



# LAWS OF MALAYSIA

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**Act 789**

## **SELF-EMPLOYMENT SOCIAL SECURITY ACT 2017**

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**SELF-EMPLOYMENT SOCIAL SECURITY ACT 2017**

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**LAWS OF MALAYSIA****Act 789****SELF-EMPLOYMENT SOCIAL SECURITY ACT 2017**

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**LAWS OF MALAYSIA****Act 789****SELF-EMPLOYMENT SOCIAL SECURITY ACT 2017**

An Act to provide for the social security for self-employed person and for matters connected therewith.

[13 June 2017, P.U. (B) 299/2017]

**ENACTED** by the Parliament of Malaysia as follows:

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

1. (1) This Act may be cited as the Self-Employment Social Security Act 2017.

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

**Application**

2. This Act shall apply to any citizen or permanent resident of Malaysia who is carrying out a self-employment activity in the industry specified in the First Schedule.

**Interpretation**

**3.** In this Act, unless the context otherwise requires—

“self-employment activity” means any activity in relation to the industry specified in the First Schedule;

“child” means a child of the deceased self-employed insured person—

(a) who is under twenty-one years old and includes—

(i) a posthumous child, a dependent stepchild and an illegitimate child; and

(ii) an adopted child under any written law relating to adoption or under any custom or usage, on satisfactory proof of the adoption; and

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

“self-employment injury” means personal injury to self-employed insured person caused by an accident or an occupational disease arising out of and in the course of his self-employment activity including while travelling for the purpose of his self-employment activity;

“contribution” means the sum of money payable to the Organization by the self-employed person in accordance with this Act;

“prescribed” means prescribed by regulations made under this Act;

“self-employment social security agent” means the agent appointed under section 12;

“benefit” means constant attendance allowance, dependants’ benefit, disablement benefit, education benefit, funeral benefit or medical benefit;

“permanent total disablement” means any disablement of a permanent nature, which disables a self-employed insured person to carry out any self-employment activity which he was capable of performing prior to or at the time of the self-employment injury;

“temporary disablement” means a condition resulting from a self-employment injury which requires medical treatment and renders a self-employed insured person, as a result of such injury, temporarily incapable of carrying out any self-employment activity which he was capable of performing prior to or at the time of the self-employment injury;

“permanent partial disablement” means any disablement of a permanent nature, which reduces the earning capacity of a self-employed insured person to carry out any self-employment activity which he was capable of performing prior to or at the time of the self-employment injury;

“Committee” means the Self-Employment Social Security Committee established under section 9;

“Appellate Medical Board” means the Appellate Medical Board constituted under the Employees’ Social Security (General) Regulations 1971 [*P.U. (A) 99/1971*] made under the Employees’ Social Security Act 1969 [*Act 4*];

“Director General” means the Director General of the Organization appointed under subsection 59(1) of the Employees’ Social Security Act 1969;

“Fund” means the Self-Employment Social Security Fund established under section 45;

“Board” means the Social Security Organization Board established under section 59B of the Employees’ Social Security Act 1969;

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

“self-employed person” means any citizen or permanent resident of Malaysia who is carrying out a self-employment activity to gain earnings in the industry;

“self-employed insured person” means any self-employed person who has registered with the Organization and has paid contribution in accordance with this Act;

“dependant” means a widow or widower, a child, parents, siblings under twenty-one years old or grandparents of the deceased self-employed insured person;

“officers and servants” means officers and servants appointed under section 59L of the Employees’ Social Security Act 1969;

“Inspector” has the meaning assigned to it in the Employees’ Social Security Act 1969;

“medical assessor” means the medical assessor appointed under the regulations made under this Act;

“Organization” has the meaning assigned to it in the Employees’ Social Security Act 1969;

“industry” includes any business, trade, undertaking, service, manufacture or calling of self-employment as specified in the First Schedule;

“Scheme” means the Self-Employment Social Security Scheme established under section 4;

“coverage period” means any period up to twelve consecutive months with effect from the time and date the contribution paid by the self-employed insured person and ends at the time and date, as prescribed;

“Deputy Director General” means the Deputy Directors General of the Organization appointed under subsection 59(2) of the Employees’ Social Security Act 1969 including those appointed in accordance with subsection 5(3);

“Tribunal” means the Social Security Tribunal established under section 58.

## PART II

### ADMINISTRATION OF SELF-EMPLOYMENT SOCIAL SECURITY SCHEME

#### **Administration of Self-Employment Social Security Scheme**

4. (1) There shall be a scheme to be known as the “Self-Employment Social Security Scheme”.

(2) The Scheme shall be administered by the Organization.

(3) For the purpose of administering the Scheme, the Organization shall vest in the Board such powers and shall impose upon the Board such duties as the Organization may determine.

#### **Director General**

5. (1) The Director General of the Organization shall be the Director General for the purpose of this Act.

(2) The Deputy Directors General of the Organization shall be the Deputy Directors General for the purpose of this Act.

(3) Notwithstanding subsection (2), the Minister may appoint one or more Deputy Directors General for the purpose of this Act.

(4) If for any period the Director General is temporarily absent from Malaysia or temporarily incapacitated through illness, or for any other reason is unable to perform his duties, or where the office of the Director General becomes vacant, the Minister shall appoint one of the Deputy Directors General to perform the duties of the Director General during such period.

(5) The terms and conditions of service of the Deputy Directors General appointed under subsection (3) shall be determined by the Minister in consultation with the Minister of Finance.

### **Powers of Organization to hold properties, etc.**

6. The Organization may, upon such terms and conditions as the Organization deems fit for the purposes of this Act—

- (a) enter into contracts;
- (b) acquire, purchase, take, hold and enjoy movable and immovable property of every description; and
- (c) convey, assign, surrender, yield up, charge, mortgage, demise, lease, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest vested in the Organization.

### **Exercise of powers and functions of Organization**

7. (1) All functions including powers which may be exercised by the Organization under this Act shall be exercised by the Director General.

(2) Notwithstanding subsection (1), the Director General may, in writing, delegate any of his power and function subject to such terms and restrictions as he thinks fit to the Deputy Directors General, Inspector, or officers and servants of the Organization for the purpose of this Act.

PART III

COMMITTEES

**Establishment of committees**

**8.** (1) The Board may establish any committees as the Board deems necessary or expedient to advise and assist the Board in the performance of its functions and in the exercise of its powers under this Act.

(2) The Board may delegate its functions and powers to any such committees subject to such terms and restrictions as the Board considers fit.

(3) Any committee established under subsection (1)—

(a) shall be chaired by the Chairman of the Board;

(b) shall conform to and act in accordance with any direction given to the committee by the Board; and

(c) may determine its own procedure.

(4) The members of the committee established under subsection (1) may be appointed from amongst members of the Board or such other persons as the Board thinks fit.

(5) The members of committee shall be paid such allowances and other expenses as the Board may determine.

(6) A member of a committee shall hold office on such conditions and for such term as may be specified in his letter of appointment and is eligible for reappointment for any term as the Board may determine.

(7) The Board may revoke the appointment of any member of a committee without assigning any reason for it.

(8) A member of a committee may, at any time, resign by giving notice in writing to the Chairman of the committee.

(9) The Board may, at any time, discontinue or alter the constitution of a committee.

(10) A committee shall hold its meetings at such times and places as the Chairman of the committee may determine.

(11) A committee may invite any person to attend any meeting of the committee for the purpose of advising the committee on any matter under discussion but that person shall not be entitled to vote at the meeting.

(12) Any person invited under subsection (11) may be paid such allowance as the Board may determine.

### **Self-Employment Social Security Committee**

**9.** (1) A committee by the name of “Self-Employment Social Security Committee” is established.

(2) The functions of the Committee is to advise the Board on all matters relating to the Scheme including the rate of contribution, benefit, coverage period and for matters pertaining to the investment of the Fund.

(3) The Committee shall consist of the following members:

- (a) the Chairman of the Board who shall be the Chairman;
- (b) the Director General of the Organization who shall be the Deputy Chairman;
- (c) one member representing the Ministry of Human Resources;
- (d) one member representing the Ministry of Finance;
- (e) one member representing the Ministry of International Trade and Industry;



- (f) not more than four members of self-employed person who shall be appointed by the Minister;
  - (g) not more than four members representing associations of self-employment who shall be appointed by the Minister;
  - (h) not more than three members with experience in social security matters who shall be appointed by the Minister; and
  - (i) one member with experience in investment matters who shall be appointed by the Minister.
- (4) The Committee shall meet at least three times in each year.
- (5) The quorum for a meeting of the Committee shall be five persons including the chairman of the meeting.
- (6) Subject to this Act, the Committee may determine its own procedures.

