

A BILL

i n t i t u l e d

An Act to amend the Employees' Social Security Act 1969.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Employees' Social Security (Amendment) Act 2015.

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

Amendment of section 5

2. The Employees' Social Security Act 1969 [*Act 4*], which is referred to as the "principal Act" in this Act, is amended in section 5—

(a) by renumbering the existing section as subsection (1);

(b) in subsection (1) as renumbered, by inserting after the word "applies" the words "irrespective of the amount of wages"; and

(c) by inserting after subsection (1) as renumbered the following subsection:

“(2) Notwithstanding subsection (1), if the wages of an employee at any time exceed four thousand ringgit a month, his wages shall for the purposes of this Act be deemed to be four thousand ringgit a month.”.

Amendment of section 58

3. Section 58 of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) The Organization may administer any other social security scheme if the administration of such scheme is conferred upon the Organization by any written law.”.

Amendment of section 71

4. Section 71 of the principal Act is amended by inserting after subparagraph (ii) the following subparagraph:

“(iii) establishment or taking over of a company under section 74A and its maintenance;”.

Amendment of section 72A

5. Section 72A of the principal Act is amended—

(a) in the shoulder note, by inserting after the word “**loans**” the words “**or other financing facilities**”; and

(b) by inserting after the words “for granting loans” the words “or other financing facilities”.

New section 74A

6. The principal Act is amended by inserting after section 74 the following section:

“Power of the Organization to establish or take over companies

74A. (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 1965 [*Act 125*] 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 of Social Security under this Act.

(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.”.

Amendment of section 75A

7. Subsection 75A(2) of the principal Act is amended—

- (a) in paragraph (d), by inserting the word “and” at the end of the paragraph;
- (b) by deleting paragraph (e); and
- (c) in paragraph (f), by substituting for the words “two other members” the words “three other members”.

Amendment of section 95A

8. Subsection 95A(1) of the principal Act is amended by inserting after the words “any officer authorized in writing by the Director General may” the words “, with the consent in writing of the Public Prosecutor,”.

Amendment of section 105

9. Subsection 105(2) of the principal Act is amended by substituting for paragraph (xxa) the following paragraph:

“(xxa) the offences under this Act or any subsidiary legislation made under this Act which may be compounded, and the criteria, method and procedure for compounding such compoundable offences;”.

Amendment of First Schedule

10. The First Schedule to the principal Act is amended by deleting paragraph (1).

Amendment of Third Schedule

11. The Third Schedule to the principal Act is amended—

(a) in paragraph 2—

(i) in item 34, in the column of “*Monthly Wages*”, by substituting for the words “When wages exceed RM2,900” the words “When wages exceed RM2,900 but not RM3,000”; and

(ii) by inserting after item 34 the following items:

| | <i>Monthly Wages</i> | <i>Employer's Contribution</i> | <i>Employee's Contribution</i> | <i>Total</i> |
|------|---|--------------------------------|--------------------------------|--------------|
| “35. | When wages exceed RM3,000 but not RM3,100 | RM53.35 | RM15.25 | RM68.60 |
| 36. | When wages exceed RM3,100 but not RM3,200 | RM55.15 | RM15.75 | RM70.90 |
| 37. | When wages exceed RM3,200 but not RM3,300 | RM56.85 | RM16.25 | RM73.10 |
| 38. | When wages exceed RM3,300 but not RM3,400 | RM58.65 | RM16.75 | RM75.40 |

| | <i>Monthly Wages</i> | <i>Employer's Contribution</i> | <i>Employee's Contribution</i> | <i>Total</i> |
|-----|---|--------------------------------|--------------------------------|---------------|
| 39. | When wages exceed RM3,400 but not RM3,500 | RM60.35 | RM17.25 | RM77.60 |
| 40. | When wages exceed RM3,500 but not RM3,600 | RM62.15 | RM17.75 | RM79.90 |
| 41. | When wages exceed RM3,600 but not RM3,700 | RM63.85 | RM18.25 | RM82.10 |
| 42. | When wages exceed RM3,700 but not RM3,800 | RM65.65 | RM18.75 | RM84.40 |
| 43. | When wages exceed RM3,800 but not RM3,900 | RM67.35 | RM19.25 | RM86.60 |
| 44. | When wages exceed RM3,900 but not RM4,000 | RM69.05 | RM19.75 | RM88.80 |
| 45. | When wages exceed RM4,000 | RM69.05 | RM19.75 | RM88.80"; and |

