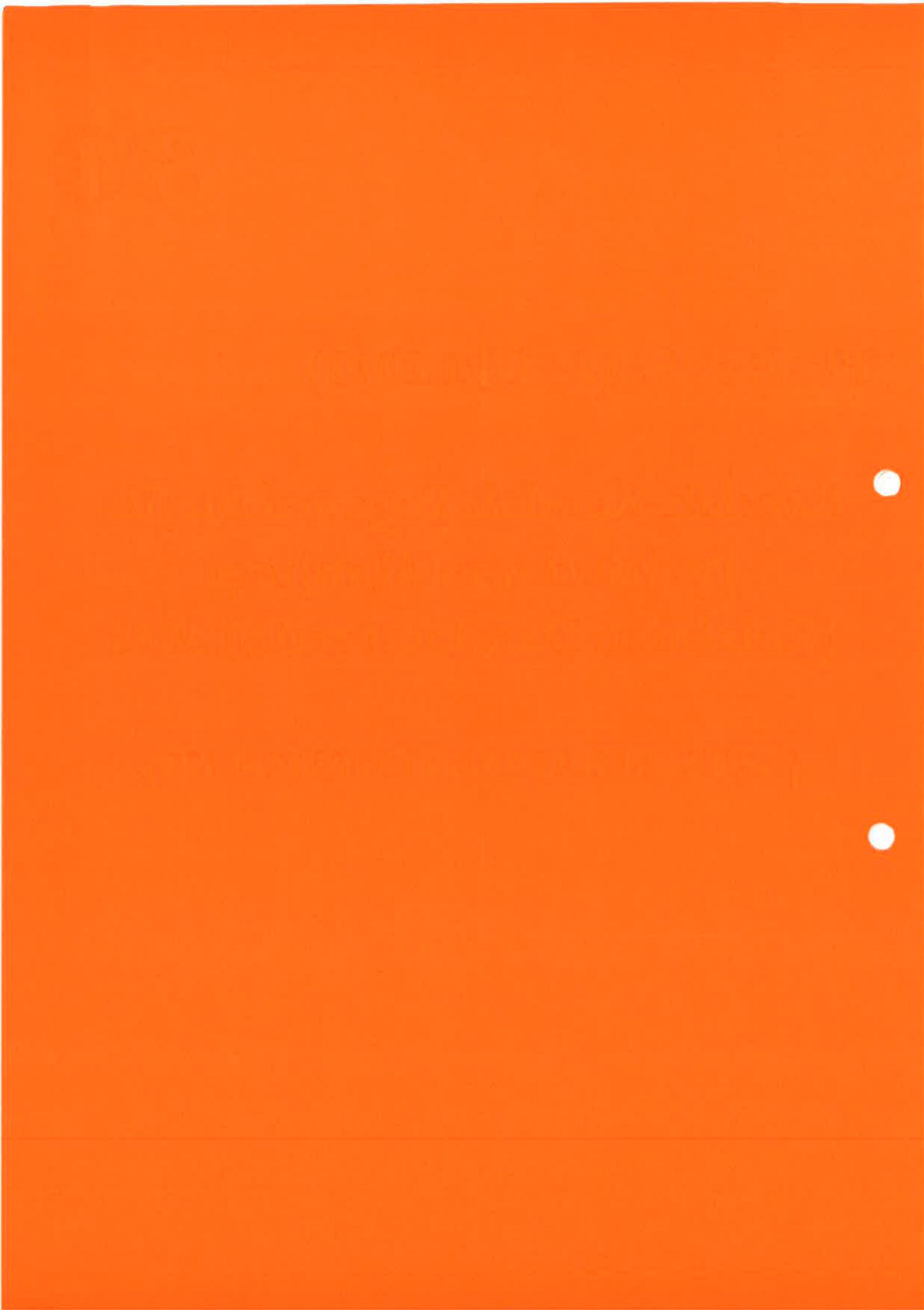


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Pk. P.U. 53 (24 Okt 2013)

**Kaedah-Kaedah Pegawai Majlis
Perbandaran Manjung
(Kelakuan Dan Tatatertib) 2013**

(AKTA KERAJAAN TEMPATAN 176)