#### PART IV

##### IMPLEMENTATION, REGISTRATION AND CONTRIBUTION

##### **Implementation of Self-Employment Social Security Scheme**

**10.** The Organization shall implement the Scheme to the self-employed person carrying out self-employment activity in the manner as prescribed.

##### **Registration and contribution**

**11.** (1) Every self-employed person shall register with and pay contribution to the Organization in the manner as prescribed for every self-employment activity he is carrying out.

(2) Every self-employed person shall pay contribution in advance at the rates as prescribed in accordance with the rates of contribution specified in the Second Schedule.

(3) All contributions paid under this section shall not be refundable.

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

### **Power to appoint self-employment social security agent**

**12.** (1) The Organization may appoint such number of self-employment social security agents subject to such terms and conditions to collect and receive payment of contributions on behalf of the Organization.

(2) The self-employment social security agents appointed under subsection (1) shall, as soon as practicable, inform the Organization of the actual time and date of the payment of the contributions made by the self-employed insured person.

(3) Any self-employment social security agent who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.

### **Validation of contribution**

**13.** Any contribution paid to the Organization by a self-employed insured person through any self-employment social security agent shall be subjected to a validation by the Organization.

**Determination of activity in certain case, coverage period, etc.**

**14.** (1) The Organization may, based on any information or evidence available to the Organization, determine whether any activity carried out by any person to which this Act applies falls within the meaning of self-employment activity under this Act.

(2) All claims for benefit shall be in relation to self-employment injury suffered within the coverage period and the Organization may determine whether such claims were made for self-employment injury suffered within the coverage period and reject the claims if the self-employment injury is not within the coverage period.

(3) Notwithstanding subsection (2), the Organization shall reject all claims for benefit if—

- (a) in the case of injury due to the accident which occurred to the self-employed insured person, seventy-two months had lapsed with effect from the date of such accident; or
- (b) in the case of disease or injury due to occupational disease which occurred to the self-employed insured person, seventy-two months had lapsed with effect from the date of such disease or injury confirmed by a medical officer to him.

PART V

BENEFITS

**Claim for benefits**

**15.** Every claim for benefits under this Act shall be submitted in such manner to the Organization with such evidence in support of the claim, as prescribed.

**Occupational diseases**

**16.** (1) If a self-employed insured person who is directly involved in any occupation or industry specified in the Fifth Schedule to the Employees' Social Security Act 1969 contracts any disease or injury specified in the Schedule, or if a self-employed insured person contracts such disease or injury within seventy-two months after ceasing to be self-employed, the contracting of the disease or injury shall, unless the contrary is proved, be deemed as a self-employment injury.

(2) Notwithstanding subsection (1), the period of seventy-two months may, at the discretion of the Organization, be extended upon production of medical and other relevant supporting evidence.

(3) Where a self-employed insured person is directly involved in any occupation or industry specified in the Fifth Schedule to the Employees' Social Security Act 1969 he shall, if requested by the Organization, submit himself for examination by a duly appointed medical officer, as prescribed.

(4) No benefit shall be payable to a self-employed insured person in respect of any disease or injury specified in the Fifth Schedule to the Employees' Social Security Act 1969 unless the disease or injury is directly attributable to his self-employment activity.

**Temporary disablement benefit**

**17.** (1) Subject to this Act and as may be prescribed, a self-employed insured person who suffers temporary disablement shall be entitled to a periodical payment for a period of such disablement in accordance with the Second Schedule.

(2) For the purpose of subsection (1), no temporary disablement benefit shall be payable unless the temporary disablement lasts for a period of at least four days including the day of the accident.

(3) A self-employed insured person shall not be entitled to a temporary disablement benefit in respect of any day on which he carries out any self-employment activity under this Act.

### **Permanent disablement benefit**

**18.** (1) Subject to this Act and as may be prescribed, a self-employed insured person who suffers permanent disablement, whether total or partial, shall be entitled to a periodical payment for such disablement in accordance with the Second Schedule.

(2) For the purpose of subsection (1), where permanent disablement, whether total or partial, has been assessed provisionally for a limited period or finally, the benefit shall be payable for that limited period or, as the case may be, for life.

(3) For the purpose of subsection (1)—

- (a) every injury specified in Part I of the Second Schedule to the Employees' Social Security Act 1969, or from any combination of injuries specified in Part II of the Second Schedule to the Employees' Social Security Act 1969, where the aggregate percentage of the loss of earning capacity as specified in the Part II of the Second Schedule to the Employees' Social Security Act 1969 against such injuries amounts to one hundred per cent or more, shall be deemed to result in permanent total disablement; and
- (b) every injury specified in Part II of the Second Schedule to the Employees' Social Security Act 1969 shall be deemed to result in permanent partial disablement.

### **Dependant's benefit**

**19.** (1) If a self-employed insured person dies as a result of a self-employment injury, his dependant shall be entitled to a

dependants' benefit at the rates specified in the Second Schedule as follows:

- (a) to the widow or widower during life, and if there are two or more widows, the widow's share of dependants' benefit specified in the Second Schedule shall be divided equally between the widows; and
- (b) to each child—
  - (i) until married, legally adopted or died, whichever occurs earlier;
  - (ii) in the case of a child referred to in paragraph (b) of the definition of "child" in section 3, dependants' benefit shall continue to be paid so long as the child is incapable of supporting himself; or
  - (iii) in the case of a child who is in receipt of education in any institution of higher education but not beyond the first degree, until the child completes or ceases to receive such education or until the child marries, whichever occurs earlier.

(2) If a self-employed insured person who dies as a result of a self-employment injury does not leave a widow, widower or child, the dependants' benefit shall be payable to his parents, siblings or grandparents at the rates and for the duration specified in the Second Schedule.

(3) All dependants, except a widow or widower, shall be entitled to receive for the same period more than one of the same benefit under this Act.

(4) For the purpose of subsection (3), if a widow or widower is entitled to more than one of the same benefit for the same period under this Act, he or she shall be paid only one benefit, being the benefit with higher rate.

**Funeral benefit**

**20.** (1) If a self-employed insured person dies as a result of a self-employment injury or while he is in receipt of a disablement benefit under section 17 or 18, an amount of funeral benefit shall be paid to his dependants or if there is none, to any person who incurs the expenditure of the funeral, in the manner as prescribed.

(2) The claim for the benefit shall be made within three months from the date of the death of a self-employed insured person or within such extended period as the Director General may allow.

**Constant attendance allowance**

**21.** (1) A self-employed insured person who is entitled to a permanent total disablement benefit under section 18 shall also be entitled to a daily constant attendance allowance at the rate and in the manner as prescribed, if and so long as he is so severely incapacitated as to constantly require the personal attendance of another person.

(2) The existence of the degree of incapacity qualifying a self-employed insured person for a constant attendance allowance shall be certified by the medical assessor or the Appellate Medical Board, in the manner as prescribed.

**Medical benefit**

**22.** (1) A self-employed insured person whose condition requires, as a result of self-employment injury, medical treatment and attendance shall be entitled to receive a medical benefit.

(2) The medical benefit may be given either in the form of outpatient treatment and attendance in a hospital, dispensary, clinic or other institution or by visits to the home of the self-employed insured person or treatment as inpatient in a hospital or other institution.

**Scale of medical benefit**

**23.** (1) A self-employed insured person shall be entitled to receive a medical benefit only of such nature and on such scale as prescribed.

(2) A self-employed insured person shall not have a right to claim any medical treatment except as provided by a hospital, dispensary, clinic or other institution to which he is allotted, or as prescribed.

(3) Nothing in this Act shall entitle a self-employed insured person to claim reimbursement from the Organization for any expenses incurred in respect of any medical treatment, except as prescribed.

(4) For the purpose of the medical benefit payment and reimbursement, the Organization may request from a hospital, dispensary, clinic or other institution to furnish medical record and statistical returns of any self-employed insured person.

**Facilities for physical or vocational rehabilitation, or dialysis**

**24.** (1) A self-employed insured person who has been certified to suffer from a self-employment injury may be provided with facilities for physical or vocational rehabilitation, or dialysis by the Organization.

(2) The facilities referred to in subsection (1) shall be of such nature and on such scale, and on such terms and conditions, as prescribed.

(3) The self-employed insured person under subsection (1) may, if his condition so requires, be provided and fitted with, at no cost, prosthetic, orthotic or other appropriate appliances as may be determined by the Organization and such appliances may be renewed, when necessary, at no cost.

