affected, being an objection sent to him within the time specified in the notice, but shall not be bound to consider any other objection.

(3) If there are no objections which the Minister is required by the last preceding subsection to consider or if, after considering all such objections, he is of opinion that all those objections either—

- (a) in the case of an order to be made in pursuance of a wages council recommendation, were made to the commission of inquiry which made the recommendation and were expressly dealt with in the report embodying the recommendation; or
- (b) in any case, will be met by modifications which he proposes to make under this subsection or are frivolous,

he may make the order either in the terms of the draft or subject to such modifications if any, as he thinks fit, being modifications which, in his opinion do not effect important alterations in the character of the draft order as published.

(4) Where the Minister does not proceed under the last preceding subsection, he shall, either—

- (a) amend the draft order in which case all the provisions of this section shall have effect in relation to the amended draft order as they have effect in relation to an original draft order; or
- (b) refer the draft order to a commission of inquiry for inquiry and report, in which case he shall consider its report and may make an order either in the terms of the draft or with such modifications as he thinks fit.

(5) Where the Minister makes a wages council order he shall publish it in the prescribed manner, and the order shall come into operation on the date on which it is so published or on such later date as is specified therein.

Variation and revocation of wages council orders

8. (1) The Minister may at any time by order abolish, or vary the field of operation of, a wages council, and the provisions of the last preceding section shall apply in relation to any such order as they apply in relation to wages council orders:

Provided that—

- (a) where any of the wages councils affected by the order is one of the councils in relation to which a central coordinating committee has been established under the subsequent provisions of this Part, the Minister before making the order, shall consult that committee and take into consideration any observations which it may make to him within fourteen days from the date on which the Minister consults it;
- (b) where the order directs that a wages council shall cease to operate in relation to any workers and that another wages council shall operate in relation to them, but, save as aforesaid, does not affect the field of operation of any wages council—
 - (i) the provisions of the last preceding section shall not apply; and
 - (ii) when the order is made the Minister shall publish it in the prescribed manner and it shall come into operation on the date on which it is so published or on such later date as is specified therein.

(2) Without prejudice to the generality of the provisions of the preceding subsection, an application for the abolition of a wages council may be made to the Minister jointly by organizations of workers and organizations of employers which represent respectively substantial proportions of the workers and employers with respect to whom that council operates, on the ground that those organizations jointly provide machinery which is, and is likely to remain, adequate for the effective regulation of remuneration and conditions of employment for those workers, and where such an application is made, the Minister shall either make an order giving effect to the application or refer the application to a commission of inquiry to inquire into and report thereon; and where an application is so referred to such a commission, the last preceding section shall, in relation to an order made in pursuance of a recommendation of that commission, have effect as if any reference in that section to a wages council recommendation included a reference to the recommendation aforesaid.

(3) Where an order of the Minister directs that wages council shall cease to operate in relation to any workers and that another wages council shall operate in relation to them, the order may provide that anything done by, or to give effect to proposals made by, the first-mentioned council shall have effect in relation to those workers as if it had been done by, or to give effect to proposals made by, the second-mentioned council and may make such further provision as appears to the Minister to be expedient in connection with the transition.

(4) Where an order of the Minister under this section directs that a wages council shall be abolished or shall cease to operate in relation to any workers, then, save as is otherwise provided by the order, anything done by, or to give effect to proposals made by, the wages council shall, except as respects things previously done or omitted to be done, cease to have effect or, as the case may be, cease to have effect in relation to the workers in relation to whom the council ceases to operate.

(5) In considering for the purposes of this section whether any machinery is, or is likely to remain, adequate for the effective regulation of the remuneration and conditions of employment of any workers, a commission of inquiry shall consider not only what matters are capable of being dealt with by that machinery, but also to what extent those matters are covered by the agreements or

awards arrived at or given thereunder, and to what extent the practice is, or is likely to be, in accordance with those agreements or awards.

General provisions as to wages councils

9. (1) The provisions of the First Schedule shall have effect with respect to the constitution, officers and proceedings of wages councils.

(2) A wages council shall consider, as occasion requires, any matter referred to it by the Minister or the Director General with reference to the industrial conditions prevailing as respects the workers and employers in relation to whom it operates, and shall make a report upon the matter, and a wages council may, if it thinks it expedient so to do, make of its own motion a recommendation to any government department with reference to the said conditions and, where such a recommendation is so made, that department, shall forthwith take it into consideration.