NEGERI PERAK

Warta Kerajaan

DITERBITKAN DENGAN KUASA

GOVERNMENT OF PERAK GAZETTE

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AKTA KERAJAAN TEMPATAN 1976

KAEDAH-KAEDAH PEGAWAI MAJLIS PERBANDARAN MANJUNG
(KELAKUAN DAN TATATERTIB) 2013

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JADUAL

AKTA KERAJAAN TEMPATAN 1976
KAEDAH-KAEDAH PEGAWAI MAILIS PERBANDARAN MANJUNG
(KELAKUAN DAN TATATERTIB) 2013

PADA menjalankan kuasa yang diberikan oleh subseksyen 17(1) Akta Kerajaan Tempatan 1976 [*Akta 171*], Majlis Perbandaran Manjung dengan kelulusan Pihak Berkuasa Negeri membuat kaedah-kaedah yang berikut:

BAHAGIAN I
PERMULAAN

Nama

1. Kaedah-kaedah ini bolehlah dinamakan **Kaedah-Kaedah Pegawai Majlis Perbandaran Manjung (Kelakuan dan Tataterib) 2013**.

Tafsiran

2. Dalam Kaedah-Kaedah ini, melainkan jika konteksnya menghendaki makna yang lain—

“anak” ertinya anak bagi seseorang pegawai yang di bawah tanggungannya. termasuk:

- (a) anak yang lahir selepas kematian, anak tiri tanggungan dan anak tak sah taraf pegawai itu;
- (b) anak yang dambil sebagai anak angkat oleh pegawai itu di bawah mana-mana undang-undang bertulis yang berhubung dengan pengangkatan atau di bawah mana-mana adat atau kelaziman, dengan keterangan yang memuaskan mengenai pengangkatan itu; dan
- (c) anak tidak kira apa jua umurnya, yang cacat otak atau hilang upaya dari segi jasmani dan secara kekal dan yang tidak berupaya menanggung dirinya sendiri;

“disabitkan” atau “sabitan”, berhubung dengan seseorang pegawai, ertinya suatu dapatan oleh Mahkamah, di bawah undang-undang bertulis, bahawa pegawai itu bersalah atas suatu kesalahan jenayah:

“emolumen” ertinya segala saraan dalam bentuk wang yang kena dibayar kepada seseorang pegawai dan termasuklah gaji pokok, imbuhan tetap, bayaran insentif dan elau bulanan lain;

“gaji” ertinya gaji pokok seseorang pegawai;

“institusi kewangan” ertinya bank atau institusi kewangan yang dilesenkan di bawah Akta Bank dan Institusi Kewangan 1989 [*Akta 372*] atau bank Islam yang dilesenkan di bawah Akta Perbankan Islam 1983 [*Akta 276*] atau mana-mana bank yang ditubuhkan di bawah mana-mana undang-undang bertulis;

“Jawatankuasa Rayuan Tataterib” ertinya Jawatankuasa Rayuan Tataterib yang berkenaan yang ditubuhkan di bawah Kaedah-Kaedah Jawatankuasa Tataterib Majlis Perbandaran Manjung 2013;

“Jawatankuasa Tatatertib” ertinya Jawatankuasa Tatatertib yang berkenaan yang ditubuhkan di bawah Kaedah-Kaedah Jawatankuasa Tatatertib Majlis Perbandaran Manjung 2013;

“Ketua Jabatan” ertinya seseorang pegawai yang mengetuai sesuatu jabatan mengikut senarai jawatan yang diluluskan oleh Pihak Berkuasa Negeri atau yang diberi kuasa oleh Majlis untuk melaksanakan tanggungjawab untuk mengetuai sesuatu jabatan;

“Koperasi” ertinya koperasi yang didaftarkan di bawah Akta Koperasi 1993 [Akta 502].

“Mahkamah” ertinya mahkamah, termasuklah Mahkamah Syariah, yang mempunyai bidang kuasa wibawa di bawah mana-mana undang-undang bertulis untuk membicarakan seseorang bagi sesuatu kesalahan jenayah;

“Majlis” ertinya Majlis Perbandaran Manjung;

“pegawai” ertinya seseorang pegawai Majlis yang dilantik secara tetap, kontrak atau sementara; dan

“penanggung insurans” ertinya penanggung insurans yang dilesenkan di bawah Akta Insurans 1996 [Akta 553] atau pengendali takaful yang didaftarkan di bawah Akta Takaful 1984 [Akta 312].

Pemakaian

3. Kaedah-kaedah ini hendaklah terpakai bagi seseorang pegawai Majlis.

BAHAGIAN II

KEWAJIPAN MEMATUHI KAEDAH-KAEDAH

Kewajipan mematuhi Kaedah-Kaedah

4. (1) Seseorang pegawai hendaklah mematuhi peruntukan-peruntukan kaedah-kaedah ini.