(4) The self-employed insured person who has to undergo physical or vocational rehabilitation, or dialysis may be paid or



reimbursed, as prescribed, maintenance in connection with the physical or vocational rehabilitation, or dialysis, or the fitting of prosthetic, orthotic or other appliances.

**Education benefit**

**25.** For the purpose of obtaining higher education, the Organization may provide education benefit in the form of an educational loan or scholarship, on such terms and conditions as the Organization deems fit to impose, to a child of a self-employed insured person who—

- (a) dies as a result of a self-employment injury; or
- (b) is in receipt of periodical payments of permanent disablement benefit under section 18.

**Organization to be responsible for recovery and collection for repayments of educational loan**

**26.** (1) The Organization shall be responsible for the recovery and collection of repayments of educational loans paid out to a child under section 25.

(2) An educational loan which is not repaid or which is in arrears shall be a civil debt due to the Organization from the child and the Organization may avail itself of such means as are permitted under the law for the recovery of such debt including to set off any cash benefit payable to the child, if he later becomes self-employed insured person under this Act.

(3) The amount to be set off under subsection (2) shall not at any time be more than half of the total cash benefit payable to the child.

**Payment for travelling and other allowances**

**27.** The claimant for benefit may be paid travelling and other allowances, on such scale and subject to such terms and conditions as prescribed, if—

- (a) he is called to appear before the medical assessor or, in the event of an appeal by the Organization before the Appellate Medical Board, in connection with the determination of the question of permanent disablement and occupational disease; or
- (b) he is required by the Organization, medical assessor or the Appellate Medical Board to attend physical or vocational rehabilitation, or dialysis.

**Benefit not assignable or attachable**

**28.** (1) The right to receive any payment of any benefit under this Act shall not be transferable or assignable.

(2) No cash benefit payable under this Act shall be liable to attachment or sale in execution of any decree or order of any court.

**Commutation or permanent disablement benefit**

**29.** (1) Where the loss of earning capacity has been assessed by the medical assessor or the Appellate Medical Board at not more than twenty per cent, a self-employed insured person may opt to commute daily benefit payable for a lump sum in the manner as prescribed.

(2) Where the loss earning capacity has been assessed by the medical assessor or the Appellate Medical Board at more than twenty per cent, a self-employed insured person may opt for the commutation of one-fifth of the daily benefit payable for a lump sum and to receive the balance as periodical payments, in the manner as prescribed.

(3) For the purposes of subsections (1) and (2), where a self-employed insured person has multiple assessment of loss of earning capacity due to two or more successive accidents, the aggregate percentage of loss of earning capacity for commutation shall not be more than twenty per cent.

**Claimant of disablement benefit to observe conditions**

**30.** A claimant of a disablement benefit shall attend and allow himself for such medical or other examination as the medical assessor or the Appellate Medical Board may consider necessary for ratification and certification of his disability.

**Recipient of temporary disablement benefit to observe conditions**

**31.** (1) A self-employed insured person who is in receipt of a temporary disablement benefit—

- (a) shall remain under medical treatment at a hospital, dispensary, clinic or other institution provided under this Act and shall carry out the instructions given by a medical officer or medical attendant in charge of his medical treatment;
- (b) shall not do anything which might prejudice his chances of recovery while under medical treatment;
- (c) shall not leave the area in which medical treatment is provided under this Act without the permission of a medical officer, medical attendant or such other authority as prescribed; and
- (d) shall allow himself to be examined by any duly appointed medical officer or other person authorized by the Organization in this behalf.

(2) A temporary disablement benefit may be suspended, if a self-employed insured person who is in receipt of such benefit fails to comply with any of the requirements of subsection (1), and such suspension shall be for such number of days as may be determined by

the Organization or any other person authorized by the Organization in this behalf.

### **Obligation of reporting**

**32.** A person in receipt of any benefit under this Act shall report to the Organization, as soon as possible, every event or fact which affects or is likely to affect his continued right to the benefit or the rate of the benefit.

### **Right of Organization to recover benefit or money**

**33.** (1) Where any person is found guilty of an offence under section 71, the Organization shall have the right to recover all the amount of benefit or any money paid to such person under this Act by the Organization.

(2) The amount recoverable under this section may be recovered as a civil debt due to the Organization.

### **Repayment of benefit improperly received**

**34.** (1) Where any person has received any benefit or payment under this Act when he is not lawfully entitled to, he shall be liable to repay to the Organization the value of the benefit or the amount of such payment, or in the case of his death, his representative shall be liable to repay the same from the assets of the deceased, if any.

(2) Where any person has received any benefit or payment under this Act when he is not lawfully entitled to, and later becomes entitled to other benefits under this Act or other Acts administered by the Organization, the Organization shall recover the value of the benefit or the amount of such payment from the other benefit that he is entitled to.

(3) The value of any benefit received other than cash payments shall be determined by the Organization as prescribed.

(4) The amount recoverable under this section may be recovered as a civil debt due to the Organization.

**Payment of amount of benefit outstanding at time of death of self-employed insured person**

**35.** (1) If a self-employed insured person died during any period for which he is entitled to any of the cash benefit provided under this Act, the amount of such benefit shall be paid to the dependant, if there is no dependant, heir or legal representative of the deceased person.

(2) The amount of the cash benefit shall be payable up to and including the day of his death in case of disablement benefit and constant attendance allowance, if any.

**Self-employed insured person who has more than one contribution**

**36.** (1) A self-employed insured person who has more than one contribution under this Act for the same period shall be entitled to receive only one benefit in respect of the particular self-employment injury suffered by him.

(2) For the purpose of subsection (1), if the self-employed insured person is carrying out more than one self-employment activity at the time he suffered self-employment injury, he shall be entitled for the benefit with higher rate.

**Benefit for two or more successive accidents**

**37.** Where a person suffers permanent disablement as a result of two or more successive accidents, he shall not be entitled for the same period to receive permanent disablement benefit in excess of the daily rate.

**Entitlement for benefit under other laws**

**38.** Except for the invalidity pension or survivors' pension payable under the Employees' Social Security Act 1969, a self-employed insured person or a dependant, as the case may be, shall not be entitled to both benefit under the Employees' Social Security Act 1969 and this Act, for the same period and in respect of the same disablement.

## PART VI

## DETERMINATION, REVIEW AND APPEAL

**Determination of question of permanent disablement**

**39.** (1) A medical assessor shall examine the claimant for benefit and determine, with available evidence to his satisfaction and in the manner as prescribed, any question—

- (a) whether the relevant self-employment injury has resulted in permanent disablement;
- (b) whether the extent of loss of earning capacity can be assessed provisionally or finally for the purpose of disablement benefit;
- (c) whether the assessment of the proportion of the loss of earning capacity is provisional or final for the purpose of disablement benefit; or
- (d) in the case of provisional assessment, for the purpose of disablement benefit as to the period for which such an assessment shall hold good.

(2) A medical assessor shall send a report of his examination and determination to the Organization in the manner as may be determined by the Organization.

**Determination of question of occupational disease**

**40.** (1) A medical assessor shall examine the claimant for benefit and determine, with available evidence to his satisfaction and in the manner as prescribed, any question—

- (a) whether a self-employment injury is caused by an occupational disease as specified in the Fifth Schedule to the Employees' Social Security Act 1969;
- (b) whether the claimant for benefit is suffering from one or more of the disease or injuries specified in the Fifth Schedule to the Employees' Social Security Act 1969;
- (c) whether the relevant disease or injury has resulted in permanent disablement;
- (d) whether the extent of loss of earning capacity can be assessed provisionally or finally;
- (e) whether the assessment of the proportion of the loss of earning capacity is provisional or final; or
- (f) in the case of provisional assessment, the period for which such an assessment shall hold good.

(2) A medical assessor shall send a report of his examination and determination to the Organization in the manner as may be determined by the Organization.

**Reference to medical assessor and appeal to the Appellate Medical Board**

**41.** (1) The Organization shall refer all questions of permanent disablement and occupational disease to a medical assessor for determination, and if, on that or any subsequent reference, the extent of loss of earning capacity of the claimant for benefit is provisionally determined, the Organization shall refer to a medical assessor not later

than the end of the period taken into account by the provisional determination.

(2) If the claimant for benefit or the Organization is not satisfied with the determination of a medical assessor, the claimant for benefit or the Organization may appeal, in the manner and time as prescribed, to the Appellate Medical Board.

