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CONSTITUTION OF BRUNEI DARUSSALAM
{Order made under Article 83(3)}

TABUNG AMANAH PEKERJA ACT (AMENDMENT) ORDER, 2015

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TABUNG AMANAH PEKERJA ACT (AMENDMENT) ORDER, 2015

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation.

1. This Order may be cited as the Tabung Amanah Pekerja Act (Amendment) Order, 2015.

Amendment of section 2 of Chapter 167.

2. Section 2 of the Tabung Amanah Pekerja Act, in this Order referred to as the Act, is amended by inserting the following new definitions in the appropriate alphabetical order —

“Chairman” means the Chairman of the Board referred to in section 4(1)(a);

“Chief Executive” means the Chief Executive referred to in section 4(13);

“Deputy Chairmen” means the Deputy Chairmen of the Board referred to in section 4(1)(b);

“Managing Director” means the Managing Director appointed under section 3A;”.

Insertion of new sections 5B, 5C and 5D.

3. The Act is amended by inserting three new sections immediately after section 5A —

“Power to examine persons.

5B. (1) Without prejudice to section 5(3), an inspector or any of the officers referred to in section 5(2), in the course of an inspection under section 5(3), may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) Such person shall be legally bound to answer the questions truthfully relating to such case put to him by such inspector or any of the officers referred to in section 5(2), but may refuse to answer any questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) A statement made by any person under the provisions of this section shall be read over to him and shall, after correction if necessary, be signed by him.

(4) Any person who obstructs an inspector or any of the officers referred in this section is guilty of an offence.

Power to assess contributions based on information available.

5C. (1) An inspector may assess any contributions which is due by any employer based on any information available if the employer —

(a) fails to keep or maintain any statement, particulars, register book or any record pertaining to each employee as required to be performed by him under this Act; or

(b) fails or refuse to submit any statement, particulars, register book or record pertaining to each employee as required to be submitted by him under this Act.

(2) The assessment made under subsection (1) shall be sufficient proof of the Board's claim for the summary recovery of any contributions under section 31A.

Powers of Chief Executive to require information and application for search warrant.

5D. (1) For the purposes of obtaining full information for ascertaining whether any person is liable to pay contributions under this Act, the Chief Executive may, by notice in writing, require any person —

(a) to furnish the Chief Executive within a time specified in the notice not being less than 30 days from the date of such notice any information or particulars specified in the notice;

(b) to attend personally before the Chief Executive or any person authorised in that behalf by the Chief Executive and produce for examination all books, accounts, records and other documents which the Chief Executive or authorised officer deems necessary; or

(c) to furnish the information or particulars in accordance with paragraph (a) and also to attend in accordance with paragraph (b).

(2) Where a person is found guilty of an offence under subsection (4)(a), the court before which the person is found guilty shall order such person to comply with the notice of the Chief Executive under subsection (1) within 21 days from the date of the order of the court.

(3) Whenever it appears to any court, upon written information on oath, and after any enquiry it may think necessary, that there are reasonable grounds for suspecting that there are on particular premises any book, account, record or other document the production of which has been required pursuant to subsection (1) and which has not been produced in compliance with that requirement, such court may issue a warrant authorising the Chief Executive or any person named therein with or without assistance —

(a) to search the premises and to break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises; and

(b) to take possession of, or secure against interference, any book, account, record or other document that appear to be the book, account, record or other document the production of which was so required.

(4) Any person who —

(a) fails to comply with subsection (1); or

(b) obstructs the Chief Executive or any person named therein referred to in subsection (3),

is guilty of an offence.”.

Amendment of section 16.

4. Section 16 of the Act is amended —

(a) in subsection (1) —

(i) by deleting “approved scheme” from the third line and by substituting “scheme approved by the Minister” therefor;

(ii) by deleting “the ordinary account of that person” from the last line and by substituting “such account of that person as the Minister may direct” therefor;

(b) by inserting the following new subsection immediately after subsection (1) —

“(1A) Any cash grant paid into the Fund under subsection (1) shall be disbursed in accordance with the terms and conditions of the cash grant.”;

(c) in subsection (3), by inserting “and conditions” immediately after “terms” in the fifth line.

Amendment of section 17.

5. Section 17 of the Act is amended, in subsection (1), by inserting “in his ordinary account” immediately after “Fund” in the second line.

Substitution of section 25.

6. Section 25 of the Act is repealed and the following new section substituted therefor —

“Offences by bodies corporate etc.

25. Where an offence against this Order or any regulations or rules made thereunder committed by a body corporate, partnership, association or other body of persons is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of that body corporate, partnership, association or other body of persons, or any person who was purporting to act in that capacity, he as well as that body corporate, partnership, association or other body of persons is guilty of that offence and liable to be proceeded against and punished accordingly.”.

Amendment of section 30.

7. Section 30 of the Act is amended, by deleting “is prescribed by the Board” from the third line and by substituting “it may authorise” therefor.

Insertion of new section 31B.

8. The Act is amended by inserting the following new section immediately after section 31A —

“Joint and several liability on directors etc.

31B. (1) Where any contributions remaining unpaid by a body corporate, partnership, association or body of persons, then, notwithstanding anything to the contrary in this Act or any other written law, the directors or former directors of such body corporate, or the partners or former partners of such partnership, or the members of such association or body of persons or the office bearers of such association or body of persons, as the case may be, during such period in which contributions were liable to be paid, shall together with the body corporate, partnership, association or body of persons liable to pay contributions, be jointly and severally liable for the contributions due and payable to the fund.

(2) In this section, “contributions” includes any dividend, service charge and penalties due on any contributions, charged by the Board under this Act or any regulations or rules made thereunder.”.

Made this 23rd. day of Jamadilakhir, 1436 Hijriah corresponding to the 13th. day of April, 2015 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM