

FISHERMEN'S ASSOCIATIONS (AMENDMENT) ACT 1988

ACT A694

PREAMBLE

An Act to amend the Fishermen's Associations Act 1971.

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

1. Short title and commencement.

This Act May be cited as the Fishermen's Associations (Amendment) Act 1988 and shall come into force on such date as the Minister May appoint by notification in the Gazette.

2. Amendment of section 2.

Section 2 of the Fishermen's Associations Act 1971(Act 44), which is referred to in this Act as the "principal Act", is amended -

(a) in the interpretation of "Area Fishermen's Association", by deleting the words "with the object or objects of promoting the economic and social interests or well being of such persons or such class of persons, through direct participation";

(b) by inserting before the interpretation of "fishermen's co-operative society" the following interpretation:

"Fishermen's Association" means an Area Fishermen's Association, a State Fishermen's Association or a National Fishermen's Association,"

(c) in the proviso to the interpretation of "fishermen's co-operative society", by substituting for the words "Lembaga Kemajuan Ikan Malaysia" the word "Registrar".

3. Amendment of section 5.

Section 5 of the principal Act is amended -

(a) by renumbering it as subsection (1) of section 5 and -

(i) by substituting for the words "An Area Fishermen's Association" the words "A Fishermen's Association";

(ii) by substituting for the words "the economic and social interests or well being of its members through direct participation and shall have the power to do all things necessary to achieve the objects and in particular, but without prejudice to the generality of the foregoing" the words "the economic and social interests or well being of its members and shall have the power to do all things necessary to achieve the objects and in particular, but without prejudice to the generality of the foregoing, it shall have the power";

(iii) in paragraph (d), by substituting for the semi-colon which appears after the word "processing" a comma;

(iv) in paragraph (h), by deleting the word "and" at the end of that paragraph;

(v) by substituting for paragraph (i) the following paragraph:

"(i) to organise the participation of members in any programmes for the conservation of fishery resources;"

(vi) by inserting the following paragraphs after paragraph (i):

"(j) to operate and provide transportation facilities to enhance fish marketing activities and related activities;

(k) to provide marketing, storage, drying, warehousing and other facilities; and

(l) to facilitate capital formation and investment among members through the establishment of companies or equity participation in trading and business ventures.";

(vii) by deleting the word "Area" in the marginal note;

(b) by inserting the following subsections after subsection (1):

"(2) Notwithstanding the powers conferred by subsection (1), a Fishermen's Association shall not establish any company or participate in the equity of any trading or business ventures without the prior written approval of the Registrar, and the Registrar May, in giving such approval, impose any condition he deems fit.

(3) Without prejudice to the powers conferred upon the Registrar in subsection (2), the Registrar May, by order in writing, limit, impose conditions on or regulate the powers of any Fishermen's Association to ensure efficiency in, and to avoid duplication of, the functions of such Fishermen's Association.

(4) Any person who is dissatisfied with any order of the Registrar under subsection (2) or (3) May appeal to the Minister within thirty days of such order and the Minister May confirm, vary or revoke such order; and the decision of the Minister shall be final and shall not be called in question in any Court."

4. Amendment of section 6.

Section 6 of the principal Act is amended -

(a) in subsection (1), by substituting for the words "Registrar of the Fishermen's Associations" the words "Registrar of Fishermen's Associations";

(b) in subsection (3), by substituting for the words "Deputy Chairman" the words "Director General".

5. Amendment of section 10.

Section 10 of the principal Act is amended -

(a) in subsection (1), by substituting for the words "The Fishermen's Associations Supervising Officer shall in respect of the State in which he is appointed" the words "A Fishermen's Associations Supervising Officer appointed in respect of a State shall";

(b) in subsection (2) -

(i) by substituting for the words "The Fishermen's Associations Supervising Officer shall in respect of the Region for which he is appointed" the words "A Fishermen's Associations Supervising Officer appointed in respect of a Region shall";

(ii) by inserting the words "in that Region" after the words "State Fishermen's Associations".

6. Amendment of section 11.

Section 11 of the principal Act is amended -

(a) in subsection (1) -

(i) in paragraph (a), by substituting for the words "ninety" the words "one hundred and twenty";

(ii) in paragraph (b) of the national language text, by deleting the word "sa-bagai";

(iii) in paragraph (c), by substituting for the words "their total income from occupation with the fishing industry" the words "his total income from the fishery industry";

(b) by inserting the following subsection after subsection (6):

"(7) Notwithstanding section 2, in this section "Area Fishermen's Association" does not include a fishermen's co-operative society."

7. New section 11A.

Part V of the principal Act is amended by inserting the following section after section 11:

"11A. Register to be prima facie evidence. Any register or list of members kept by any Area Fishermen's Association shall be prima facie evidence of the name, address, identity card number, membership number, and occupation of a member and of the dates he became and ceased to be a member."

8. Amendment of section 12.

Section 12 of the principal Act is amended -

(a) in subsection (1), by deleting the words "Area, State and National";

(b) in subsection (4), by substituting for the word "retire" the words "may resign";

(c) in paragraph (c) of subsection (5), by inserting the words "of Directors" after the word "Board".