### **Claimant for benefits dies, etc., before examination by medical assessor or the Appellate Medical Board**

**42.** Where a claimant for benefit, having submitted his claim for benefit to the Organization for determination of permanent disablement and occupational disease in accordance with this Act, dies, is of unsound mind, becomes ill or for any other reasons is incapable of being examined by a medical assessor or the Appellate Medical Board, the Organization shall, subject to any available medical evidence to its satisfaction, refer such case to the medical assessor or the Appellate Medical Board for determination of permanent disablement and occupational disease, as the case may be, as prescribed.

### **Review of determination by medical assessor or the Appellate Medical Board**

**43.** (1) The Organization or claimant for benefit may apply for review any determination of permanent disablement and occupational disease to a medical assessor or the Appellate Medical Board.

(2) Any determination under this Act by a medical assessor or the Appellate Medical Board may be reviewed at any time by the medical assessor or the Appellate Medical Board, if the medical assessor or the Appellate Medical Board is satisfied by fresh evidence that the determination was given in consequence of a non-disclosure or misrepresentation by a self-employed insured person or any other person of a material fact whether the non-disclosure or misrepresentation was or was not fraudulent.



(3) Any determination of the extent of the permanent disablement resulting from the relevant self-employment injury may also be reviewed by a medical assessor or the Appellate Medical Board, if the medical assessor or the Appellate Medical Board is satisfied that since the making of the determination, there has been a substantial and unforeseen aggravation of the result of the relevant injury.

(4) Notwithstanding subsection (3), the determination shall not be reviewed unless the medical assessor or the Appellate Medical Board is of the opinion that, having regard to the period taken into account by the determination, substantial injustice will be done by not reviewing the determination.

(5) Except with leave of the Appellate Medical Board, the determination shall not be reviewed under subsection (3) on any application for review made less than three years from the date of the determination, or in the case of a provisional determination, six months from the date of such determination and in relation to such review, the period to be taken into account shall not include any period before the date of the application.

(6) Subject to subsection (5), a medical assessor or the Appellate Medical Board may deal with a case of review in any manner in which the medical assessor or the Appellate Medical Board could deal with it on an original reference to the medical assessor or the Appellate Medical Board, and in particular may make a provisional determination notwithstanding that the determination under review was final.

(7) Section 41 shall apply to an application for review under this section and to a determination of a medical assessor or the Appellate Medical Board.

### **Review of dependants' benefit**

**44.** (1) Any decision awarding dependants' benefit under this Act may be reviewed at any time by the Organization if the Organization is satisfied by fresh evidence that—

- (a) the decision was given in consequence of a non-disclosure or misrepresentation by the claimant for benefit or any other person of a material fact whether the non-disclosure or misrepresentation was or was not fraudulent; or
- (b) the decision is no longer in accordance with this Act due to any birth, death, marriage, cessation of infirmity or the attainment of twenty-one years of age, as the case may be, or other change of circumstances as determined by the Organization.

(2) Subject to this Act, the Organization may, on such review referred to in subsection (1), direct that the dependants' benefit be continued, increased, reduced or discontinued.

## PART VII

### FINANCIAL PROVISIONS

#### **Self-Employment Social Security Fund**

**45.** (1) A fund to be known as the "Self-Employment Social Security Fund" is established and shall be administered and controlled by the Organization.

(2) The Fund shall consist of—

- (a) contribution payable by self-employed persons;
- (b) rent, interest, dividend and any other income derived from the assets of the Fund;
- (c) sums accruing to the Fund under this Act including the repayment of benefits;
- (d) moneys borrowed by the Organization under this Act;

- (e) fees and charges imposed by or payable to the Organization;
- (f) moneys derived as income from the investment by the Organization under this Act;
- (g) moneys received by the Organization by way of grants, donations and gifts for the purposes of this Act;
- (h) moneys derived from the sale, disposal, lease or hire of, or any other dealing with, any property, mortgage, charge or debenture transferred to, vested in or acquired by the Organization;
- (i) other moneys and properties which may, in any manner, become payable to or vested in the Organization in respect of the performance of its functions and exercise of its powers;
- (j) any costs paid to or recovered by the Organization in any settlement of action or proceedings, civil or criminal; and
- (k) all other moneys and properties lawfully received by the Organization.

**Expenditure to be charged on Fund**

**46.** The Fund shall be expended for the purposes of—

- (a) payment of benefits and provision of medical treatment and attendance to self-employed insured persons or to their dependants;
- (b) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical services including any other ancillary services for the benefit of self-employed insured persons;

- (c) payment to the Government, local authority or any private body or individual for the costs of medical treatment and attendance, facilities for physical or vocational rehabilitation, or dialysis provided to self-employed insured persons;
- (d) payment to the Government, local authority or any private body or individual for the costs of renting or purchasing any building and equipment in relation to medical treatment, facilities for physical or vocational rehabilitation, or dialysis;
- (e) expenses, expenditure or costs properly and necessarily incurred by the Organization in relation to the Tribunals, Appellate Medical Boards, medical assessors and agents for the purposes of this Act;
- (f) paying expenses or moneys required to satisfy any judgment, decision or award by any court or tribunal against the Organization, the Chairman of the Board or committee, Director General, Deputy Directors General, any of the members of the Board or committees, any of the members of the Board or committees, Inspector, and officers and servants of the Organization in respect of any act, neglect or default done or committed in the performance of the functions or the exercise of the powers of the Organization;
- (g) payment of allowances and other expenses to the members of the Board and committees;
- (h) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act or any regulations made under this Act;
- (i) defraying expenditure on measures for the improvement of the health, occupational safety and welfare of self-employed insured persons or dependants, and for

the rehabilitation and re-employment of self-employed insured persons who have been disabled or injured;

- (j) granting of educational loans or scholarships to a child under this Act;
- (k) repaying moneys borrowed under this Act and the interest or profit due on the borrowed moneys;
- (l) establishing or taking over companies under this Act and its maintenance; and
- (m) such other expenses and expenditure as may be permitted by this Act or any regulations made under this Act, or incurred in the performance of the functions or the exercise of the powers of the Organization.

### **Expenditure on administration**

**47.** (1) Notwithstanding section 46, expenditure may be incurred by the Organization out of the Fund up to such amount as the Minister may authorize as prescribed, for any one year, for carrying on the administration of the Scheme for the following purposes:

- (a) paying for salaries, bonus, leave and transfer expenses, travelling and compensatory allowances, gratuities and compassionate allowances, contribution to officers and servants of the Organization benefit fund, welfare and recreation of the Director General, Deputy Directors General, Inspector, and officers and servants of the Organization including the granting of loans and advances, and expenditure in respect of offices and payment of other services provided under this Act or any regulations made under this Act;
- (b) paying for fees and other remuneration to any auditor, actuary, agent, technical adviser, banker, stockbroker, surveyor, consultant or any other persons engaged to carry into effect the purpose of this Act; and

- (c) purchasing or hiring equipment, machinery and any other things including renting of any building or premise in the performance of its functions and in the exercise of its powers under this Act or any regulations made under this Act.

(2) The Board may, subject to such conditions, limitations or restrictions as the Board thinks fit, delegate to the Chairman of the Board, Director General, Deputy Directors General, any of the members of the Board or committees, Inspector, or officers and servants of the Organization, the authority to sanction expenditure from the Fund or any other moneys vested in and under the control of the Board up to such limit as the Board may determine.

#### **Power to accept grants, donations, etc.**

**48.** The Organization may accept grants, donations and gifts or bequests made to or in favour of the Fund.

#### **Power to invest**

**49.** (1) For the purpose of this section—

“debentures” includes debenture stock, bond, note or other securities or obligations of a company, whether constituting a charge on the assets of the company or not and includes the right to subscribe for any debenture;

“shares” means the paid-up shares whether fully paid or not in the share capital of a company and includes stocks and rights to subscribe for any stock or shares.

(2) The Fund shall, in so far as they are not immediately required to be expended by the Organization under this Act or any regulations made under this Act, be invested subject to such terms and conditions as may be determined by the Minister, in consultation with the Minister of Finance, as follows:

- (a) in investments or securities authorized for the investment of trust funds by any written law;
  - (b) in investment in shares and debentures in any public company which are quoted or sought to be quoted on a stock exchange established in Malaysia; and
  - (c) in such other investments or securities as the Board may decide based on the recommendation by the Committee.
- (3) The investments made under subsection (2) may be varied, transposed or realized from time to time.
- (4) The Minister may at any time, after consultation with the Minister of Finance, direct the vacation in part or in whole, or prohibit investment, in any security.
- (5) The power to invest under subsection (2) shall vest on the Committee, subject to such directions as may be issued by the Board.
- (6) The Organization shall, with the approval of the Board and after consultation with the Minister of Finance, determine the procedure for investment of the Fund including its transfer or realization, the bank in which the Fund may be deposited, the raising and repayment of loans, and the financial control and procedures.