Central co-ordinating committees

10. (1) The Minister may, if he thinks fit so to do, by order establish a central co-ordinating committee in relation to any two or more wages councils, or abolish, or vary the field of operation of, any central co-ordinating committee so established:

Provided that, except where the next succeeding subsection applies, there shall be consultation with the wages councils concerned.

(2) Where a commission of inquiry makes a wages council recommendation or a recommendation for the abolition of a wages council, it may include in its report—

- (a) in the case of a wages council recommendation, a recommendation for the establishment, in relation to any wages council established in accordance with the recommendation and any other wages council, of a central co-ordinating committee, or for the variation of the field of operation of an existing central co-ordinating committee so that it operates also in connection with any wages council so established;

- (b) in the case of a recommendation for the abolition of a wages council, a recommendation for the variation of the field of operation of an existing central co-ordinating committee so that it no longer operates in relation to the council to be abolished, or a recommendation for the abolition of any existing central co-ordinating committee theretofore operating in relation to the wages council to be abolished,

and the Minister may make an order giving effect to the recommendation.

(3) The provisions of the First Schedule shall have effect with respect to the constitution, officers and proceedings of any such central co-ordinating committee.

(4) It shall be the duty of any central co-ordinating committee from time to time—

- (a) to consider whether the field of operation of the wages councils in relation to which it is established is properly divided as between those councils and to report thereon to the Minister;
- (b) to make recommendations to those councils with respect to the principles to be followed by them in the exercise of their powers under this Act;
- (c) to consider any question referred to it by the Minister or by the said councils or any two or more of them, and to report thereon to the Minister, or to the councils which referred the question, as the case may be.

General provisions as to commissions of inquiry

11. (1) The provisions of the Second Schedule shall have effect with respect to the constitution, officers and proceedings of commissions of inquiry.

(2) Where any application, question or other matter is referred under this Part to a commission of inquiry, the commission shall make all such investigations as appear to it to be necessary and shall publish in the prescribed manner a notice stating the questions which it is its duty to consider by virtue of the reference and further stating that it will consider representations with respect thereto

made to it in writing within such period as may be specified in the notice, not being less than twenty-one days from the date of the publication thereof; and it shall consider any representations made to it within that period and then make such further inquiries as it considers necessary including, so far as it considers necessary, the hearing of oral evidence.

(3) Any power conferred by this Part on the Minister to make an order giving effect to a recommendation of a commission of inquiry shall be construed as including power to make an order giving effect to that recommendation with such modifications as he thinks fit.

(4) Where the Minister receives any report from a commission of inquiry he may, if he thinks fit, refer the report back to the commission and the commission shall thereupon reconsider it having regard to any observations made by him and shall make a further report, and the like proceedings shall be had on any such further report as in the case of an original report.

PART III

WAGES REGULATION ORDERS

Powers to fix remuneration and holidays

12. (1) Subject to and in accordance with the provisions of this section, any wages council shall have power to submit to the Minister proposals (hereafter in this Act referred to as “wages regulation proposals”)—

- (a) for fixing the remuneration to be paid, either generally or for any particular work, by their employers to all or any of the workers in relation to whom the council operates;
- (b) for requiring all or any such workers as aforesaid to be allowed holidays by their employers.

The power to submit proposals for fixing remuneration shall include power to submit proposals for fixing holiday remuneration and shall also include power to submit proposals covering conditions of employment including the provision of superannuation schemes.

(2) Before submitting any wages regulation proposals to the Minister, a wages council shall make such investigations as it thinks fit including, in so far as it considers necessary, the hearing of oral evidence and shall publish, in the prescribed manner, notice of the proposals, stating the place where copies of the proposals may be obtained and the period, which shall not be less than twenty-one days from the date of the publication of the notice, within which representations with respect to the proposals may be sent to the council; and the council shall consider any written representations made to it within that period and shall make such further inquiries as it considers necessary and may then submit the proposals to the Minister either without amendment or with such amendments as it thinks fit having regard to the representations:

Provided that—

- (a) if the council, before publishing its proposals, resolves that, in the event of no representation with respect to the proposals being made to it within the said period, the proposals shall without more ado, be submitted to the Minister, the proposals shall, if no representation is so made, be submitted to the Minister accordingly;
- (b) where a central co-ordinating committee has been established in relation to wages councils of which the council submitting the proposals is one, the council shall, when it submits its proposals to the Minister at the same time transmit a copy thereof to that committee and the Minister shall take into consideration any observations which that committee may make to him thereon within fourteen days from the day on which the proposals were submitted to him.

