



LAWS OF MALAYSIA

Act 796

EMPLOYMENT (RESTRICTION) ACT 1968

(Revised—2017)

EMPLOYMENT (RESTRICTION) ACT 1968

Revised up to 1 November 2017

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PREVIOUS REVISION

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3 November 1988)

LAWS OF MALAYSIA

Act 796

EMPLOYMENT (RESTRICTION) ACT 1968

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LAWS OF MALAYSIA

Act 796

EMPLOYMENT (RESTRICTION) ACT 1968

An Act to provide for the restriction of employment in certain business activities in Malaysia of non-citizens and the registration of such non-citizens and for matters connected therewith.

[1 July 1969; P.U. (B) 141A/1969]

PART I

PRELIMINARY

Short title and application

1. (1) This Act may be cited as the Employment (Restriction) Act 1968.

(2) This Act applies throughout Malaysia.

Interpretation

2. In this Act, unless the context otherwise requires—

“Director General” means the Director General of Labour appointed under subsection 3(1);

“employer” means any person who has entered into a contract of service to employ another person as an employee and includes the agent, manager or factor of the first-mentioned person and the word “employ” with its grammatical variations and cognate expressions, shall be construed accordingly;

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

“authorized person” means a person authorized by the Director General for the purposes of this Act;

“employment permit” means an employment permit issued under section 7;

“business” includes any form of trade, commerce, craftsmanship, calling, profession or other activity carried on for the purpose of gain.

Officers

3. (1) For the due administration of this Act, the Yang di-Pertuan Agong shall appoint a Director General of Labour, a Deputy Director General of Labour and such number of Assistant Commissioners for Labour as may be deemed necessary.

(2) The Minister may appoint such number of employment officers as he may consider necessary or expedient for the purposes of this Act.

(3) An employment officer appointed under subsection (2) shall be under the direction and control of the Director General.

PART II

RESTRICTIONS OF EMPLOYMENT OF NON-CITIZENS OF MALAYSIA

Application of Part II

4. (1) This Part shall apply only to the class or classes of persons or the category or categories of employment or business as may be specified in the Schedule.

(2) The Yang di-Pertuan Agong may by order amend or add to the Schedule.

Restrictions of employment of non-citizens

5. (1)(a) No non-citizen referred to in the Schedule shall be employed in any business in Malaysia or accept employment in any business in Malaysia unless there has been issued in respect of such non-citizen a valid employment permit.

(b) No person shall employ in Malaysia any non-citizen referred to in the Schedule unless there has been issued in respect of that non-citizen a valid employment permit.

(2) Subsection (1) shall have effect notwithstanding any other written law or any term or condition of any contract or agreement.

(3) For the purposes of this section, any person found performing any act normally performed by an employee in any place of employment shall be deemed to have been employed under a contract of service by the employer of that place of employment.

Application for employment permits and renewal of employment permits

6. (1) Every non-citizen referred to in the Schedule shall before commencing any employment or business described in that Schedule apply for an employment permit to the Director General and the application shall be in such form and shall contain such particulars as may be prescribed.

(2) An employment permit may on the expiry of its period of validity be renewed.

(3) Any person who desires to renew an employment permit shall make an application to the Director General or any authorized person in such form as may be prescribed.

Issuance and renewal of employment permits

7. (1) Upon receipt of an application for an employment permit or an application for renewal of an employment permit under section 6, the Director General or any authorized person may in his discretion issue an employment permit in such form as may be prescribed or renew such employment permit and may impose such terms, conditions and restrictions as he may think fit.

(2) The Director General may at any time vary or add to any terms, conditions or restrictions in an employment permit.

(3) The Director General may in his discretion at any time and without assigning any reason refuse to issue or to renew an employment permit or cancel or suspend an employment permit.

(4) Any person aggrieved by a decision of the Director General under subsection (1), (2) or (3) may, within twenty-one days from the date of such decision, appeal to the Minister whose decision shall be final and shall not be subject to appeal or review in any court.

Particulars of new employment of non-citizens

8. An employer shall, before employing any non-citizen referred to in the Schedule, furnish the Director General with particulars of such employment and of such non-citizen in such form as may be prescribed.

Termination of employment of non-citizens

9. (1) Notwithstanding any written law or any term or condition of any contract or agreement, an employer of an employee in any of the category or categories of employment or business described in the Schedule shall terminate the services of that employee within thirty days of his being notified in writing by the Director General that the employment permit issued in respect of that employee has been cancelled, suspended or not renewed under subsection 7(3).