### **Power to borrow**

**50.** (1) The Organization may, with the consent of the Minister of Finance, borrow at such rate of interest and for such period and upon such terms and conditions as to the time and method of repayment and otherwise as the Minister may approve, any money required by the Organization for meeting any of its obligations or performing any of its functions.

(2) No moneys from any fund administered by the Organization under any other written law may be utilized for the purpose of borrowing under subsection (1).

**Annual estimates**

**51.** (1) The Organization shall in each year prepare a budget showing the probable receipts and the estimate of the expenditure of the Organization for the ensuing year containing such adequate particulars as the Minister may determine for the discharge of the liabilities incurred by the Organization and for the maintenance of a working balance under this Act.

(2) The budget shall be submitted for the approval of the Minister before such date as he may fix.

**Accounts and reports**

**52.** The Organization shall cause proper accounts of the Fund and proper records of its activities to be kept and shall, as soon as practicable after the end of each financial year, cause to be prepared for that financial year—

(a) a statement of accounts of the Organization which shall include a balance sheet and an account of income and expenditure; and

(b) a report of the works and activities of the Organization.

**Audit**

**53.** (1) The accounts of the Organization shall be audited annually by the Auditor General.

(2) The Auditor General or any person authorized by him shall at all reasonable times have access to the books, accounts and other documents of the Organization and may, for the purpose of an audit, require any explanation and information from, or examine, any officer and servant of the Organization.



(3) The Board shall forward to the Minister a copy of the auditor's report and any observations together with an audited copy of the statement of accounts of the Organization.

(4) The Minister may direct the Board to send a copy of the auditor's report and any statement of accounts to any Government department and such statement of accounts to the Auditor General as necessary.

### **Annual report**

**54.** The Board shall submit to the Minister the annual report of the works and activities of the Organization before the 30 June the following year unless otherwise extended by the Minister.

### **Annual report and audited accounts to be laid**

**55.** The Board shall cause the annual report and the audited accounts of the Organization be laid before each House of Parliament.

### **Valuation of assets and liabilities**

**56.** (1) The Board shall, every five years, cause and actuarial review to be carried out on the implementation of the Scheme under this Act, involving a valuation of the assets and liabilities of the Organization, and such report shall be submitted to the Minister.

(2) Notwithstanding subsection (1), the Minister may direct that such actuarial review and the valuation of the assets and liabilities be made at any other times as he considers necessary.

### **Imposition of surcharge**

**57.** (1) Any person who is or was in the employment of the Organization may be surcharged if it appears to the Board that the person—

- (a) is or was responsible for any improper payment of moneys from the Fund or for any payment of such moneys which is not duly vouched;
- (b) is or was responsible for any deficiency in, or for the destruction of, any moneys, securities, stores or other property of the Organization;
- (c) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
- (d) has failed to make any payment, or is or was responsible for any delay in the payment of money from the Fund to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Organization.

(2) The Board shall, before a person is surcharged under subsection (1), serve on him a notice in writing calling on him to show cause why he should not be surcharged.

(3) If a satisfactory explanation is not received within thirty days from the date of service of the notice under subsection (2), the Board may—

- (a) in the case of paragraphs 1(a) and (b), surcharge against the person, a sum not exceeding the amount not collected, or of the improper payment made, or of the deficiency in the value of, or loss of, the moneys, security, store or other property of the Organization; and
- (b) in the case of paragraphs (1)(c) and (d), surcharge against the person such sum as the Board thinks fit.

(4) The Board shall cause the Director General to be notified of any surcharge made under subsection (1) and the Director General shall thereupon notify the person surcharged.

(5) Notwithstanding subsections (3) and (4), the Board may at any time withdraw any surcharge in respect of which a satisfactory

explanation has been received or if it otherwise appears that no surcharge should have been made, and the Board shall cause the Director General to be notified of the withdrawal and the Director General shall thereupon notify the person surcharged.

(6) The amount of any surcharge made under subsection (3) and not withdrawn under subsection (5) shall be a civil debt due to the Organization from the person surcharged and may be sued for and recovered in any court at the suit of the Organization and may also, if the Board so directs, be recovered by deduction—

(a) from the salary of the person surcharged; or

(b) from the pension of the person surcharged,

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

## PART VIII

### THE SOCIAL SECURITY TRIBUNAL

#### **Constitution of Social Security Tribunal**

**58.** (1) The Minister shall, by notification in the *Gazette*, constitute a Social Security Tribunal for such State or area, as may be specified in the notification.

(2) The Tribunal shall be presided by a Chairman appointed by the Minister upon such terms and conditions as the Minister may determine.

(3) A person is qualified for an appointment as a Chairman under subsection (2) if—

(a) he is a citizen; and

(b) for the ten years preceding his appointment, he has been—

- (i) a member of the judicial and legal service of the Federation;
- (ii) an advocate and solicitor within the meaning of the Legal Profession Act 1976 [*Act 166*];
- (iii) an advocate within the meaning of the Advocates Ordinance of Sabah [*Sabah Cap. 2*]; or
- (iv) an advocate within the meaning of the Advocates Ordinance of Sarawak [*Sarawak Cap. 110*].

### **Matters to be decided by Tribunal**

**59.** (1) The Tribunal shall have the power to decide in respect of any question, dispute, claim or appeal referred to the Tribunal by any person relating to the following matters:

- (a) whether any person is a self-employed person within the meaning of this Act;
- (b) whether any activity is a self-employment activity within the meaning of this Act;
- (c) whether any accident or occupational disease suffered by any self-employed insured person is a self-employment injury and is within the coverage period;
- (d) the rate of contribution of a self-employed person for the purposes of this Act;
- (e) the right or eligibility of any self-employed insured person to any benefit including the amount and the duration of such benefit;
- (f) any direction or instruction issued by the Organization under this Act or any regulations made under this Act;

- (g) any claim made by the Organization against any person to recover any benefits which have been paid not in accordance with this Act;
- (h) any other matter which is in dispute between a self-employed insured person and the Organization in respect of coverage, contributions, benefits or other money payable or recoverable under this Act or any regulations made under this Act; or
- (i) any other matters required to be or which may be decided by the Tribunal under this Act or any regulations made under this Act.

(2) If in any proceedings before the Tribunal, a question of disablement and occupational disease arises and the determination by a medical assessor or the Appellate Medical Board has not been obtained although it is necessary for the decision of the claim or question before the Tribunal, the Tribunal shall direct the Organization to submit the question of disablement and occupational disease for determination by a medical assessor or the Appellate Medical Board and may proceed to decide on any other question, dispute, claim or appeal before the Tribunal and decide on the question of disablement or occupational disease in accordance with the determination of medical assessor or the Appellate Medical Board, as the case may be.

(3) No civil court shall have jurisdiction to decide or deal with any question, dispute, claim or appeal referred to in subsection (1), or to adjudicate on any liability which under this Act or any regulations made under this Act is to be decided by the Tribunal, medical assessor or the Appellate Medical Board.

(4) The Tribunal shall only decide on any question, dispute, claim or appeal arises under this Act or any regulations made under this Act and not under any other written law.

**Institution of proceedings, etc.**

**60.** (1) All proceedings before the Tribunal shall be instituted in the Tribunal established for the area in which the self-employed insured person was working at the time of the question, dispute, claim or appeal arises.

(2) The Chairman of the Tribunal may, upon application made by the parties to the Tribunal, transfer any matter pending before him in a State or area to any other Tribunal in another State or area and shall give his reasons for allowing or not allowing the application for transfer.

(3) The Tribunal to which any matter or proceedings is transferred under subsection (2) shall continue to decide on the matter or proceedings as if the matter or proceedings had been originally instituted in such Tribunal.

**Commencement of proceedings**

**61.** (1) Any proceedings before the Tribunal shall be commenced by an application made within a period of three years from the date on which the cause of action arose.

(2) For the purpose of subsection (1)—

(a) the cause of action in respect of a claim for benefit shall be deemed to arise if—

(i) the self-employed insured person;

(ii) in relation to dependants' benefit, the dependant of the self-employed insured person; or

(iii) in relation to funeral benefit, the claimant,

claims the benefit as prescribed within a period of twelve months after the claim became due or within such further

period as the Tribunal may allow on the grounds which appear to the Tribunal to be reasonable; or

(b) the cause of action in respect of a claim by the Organization for recovering benefits from self-employed insured person, his dependants or any other person shall be deemed to arise from the date of the evidence of benefits have been paid due to mistake or fraud appear.