(3) Where the Minister receives any wages regulation proposals, he may make an order (hereafter in this Act referred to as a “wages regulation order”) giving effect to the proposals as from such date as may be specified in the order being a date subsequent to the making of the order:

Provided that the Minister may, if he thinks fit, refer the proposals back to the wages council and the wages council shall thereupon reconsider them having regard to any observations made by the Minister and may, if it thinks fit, re-submit the proposals to the Minister either without amendment or with such amendments as it thinks fit having regard to those observations; and where proposals are so re-submitted, the like proceedings shall be had thereon as in the case of original proposals.

(4) As soon as the Minister has made a wages regulation order, he shall give notice of the making thereof to the wages council and that council shall give such notice of the order and the contents thereof as may be prescribed for the purpose of informing, so far as practicable, all persons who will be thereby affected.

(5) Any wages regulation proposals and any wages regulation order for giving effect thereto may make different provision for different cases, and may also contain provision for the amendment or revocation of previous wages regulation orders.

(6) No wages regulation order shall have effect so as to prejudice any rights as to remuneration or holidays conferred on any worker by or under any written law other than this Act.

(7) Remuneration (including holiday remuneration) fixed by a wages regulation order is hereafter in this Act referred to as “statutory minimum remuneration”.

Effect and enforcement of wages regulation orders

13. (1) If a contract between a worker to whom a wages regulation order applies and his employer provides for the payment of less remuneration than the statutory minimum remuneration, it shall have effect as if for that less remuneration there were substituted the statutory minimum remuneration, and if any such contract provides for the payment of any holiday remuneration at times or subject to conditions other than those specified in the order, it shall have effect as if for those times or conditions there were substituted the times or conditions specified in the order.

(2) If an employer fails to pay to a worker to whom a wages regulation order applies remuneration not less than the statutory minimum remuneration, or fails to pay to any such worker holiday remuneration at the times and subject to the conditions specified in the order or fails to allow to any such worker the holidays fixed by the order, he shall be guilty of an offence against this Act and liable to a fine not exceeding five hundred ringgit for each offence, and where the employer or any other person charged as a person to whose act or default the offence was due has been found guilty of an offence under this section consisting of a failure to pay remuneration not less than the statutory minimum remuneration, the court may order the employer to pay such sum as is found by the court to represent the difference between the amount which ought to have

been paid to the worker by way of remuneration, if the provisions of this Part had been complied with, and the amount actually so paid.

(3) Where proceedings are brought under the last preceding subsection in respect of an offence consisting of a failure to pay remuneration not less than the statutory minimum remuneration, then, if notice of intention so to do has been served with the summons, warrant or complaint—

- (a) evidence may, on the employer or any other person charged as a person to whose act or default the offence was due having been found guilty of the offence, be given of any like contravention on the part of the employer in respect of any period subsequent to the coming into operation of the statutory minimum requirement and during the two years immediately preceding the date of the offence; and
- (b) on proof of the failure, the court may order the employer to pay such sum as is found by the court to represent the difference between the amount which ought to have been paid during that period to the worker by way of remuneration, if the provisions of this Part had been complied with, and the amount actually so paid.

(4) The powers given by this section for the recovery of sums due from an employer to a worker shall not be in derogation of any right to recover such sums by civil proceedings.

(5) If a contract between a worker to whom a wages regulation order applies and his employer provides for conditions of employment less favourable than conditions stipulated in the order, such contract shall have effect as if for those less favourable conditions there were substituted the conditions stipulated in the order.

(6) If an employer fails to abide by any condition of employment set out in a wages regulation order relating to the employment of any worker to whom the order applies, he shall be guilty of an offence and shall be liable to a fine not exceeding five hundred ringgit and, where the employer or any other person charged as a person to whose act or default the offence was due has been found guilty of an offence under this subsection, the court may order the employer to pay to the worker such sum as the court may determine to be fair compensation for any loss which the worker may have sustained as a result of such failure.