(2) Every employer referred to in subsection (1) who terminates the services of an employee or ceases to employ such employee pursuant to subsection (1) or for any other reasons shall notify the Director General in writing within fourteen days of such termination or cessation.

(3) The termination of the services of an employee pursuant to subsection (1) shall not be—

- (a) capable of negotiation by a trade union representing the person affected; or
- (b) the subject matter of a trade dispute or of conciliation proceedings or any method of redress whether under any written law or not.

Validity of employment permits

10. (1) Subject to subsections 7(2) and (3), an employment permit issued under this Part shall unless otherwise specified be valid only in respect of the particular employment and the employer specified therein.

(2) An employment permit shall unless sooner cancelled or suspended be valid for a period of not exceeding two years.

Onus of truth of application

11. The onus of proving the truth of the contents of an application for an employment permit under section 6 shall be on the person who makes the application.

PART III

REGISTRATION

Registration of non-citizens

12. (1) Subject to any exemption which may be granted under this Act, every non-citizen of the class or classes or in the category or categories of employment or business as may be specified in the notification under subsection (2) shall be registered under this section.

(2) The Yang di-Pertuan Agong may by notification in the *Gazette* specify the class or classes of non-citizens or the category or categories of employment or business to whom or to which subsection (1) shall apply.

(3) Subject to subsections (1) and (2), every non-citizen shall apply for registration in the prescribed form to the Director General.

(4) The Director General shall keep and maintain a register of persons registered under this Part.

(5) The register to be kept and maintained by the Director General under subsection (4) shall be in such form as may be prescribed.

PART IV

GENERAL

Power of entry and request for production of documents, etc.

13. (1) An employment officer may if he has reason to believe that an offence under this Act has been or is being committed in any premises other than premises solely used as a dwelling place without warrant enter such premises.

(2) An employment officer may—

- (a) require any person, whom he has reason to believe to be in possession of any document or information relevant to the carrying out of this Act, to produce any such document or to give such information; or
- (b) question any person or require any person by notice in writing to attend at such time and at such place as may be stated in such notice in regard to any document or information which, in the opinion of the employment officer, is relevant to the carrying out of this Act, and which he believes to be in such person's possession or knowledge.

Loss of employment permits

14. (1) When an employment permit has been lost, destroyed or defaced, a person in respect of whom the employment permit has been issued shall forthwith report the matter to the Director General or any authorized person and shall apply for a replacement employment permit.

(2) A replacement employment permit may be issued by the Director General or authorized person in place of the employment permit which has been lost, destroyed or defaced.

(3) Where a person referred to in subsection (1), after notifying the loss of his employment permit, recovers possession of such employment permit he shall forthwith notify the Director General or authorized person of such recovery.

(4) Where any person referred to in subsection (1) recovers possession of his employment permit after he has been issued with a replacement employment permit under subsection (2), he shall forthwith return the employment permit so recovered for cancellation.

(5) Any person who finds or comes into possession of an employment permit other than his own shall forthwith deliver it to the Director General or any authorized person, or to the nearest police station, or post office.

False information

15. Any person who makes any statement or furnishes any information to the Director General or any employment officer or any authorized person under this Act or any rules made under this Act which he knows or has reason to believe to be false in any material particular or omits any particular which he knows or has reason to believe is a material particular shall be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Custody and surrender of employment permits

16. (1) An employment permit issued in respect of a person shall not be transferable and shall be kept by him during the period of its validity.

(2) When an employment permit has been cancelled or has expired the person in respect of whom the employment permit was issued shall forthwith surrender the employment permit to the Director General or any authorized person.

Penalties

17. (1) Any person who fails to comply with section 5 or 12 commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) Any person who forges, alters or tampers with any employment permit commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(3) Every omission or neglect to comply with, and every act done or attempted to be done contrary to the provisions of this Act or of any regulations made under this Act, or any breach of the conditions and restrictions subject to or upon which an employment permit is issued under this Act, shall be an offence against this Act and the offender shall, on conviction, be liable, if no penalty is expressly provided, to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both and, in the case of a continuing offence, to a further fine not exceeding one hundred ringgit a day:

Provided that no person shall be convicted under this section by reason only of the failure to comply with paragraph 13(2)(a) if within forty-eight hours after being so required he produces or gives the document or information in his possession.

Effect of contravention of section 9

18. Where in respect of the employment of a non-citizen there has been a contravention of section 9, such non-citizen shall not by reason only of such a contravention be deemed to be employed under an illegal contract of employment.

