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REPRINT

Act 446

EMPLOYEES' MINIMUM STANDARDS OF HOUSING, ACCOMMODATIONS AND AMENITIES ACT 1990

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**EMPLOYEES’ MINIMUM STANDARDS OF HOUSING,
ACCOMMODATIONS AND AMENITIES ACT 1990**

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LAWS OF MALAYSIA

Act 446

EMPLOYEES' MINIMUM STANDARDS OF HOUSING, ACCOMMODATIONS AND AMENITIES ACT 1990

An Act to prescribe the minimum standards of housing and nurseries for employees and their dependants, accommodations for employees not accompanied by dependants and centralized accommodations, to require employers to allot land for cultivation and grazing in a place of employment, to require employers to provide health, hospital, medical and social amenities and to provide for matters incidental thereto.

*[Peninsular Malaysia—1 December 1990, P.U. (B) 114/1991;
Federal Territory of Labuan—1 June 2020, P.U. (B) 248/2020]

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

PART I

PRELIMINARY

Short title, application and commencement

1. (1) This Act may be cited as the ****Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990**.

(2) This Act shall apply to Peninsular Malaysia and the Federal Territory of Labuan.

NOTE—

**This Act is applicable to the Federal Territory of Labuan by paragraph 4(b) of the Workers' Minimum Standards of Housing and Amenities (Amendment) Act 2019 [Act A1604] which comes into operation on 1 June 2020.*

***Previously known as the Workers' Minimum Standards of Housing and Amenities Act 1990. The short title is changed by paragraph 4(a) of Act A1604.*

(3) This Act shall come into force on such date as the Minister may, by notification in the *Gazette* appoint, and different dates may be appointed for different provisions of this Act and for different States.

Extent of application of Part II

2. (1) Part II of this Act shall not apply to any place of employment or part thereof, situated within the area of a City Council, a Municipal Council or a Federal Territory.

(2) Notwithstanding subsection (1), the Minister may, by order, declare this Act or any provision thereof to be applicable to any place of employment or to any specified class of place of employment situated within the area of any Municipal Council.

(3) Upon the commencement of any order made under subsection (2), any written law in force in, such area relating to the control of erection of buildings shall, in respect of the said place of employment, cease to have effect.

Interpretation

3. In this Act, unless the context otherwise require—

“building” means, in relation to Part II, any building used for the housing of employees and includes a nursery and a community hall;

“contract of service” means any agreement, whether oral or in writing and whether express or implied, whereby one person agrees to employ another as an employee and that other person agrees to serve his employer as an employee;

“dependant” means the spouse, parent (including stepfather and stepmother), grandparent, child (including stepchild), brother and sister (including half-brother and half-sister and stepbrother and stepsister) of an employee, who is dependent on such employee, and includes—

(a) as respects a child, an illegitimate child or a child adopted in accordance with any written law relating to adoption; and

- (b) as respects parents, the parents of an illegitimate child, and any person by whom the employee was adopted in accordance with any written law relating to adoption;

“Director General” means the Director General of Labour appointed under subsection 3(1) of the Employment Act 1955 [Act 265] and includes any officer who, by virtue of an order made under section 26, is vested with all or any of the powers of the Director General;

“District Engineer”, in respect of a district, means any engineer in the service of the Federal or State Government who is for the time being carrying out the duties of the Public Works Department for that district and, for the purpose of subsection 27(1), includes any officer authorized in writing in that behalf by the District Engineer;

“employee” has the meaning assigned to it in subsection 2(1) of the Employment Act 1955;

“employer” means—

- (a) any person who has entered into a contract of service to employ any other person as an employee and includes the agent, manager and factor of such first-mentioned person; or
- (b) where the owner or lessee (including the agent, manager and factor of such owner or lessee) of a place of employment (hereinafter referred to as “the first-mentioned person”) has entered into an agreement, whether oral or in writing and whether expressed or implied, with another person for the purpose of executing any work for or connected with any business, trade, operation or interest of such first-mentioned person, the term “employer” shall also include such first-mentioned person,

and the word “employ”, with its grammatical variations and cognate expressions, shall be construed accordingly;

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

“Medical Officer” means a registered medical practitioner who is employed in a medical capacity by the Federal or State Government;

