

# INDUSTRIAL RELATIONS ACT 1967 (ACT 177), RULES & REGULATIONS

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**2009**

[Ins. Act  
A1322]

(4) Subject to such limitations, if any, as may be prescribed, an officer appointed under subsection (2) shall exercise all the powers, discharge all the duties and perform all the functions of the Director General under this Act, and every power so exercised, duty so discharged and function so performed shall be deemed to have been duly exercised, discharged and performed for the purposes of this Act.

[Ins. Act  
A1322]

**2B. All officers to be public servants.**

All officers appointed under section 2A shall be deemed to be public servants for the purposes of the Penal Code<sup>1</sup>.

PART II

PROTECTION OF RIGHTS OF WORKMEN AND  
EMPLOYERS AND THEIR TRADE UNIONS

**3. Expression “trade union”.**

For the purposes of this Part, the expression “trade union” includes an association that has applied to be registered as a trade union.

**4. Rights of workmen and employers.**

(1) No person shall interfere with, restrain or coerce a workman or an employer in the exercise of his rights to form and assist in the formation of and join a trade union and to participate in its lawful activities.

(2) No trade union of workmen and no trade union of employers shall interfere with each other in the establishment, functioning or administration of that trade union.

(3) No employer or trade union of employers and no person acting on behalf of such employer or such trade union shall support any trade union of workmen by financial or other

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<sup>1</sup> Act 574.

means, with the object of placing it under the control or influence of such employer or such trade union of employers.

**5. Prohibition on employers and their trade unions in respect of certain acts.**

(1) No employer or trade union of employers, and no person acting on behalf of an employer or such trade union shall—

- (a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to the contract to join a trade union, or to continue his membership in a trade union;
- (b) refuse to employ any person on the ground that he is or is not a member or an officer of a trade union;
- (c) discriminate against any person in regard to employment, promotion, any condition of employment or working conditions on the ground that he is or is not a member or officer of a trade union;
- (d) dismiss or threaten to dismiss a workman, injure or threaten to injure him in his employment or alter or threaten to alter his position to his prejudice by reason that the workman—
  - (i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union; or
  - (ii) participates in the promotion, formation or activities of a trade union; or
- (e) induce a person to refrain from becoming or to cease to be a member or officer of a trade union by conferring or offering to confer any advantage on or by procuring or offering to procure any advantage for any person.

(2) Subsection (1) shall not be deemed to preclude an employer from—

- (a) refusing to employ a person for proper cause, or not promoting a workman for proper cause, or suspending,

- (ii) where he is a member of a trade union of employers, be represented by any officer or employee of such trade union of employers; or
  - (iii) notwithstanding anything to the contrary contained in any written law relating to the registration of trade unions, be represented by any official of an organization of employers registered in Malaysia (not being a trade union of employers); and
- (b) a trade union of workmen which is a party to the trade dispute may be represented by an officer or employee of such trade union, or, notwithstanding anything to the contrary contained in any written law relating to the registration of trade unions, by any official of an organisation of workmen registered in Malaysia (not being a trade union of workmen).

(2) Save as provided in subsection (1), a party to a trade dispute shall not, in any conciliation proceedings under this Part, be represented by an advocate, adviser, consultant or by any other person whatsoever.

## PART VI

### REPRESENTATIONS ON DISMISSALS

#### **20. Representations on dismissals.**

[Am. Act  
A718]

(1) Where a workman, irrespective of whether he is a member of a trade union of workmen or otherwise, considers that he has been dismissed without just cause or excuse by his employer, he may make representations in writing to the Director General to be reinstated in his former employment; the representations may be filed at the office of the Director General nearest to the place of employment from which the workman was dismissed.

[Am. Act  
A718]

(1A) The Director General shall not entertain any representations under subsection (1) unless such representations are filed within sixty days of the dismissal:

Provided that where a workman is dismissed with notice he may file a representation at any time during the period of such notice but not later than sixty days from the expiry thereof.

(2) Upon receipt of the representations the Director General shall take such steps as he may consider necessary or expedient so that an expeditious settlement thereof is arrived at; where the Director General is satisfied that there is no likelihood of the representations being settled, he shall notify the Minister accordingly.

(3) Upon receiving the notification of the Director General under subsection (2), the Minister may, if he thinks fit, refer the representations to the Court for an award.

(4) Where an award has been made under subsection (3), the award shall operate as a bar to any action for damages by the workman in any court in respect of wrongful dismissal.

(5) This section shall not apply to the dismissal of a workman in circumstances arising out of a contravention of section 59 where proceedings have been commenced before a court in respect of an offence under section 59(1); where, while proceedings are pending under this section, proceedings arising out of the same dismissal are commenced before a court in respect of an offence under section 59(1), the proceedings under this section shall not be proceeded with further.

(6) In any proceedings under subsection (2)—

[Subs. Act  
A1322]

(a) an employer may—

- (i) represent himself or be represented by his duly authorized employee;
- (ii) where he is a member of a trade union of employers, be represented by any officer or employee of such trade union of employers; or
- (iii) notwithstanding anything to the contrary contained in any written law relating to the registration of trade unions, be represented by any official of an

organization of employers registered in Malaysia (not being a trade union of employers); and

(b) a workman may—

- (i) represent himself;
- (ii) where he is a member of a trade union of workmen, be represented by any officer or employee of such trade union of workmen; or
- (iii) notwithstanding anything to the contrary contained in any written law relating to the registration of trade unions, be represented by any official of an organization of workmen registered in Malaysia (not being a trade union of workmen).

[*Ins. Act*  
A718]

(7) Save as provided in subsection (6), a workman or employer shall not be represented by an advocate, adviser, consultant or by any other person whatsoever.

(8) For the purpose of carrying out his functions under this section the Director General—

[*Ins. Act*  
A718]

- (a) shall have the power to direct either party to furnish to him, within such period as may be specified in that direction, such information as he may consider necessary or relevant; and
- (b) may, if he deems it necessary or expedient, direct any person engaged in or connected directly or indirectly with the dismissals to attend a conference to be presided over by the Director General or such person as he may appoint at such time and place as may be specified in the direction.

[*Ins. Act*  
A1322]

(9) Where a workman who has made a representation under subsection (1) attends none of the conferences under paragraph (8)(b) without any reasonable excuse, the representation shall be deemed to have been withdrawn.

(4) The exclusion specified in subsections (1), (2) and (3) shall also be applicable in any proceedings before any other court.

### **55. Secrecy.**

(1) The Court may in any proceedings direct—

(a) that any information, book, paper, document or thing tendered in evidence shall not be disclosed or published in any newspaper or otherwise; and

(b) that any such evidence shall be taken in private and that no person who is not expressly permitted by the Court to be present shall be present during the taking of that evidence.

(2) Any person who discloses or publishes any information, book, paper, document or thing in contravention of this section shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand ringgit or to both.

### **56. Non-compliance with award or collective agreement.**

(1) Any complaint that any term of any award or of any collective agreement which has been taken cognizance of by the Court has not been complied with may be lodged with the Court in writing by any trade union or person bound by such award or agreement.

(2) The Court may, upon receipt of the complaint,—

(a) make an order directing any party—

(i) to comply with any term of the award or collective agreement; or

(ii) to cease or desist from doing any act in contravention of any term of the award or collective agreement;

(b) make such order as it deems fit to make proper rectification or restitution for any contravention of any term of such award or collective agreement; or

(c) make such order as it considers desirable to vary or set aside upon special circumstances any term of the award or collective agreement.

(2A) Notwithstanding the provisions of subsection 33(1), the Court shall, upon making the order under subsection (2), have the power to interpret any matter relating to the complaint made. [Ins. Act A1322]

(3) Any person who fails to comply with an order of the Court under subsection (2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit, or to imprisonment for a term not exceeding one year, or to both, and a further fine of five hundred ringgit for every day during which such offence continues.

(4) Where any sum of money is payable by any person, or, where anything, other than the payment of money is required to be done or not to be done by any person by virtue of an order made by the Court under subsection (2), and such order has not been complied with by the person to whom it is addressed, the Registrar of the Court may, at the request of either party, send a certified copy thereof to the Senior Assistant Registrar of the High Court or the Registrar of the Sessions Court having jurisdiction in the place to which the order relates or in the place where the order was made and the said Senior Assistant Registrar or Registrar, as the case may be, shall cause the said copy to be recorded and thereupon the said order shall for all purposes be enforceable as a judgement of the High Court or the Sessions Court, as the case may be, in accordance with such rules of court as may be applicable or in such manner as it may deem just or expedient: [Am. Act A718, A1322]

Provided that no sale of immovable property shall, for the purposes of such enforcement, be ordered except by the High Court.

(5) *(Deleted)*. [Act A718]