Permits to infirm and incapacitated persons

14. (1) If, as respects any worker employed or desiring to be employed in such circumstances that a wages regulation order applies or will apply to him, the wages council is satisfied on application being made to it for a permit under this section either by the worker or the employer or a prospective employer, that the worker is affected by infirmity or physical incapacity which renders him incapable of earning the statutory minimum remuneration, it may, if it thinks fit, grant, subject to such conditions, if any, as it may determine, a permit authorizing his employment at less than the statutory minimum remuneration, and while the permit is in force the remuneration authorized to be paid to him by the permit shall, if those conditions are complied with, be deemed to be the statutory minimum remuneration.

(2) Where an employer employs any worker in reliance on any document purporting to be a permit granted under the preceding subsection authorizing the employment of that worker at less than the statutory minimum remuneration, then, if the employer has notified the wages council in question that, relying on that document, he is employing or proposing to employ that worker at a specified remuneration, the document shall, notwithstanding that it is not or is no longer, a valid permit relating to that worker, be deemed, subject to the terms thereof and as respects only any period after the notification, to be such a permit until notice to the contrary is received by the employer from the council.

Computation of remuneration

15. (1) Subject to the provisions of this section, any reference in this part to remuneration shall be construed as a reference to the amount which is payable in cash to a worker by his employer in respect of his employment, clear of all deductions except deductions authorized by this section, but does not include—

- (a) any contribution paid by the employer on his own account to any pension fund or provident fund;
- (b) any travelling allowance or the value of any travelling concession;
- (c) any sum payable to the worker to defray special expenses entailed on him by the nature of his employment; or
- (d) any gratuity payable on discharge or retirement.

(2) Notwithstanding anything in subsection (1), wages regulation proposals and wages regulation orders may contain provisions authorizing specified benefits or advantages, being benefits or advantages provided, in pursuance of the terms and conditions of the employment of workers, by the employer or by some other person under arrangements with the employer and not being benefits or advantages the provision of which is illegal by virtue of the Employment Ordinance 1955 [Act 265], Labour Code of the Federated Malay States [Cap 154] or the corresponding Enactment of any State or the Labour Ordinance of the Straits Settlements [Cap 69], or of any other enactment, to be reckoned as payment of wages by the employer in lieu of payment in cash, and defining the value at which any such benefits or advantages are to be reckoned.

(3) If any payment is made by a worker in respect of any benefit or advantage provided as mentioned in last preceding subsection, then—

- (a) if the benefit or advantage is authorized by virtue of that subsection to be reckoned as therein mentioned, the amount of the payment shall be deducted from the defined value for the purposes of the reckoning;
- (b) if the benefit or advantage is authorized by virtue of that subsection to be reckoned as therein mentioned, any excess of the amount of the payment over the defined value shall be treated for the purpose of subsection (1) of this section as if it had been a deduction not being one of the excepted deductions therein mentioned;
- (c) if the benefit or advantage is specified in a wage regulation order as one which has been taken into account in fixing the statutory minimum remuneration, the whole of the payment shall be treated for the purposes of subsection (1) of this section as if it had been a deduction not being one of the excepted deductions therein mentioned.

(4) Subject to the provisions of this section, deductions of the following kinds may be made by an employer from the remuneration of a worker—

- (a) deductions authorized by any other written law;
- (b) deductions to the extent of any overpayment made by mistake during the immediately preceding three months by the employer to the worker by the employer's mistake;

- (c) deductions made, at the request in writing of the worker and with prior permission in writing of the Director General of Labour for purposes of a superannuation scheme, a provident fund scheme or a thrift scheme, being schemes in which the employer has no direct or indirect financial interest;
- (d) deductions made, at the request in writing of the worker, in respect of subscriptions to a registered trade union.

(5) Notwithstanding the provisions of the preceding subsection, the amount payable in cash to any worker after the deduction of any amount authorized by that subsection shall not be less than half the statutory minimum remuneration otherwise due to him.

(6) Where for any period a worker receives remuneration for work for part of which he is entitled to statutory minimum remuneration and for the remainder of which no statutory minimum remuneration is fixed, the amount of the remuneration which is to be attributed to the work for which he is entitled to statutory minimum remuneration shall, if not apparent from the terms of the contract between the employer and the worker, be deemed to be the amount which bears to the total amount of the remuneration the same proportion as the time spent on the part of the work for which he is entitled to statutory minimum remuneration bears to the time spent on the whole of the work.