“Medical Officer of Health” means any medical practitioner in the service of the Government or any local authority who is for the time being carrying out the duties of a Medical Officer of Health in any area, district, or local authority area, and includes the Director General, the Deputy Director General of Health, the Director of Health Services, any Deputy Director of Health Services, any State Director of Medical and Health Services and any State Deputy Director of Medical and Health Services, and for the purpose of subsection 27(1), includes any officer authorized in writing in that behalf by the Medical Officer of Health;

“Minister” means the Minister charged with the responsibility for human resources;

“place of employment” means a place where work is carried on by or on behalf of or for an employer and shall include any place in which employees are housed by an employer;

“registered medical practitioner” means a medical practitioner registered under the Medical Act 1971 [*Act 50*];

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

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

Exemption

4. The Minister may by order exempt from all or any of the provisions of this Act any employer or class of employers or any building or class of buildings specified in the order.

PART II

HOUSING AND OTHER AMENITIES

Building to comply with requirements

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

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

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

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

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

(5) Where, upon the expiry of the aforesaid notice period, the employer fails to take such action as is required to the satisfaction of the Director General, the Director General may issue to the employer concerned an order in writing requiring the employer to demolish and replace, alter or repair such building or to make good any deficiency or defect thereof within six months of the order and subject to such conditions as the Director General may specify in the order; and any such order may include a directive that no employee or his dependants shall be permitted to occupy any such building pending such demolition and replacement, alteration or repair, or the making good of any defect or deficiency thereof, or until the requirements of the order have been complied with:

Provided that where an appeal has been made under section 30 in respect of the order issued under this subsection, then such order shall be suspended pending the determination of the appeal.

Supply of water and electricity and maintenance of houses

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

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

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

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

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

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

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

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

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

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

(2) The approving authority aforesaid shall be—

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

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

Building endangering health or safety

8. (1) The Director General shall cause to be inspected—

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

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

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

Provided that where an appeal has been made under section 30 in respect of the order then such order shall be suspended pending the decision of the appeal.

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

Building not originally built for the housing of employees

9. (1) A building originally built for a purpose other than the housing of employees shall not be used for, or be converted for the purpose of, the housing of employees unless an application in that behalf has been made to and approved by the Director General.

(2) The application required to be made under subsection (1) shall be accompanied by a plan of the site of the building and a plan setting out the details of the building or of the conversion proposed to be made thereto and subsections 7(2) and (3) shall apply to such plan as they apply to a plan of a building or of the site of a building mentioned in that section.

Nursery

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

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

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

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

(3) On each day a dependant is accommodated at the nursery, he shall be provided by the employer at his own expense with a supply of milk in sufficient quantity and of good quality, and play equipment.

(4) An employer who fails to comply with the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and to a further fine of one thousand ringgit for each day during which the offence continues.

Allotment of land

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

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

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

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

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

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

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

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

(6) Any employer who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and to a further fine of one thousand ringgit for every day the offence continues.

(7) In this section, “place of employment”, in relation to the allotment of land set aside, means an estate or such other place as may be prescribed by the Minister to be a place of employment to which this section applies.

Community hall, sports and other recreational facilities

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

(a) to construct at the place of employment, within such reasonable time as may be specified, a community hall capable of accommodating such number of persons as may be specified; and

(b) to provide facilities for sports and other recreational activities as may be specified.

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

(3) Any employer who fails to comply with the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and to a further fine of one thousand ringgit for each day during which the offence continues.

No rent or charge to be levied for benefits under this Part

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

PART III**HEALTH, HOSPITAL, MEDICAL TREATMENT
AND SANITATION****Definition of dependant**

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

Employer to construct and maintain estate hospital

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

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

(3) For the purposes of subsection (1) or (2), the Director General may further require the employer to employ a registered medical practitioner, registered under the Medical Act 1971, to reside at and have charge of such hospital or any hospital maintained by such employer, and to provide such medical practitioner with fit and proper house accommodation to the satisfaction of the Medical Officer of Health.

(4) If two or more estates are so situated that the required accommodation for patients from such estates can be conveniently provided in one hospital, the Director General may, instead of ordering each employer to construct and maintain a separate hospital, order all the employers concerned to construct within a reasonable time to be stated in such order and thereafter to maintain at their own expense one hospital, hereinafter called a "group estate hospital", for all such estates with accommodation for such number of patients as may be stated in the order, or if there is already a hospital erected and maintained jointly by two or more employers (whether constructed under the provisions of this section or not) may order them to enlarge or add to such hospital so as to provide accommodation for such further number of patients from their estates as may be stated in the order.