Exemption

19. (1) This Act shall not apply to—

- (a) members of any visiting force within the meaning of any law for the time being in force regulating visiting forces present in Malaysia;
- (b) persons duly accredited as diplomatic or consular representatives to Malaysia;
- (c) persons upon whom the immunities and privileges referred to in the Schedule to the Diplomatic Privileges (Vienna Convention) Act 1966 [*Act 636*] and in the Schedule to the Consular Relations (Vienna Convention) Act 1999 [*Act 595*] have been conferred under those Acts;
- (d) private servants or other employees of persons referred to in paragraphs (a), (b) and (c) being employees recruited for such employment from the country of the visiting force or the country which the person referred to in paragraph (b) or (c) represents in Malaysia;
- (e) officers of any international organization declared by the Yang di-Pertuan Agong under section 3A of the Diplomatic Privileges (Vienna Convention) Act 1966; and
- (f) persons whose presence in Malaysia is sponsored by the Government.

(2) The Yang di-Pertuan Agong may by order exempt any person or class of persons from any or all of the provisions of this Act.

Regulations

20. The Minister may make regulations generally for the carrying out of the provisions of this Act, and such regulations may—

- (a) prescribe such fees or charges as may be necessary for the purposes of this Act;
 - (b) prescribe the forms of register, applications and permits or other forms to be kept, used or issued;
 - (c) provide for the procedure of replacement of lost or mutilated employment permits;
 - (d) provide for the manner in which and the places at which application for employment permits shall be made;
 - (e) provide for the information and documents to be furnished for the purposes of applications for employment permits;
 - (f) provide for the inspection and production of employment permits;
 - (g) provide for the taking and recording of photographs of persons applying for employment permits;
 - (h) provide for the making of corrections and alterations in the register and employment permits;
 - (i) require the submission of any return by any person relating to the employment of non-citizens to whom Part II have been applied in such form as may be prescribed;
 - (j) prescribe any act or omission in contravention of any such regulation shall be an offence; and
 - (k) provide generally for the purpose of giving effect to this Act.
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SCHEDULE

[Section 4]

CLASS OR CLASSES OF PERSONS AND CATEGORY OR
CATEGORIES OF EMPLOYMENT

Every non-citizen employed in any business, industry or undertaking, including any Department of the Federal Government or State Government, any local authority and any statutory body.

LAWS OF MALAYSIA

Act 796

EMPLOYMENT (RESTRICTION) ACT 1968

(Revised—2017)

*Particulars under paragraphs 7(ii) and (iii) of the Revision of
Laws Act 1968 [Act I]*

LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U. (A) 221/1969	Essential (Modifications of Employment (Restriction) Act, 1968) Regulations, 1969	01-07-1969
P.U. (A) 222/1969	Employment (Restriction) (Schedule) Order, 1969	01-07-1969
P.U. (A) 209/1970	Employment (Restriction) (Schedule) Order, 1972	01-07-1970
P.U. (A) 67/1972	Employment (Restriction) (Schedule) (Order) 1972	10-03-1972
Act A117	Employment (Restriction) (Amendment) Act 1972	04-04-1972

LIST OF LAWS OR PARTS THEREOF SUPERSEDED

No.	Title
Act 353	Employment (Restriction) Act 1968

LAWS OF MALAYSIA

Act 796

EMPLOYMENT (RESTRICTION) ACT 1968

(Revised—2017)

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
3	P.U. (A) 221/1969 Act A117	01-07-1969 04-04-1972
5	P.U. (A) 221/1969 Act A117	01-07-1969 04-04-1972
5	P.U. (A) 209/1970 Act A117	01-07-1970 04-04-1972
9	P.U. (A) 221/1969 Act A117	01-07-1969 04-04-1972
11	P.U. (A) 221/1969 Act A117	01-07-1969 04-04-1972
20	P.U. (A) 221/1969 Act A117	01-07-1969 04-04-1972
Schedule	P.U. (A) 222/1969 P.U. (A) 67/1972	01-07-1969 10-03-1972

LAWS OF MALAYSIA

Act 796

EMPLOYMENT (RESTRICTION) ACT 1968

(Revised—2017)

LIST OF AMENDMENTS MADE BY THE COMMISSIONER OF LAW REVISION UNDER SECTION 6 OF THE REVISION OF LAWS ACT 1968 [ACT 1]