(b) in paragraph 4—

(i) in item 34, in the column of "*Monthly Wages*", by substituting for the words "When wages exceed RM2,900" the words "When wages exceed RM2,900 but not RM3,000"; and

(ii) by inserting after item 34 the following items:

| | <i>Monthly Wages</i> | <i>Employer's Contribution</i> |
|------|---|--------------------------------|
| "35. | When wages exceed RM3,000 but not RM3,100 | RM38.10 |
| 36. | When wages exceed RM3,100 but not RM3,200 | RM39.40 |
| 37. | When wages exceed RM3,200 but not RM3,300 | RM40.60 |
| 38. | When wages exceed RM3,300 but not RM3,400 | RM41.90 |
| 39. | When wages exceed RM3,400 but not RM3,500 | RM43.10 |
| 40. | When wages exceed RM3,500 but not RM3,600 | RM44.40 |
| 41. | When wages exceed RM3,600 but not RM3,700 | RM45.60 |
| 42. | When wages exceed RM3,700 but not RM3,800 | RM46.90 |

| | <i>Monthly Wages</i> | <i>Employer's Contribution</i> |
|-----|---|--------------------------------|
| 43. | When wages exceed RM3,800 but not RM3,900 | RM48.10 |
| 44. | When wages exceed RM3,900 but not RM4,000 | RM49.40 |
| 45. | When wages exceed RM4,000 | RM49.40". |

Amendment of Fourth Schedule

12. Paragraph 4 of the Fourth Schedule to the principal Act is amended—

- (a) in item 34, in the column of "*Monthly Wages*", by substituting for the words "When wages exceed RM2,900" the words "When wages exceed RM2,900 but not RM3,000"; and
- (b) by inserting after item 34 the following items:

| | <i>Actual monthly wage of the month</i> | <i>First Category</i> | <i>Second Category</i> | <i>Corresponding assumed monthly wage for the month</i> |
|------|---|-----------------------|------------------------|---|
| "35. | When wages exceed RM3,000 but not RM3,100 | RM68.40 | RM38.10 | RM3,050 |
| 36. | When wages exceed RM3,100 but not RM3,200 | RM70.90 | RM39.40 | RM3,150 |
| 37. | When wages exceed RM3,200 but not RM3,300 | RM73.10 | RM40.60 | RM3,250 |
| 38. | When wages exceed RM3,300 but not RM3,400 | RM75.40 | RM41.90 | RM3,350 |
| 39. | When wages exceed RM3,400 but not RM3,500 | RM77.60 | RM43.10 | RM3,450 |
| 40. | When wages exceed RM3,500 but not RM3,600 | RM79.90 | RM44.40 | RM3,550 |
| 41. | When wages exceed RM3,600 but not RM3,700 | RM82.10 | RM45.60 | RM3,650 |
| 42. | When wages exceed RM3,700 but not RM3,800 | RM84.40 | RM46.90 | RM3,750 |
| 43. | When wages exceed RM3,800 but not RM3,900 | RM86.60 | RM48.10 | RM3,850 |

| | <i>Actual monthly wage of the month</i> | <i>First Category</i> | <i>Second Category</i> | <i>Corresponding assumed monthly wage for the month</i> |
|-----|---|-----------------------|------------------------|---|
| 44. | When wages exceed RM3,900 but not RM4,000 | RM88.80 | RM49.40 | RM3,950 |
| 45. | When wages exceed RM4,000 | RM88.80 | RM49.40 | RM3,950". |

EXPLANATORY STATEMENT

This Bill seeks to amend the Employees' Social Security Act 1969 ("Act 4").

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.

3. *Clause 2* seeks to amend section 5 of Act 4. *Subclause 2(b)* seeks to amend subsection 5(1) of Act 4 as renumbered to clarify that all employees in industries to which Act 4 applies shall be insured under Act 4 irrespective of their amount of wages. Currently, as provided for under subsection 3(3) of Act 4 and paragraph (1) of the First Schedule which is now proposed to be deleted in *clause 10*, employees whose wages exceed three thousand ringgit a month are not obliged to contribute under Act 4. *Subclause 2(c)* seeks to introduce a new subsection 5(2) into Act 4 which provides that even though all employees shall be insured irrespective of their amount of wages but if the wages of an employee at any time exceed four thousand ringgit a month, his wages shall for the purposes of Act 4 (calculation of contributions and benefits) be deemed to be four thousand ringgit a month only. Currently, if the wages of an employee at any time exceed three thousand ringgit a month, his wages shall, for the purposes of Act 4, be deemed to be three thousand ringgit a month only. With the amendment in *subclause 2(c)*, the maximum limit for wages for the purposes of Act 4 has been increased from three thousand ringgit a month to four thousand ringgit a month.

4. *Clause 3* seeks to introduce a new subsection 58(1A) into Act 4 to empower the Organization to administer any other social security scheme if the administration of such scheme is conferred upon the Organization by any written law.

5. *Clause 4* seeks to amend section 71 of Act 4 to allow the Fund to be expended for the purposes of establishing or taking over of a company under the proposed section 74A and its maintenance. The proposed section 74A is introduced in *clause 6*.

6. *Clause 5* seeks to amend section 72A of Act 4 to allow the Organization to grant other financing facilities to the officers and servants of the Organization. Currently, the Organization could only grant loans.

7. *Clause 6* seeks to introduce a new section 74A into Act 4 to allow the Organization, with the approval of the Minister and the Minister of Finance, to establish or take over any company under the Companies Act 1965 [*Act 125*] 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.

8. *Clause 7* seeks to amend subsection 75A(2) of Act 4. *Subclause 7(b)* seeks to delete paragraph 75A(2)(e) to remove the representative from Central Bank of Malaysia as a member of the Investment Panel. *Subclause 7(c)* seeks to amend paragraph 75A(2)(f) to increase the number of persons to be appointed by the Minister as other members of the Investment Panel from two persons to three persons.

9. *Clause 8* seeks to amend subsection 95A(1) to Act 4 to require the Director General or any officer authorized in writing by the Director General to obtain the consent in writing of the Public Prosecutor before compounding any offence committed under Act 4 or any subsidiary legislation made under Act 4.

10. *Clause 9* seeks to amend paragraph 105(2)(xxa) of Act 4 to empower the Minister to make regulations providing the criteria for compounding any compoundable offence under Act 4 or any subsidiary legislation made under Act 4.

11. *Clause 10* seeks to delete paragraph (1) of the First Schedule to Act 4 to enable all employees in the industries to which Act 4 applies to be insured in the manner provided under Act 4 regardless of their amount of wages. Currently, employees whose wages exceed three thousand ringgit a month are not obliged to contribute under Act 4.

12. *Clause 11* seeks to amend paragraphs 2 and 4 of the Third Schedule to Act 4 by providing the rates of contributions in respect of employees to which Act 4 now applies in consequence of the amendments made in *clauses 2* and *10*.

13. *Clause 12* seeks to amend paragraph 4 of the Fourth Schedule to Act 4 by providing the assumed monthly wages as corresponding to the rate of contribution in respect of employees to which Act 4 now applies in consequence of the amendments made in *clauses 2* and *10*.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

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