(5) For the purposes of subsection (4), the Director General may further require the employers to employ a registered medical practitioner, registered under the Medical Act 1971, to have charge of such group hospital and to provide such medical practitioner with fit and proper house accommodation to the satisfaction of the Medical Officer of Health.

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

(7) Every employer referred to in this section and the resident manager of every estate concerned shall be responsible for the registration and the due maintenance of the estate hospital or group estate hospital, as the case may be, registered in accordance with the provisions of the *Private Hospitals Act 1971 [Act 43] and any regulations made thereunder.

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

Payment and recovery of hospital expenses by employer

16. (1) It shall be the duty of every employer to provide for every employee employed on an estate including his dependants who reside on such estate or on any other land owned or leased by or is within the control of the employer, medical attendance, care and treatment including diet at the estate hospital or group estate hospital established under section 15 or at the estate clinic established under section 19.

*NOTE—This Act has been repealed by the Private Healthcare Facilities and Services Act 1998 [Act 586] which comes into operation on 1 May 2006—see section 119 of Act 586 and P.U. (B) 93/2006.

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

Sick employees being admitted to a Government hospital

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

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

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

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

Transportation of sick employees to hospital

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

- (a) to have every employee employed on the estate and any dependant of such employee who requires medical treatment to be transported safely without delay to and from the hospital provided for employees employed on the estate or, if there is no such hospital, to and from the nearest Government hospital; and

- (b) to make such arrangements and to provide such appliances for the safe transport of a sick employee or any sick dependant of an employee to and from hospital as the Medical Officer of Health or any Medical Officer may, from time to time, require.

(2) The Medical Officer of Health or any Medical Officer may require the employer or resident manager to remove any employee on the estate who requires medical treatment to hospital.

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

Medical treatment in estate on which a hospital is not maintained

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

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

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

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

Duty to report suspected cases of infectious disease

20. (1) It shall be the duty of the resident registered medical practitioner or, in his absence or if there is no resident registered medical practitioner, the resident manager, to isolate at once any employee or other person on an estate whom he may suspect to be suffering from any infectious disease as defined in the Prevention and Control of Infectious Diseases Act 1988 [*Act 342*], and to detain under observation any other person whom he may deem likely to have contracted such disease and with the least possible delay to notify the nearest Medical Officer, and pending the arrival on the estate of the Medical Officer of Health, the resident registered medical practitioner or the resident manager shall take appropriate preventive measures and thereafter consult the Medical Officer of Health on any further action to be taken.

(2) Any person who neglects to perform the duty imposed upon him by subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and to a further fine of one thousand ringgit a day for each day during which the offence continues.

Duty of employer to segregate employee suffering from infectious disease

21. (1) On the occurrence of any infectious disease on any estate, it shall be the duty of the employer forthwith, if so directed by the Medical Officer of Health or a Medical Officer, to provide a place where an employee may be segregated in the interest of public health or of any other employee employed on the estate and to make at his own expense such arrangements for the maintenance of such employee while so segregated and for the treatment of any employee suffering from such disease as may seem necessary to the Medical Officer of Health or such Medical Officer.

(2) If at any time it appears to the Medical Officer of Health or a Medical Officer that an employee employed on any estate is suffering from any infectious disease or that it is otherwise necessary in the interest of public health or of the health of any other employee employed on the estate that he be removed and placed under medical supervision, it shall be lawful for the Medical Officer of Health or Medical Officer to cause such employee to be removed to such place as he may direct and there to be detained until discharged by order in writing of the Medical Officer of Health or a Medical Officer.

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

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

Weekly inspection of employees' housing

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

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

(2) It shall be the duty of the employer to ensure that all buildings used for the housing of employees, nurseries or community halls are visited and inspected weekly by an estate hospital assistant registered under the Estate Hospital Assistants (Registration) Act 1965 [*Act 435*] or any other responsible person authorized by the employer who shall report to the resident manager if the buildings are not kept clean or if any refuse is allowed to accumulate in the neighbourhood of the buildings, and who shall also examine and if necessary take, or cause to be taken, to hospital any employee found in the buildings who appears to be suffering from any health complaint and report to the resident manager accordingly.