Provision	Particulars of amendments	Authority for amendment
Table of contents	Arrangement of sections altered	paragraph 6(1)(vii)
Throughout the Act	<ol style="list-style-type: none"> 1. Word “Director General” substituted for “Commissioner” 2. Words “non-citizen” and “non-citizens” substituted for “person not being a citizen” and “persons not being citizens” respectively 	<p>paragraph 6(1)(xvii)</p> <p>paragraphs 6(1)(iii) and (xxi)</p>
Long title	Words “such non-citizen” substituted for “such person”	paragraphs 6(1)(iii) and (xxiv)
Effective date	Semicolon substituted for comma	paragraph 6(1)(xvi)
Enacting clause	Omitted	subparagraph 6(1)(i)(f)
subsection 1(2)	Word “applies” substituted for “shall apply”	paragraph 6(1)(iii)
section 2	<ol style="list-style-type: none"> 1. Interpretation section rearranged according to the national language text with consequential alterations made 2. In the definition of “employer”— <ol style="list-style-type: none"> a. word “another” substituted for “any other”; 	<p>subparagraphs 6(1)(iv)(a) and paragraph (xxiv)</p> <p>paragraph 6(1)(xv)</p>

Provision	Particulars of amendments	Authority for amendment
	b. words “the first-mentioned” substituted for “such first mentioned”	paragraphs 6(1)(xvi) and (xxiv)
	3. In the definition of “Minister”, word “human resources” substituted for “labour”	paragraphs 6(1)(iii) and (xvii)
	4. The definition of “Director General” means the Director General of Labour appointed under subsection 3(1).’ substituted for ““Commissioner” means the Commissioner of Employment appointed under subsection 3(1);’	paragraphs 6(1)(iii), (xvi) and (xvii)
	4. The definition of “appointed date” omitted	subparagraph 6(1)(i)(aa)
subsection 3(1)	1. Words “the Yang di-Pertuan Agong shall appoint” substituted for “there shall be appointed by Yang di-Pertuan Agong”	paragraphs 6(1)(iii) and (xxiv)
	2. Words “Director General of Labour” substituted for “Commissioner of Employment”	paragraph 6(1)(xvii)
	3. Words “Deputy Director General of Labour” substituted for “Deputy Commissioner of Employment”	paragraph 6(1)(xvii)
	4. Words “Assistant Commissioners for Labour” substituted for “Assistant Commissioners”	paragraph 6(1)(xvii)
paragraph 5(1)(a)	Words “such non-citizen” substituted for “such person”	paragraphs 6(1)(iii) and (xxiv)
paragraph 5(1)(b)	Word “non-citizen” substituted for “latter person”	paragraphs 6(1)(iii) and (xxiv)
subsection 5(2)	Word “of” before the word “any” omitted	paragraphs 6(1)(iii) and (xxiv)

Provision	Particulars of amendments	Authority for amendment
subsection 5(3)	Comma inserted after the word “section”	paragraph 6(1)(xvi)
section 7	In the shoulder note, word “ Issuance ” substituted for “ Issue ”	paragraphs 6(1)(iii) and (xxiv)
section 8	Words “such non-citizen” substituted for “such person”	paragraphs 6(1)(iii) and (xxiv)
section 9	Omitted	subparagraph 6(1)(i)(aa)
section 10	Renumbered as section 9	paragraph 6(1)(xii)
paragraph 10(1)(a)	Omitted	subparagraph 6(1)(i)(aa)
paragraph 10(1)(b)	Transposed into subsection 9(1) after the words “the Director General” with consequential alterations made	paragraphs 6(1)(xiii), (xvi) and (xxiv)
subsection 10(2)	Words “whatsoever,” omitted	paragraphs 6(1)(xvi) and (xxi)
section 11	Renumbered as section 10	paragraph 6(1)(xii)
section 12	Renumbered as section 11	paragraph 6(1)(xii)
section 13	Renumbered as section 12	paragraph 6(1)(xii)
subsection 13(2)	Comma after the word “business” omitted	paragraph 6(1)(xvi)
subsection 13(3)	Comma inserted after the word “(2)”	paragraph 6(1)(xvi)
section 14	Renumbered as section 13	paragraph 6(1)(xii)
section 15	Renumbered as section 14	paragraph 6(1)(xii)
subsection 15(1)	Words “the matter” substituted for “the same”	paragraphs 6(1)(iii) and (xxiv)
subsection 15(3)	1. Words “referred to in subsection (1),” substituted for “aforesaid”	paragraphs 6(1)(xvi) and (xxi)
	2. Comma inserted after the words “his employment permit”	paragraph 6(1)(xvi)
subsection 15(4)	Words “referred to in subsection (1)” substituted for “aforesaid”	paragraphs 6(1)(xvi) and (xxi)
section 16	1. Renumbered as section 15	paragraph 6(1)(xii)