(3) The application referred to in subsection (1) shall be made in such manner and be accompanied by a fee, as prescribed.

### **Powers of Tribunal**

**62.** (1) The Tribunal shall have all the powers of a Sessions Court Judge for the purposes of summoning and enforcing the attendance of witnesses, the discovery and production of documents and material objects, administering oath and recording evidence.

(2) All costs incidental to any proceedings before a Tribunal shall subject to the discretion of the Tribunal.

(3) An order of the Tribunal shall be enforceable as if it was a judgment of a Sessions Court.

### **Representation in proceedings before Tribunal**

**63.** Any person may, at any proceedings before the Tribunal except the appearance of the person for the purposes of his examination as a witness, appear personally, or be represented by a legal practitioner or by any person authorized in writing by the person, or where there is no authorization in writing, by any person allowed by the Tribunal to appear on behalf of the person.

**Benefit not paid for non-compliance of regulations**

**64.** (1) A Tribunal shall not direct the payment of any benefit to a self-employed insured person unless he has made a claim for such benefit in accordance with this Act or any regulations made under this Act.

(2) Notwithstanding subsection (1), the Tribunal may direct the payment of the benefit if the Tribunal is satisfied that there was reasonable excuse for not making a claim for the benefit in compliance with this Act or any regulations made under this Act.

**Reference to High Court**

**65.** A Tribunal may submit any question of law for the decision of the High Court and shall decide the question pending before the Tribunal in accordance with such decision.

**Appeal**

**66.** (1) No appeal shall lie to the High Court against an order of the Tribunal unless it involves a question of law or a mixed question of law and fact.

(2) The appeal referred to in subsection (1) shall be brought within sixty days from the date of the written order is made by the Tribunal.

**Stay of payment pending appeal**

**67.** Where the Organization has brought an appeal against an order of the Tribunal, the Tribunal may, and if directed by the High Court shall, pending the decision of the appeal, withhold the order appealed against relating to the payment of any sum of money.



PART IX

ENFORCEMENT AND INVESTIGATION

**Powers of enforcement, inspection and investigation**

**68.** (1) The Director General may, in writing, direct any Inspector to exercise his powers and perform his functions conferred by the Employees' Social Security Act 1969 for carrying into effect the purposes of this Act.

(2) The Inspector shall have all the powers of a police officer of whatever rank as provided for under the Criminal Procedure Code [Act 593], except the power to arrest without warrant, in relation to enforcement, inspection and investigation, and such powers shall be in addition to the powers conferred by this Act and not in derogation thereof.

(3) The Inspector may examine any person if the Inspector has reasonable grounds to believe that the person has relevant information or document relating to any self-employment activity.

(4) The Director General and Deputy Directors General shall have all the powers of the Inspector under this Act or any regulations made under this Act.

**Power to require information and conduct inspection**

**69.** (1) For the purpose of obtaining information as to whether any self-employed person has made payment of contribution or any other information related to the claim of benefit under this Act, the Director General or the Inspector may, by notice in writing, require any person who he has reasonable grounds to believe that the person has any information or document, or is capable of giving any evidence, that is relevant to the payment of contribution or to the claim of benefit under this Act—

- (a) to provide such information to the Director General or the Inspector within such time as may be specified in the notice; or
- (b) to attend personally before the Director General or the Inspector and to produce any book, account, record and other documents including electronic records for examination as the Director General or the Inspector deems necessary.

(2) Where it appears to any Magistrate upon written information on oath and after such enquiry as he thinks necessary that there is reasonable grounds to believe that in any place or building there is any book, account, record or other documents including electronic records the production of which has been required under subsection (1) but has not been produced, such Magistrate may issue a warrant authorizing the Director General or any person named therein, with or without assistance, enter the place or building, by force if necessary, and inspect the place or building, seize, take possession of and detain any such book, account, record or other documents including electronic records.

(3) Any person who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Obstructing, etc., Director General, Deputy Directors General or Inspector**

**70.** Any person who—

- (a) fails to comply with any direction or instruction given by the Director General, Deputy Directors General or Inspector while exercising their powers and performing their functions under this Act or any regulations made under this Act; or

- (b) in any way assaults, hinders or obstructs the Director General, Deputy Directors General or Inspector while exercising their powers and performing their functions under this Act or any regulations made under this Act,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

## PART X

### OFFENCES AND PENALTIES

#### **Giving false or misleading information or document**

**71.** Any person who—

- (a) provides or causes any person to provide information or document to the Organization which he knows or has reason to believe is false or misleading; or
- (b) makes in writing or signs any declaration, form, report, certificate or other document required by this Act or any regulations made under this Act which is untrue or incorrect in any material particular,

commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding ten thousand ringgit or to both.

#### **Court's order in respect of contributions or benefit due and payable to Organization**

**72.** (1) Any self-employment social security agent who has been found guilty of any offence under section 71 and cause any non-payment of contribution paid by the self-employed person to the Organization or any benefit under this Act is improperly received, the court before which the self-employment social security agent is found

guilty shall order such self-employment social security agent to pay to the Organization the amount of any contribution or benefit, together with any interest credited thereon, due and payable to the Organization and such amount of contribution or benefit shall be certified by the authorized officer of the Organization to be due from such self-employment social security agent prior to the date of such finding of guilt and the certification of the authorized officer of the Organization shall be prima facie evidence of the amount due and payable.

(2) Where any person has been found guilty of an offence under section 71 relating to the content of an accident report produced to the Organization, the court before which the person is found guilty may order such person to submit the required accident report within the time determined by the court.

(3) Any contribution or benefit referred to in subsection (1) shall be recoverable in the same manner as, and shall be appealable as if it was, an order for payment of compensation under section 426 of the Criminal Procedure Code, except where the court directs payment of the sum of money to be made by instalments, the court shall direct that the sum of money be paid in not more than six instalments within six months.

### **Copy of entry to be prima facie evidence and production of documents**

**73.** (1) In any legal proceedings under this Act, a copy of any entry in the accounts of the Organization duly certified by an authorized officer of the Organization shall be prima facie evidence of such entry having been made and of the truth of the contents of the entry.

(2) The court may, upon application by the Public Prosecutor, require any person to produce any document which is in his possession and relevant to the case and such documents shall be produced within the time determined by the court.

## **Prosecution**

**74.** No prosecution shall be instituted for any offence under this Act or any regulations made under this Act except by or with the consent in writing of the Public Prosecutor.

## **Compounding of offences**

**75.** (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 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 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 his 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, and where 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.

(4) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document

or thing seized in connection with the offence may be released by the Director General, subject to such terms and conditions as the Director General thinks fit.

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

## PART XI

### GENERAL

#### **Appointment of collection agent**

**76.** The Organization may appoint such number of agents for the purpose of recovery of any sum due for repayment to the Organization.

#### **Engaging of auditors, actuaries, etc.**

**77.** The Organization may engage such auditors, actuaries, technical advisers, bankers, stockbrokers, surveyors, consultants or any other persons as the Organization deems fit to assist the Organization in the performance of its functions.

#### **Director General, Deputy Directors General, Inspector, and officers and servants of the Organization entitled to receive salary, allowances, etc.**

**78.** Where the Director General, Deputy Directors General, Inspector, and officers and servants of the Organization exercise their powers and perform their functions for the purposes of this Act, their salary, allowances, advances and any other payments which they shall be entitled to receive shall be paid out of the Fund.

**Public servant**

**79.** The Director General, Deputy Directors General, all members of the Board, and committee established under this Act, Inspector, and officers and servants of the Organization, while discharging their duties under this Act or any regulations made under this Act shall be deemed to be a public servant within the meaning of the Penal Code [Act 574].

**Power of Organization to establish or take over companies**

**80.** (1) The Organization may, with the approval of the Minister and the Minister of Finance, establish or take over any company under the Companies Act 2016 [Act 777] to carry out, administer, conduct and manage any project, joint venture, privatization programme, scheme, enterprise or any other matter which has been planned or undertaken by the Organization for the purposes of the Scheme.

(2) The Organization may give instructions to the company referred to in subsection (1) on matters relating to the administration, finance and operation of the company which are consistent with the provisions of this Act, and such company shall give effect to the instructions.