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

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

Onus of proof

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

PART IIIA

ACCOMMODATIONS

Application

24A. This Part shall apply to employees who are employed otherwise than to work in an estate.

Interpretation

24B. In this Part—

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

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

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

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

Functions and powers of Director General in relation to accommodation

24c. (1) For the purposes of this Part, the Director General shall have the following functions:

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

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

Accommodation to be certified with Certificate for Accommodation

24D. (1) No accommodation shall be provided to an employee unless certified with a Certificate for Accommodation.

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

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

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

Employer to give notice of occupation

24E. (1) An employer shall, within thirty days from the date an accommodation is occupied by his employee, inform the Director General of such occupation in the form and manner as may be determined by the Director General.

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

Accommodation to comply with minimum standards

24F. An employer or a centralized accommodation provider shall ensure that every accommodation provided for employees complies with the minimum standards required under this Act or any regulations made thereunder.

Deductions in respect of rent or charge for accommodation

24G. (1) Subject to any conditions as may be prescribed by the Minister, an employer may collect from an employee any sum for rent or charge in respect of any accommodation provided by the employer or any centralized accommodation provider under this Part.

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

Accommodation to comply with the laws of local authorities

24H. (1) Notwithstanding section 24D, no employer or centralized accommodation provider shall use any building as accommodation if the building is unfit for human habitation in accordance with the relevant written laws.

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

Amenities

24I. An employer or a centralized accommodation provider shall provide decent and adequate amenities in accordance with this Act or any regulations made thereunder.

Duties and responsibilities in respect of safety and health

24J. An employer or a centralized accommodation provider who provides accommodation for an employee under this Part shall have the following duties and responsibilities:

- (a) to provide separate accommodation to employees of the opposite gender;
- (b) to take necessary preventive measures to ensure employees' safety and well-being;

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

Maintenance

24k. An employer and a centralized accommodation provider shall ensure that every accommodation provided for employees under this Part is maintained as directed by the Director General.

Appointment of person in charge of accommodation

24L. (1) An employer or a centralized accommodation provider shall appoint at least one person in charge of accommodation provided under this Part, who will be responsible for the safety and well-being of the employees and the management of the accommodations and amenities, in accordance with the provisions of this Act or any regulations made thereunder.

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

- (a) to ensure that employees comply with the disciplinary rules as may be determined by the employer;

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

Notice to vacate accommodation

24M. (1) Subject to subsection (2), if an employee resigns under a contract of service or his employment is otherwise terminated by not less than four weeks' notice, the employee shall vacate the accommodation upon the effective date of his resignation or the date the contract of service is terminated.

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

Employer not obligated to provide accommodation for employees' dependants

24N. Nothing in this Part shall render an employer obligated to provide accommodation for the dependants of an employee who is provided with accommodation under this Part.

PART IV

REGULATIONS

Regulations

25. (1) The Minister may, from time to time, make such regulations as may be necessary or expedient for giving full effect to the provisions of this Act, or for the further, better or more convenient implementation of the provisions of this Act.

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

- (a) to prescribe the minimum requirements for various classes of buildings (including temporary buildings) to be used for the housing of employees, or as nurseries or community halls, the minimum sanitary requirements, water supplies, potable water supplies and electricity supplies and other matters pertaining to health in respect of such buildings;
- (aa) to prescribe the minimum requirements for various classes of buildings to be used for the accommodation and centralized accommodation of employees and the minimum sanitary requirements, water supplies, potable water supplies and electricity supplies and other matters pertaining to health in respect of such buildings;
- (ab) to prescribe any class, category or description of employees that is required to be provided with accommodation under Part IIIA;
- (ac) to prescribe the maximum rental or charges for accommodation that may be collected under Part IIIA;
- (b) to prescribe the minimum equipment and staff for nurseries and the type and amount of milk, play equipment and play activity programmes to be provided for the dependants accommodated therein under section 10;
- (c) to prescribe, in consultation with the Minister of Health—
 - (i) as regards clinics, the minimum equipment, surgical and medical appliances, drugs, staff and the types of services to be provided and the registers and records to be kept; and
 - (ii) as regards water supply, the manner in which water is to be filtered and treated;
- (d) to prescribe the procedure for the submission and approval of plans of buildings and their sites;