(7) Nothing in this section shall be construed as authorizing the making of any deduction, or the giving of remuneration in any manner, which is illegal by virtue of the Employment Ordinance, 1955, Labour Code of the Federated Malay States or the corresponding Enactment of any State or the Labour Ordinance of the Straits Settlements, or of any other enactment.

Records and notices

16. (1) The employer of any workers to whom a wages regulation order applies shall keep such records as are necessary to show whether or not the provisions of this Part are being complied with as respect them, and the records shall be retained by the employer for two years.

(2) The Minister may by order prescribe such forms as he may consider necessary in which records shall be kept by the employer of any worker to whom a wages regulation order applies and may prescribe the intervals at which such records shall be completed.

(3) An employer described in any order made under the preceding subsection shall be deemed to have complied with the provisions of subsection (1) of this section if he keeps records in the form prescribed under the preceding subsection and completes such records at the prescribed intervals, if any.

(4) The employer of any workers shall post in the prescribed manner such notices as may be prescribed for the purpose of informing the workers of any wages regulation proposals or wages regulation order affecting them, and, if it is so prescribed, shall give notice in any other prescribed manner to the said workers of the said matters and of such matters, if any, as may be prescribed.

(5) If any employer fails to comply with any of the requirements of this section, he shall be guilty of an offence against this Act and liable to a fine not exceeding two hundred and fifty ringgit.

Criminal liability of agent and superior employer

17. (1) Where the immediate employer of any worker is himself in the employment of some other person (in this section called the superior employer) in the course of or for the purposes of that person's trade or business and that worker is employed on the premises of the superior employer, the superior employer shall for the purposes of this Part be deemed to be the employer of that worker jointly with the immediate employer.

(2) Where an employer is charged with an offence under this Part, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person, to whose act or default he alleges that the offence in question was due, brought before the court at the time appointed for the hearing of the charge; and if, after the commission of the offence has been proved, the employer proves that the offence was due to the act or the default of that other person, that other person may be convicted of the offence, and, if the employer further proves that he has used all due diligence to secure that this Part and any relevant regulation or order made thereunder are complied with, he shall be acquitted of the offence.

(3) Where a defendant seeks to avail himself of the provisions of subsection (2) —

- (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witnesses called by him in support of his pleas and to call rebutting evidence;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(4) Where it appears to an officer acting for the purposes of this Part that an offence has been committed in respect of which proceedings might be taken under this Part against an employer, and the officer is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the employer could establish a defence under subsection (2), the officer may cause proceedings to be taken against that other person without first causing proceedings to be taken against the employer.

(5) In any such proceedings the defendant may be charged with and, on proof that the offence was due to his act or default, be convicted of, the offence with which the employer might have been charged.

Officers

18. (1) The Director General may appoint officers to act for the purposes of this Part and every officer so appointed shall be deemed to be a public servant within the meaning of the Penal Code.

(2) Every officer so appointed shall be furnished by the Director General with a certificate of his appointment or authority so to act, and when acting under this Part shall, if so required by any person affected, produce the certificate to him.

(3) An officer acting for the purposes of this Part shall have power for the performance of his duties —

- (a) to require the production of wages sheets or other records of wages kept by an employer, and records of payments made to outworkers by persons giving outwork, and any other such records as are required by this Part to be kept by employers, and to inspect and examine those sheets or records and copy any material part thereof;

- (b) to require any person giving out work and any outworker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work;
- (c) at all reasonable times to enter any premises at which any employer to whom a wages regulation order applies carries on his business (including any place used, in connection with that business, for giving out work to outworkers and any premises which the officer has reasonable cause to believe to be used by or by arrangement with the employer to provide living accommodation for workers);
- (d) to inspect and copy any material part of any list of outworkers kept by an employer or person giving out work to outworkers;
- (e) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Part, any person whom he has reasonable cause to believe to be or to have been a worker to whom a wages regulation order applies or applied or the employer of any such person or a servant or agent of the employer employed in the employer's business and to require every such person to be so examined and to sign a declaration of the truth of the matters in respect of which he is so examined:

Provided that no person shall be required under paragraph (e) of this subsection to give any information tending to criminate himself.

(4) An officer acting for the purposes of this Part may institute proceedings for any offence under this Part and may conduct any such proceedings.