(2) Pelanggaran mana-mana peruntukan dalam Kaedah-Kaedah ini oleh seseorang pegawai boleh menyebabkannya dikenakan tindakan tatatertib menurut Kaedah-Kaedah ini.

Tugas untuk menjalankan kawalan dan pengawasan tatatertib

5. (1) Seseorang pegawai hendaklah menjalankan kawalan dan pengawasan tatatertib ke atas pegawai bawahannya dan mengambil tindakan yang sesuai dengan seberapa segera yang mungkin bagi apa-apa pelanggaran mana-mana peruntukan Kaedah-Kaedah ini.

(2) Seseorang pegawai yang gagal untuk menjalankan kawalan dan pengawasan ke atas pegawai bawahannya, atau untuk mengambil tindakan terhadap pegawai bawahannya yang melanggar mana-mana peruntukan kaedah-kaedah ini hendaklah disifatkan cuai dalam melaksanakan tugasnya dan tidak bertanggungjawab, dan dia boleh dikenakan tindakan tatatertib.

Kegagalan memberi dan mematuhi aku janji

6. (1) Seseorang pegawai yang gagal memberi aku janji seperti yang telah ditetapkan di dalam Jadual I dan setelah dikehendaki berbuat demikian oleh Jawatankuasa Tatatertib yang berkenaan atau Ketua Jabatannya adalah melakukan suatu pelanggaran tatatertib dan boleh dikenakan tindakan tatatertib menurut Kaedah-Kaedah ini.

(2) Tanpa menjelaskan subkaedah 4(2), seseorang pegawai yang setelah memberikan akujanji yang dirujuk dalam subkaedah (1), gagal mematuhi termasuknya akujanji itu melakukan suatu pelanggaran tatatertib dan boleh dikenakan tindakan tatatertib menurut Kaedah-Kaedah ini.

BAHAGIAN III
TATAKELAKUAN

Tatakelakuan

7. (1) Seseorang pegawai hendaklah pada setiap masa memberikan taat setianya kepada Yang di-Pertuan Agong, Kerajaan Negeri, Negara dan Majlis.

(2) Seseorang pegawai tidak boleh—

- (a) membelaikan tugas rasminya demi kepentingan peribadinya;
- (b) berkelakuan dengan sedemikian cara yang mungkin menyebabkan kepentingannya peribadinya bercanggah dengan tugas rasminya;
- (c) berkelakuan dengan apa-apa cara yang mungkin menyebabkan syak yang munasabah bahawa—
 - (i) dia telah membiarkan kepentingan peribadinya bercanggah dengan tugas rasminya sehingga menjelaskan kegunaannya sebagai seorang pegawai Majlis; atau
 - (ii) dia telah menggunakan kedudukan rasminya bagi faedahnya sendiri;
- (d) berkelakuan dengan sedemikian cara sehingga memburukkan nama atau mencemarkan nama Majlis;
- (e) kurang cekap atau kurang berusaha;
- (f) tidak jujur atau tidak amanah;
- (g) tidak bertanggungjawab;
- (h) membawa atau cuba membawa apa-apa bentuk pengaruh atau tekanan luar untuk menyokong atau memajukan apa-apa tuntutan berhubung dengan atau terhadap Majlis, sama ada tuntutan itu adalah tuntutannya sendiri atau tuntutan mana-mana pegawai lain;
 - (i) ingkar perintah atau berkelakuan dengan apa-apa cara yang boleh ditafsirkan dengan munasabah sebagai ingkar perintah;
 - (j) cuai dalam melaksanakan tugas-tugasnya; dan
 - (k) keluar negara tanpa mendapat kebenaran Yang Dipertua.

Gangguan seksual

8. (1) Seseorang pegawai tidak boleh melakukan gangguan seksual terhadap orang lain, iaitu, seseorang pegawai tidak boleh—

- (a) membuat cubaan untuk merapati orang lain secara seksual, atau meminta layanan seksual daripada orang itu; atau
- (b) melakukan apa-apa perbuatan yang bersifat seksual berhubung dengan orang lain, dalam keadaan yang, setelah mengambil kira segala hal keadaan, akan menyebabkan seseorang yang waras tersinggung, terhina atau terugut.