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

PART V

GENERAL PROVISIONS, APPEALS AND OFFENCES

Minister may vest certain officers with power and duties

26. The Minister may, by order, vest in an officer appointed under subsection 3(2) of the Employment Act 1955 and in the Director General of Social Welfare and authorized officers appointed under the Child Care Centre Act 1984 [*Act 308*] all or any of the powers conferred upon the Director General by this Act and every duty so performed and every power so exercised shall be deemed to have been performed and exercised for the purpose of this Act.

Power to issue directions

26A. The Minister may issue such directions as he considers necessary for the purposes of ensuring compliance with this Act.

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

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

- (a) to enter and inspect any place of employment or any building which he believes is used by an employer for the housing of his employees or as a nursery or as a community hall;
- (b) to enter and inspect any estate hospital, group estate hospital and clinic where employees are provided with medical attendance, care and treatment; and
- (c) to make such inquiry or investigation as he considers necessary in relation to any matter within the provisions of this Act.

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

- (a) put questions relating to matters covered under the provisions of this Act, either in private or in the presence of witnesses, as they may choose, to the owner or occupier of the place of employment, or his representative, to the employer of any employee employed thereat or his representative, to any person in charge of the employees, to the employees themselves and to any other person whose evidence he may consider necessary; and all such persons shall be legally bound to answer such questions truthfully to the best of their ability;
- (b) require the employer to produce before him all or any of the employees employed by him together with any records, registers and documents relating to matters covered under the provisions of this Act including any contract of service, book of account of wages, register and any other document relating to such employees or their employment and to answer such questions in respect thereof as he may think fit to ask;
- (c) copy or make extracts from such record, contract of service, book of account of wages, register and any other document referred to in paragraph (b);
- (d) take possession of such record, contract of service, book of account of wages, register and any other document where in his opinion—
 - (i) the inspection, copying or the making of extracts from such record, contract of service, book of account of wages, register or any other document cannot reasonably be undertaken without taking possession of them;
 - (ii) they may be interfered with or destroyed unless he takes possession of them; or
 - (iii) they may be needed as evidence in any legal proceedings under this Act; and
- (e) take samples of water supplies for examination and analysis.

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

(4) Sections 82 and 83 of the Employment Act 1955 shall apply to the service of a summons issued under this section as they apply to a summons issued under Part XV of the said Act.

Institution of prosecution

28. A prosecution for any offence under this Act or any regulations made thereunder shall not be instituted except by, or with the written consent of, the Public Prosecutor.

Compounding of offences

28A. (1) The Minister may, with the approval of the Public Prosecutor, make regulations prescribing—

- (a) any offence under this Act or any regulations made under this Act as an offence which may be compounded;
- (b) the criteria for compounding such offence; and
- (c) the method and procedure for compounding such offence.

(2) The Director General or any officer authorized in writing by the Director General may, with the consent in writing of the Public Prosecutor, at any time before a charge is being instituted, compound any offence prescribed as an offence which may be compounded by making a written offer to the person reasonably suspected of having committed the offence to compound the offence upon payment to the Director General of a sum of money not exceeding fifty per centum of the amount of the maximum fine to which the person would have been liable to if he had been convicted of the offence, within such time as may be specified in the written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(4) If the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(5) Where an offence has been compounded under this section —

(a) no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made; and

(b) any document or thing seized in connection with the offence may be released by the Director General, subject to such terms as the Director General thinks fit.

(6) All sums of moneys received by the Director General under this section shall be paid into and form part of the Federal Consolidated Fund.

Protection against suits and legal proceedings

28B. No action, suit, prosecution or any other proceedings shall lie or be brought, instituted or maintained in any court against the Minister, the Director General or any officer vested in him with powers by the Minister under section 26 in respect of any act, neglect or default done or omitted by it or him in good faith, in such capacity.

Director General and officers deemed to be public servants

29. The Director General and all officers named in any order made under section 26 shall when exercising functions provided by this Act be deemed to be public servants for the purpose of the Penal Code [*Act 574*].

Offence by company, etc.

29A. Where any person who commits an offence under this Act is a company, limited liability partnership, firm, society or other body of persons, a person who at the time of the commission of the offence was a director, compliance officer, partner, manager, secretary or other similar officer of the company, limited liability partnership, firm, society or other body of persons or was purporting to act in the capacity or was in any manner or to any extent responsible for the management of any of the affairs of the company, limited liability partnership, firm, society or other body of persons or was assisting in its management—

- (a) may be charged severally or jointly in the same proceedings with the company, limited liability partnership, firm, society or the body of persons; and
- (b) if the company, limited liability partnership, firm, society or the body of persons is found guilty of the offence, shall be deemed to be guilty of that offence and shall be liable to the same punishment or penalty as an individual unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—
 - (i) that the offence was committed without his knowledge; or
 - (ii) that the offence was committed without his consent or connivance and that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

Appeals

30. (1) Subject to subsection (2), any employer aggrieved by any order or decision made under this Act or any regulations made thereunder may, within thirty days of such order or decision in writing being received by him, appeal to the Minister.

(2) An appeal against the order or decision of an officer appointed under section 26 shall not be brought to the Minister unless and until such appeal shall have first been brought to the Director General within the time stipulated in subsection (1).

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

Failure to comply with order under section 5, 8, 12, 15 or 19

31. Any employer who fails to comply with any order made under section 5, 8, 12, 15 or 19 commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and to a further fine of one thousand ringgit a day for each day during which the offence continues.

Failure to comply with section 20 or 21

32. Any resident manager who fails to comply with section 20 or with any requirement of the Medical Officer of Health under section 21 commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit and to a further fine of one thousand ringgit a day for each day during which the offence continues.

General penalty

33. Any employer who contravenes any provision of this Act or any regulations made thereunder or who fails to carry out any order made by the Director General under this Act commits an offence under such provision, and if no penalty is expressly provided for the offence shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and to a further fine not exceeding one thousand ringgit a day for each day during which the offence continues.

PART VI

REPEAL AND SAVINGS

Repeal and savings in respect thereof

34. (1) The written laws specified in the Schedule to this Act are repealed.

(2) Any regulations made under any of the laws repealed in subsection (1) shall continue in force until revoked or replaced by regulations made under this Act.

(3) The Minister may, whenever it appears to him necessary or expedient so to do whether for the purpose of removing difficulties or in consequence of the passing of this Act, by order make such modifications to any provision in any regulations in subsection (2) as he may think fit.

SCHEDULE

[Subsection 34(1)]

REPEAL

F.M.S. Cap. 154	The Labour Code
S.S. Cap. 69	The Labour Ordinance
Kedah Enactment No. 2 of 1345 (A.H)	The Labour Code
Perlis Enactment No. 3 of 1345 (A.H)	The Labour Code
Johore Enactment No. 82 of 1936	The Labour Code
Terengganu Enactment No. 60 of 1356 (A.H)	The Labour Code
Kelantan Enactment No. 2 of 1936	The Labour Code
Act No. 39 of 1966	Workers (Minimum Standards of Housing) Act 1966

LAWS OF MALAYSIA

Act 446

**EMPLOYEES' MINIMUM STANDARDS OF HOUSING,
ACCOMMODATIONS AND AMENITIES ACT 1990**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A1604	Workers' Minimum Standards of Housing and Amenities (Amendment) Act 2019	01-06-2020

LAWS OF MALAYSIA

Act 446

EMPLOYEES' MINIMUM STANDARDS OF HOUSING, ACCOMMODATIONS AND AMENITIES ACT 1990

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A1604	01-06-2020
1	Act A1604	01-06-2020
2	Act A1604	01-06-2020
3	Act A1604	01-06-2020
10	Act A1604	01-06-2020
11	Act A1604	01-06-2020
12	Act A1604	01-06-2020
13	Act A1604	01-06-2020
14	Act A1604	01-06-2020
24A–24N	Act A1604	01-06-2020
25	Act A1604	01-06-2020
26A	Act A1604	01-06-2020
28	Act A1604	01-06-2020
28A–28B	Act A1604	01-06-2020
29A	Act A1604	01-06-2020
31	Act A1604	01-06-2020
32	Act A1604	01-06-2020
Throughout the Act	Act A1604	01-06-2020