**Power to exempt**

**81.** The Minister may, by order published in the *Gazette* and subject to such terms and conditions as may be specified in the order, exempt—

(a) any self-employment activity; or

(b) any self-employed person or class of self-employed persons,

from any of the provisions of this Act or any regulations made under this Act.

**Disposal of documents**

**82.** (1) The Director General may authorize any paper-based document belonging to the Organization to be copied onto an electronic medium by such means as to ensure that the exact image of that document is capable of being viewed, reproduced and copied.

(2) Where a paper-based document has been copied in accordance with subsection (1), the Director General may authorize the disposal of the paper-based document after the expiry of a period of three years from the date of the making of such electronic copy.

(3) A copy of the paper-based document kept on an electronic medium in accordance with subsection (1) shall be admissible as evidence of any fact stated therein in accordance with section 90A of the Evidence Act 1950 [Act 56].

**Power to make regulations**

**83.** (1) The Minister may make such regulations as may be necessary or expedient for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may prescribe—

- (a) all matters relating to committees which include the procedure to be followed by such committee;
- (b) all matters relating to other expenses and expenditure as may be permitted to be expended from the Fund;
- (c) the amount of the Fund authorized to be expended for the purpose of expenditure on the administration of the Scheme;
- (d) the costs and fees payable in relation to any proceedings before the Tribunal;



- (e) the manner and procedure of any proceedings before the Tribunal;
- (f) the determination the actuarial present value of periodical payments;
- (g) the establishment of hospitals, dispensaries and other institutions, and the allotment of self-employed insured persons to any such hospital, dispensary, clinic or other institution;
- (h) all matters relating to benefit purposes which includes as follows:
  - (i) matters in respect of self-employment activity including the rate of contribution for each industry;
  - (ii) the calculation and determination of coverage period for each industry;
  - (iii) the manner of registration and payment of contribution by a self-employed person;
  - (iv) the certification of disability and eligibility for any benefit or facility under this Act;
  - (v) the manner for assessing any cash benefit under this Act including the method of calculating cash benefit;
  - (vi) the manner for assessing of the value of any benefit or facility which is not cash benefit and its reimbursement;
  - (vii) the method of calculating the amount of cash benefit or travelling and other allowances payable, and the circumstances in which and the extent to which commutation of disablement benefits may be allowed and the method of calculating the commutation value;

- (viii) the manner and conditions under which any benefit may be suspended;
  - (ix) the conditions to be observed by a self-employed insured person while in receipt of any benefit under this Act including the requirement of medical examination of such person;
  - (x) the manner for adjusting the disablement benefit payable in respect of successive accidents or the conditions for the receipt of the benefit in any case where the disablement benefit has been commuted into a lump sum;
  - (xi) the manner of determination of entitlement for benefit which the self-employed insured person is entitled under the Employees' Social Security Act 1969 and this Act;
  - (xii) the manner of the appointment of a medical assessor;
  - (xiii) the manner of the appointment and duty of a medical officer and the form of medical certificate;
- (i) any other matter to be prescribed under this Act.

(3) Any regulations made under this Act may prescribe for any act or omission in contravention of the regulations to be an offence and may prescribe for penalties of a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or both for such offence.

(4) Notwithstanding subsections (1) and (2), the Minister may apply any regulations made under the Employees' Social Security Act 1969 for the purposes of this Act subject to such conditions and amendments which are not inconsistent with this Act.

### **Power to amend Schedule**

**84.** The Minister may, by order published in the *Gazette*, amend the Schedule.

### **Duty of Board to review benefits**

**85.** (1) The Board may, when substantial changes in the general level of earnings resulting from substantial changes in the cost of living, examine the situation on the basis of an actuarial valuation made under section 56 and make recommendations to the Minister to adjust the Scheme in order to maintain the real value of certain cash benefit.

(2) The recommendations of the Board referred to in subsection (1) shall be accompanied by the actuarial report and shall take into account of Government social policy, and may include—

- (a) proposals for a new rate of contributions;
- (b) proposals for changes in the rates of certain cash benefit; and
- (c) extension of types of benefits.

### **Organization to deal with authorized person**

**86.** (1) In all matters pertaining to benefits under this Act, the Organization may deal directly with the self-employed insured person or his dependants, or an official of a registered institution authorized in writing by such self-employed insured person or his dependants, or a legal practitioner representing such self-employed insured person or his dependants.

(2) The Organization may refuse to entertain any representation made by any other person.

**Electronic submission of documents**

**87.** (1) Subject to subsection (2), the Organization may allow any returns, statements, particulars, records, notice, reports, register or other documents required to be submitted or furnished under this Act or any regulations made under this Act by an electronic medium or by way of an electronic transmission.

(2) The conditions and specifications under which the returns, statements, particulars, records, notice, reports, register or other documents referred to in subsection (1) are to be submitted or furnished as determined by the Organization.

(3) The returns, statements, particulars, records, notice, reports, register or other documents referred to in subsection (1) shall be deemed to have been submitted or furnished by a person to the Organization on the date an acknowledgement of receipt of such documents is transmitted electronically by the Organization to the person.

(4) The acknowledgment of receipt by the Organization, returns, statements, particulars, records, notice, reports, register or other documents submitted or furnished pursuant to subsection (3) shall be admissible as evidence in any proceedings.

**Establishment and maintenance of hospitals, etc.**

**88.** (1) The Organization may establish and maintain such hospitals, dispensaries and other medical and surgical services as the Organization thinks fit for the benefit of self-employed insured persons.

(2) The Organization may enter into agreement with any Government, local authority, person, private or individual in regard to the provisions of medical treatment and attendance for a self-employed insured persons in any area and payment of the cost of such medical treatment and attendance.

**Power to co-operate with existing institutions or promote measures for health, welfare, etc., of self-employed insured persons**

**89.** (1) The Organization may promote measures or co-operate with any existing institution for the improvement of health, occupational safety, welfare and rehabilitation of the self-employed insured persons who have been disabled or injured and may incur expenditure, in respect of such measures, from the Fund within such limits as prescribed.

(2) For the purpose of subsection (1), the co-operation shall not create any benefit other than provided for under the Scheme.

(3) The measures under subsection (1) may include the provision of artificial limbs and appliances, opportunities for gainful employment under suitable conditions and convalescent homes.

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FIRST SCHEDULE

[Section 2]

INDUSTRY

1. (a) The service of carriage of passengers—
  - (i) by means of public service vehicle or motor vehicle owned by a person, or managed, maintained or operated by a person, under any form of arrangement with the owner or lessor of the vehicle; and
  - (ii) whether for hire or reward or for any other valuable consideration or money's worth or otherwise.
- (b) The service of carriage of passengers under this paragraph shall not include a driver who is employed exclusively as a domestic servant as specified in the First Schedule to the Employees' Social Security Act 1969.
- (c) In this paragraph—

“motor vehicle” has the meaning assigned to it in the Road Transport Act 1987 [Act 333];

“public service vehicle” has the meaning assigned to it in the Land Public Transport Act 2010 [Act 715].

2. The agriculture sector which includes—
  - (a) the production and marketing of the agricultural produce as defined under the Federal Agriculture Marketing Authority Act 1965 [Act 141];
  - (b) the production, harvesting, extraction, processing and marketing of the oil palm and oil palm products as defined under the Malaysian Palm Oil Board Act 1998 [Act 582];
  - (c) the tapping, production and marketing of the rubber and rubber products as defined under the Malaysian Rubber Board (Incorporation) Act 1996 [Act 551]; and
  - (d) the harvesting, production and marketing of the padi as defined under the Control of Padi and Rice Act 1994 [Act 522].
3. The taking of forest produce as defined under the National Forestry Act 1984 [Act 313].
4. The livestock and livestock production.
5. The activity of fishing as defined under the Fisheries Act 1985 [Act 317] and the marketing of fish as defined under the Lembaga Kemajuan Ikan Malaysia Act 1971 [Act 49].
6. The preparation and selling of food which is regulated under the Food Act 1983 [Act 281] and the Control of Supplies Act 1961 [Act 122].
7. The activity of manufacturing products which is regulated under the Industrial Co-ordination Act 1975 [Act 156].
8. The construction works as defined under the Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994 [Act 520].
9. The service of carriage and delivery of goods or food by any person by means of any vehicle owned by him, or managed, maintained or operated by that person, in any form of arrangement with the owner or lessor of the vehicle and whether for hire or reward or for any other valuable consideration or money’s worth or otherwise.
10. The hawking or trading, at street or market, which is regulated under the Local Government Act 1976 [Act 171], the Local Government Ordinance 1961 (Sabah No. 11 of 1991) or the Local Authorities Ordinance 1996 (Sarawak Cap. 20).