Provision	Particulars of amendments	Authority for amendment
	2. Word “of” before the words “any rules” omitted	paragraph 6(1)(xv)
	3. Words “under this Act” substituted for “thereunder”	paragraph 6(1)(xxiv)
	4. Word “either” omitted	paragraph 6(1)(xxi)
	5. Word “to” inserted before the word “both”	subparagraph 6(1)(iv)(b)
section 17	Renumbered as section 16	paragraph 6(1)(xii)
section 18	Renumbered as section 17	paragraph 6(1)(xii)
subsection 18(1)	1. Comma after the word “person” omitted	paragraph 6(1)(xvi)
	2. Words “section 12” substituted for “section 13”	paragraph 6(1)(xix)
	3. Words “commits an offence and shall,” substituted for “shall be guilty of an offence and shall”	subparagraph 6(1)(iv)(b)
	4. Comma after the word “conviction” inserted	subparagraph 6(1)(iv)(b)
	5. Word “to” inserted before the word “both”	subparagraph 6(1)(iv)(b)
subsection 18(2)	1. Word “commits” substituted for “shall be guilty of”	subparagraph 6(1)(iv)(b)
	2. Comma inserted after the words “shall” and “conviction”	subparagraph 6(1)(iv)(b)
	3. Word “for” substituted for “to” after the word “imprisonment”	subparagraph 6(1)(iv)(b)
	4. Word “to” inserted before the word “both”	subparagraph 6(1)(iv)(b)
subsection 18(3)	1. Words “the provisions of” inserted after the words “contrary to”	paragraph 6(1)(xxiv)
	2. Words “under this Act” substituted for “thereunder”	paragraph 6(1)(xxi)

Provision	Particulars of amendments	Authority for amendment
	3. Words “on conviction, be liable, if no penalty is expressly provided,” substituted for “if no penalty is expressly provided, be liable on conviction”	subparagraph 6(1)(iv)(b) and paragraphs 6(1)(iii), (xiii) and (xvi)
	4. Word “to” inserted before the word “both”	subparagraph 6(1)(iv)(b)
subsection 18(3) - proviso	Words “paragraph 13(2)(a)” substituted for “paragraph 14(2)(a)”	paragraph 6(1)(xix)
section 19	1. In the shoulder note, words “ section 9 ” substituted for “ section 10 ”	paragraph 6(1)(xix)
	2. Renumbered as section 18	paragraph 6(1)(xii)
	3. Words “section 9” substituted for “section 10”	paragraph 6(1)(xix)
	4. Words “such non-citizen” substituted for “such person”	paragraphs 6(1)(iii) and (xxiv)
section 20	Renumbered as section 19	paragraph 6(1)(xii)
paragraph 20(1)(a)	1. Word “visiting forces” substituted for “Visiting Forces”	paragraph 6(1)(iii)
	2. Semicolon substituted for full stop	paragraph 6(1)(xvi)
paragraph 20(1)(b)	Semicolon substituted for full stop	paragraph 6(1)(xvi)
paragraph 20(1)(c)	1. Words “the Schedule” substituted for “Part II or Part III of the First Schedule”	paragraph 6(1)(xxi)
	2. Words “Diplomatic Privileges (Vienna Convention) Act 1966 [Act 636] and in the Schedule to the Consular Relations (Vienna Convention) Act 1999 [Act 595] have been conferred under those Acts” substituted for “Diplomatic and Consular Privileges Ordinance 1957 [Ord. 53 of 1957] have been conferred under that Ordinance”	paragraph 6(1)(xix)

Provision	Particulars of amendments	Authority for amendment
paragraph 20(1)(d)	1. Word “visiting force” substituted for “Visiting Force”	paragraph 6(1)(iii)
	2. Semicolon substituted for full stop	paragraph 6(1)(xvi)
paragraph 20(1)(e)	1. Word “organization” substituted for “organisation”	paragraph 6(1)(xxiv)
	2. Words “section 3A” substituted for “section 4”	paragraph 6(1)(xix)
	3. Words “Diplomatic Privileges (Vienna Convention) Act 1966” substituted for “Diplomatic and Consular Privileges Ordinance 1957”	paragraph 6(1)(xix)
	4. Word “and” inserted at the end of paragraph (e)	paragraph 6(1)(iii)
subsection 20(2)	Word “order” substituted for “Order”	paragraph 6(1)(xxiv)
section 21	Renumbered as section 20	paragraph 6(1)(xii)
paragraph 21(i)	Words “the provisions of” omitted	paragraph 6(1)(xxi)
paragraph 21(j)	Word “and” inserted after the word “offence;”	paragraph 6(1)(iii)
Schedule	Words “undertaking,” substituted for “undertaking whatsoever”	paragraphs 6(1)(xvi) and (xxi)