9. Amendment of section 13.

Section 13 of the principal Act is amended by deleting the words "Area, State and National".

10. New sections 13A and 13B.

The principal Act is amended by inserting the following sections after section 13:

" 13A. Power to borrow money etc.

(1) For the purpose of carrying out its objects under section 5, a Fishermen's Association May borrow moneys or incur other financial commitments or obligations with the permission in writing of the Registrar.

(2) At each annual general meeting, every Fishermen's Association shall determine the maximum limit of indebtedness which it May incur, subject to the Registrar's permission pursuant to subsection (1), at any time in the coming financial year.

13B. Investment of funds.

Subject to section 5, a Fishermen's Association May invest or deposit its funds-

(a) in any bank approved by the Registrar from time to time;

(b) in any of the securities of the Federal Government or of the Government of any State;

(c) in securities issued in the Federation with the approval of the Treasury by any public authority established under Federal or State law;

(d) with the approval of the Registrar, in the share capital or securities of any registered body or company;

(e) with the approval of the Registrar, in the purchase of lands or buildings or in the construction of buildings; or

(f) in any other mode approved by the Registrar."

11. Amendment of section 14.

Section 14 of the principal Act is amended by deleting the words "Area, State and National".

12. Amendment of section 18.

Section 18 of the principal Act is amended by substituting for the words "an Area, State or National (Fishermen's Association" the words " a Fishermen's Association".

13. Amendment of section 19.

Section 19 of the principal Act is amended -

(a) by substituting for the words "authorised in writing" the words "authorised by him in writing";

(b) in paragraph (a), by deleting the words "Area, State or National".

14. Amendment of section 24.

Section 24 of the principal Act is amended by deleting the words "Area, State or National".

15. Amendment of section 25.

Section 25 of the principal Act is amended by deleting the words "Area, State and National".

16. New section 25A.

The principal Act is amended by inserting the following section after section 25:

" 25A. Right of access to accounting and other records.

(1) The Registrar or any person authorised by him in writing shall have a right of access at all times to accounting and other records, including registers, of every Fishermen's Association and shall have power -

(a) to summon any officer or past officer or agent or servant or member of the Fishermen's Association who he has reason to believe can give material information in regard to any transaction of the Fishermen's Association or the management of its affairs;

(b) to require the production, at such place and within such period as May be specified by him, of any book or document relating to the affairs of the Fishermen's Association or any cash or security belonging to the Fishermen's Association by the officer or past officer or agent or servant or member in possession of such book, document, cash or securities.

(2) Where in the course of the winding-up of a Fishermen's Association or consequent upon an audit under section 25 or consequent upon an inquiry or inspection under section 19 it appears that any person who has taken part in the organisation or management of the Fishermen's Association or any officer or past officer or agent or servant or member of the Fishermen's Association has misapplied or retained or become liable or accountable for any money or property of the Fishermen's Association or has, been guilty of misfeasance or breach of trust in relation to the Fishermen's Association, the Registrar, on his own motion or upon the application of a liquidator, creditor or contributory, May examine into the conduct of such person a May make an order requiring him to repay or restore the money or property or any part thereof together with interest at such rate as the Registrar thinks just or requiring him to contribute such sum as the Registrar thinks just to the assets of the Fishermen's Association by way of compensation in regard to the misapplication, retention, dishonesty or breach of trust; and such order shall be enforced in the same manner as if the order had been a judgement of a Court."

17. Amendment of section 26.

Subsection (2) of section 26 of the principal Act is amended -

(a) in paragraph (a), by deleting the words "Area, State and National";

(b) in paragraph (c), by substituting for the words "Area, State or National Fishermen's Associations" the words "any Fishermen's Association".

18. Amendment of section 27.

Subsection (2) of section 27 of the principal Act is amended -

(a) in paragraph (a), by substituting for the words "Area, State or National Fishermen's Association" the words "Fishermen's Associations";

(b) in paragraph (b), by deleting the words "Area, State or National";

(c) in paragraph (c), by deleting the words "Area, State or National".

19. Amendment of section 28.

Section 28 of the principal Act is amended by deleting the words "Area, State or National" wherever they appear.

20. Amendment of section 29.

Section 29 of the principal Act is amended by deleting the words "Area, State or National".

21. New section 32A.

The principal Act is amended by inserting the following section after section 32:

" 32A. Proof of entries in the books of Fishermen's Association.

(1) Any copy of any entry in any book regularly kept in the course of business of any Fishermen's Association shall, if certified in such manner as May be prescribed by regulations, be received in any legal proceeding, civil or criminal, as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded if, and to the same extent as, the original entry itself is admissible.

(2) No officer of any Fishermen's Association shall, in any legal proceedings to which the Fishermen's Association is not a party, be compelled to produce any of the association's books, the contents of which can be proved under subsection (1), or to appear as a witness to prove any matters, transactions or accounts therein recorded, unless the Court for special reasons so directs."

22. Amendment of section 36.

Section 36 of the principal Act is amended by substituting for the words "Deputy Chairman" in paragraph (b) the words "Director General".