(2) Peruntukan dalam subkaedah (1) tentang perlakuan sesuatu perbuatan yang bersifat seksual kepada orang lain—

- (a) termasuklah perbuatan sesuatu pernyataan yang bersifat seksual kepada, atau di hadapan, orang lain itu sama ada pernyataan itu dibuat secara lisan, bertulis, atau dengan apa-apa cara lain; dan
- (b) tidak terhad kepada pelakuan perbuatan itu di tempat kerja atau dalam waktu kerja sahaja selagi perlakuan itu memburukkan atau mencemarkan nama Majlis.

Pekerjaan luar

9. (1) Melainkan jika dan sekatan yang dia dikehendaki atau dibenarkan untuk berbuat demikian dalam perjalanan tugasnya, seseorang pegawai tidak boleh—

- (a) mengambil bahagian, sama ada secara langsung atau tidak langsung, dalam pengurusan atau urusan apa-apa pengusahaan komersial, pertanian atau perindustrian;
- (b) mengusahakan bagi mendapatkan upah apa-apa kerja dengan mana-mana institusi, syarikat, firma atau individu persendirian;
- (c) sebagai seorang pakar, memberikan apa-apa laporan atau memberikan apa-apa keterangan, sama ada secara percuma atau dengan dibayar upah; atau
- (d) bertugas sebagai seorang wasi, pentadbir atau penerima.

(2) Walau apa pun subkaedah (1), seseorang pegawai boleh, dengan terlebih terdahulu mendapat kebenaran bertulis daripada Yang Dipertua, menjalankan mana-mana aktiviti atau melaksanakan mana-mana perkhidmatan yang dinyatakan dalam subkaedah itu, sama ada bagi faedahnya atau bagi faedah saudara-maranya yang dekat atau mana-mana badan tidak mencari keuntungan yang baginya dia menjadi seorang pemegang jawatan.

(3) Dalam menimbangkan sama ada wajar atau tidak kebenaran patut diberikan kepada mana-mana pegawai di bawah subkaedah (2), Yang Dipertua hendaklah memberikan perhatian kepada tatakelakuan yang ditetapkan dalam kaedah 7 dan hendaklah memastikan bahawa aktiviti atau perkhidmatan itu—

- (a) tidak dilakukan dalam waktu pejabat dan semasa pegawai itu dikehendaki melaksanakan tugas rasmiya;

(b) tidak akan dengan apa-apa cara cenderung menjelaskan kebergunaan pegawai itu sebagai seorang pegawai Majlis; dan

(c) tidak akan dengan apa-apa cara cenderung bercanggah dengan kepentingan perkhidmatan Majlis atau tidak selaras dengan kedudukan pegawai itu sebagai seorang pegawai Majlis.

(4) Kecuali sebagaimana yang ditetapkan selainnya oleh Majlis, segala jumlah wang yang diterima oleh seseorang pegawai sebagai saraan kerana menjalankan mana-mana aktiviti atau melaksanakan mana-mana perkhidmatan yang disebut dalam subkaedah (1) hendaklah dideposit dengan Majlis sementara menunggu keputusan Majlis tentang amaun, jika ada, yang boleh disimpan oleh pegawai itu sendiri dan oleh mana-mana pegawai lain yang membantu pegawai itu dalam menjalankan aktiviti atau melaksanakan perkhidmatan itu.

Etika pakaian

10. (1) Seseorang pegawai semasa bertugas hendaklah sentiasa berpakaian dengan sepatutnya mengikut apa-apa cara yang ditentukan oleh Majlis melalui arahan yang dikeluarkan dari semasa ke semasa oleh Majlis.

(2) Seseorang pegawai yang dikehendaki menghadiri sesuatu upacara rasmi hendaklah berpakaian sebagaimana yang ditetapkan bagi upacara itu, dan jika etika pakaian bagi upacara itu tidak ditentukan, dia hendaklah berpakaian yang sesuai bagi upacara itu.

Dadah

11. (1) Seseorang pegawai tidak boleh menggunakan atau mengambil apa-apa dadah berbahaya, kecuali sebagaimana yang dipreskripsikan untuk diguna atau diambilnya bagi maksud perubatan oleh pengamal perubatan yang didaftarkan di bawah Akta Perubatan 1971 [*Akta 50*], atau menyalahgunakan atau menagih apa-apa jenis dadah berbahaya.