(5) An officer acting for the purposes of this Part who is authorized in that behalf by general or special directions of the Director General may, if it appears to him that a sum is due from an employer to a worker on account of the payment to him of remuneration less than the statutory minimum remuneration, institute on behalf of and in the name of that worker civil proceedings for the recovery of that sum and in any such proceedings the court may make an order for the payment of costs by the officer as if he were a party to the proceedings. The power given by this subsection for the recovery of sums due from an employer to a worker shall not be in derogation of any right of the worker to recover such sums by civil proceedings.

(6) *(Deleted by Act 15 of 1968).*

Penalty for false entry in records, producing false records or giving false information

19. If any person makes or causes to be made or knowingly allows to be made any entry in a record required by this Part to be kept by employers, which he knows to be false in a material particular, or for purposes connected with this Part produces or furnishes, or causes or knowingly allows to be produced or furnished, any wages sheet, record, list or information which he knows to be false in a material particular, he shall be guilty of an offence against this Act and liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Orders and regulations

20. (1) The Minister may make regulations for prescribing anything which by this Act is required or authorized to be prescribed.

(2) Any order of the Minister made under Part II and any regulation made under any of the provisions of this Act shall be laid, as soon as may be, before the House of Representatives and if the House of Representatives within forty days after any such order or regulation has been laid before it, resolves that the order or regulation be annulled it shall thenceforth be void but without prejudice to the validity of anything done thereunder in the meantime or to the making of a new order or regulation.

FIRST SCHEDULE

[Sections 9 and 10]

CONSTITUTION, OFFICERS AND PROCEEDINGS OF WAGES COUNCILS AND OF CENTRAL CO-ORDINATING COMMITTEES

1. A wages council or central co-ordinating committee shall consist of persons appointed by the Minister being—

- (a) not more than three persons chosen by the Minister as being independent persons;
- (b) such number as the Minister thinks fit of persons who, in his opinion, represent employers in relation to whom the council or, as the case may be, the councils in question, is or are to operate;

- (c) such number as the Minister thinks fit of persons who, in his opinion, represent workers in relation to whom the council or, as the case may be, the councils in question, is or are to operate.
2. Of the persons appointed under subparagraph 1(a), one shall be appointed by the Minister to act as chairman, and another may be appointed by the Minister to act as deputy chairman in the absence of the chairman.
 3. Before appointing a person under subparagraph 1(b) or (c), the Minister shall consult any organizations appearing to him to represent employers, or, as the case may be, workers, concerned, and the persons appointed under those subparagraphs shall be equal in number.
 4. The Minister may appoint a secretary and such other officers as he thinks fit of a wages council or central co-ordinating committee.
 5. The proceedings of a wages council or central co-ordinating committee shall not be invalidated by reason of any vacancy therein or by any defect in the appointment of a member.
 6. A wages council or central co-ordinating committee may, if it thinks fit, delegate any of its powers under this Act (except, in the case of a wages council, the power to submit wages regulation proposals) to a committee or, as the case may be, subcommittee consisting of such number of persons, being members of the council or committee, as the council or committee thinks fit:

Provided that the members of the committee or sub-committee representing employers and the members of the committee or sub-committee representing workers shall be equal in number.
 7. The Minister may make regulations as to the meetings and procedure of a wages council or central co-ordinating committee and of any committee or, as the case may be, sub-committee thereof, including regulations as to the quorum and the method of voting, but, subject to the provisions of this Act and to any regulations so made, a wages council or central co-ordinating committee and any committee or, as the case may be, sub-committee thereof may regulate its procedure in such manner as it thinks fit.
 8. The term for which a member of a wages council or central co-ordinating committee is to hold office shall be such as may be determined by the Minister at the time of his appointment, and the conditions subject to which he is to hold office shall be such as may be prescribed.
 9. There may be paid to the members of a wages council or central co-ordinating committee appointed under subparagraph 1(a) such remuneration, and to any member of any such council or committee, such travelling and other allowances, as the Minister may determine.
-

SECOND SCHEDULE

[Section 11]