11. The service of accommodation premises which is regulated under the Tourism Industry Act 1992 [*Act 482*].

12. The supply of goods or services through a website or in an online market place as defined under the Consumer Protection (Electronic Trade Transactions) Regulations 2012 [*P.U. (A) 458/2012*].

13. The services relating to the communication and multimedia which is governed under the Communications and Multimedia Act 1998 [*Act 588*] which includes—

- (a) provide of any network facilities;
- (b) provide of any network services; or
- (c) provide of applications services.

14. The service of collecting and processing of data whether for reward or for any other valuable consideration or money's worth or otherwise.

15. The service of agent by any of the following person:

- (a) insurance agent as defined under the Financial Services Act 2013 [*Act 758*];
- (b) estate agent registered under the Valuers, Appraisers, Estate Agents And Property Managers Act 1981 [*Act 242*];
- (c) money services business agent appointed under the Money Services Business Act 2011 [*Act 731*];
- (d) mercantile agent as defined under the Sales of Goods Act 1957 [*Act 382*];
- (e) self-employment social security agent appointed under this Act; or
- (f) agent in collecting and distributing of zakat appointed by the authorized person.

16. The service of professional, scientific and technical by any of the following person:

- (a) advocates and solicitors registered under the Legal Profession Act 1976 [*Act 166*], the Advocates Ordinance Sabah 1953 (Sabah Cap. 2) or the Advocates Ordinance Sarawak 1953 (Sarawak Cap. 110);
- (b) accountant registered under the Accountants Act 1967 [*Act 94*] and includes auditor and tax consultant;
- (c) architect registered under the Architects Act 1967 [*Act 117*];

- (d) engineer registered under the Registration of Engineers Act 1967 [Act 138];
  - (e) research and development which carry out for the purposes of systematic, investigative and experimental study that involves novelty or technical risk carried out in the field of science or technology with the object of acquiring new knowledge or using the results of the study for the production or improvement of materials, devices, products, produce, or processes, and includes—
    - (i) quality control or routine testing of materials, devices or products;
    - (ii) research in the social sciences or the humanities;
    - (iii) routine data collection;
    - (iv) efficiency surveys or management studies;
    - (v) market research or sales promotion;
    - (vi) routine modifications or changes to materials, devices, products, processes or production methods; or
    - (vii) cosmetic modifications or stylistic changes to materials, devices, products, processes or production methods;
  - (f) inventor who has an invention which is patented under the Patents Act 1983 [Act 291];
  - (g) veterinar doctor which is registered under the Veterinary Surgeons Act 1974 [Act 147];
  - (h) registered medical practitioner which is registered under the Medical Act 1971 [Act 50];
  - (i) psychiatrist which has the meaning assigned to it in the Mental Health Act 2001 [ACT 615]; or
  - (j) dental practitioner which is registered under the Dental Act 1971 [Act 51].
17. (a) The private support services whether for reward or for any other valuable consideration or money's worth or otherwise by any of the following person:
- (i) licensed travel agent and licensed tourist guide as defined under the Tourism Industry Act 1992 [Act 482];
  - (ii) any maintenance services;



- (iii) any tutor services;
  - (iv) any interpreter services; or
  - (v) any person who conducted any business in providing a private support services which is registered under the Registration of Business Act 1956 [*Act 197*], the Trades Licensing Ordinance (Sabah Cap. 144) or the Business Name Ordinance (Sarawak Cap. 64).
- (b) For the purpose of this paragraph, private support services includes services provided through any online applications.
18. (a) The services in any performance, film activities and any activity which includes artistic work and graphic work.
- (b) In this paragraph—
- “performance”, “artistic work” and “graphic work” has the meaning assigned to it in the Copyright Act 1987 [*Act 332*];
- “film activities” has the meaning assigned to it in the Perbadanan Kemajuan Filem Nasional Malaysia Act 1981 [*Act 244*].
19. The services in any care, treatment and recovery of health, mental, physical or social.
20. The household services.

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SECOND SCHEDULE

[Sections 11, 17, 18 and 19]

RATES OF CONTRIBUTION, DISABLEMENT BENEFIT AND  
DEPENDANTS' BENEFIT

1. For the purposes of this Schedule, “selected insured monthly earning” means the class of earnings as shown below to be selected by self-employed person for the purpose of payment of contribution.
2. The rates of contribution based on the selected insured monthly earning are as follows:

	<i>Selected Insured Monthly Earning</i>	<i>Monthly Contribution by Self-Employed Person</i>
1.	RM1,050	RM13.10
2.	RM1,150	RM14.40
3.	RM1,250	RM15.60
4.	RM1,350	RM16.90
5.	RM1,450	RM18.10
6.	RM1,550	RM19.40
7.	RM1,650	RM20.60
8.	RM1,750	RM21.90
9.	RM1,850	RM23.10
10.	RM1,950	RM24.40
11.	RM2,050	RM25.60
12.	RM2,150	RM26.90
13.	RM2,250	RM28.10
14.	RM2,350	RM29.40
15.	RM2,450	RM30.60
16.	RM2,550	RM31.90
17.	RM2,650	RM33.10
18.	RM2,750	RM34.40
19.	RM2,850	RM35.60
20.	RM2,950	RM36.90
21.	RM3,050	RM38.10
22.	RM3,150	RM39.40
23.	RM3,250	RM40.60
24.	RM3,350	RM41.90
25.	RM3,450	RM43.10
26.	RM3,550	RM44.40
27.	RM3,650	RM45.60
28.	RM3,750	RM46.90
29.	RM3,850	RM48.10
30.	RM3,950	RM49.40

3. (1) For the purposes of this paragraph, “selected insured daily earning” is based on the selected insured monthly earning of a self-employed insured person who suffers self-employment injury resulting in such disablement.

(2) The daily rate of benefit shall be as follows:

- (a) for temporary disablement, an amount equivalent to eighty per cent of the selected insured daily earning subject to a minimum amount of thirty ringgit;
- (b) for permanent partial disablement, an amount equivalent to ninety per cent of the selected insured daily earning multiply by the percentage of loss earning capacity; and
- (c) for permanent total disablement, an amount equivalent to ninety per cent of the selected insured daily earning.

(3) Selected insured daily earning shall be equal to one-thirtieth of the selected insured monthly earnings of a self-employed insured person.

4. Where more than one injury is caused by different accidents or occupational diseases, the daily rate of benefit for those injuries shall be aggregated but not in any case exceed the permanent total disablement benefit.

5. The daily rate of dependants' benefit shall be as follows:

- (a) for a widow or widower, an amount equivalent to three-fifths of the daily rate of permanent total disablement benefit of the deceased self-employed insured person if he had suffered such disablement from the self-employment injury which resulted in his death; and
- (b) for each child, two-fifths of the daily rate of permanent total disablement benefit referred to in paragraph (a).

6. If the total of the dependants' benefit distributed among the widow or widower and child or children exceeds at any time the daily rate of permanent total disablement benefit, the share of each dependant shall be proportionately reduced so that the total amount payable does not exceed the daily rate of permanent total disablement benefit.

7. In case the deceased self-employed insured person does not leave a widow or widower or if the widow or widower dies, the daily rate of benefit for each child shall be three-fifths of the daily rate of permanent total disablement benefit, and if there be more than one child, the amount payable shall be equally divided between them.

8. In case the deceased self-employed insured person does not leave a widow, or widower or child, or if the widow, widower or child dies, dependants' benefit shall be payable to parents or siblings or grandparents, at an amount equal to four-tenth of the daily rate of permanent total disablement benefit of the deceased self-employed insured person, and if there are two or more parents or grandparents, the amount payable to the parents or grandparents shall be equally divided between them.

9. For the purpose of paragraph 8, a sibling shall not be entitled for the benefit if he or she is married, adopted or has died.

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**LAWS OF MALAYSIA****Act 789****SELF-EMPLOYMENT SOCIAL SECURITY ACT 2017**

## LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U.(A) 235/2018	Self-Employment Social Security (Amendment of Second Schedule) Order 2018	14-06-2017
P.U. (A) 374/2019	Self-Employment Social Security (Amendment of First Schedule) Order 2019	01-01-2020

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**LAWS OF MALAYSIA****Act 789****SELF-EMPLOYMENT SOCIAL SECURITY ACT 2017**

## LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Second Schedule	P.U. (A) 235/2018	14-06-2017
First Schedule	P.U. (A) 374/2019	01-01-2020

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