(2) Jika seseorang Pegawai Perubatan Kerajaan memperakui dalam borang yang ditetapkan dalam Jadual II bahawa seseorang pegawai menggunakan atau mengambil, selain bagi maksud perubatan, suatu dadah berbahaya atau menyalahgunakan atau menagih suatu dadah berbahaya, pegawai itu boleh dikenakan tindakan tata tertib dengan tujuan buang kerja.

(3) Walau apa pun subkaedah (2), perkhidmatan seseorang pegawai yang telah diperakui oleh seorang Pegawai Perubatan Kerajaan menggunakan atau mengambil, selain bagi maksud perubatan, suatu dadah berbahaya atau menyalahgunakan atau menagih suatu dadah berbahaya boleh ditamatkan demi kepentingan awam di bawah kaedah 59 dengan syarat pegawai itu telah mencapai umur persaraan pilihan yang ditentukan oleh Majlis pada masa itu.

(4) Bagi maksud kaedah ini, "dadah berbahaya" ertiinya apa-apa dadah atau bahan yang disenaraikan dalam Jadual Pertama kepada Akta Dadah Berbahaya 1952 [*Akta 234*].

Hadiyah, dsb.

12. (1) Tertakluk kepada peruntukan kaedah ini, seseorang pegawai tidak boleh menerima atau memberikan dan tidak boleh membenarkan isteri atau suaminya

atau mana-mana orang lain untuk menerima atau memberikan bagi pihaknya apa-apa hadiah, sama ada dalam bentuk zahir atau selainnya, daripada atau kepada mana-mana orang, persatuan, badan atau kumpulan orang jika penerimaan atau pemberian hadiah itu dalam apa-apa segi mempunyai kaitan, sama ada secara langsung atau tidak langsung, dengan tugas rasminya.

(2) Yang Dipertua, jika difikirkannya patut, membenarkan pegawai itu untuk menerima suatu surat pujian daripada mana-mana orang, persatuan, badan atau kumpulan orang sempena persaraan atau pertukaran pegawai itu asalkan surat pujian itu tidak terkandung dalam suatu bekas yang bernilai.

(3) Ketua Jabatan boleh membenarkan pemungutan sumbangan secara spontan oleh pegawai-pegawai di bawah jagaannya bagi maksud pemberian hadiah kepada seseorang pegawai dalam Jabatannya sempena persaraan, pertukaran atau perkahwinan pegawai itu atau apa-apa peristiwa lain yang sesuai.

(4) Jika hal keadaan menyebabkan sukar bagi seseorang pegawai untuk menolak sesuatu hadiah atau cenderamata yang bernilai, yang penerimaannya dilarang oleh peraturan ini, hadiah itu bolehlah diterima secara rasmi tetapi pegawai itu hendaklah, dengan seberapa segera yang praktik, mengemukakan suatu laporan bertulis kepada Yang Dipertua yang mengandungi perihalan lengkap dan anggaran nilai hadiah itu dan hal keadaan hadiah itu diterima.

(5) Apabila diterima laporan yang dibuat di bawah subkaedah (4) Yang Dipertua hendaklah—

- (a) membenarkan pegawai itu menyimpan hadiah itu; atau
- (b) mengarahkan supaya hadiah itu dikembalikan melalui Ketua Jabatan itu, kepada pemberinya.

Keraian

13. Seseorang pegawai boleh memberi atau menerima daripada mana-mana orang apa-apa jenis keraian jika—

- (a) keraian itu tidak dalam apa-apa cara mempengaruhi pelaksanaan tugas-tugasnya sebagai seorang pegawai Majlis untuk kepentingan orang itu; dan
- (b) pemberian atau penerimaan keraian itu tidak dalam apa-apa cara menjadi tidak selaras dengan kaedah 7.

Pemunyaan harta

14. (1) Seseorang pegawai hendaklah, apabila dilantik atau pada bila-bila masa selepas itu sebagaimana yang dikehendaki oleh Majlis, mengisyiharkan secara bertulis kepada Yang Dipertua segala harta yang dipunyai olehnya atau oleh isteri atau suaminya atau anaknya atau yang dipegang oleh mana-mana orang bagi pihaknya atau bagi pihak isteri atau suaminya atau anaknya.

(2) Seseorang pegawai yang tidak mempunyai apa-apa harta hendaklah membuat sesuatu perisyiharan secara bertulis yang menyatakan sedemikian.