CONSTITUTION, OFFICERS AND PROCEEDINGS OF COMMISSIONS
OF INQUIRY

1. Every commission of inquiry shall consist of persons appointed by the Minister, being —
 - (a) not more than three persons chosen by the Minister as been independent persons;
 - (b) not more than two persons chosen by the Minister to represent employers;
 - (c) not more than two persons chosen by the Minister to represent workers.
 2. Of the persons appointed under subparagraph 1(a), one shall be appointed by the Minister to act as chairman, and another may be appointed by the Minister to act as deputy chairman in the absence of the chairman.
 3. The persons appointed by the Minister under subparagraphs 1(b) and (c) shall be equal in number and shall be appointed after such consultation as the Minister may consider necessary with such organizations representing employers and workers respectively as he thinks fit, and the said persons shall be persons who, in the opinion of the Minister, are not connected with the matters to be inquired into by the commission.
 4. (1) The Minister may appoint such number of persons as he thinks fit as assessors to be available to any commission of inquiry, being persons who, in the opinion of the Minister, have an expert knowledge of any of the matters with which the commission's inquiry is concerned.

(2) An assessor shall not vote or otherwise be a party to any report or recommendation of the commission.
 5. The Minister may appoint a secretary and such other officers as he thinks fit of any commission of inquiry.
 6. The proceedings of a commission of inquiry shall not be invalidated by reason of any vacancy therein or by any defect in the appointment of a member.
 7. The Minister may make regulations as to the meetings and procedure of commissions of inquiry, including regulations as to the quorum, but subject to the provisions of this Act and to any regulations so made, a commission of inquiry may regulate its procedure in such manner as it thinks fit.
 8. There shall be paid to members of, and assessors to, any commission of inquiry such remuneration and such travelling and other allowances as the Minister may determine.
-

LAWS OF MALAYSIA

Act 195

WAGES COUNCILS ACT 1947

LIST OF AMENDMENTS

Amending law	Short title	In force from
L.N. 661/1953	Member for Industrial and Social Relations Order 1953	05-11-1953
L.N. 24/1954	Corrigendum to L.N. 661/1953	28-01-1954
L.N. 371/1955	Members of the Federal Government (Change of Style and Title) Order 1955	04-08-1955
Ord. 49/1956	Wages Councils (Amendment) Ordinance 1956	20-12-1956
L.N. 332/1958	Federal Constitution (Modification of Laws) (Ordinances Proclamations) Order 1958	13-11-1958
L.N. 461/1964	Modification of Laws (Wages Councils) (Sarawak) (Extension and Modification) Order 1964	31-08-1964
P.U. 78/1967	Modification of Laws (Wages Councils) (Sabah) (Extension and Modification) Order 1967	02-02-1967
Act 15/1968	Wages Councils (Amendment) Act 1968	04-04-1968
P.U. (B) 324/1970	Titles of Office — Notification	01-01-1971
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975

LAWS OF MALAYSIA

Act 195

WAGES COUNCILS ACT 1947

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	L.N. 332/1958	13-11-1958
3	L.N. 332/1958 Act 15/1968	13-11-1958 04-04-1968
4	L.N. 661/1953 L.N. 332/1958	05-11-1953 13-11-1958
5	L.N. 661/1953 L.N. 332/1958 Act 15/1968	05-11-1953 13-11-1958 04-04-1968
6	L.N. 661/1953 L.N. 332/1958 Act 15/1968	05-11-1953 13-11-1958 04-04-1968
7	L.N. 661/1953 L.N. 332/1958 Ord. 49/1956	05-11-1953 13-11-1958 20-12-1956
8	L.N. 661/1953 L.N. 332/1958	05-11-1953 13-11-1958
9	L.N. 661/1953 L.N. 332/1958	05-11-1953 13-11-1958
10	L.N. 661/1953 L.N. 332/1958	05-11-1953 13-11-1958
11	L.N. 661/1953 L.N. 332/1958 Act 15/1968	05-11-1953 13-11-1958 04-04-1968
12	L.N. 332/1958 Act 15/1968	13-11-1958 04-04-1968
13	Act 15/1968	04-04-1968
15	Ord. 49/1956 Act 15/1968	20-12-1956 04-04-1968

Wages Councils

31

Section	Amending authority	In force from
16	Act 15/1968	04-04-1968
17	Act 15/1968	04-04-1968
18	Act 15/1968	04-04-1968
20	L.N. 332/1958	13-11-1958
First Schedule	L.N. 332/1958	13-11-1958
Second Schedule	L.N. 332/1958	13-11-1958