(3) Jika, selepas membuat sesuatu perisyiharan di bawah subkaedah (1) seseorang pegawai atau isteri atau suaminya atau anaknya memperoleh apa-apa

harta, sama ada secara langsung atau tidak langsung, atau apa-apa harta yang telah diperoleh olehnya atau oleh isteri atau suaminya atau anaknya dilupuskan, pegawai itu hendaklah dengan segera mengisyiharkan pemerolehan atau pelupusan harta itu kepada Yang Dipertua.

(4) Jika seseorang pegawai atau isteri atau suaminya atau anaknya bercadang hendak memperoleh apa-apa harta, dan pemerolehan itu adalah tidak selaras dengan kaedah 7, pemerolehan itu tidak boleh dibuat tanpa terlebih dahulu mendapat kebenaran bertulis daripada Yang Dipertua.

(5) Dalam memutuskan sama ada atau tidak hendak memberikan kebenaran di bawah subkaedah (4), Yang Dipertua hendaklah mengambil kira perkara-perkara yang berikut:

- (a) saiz, amaun atau nilai harta itu berbanding dengan emolumen pegawai itu dan apa-apa pendapatan persendirian yang sah;
- (b) sama ada pemerolehan atau pemegangan harta itu akan atau mungkin akan bercanggah dengan kepentingan Majlis, atau dengan kedudukan pegawai itu sebagai seorang pegawai Majlis, atau dengan apa-apa cara menjadi tidak selaras dengan kaedah 7; dan
- (c) apa-apa faktor lain yang dianggap perlu oleh Yang Dipertua bagi menjaga keutuhan dan kecekapan Majlis.

(6) Yang Dipertua hendaklah, jika dia berpuas hati dengan perisytiharan harta yang dibuat oleh pegawai itu, mengarahkan supaya ia dicatatkan di dalam rekod perkhidmatan pegawai itu bahawa perisytiharan sedemikian telah dibuat.

(7) Tiap-tiap perisytiharan di bawah subkaedah (1) hendaklah dikategorikan sebagai terperingkat dan tiap-tiap orang yang memperoleh maklumat di bawah kaedah ini tentang apa-apa perisytiharan sedemikian hendaklah mematuhi tatacara dan peraturan-peraturan berkenaan dengan pengurusan dokumen terperingkat Majlis.

(8) Dalam kaedah ini, "harta" termasuklah harta daripada apa-apa perihalan, sama ada harta alih atau harta tak alih, yang ditetapkan dari semasa ke semasa oleh Yang Dipertua.

Menyenggara taraf kehidupan yang melebihi emolumen dan pendapatan persendirian yang sah

15. (1) Jika Yang Dipertua berpendapat bahawa seseorang pegawai adalah atau tampaknya—

- (a) menyenggara suatu taraf kehidupan yang melebihi emolumen dan pendapatan persendirianya yang lain yang sah, jika ada; atau
- (b) mengawal atau memiliki sumber-sumber kewangan atau harta, sama ada harta alih atau harta tak alih yang nilainya tidak seimbang dengan, atau yang tidak boleh semunasabahnya dijangka telah diperoleh oleh pegawai itu dengan emolumennya dan apa-apa pendapatan persendirianya yang lain yang sah.

Yang Dipertua hendaklah, melalui notis bertulis, menghendaki pegawai itu supaya memberikan penjelasan bertulis dalam tempoh tiga puluh hari dari tarikh

penerimaan notis itu tentang bagaimana dia dapat menyenggara taraf kehidupan sedemikian atau bagaimana dia telah mendapat sumber-sumber kewangannya atau harta itu.

(2) Yang Dipertua hendaklah, apabila menerima penjelasan di bawah subkaedah (1) atau, jika pegawai itu tidak memberikan apa-apa penjelasan dalam tempoh yang ditentukan, apabila tempoh itu tamat, melaporkan hakikat ini kepada Jawatankuasa Tatatertib yang berkenaan berserta dengan penjelasan pegawai itu, jika ada.

(3) Apabila laporan di bawah subkaerah (2) diterima, Jawatankuasa Tatatertib boleh mengambil tindakan tatatertib terhadap pegawai itu atau mengambil apa-apa tindakan lain terhadap pegawai itu sebagaimana yang difikirkan patut oleh Jawatankuasa Tatatertib itu.

Meminjam wang

16. (1) Tiada pegawai boleh meminjam daripada mana-mana orang atau menjadi penjamin kepada mana-mana peminjam, atau dengan apa-apa cara meletakkan dirinya di bawah suatu obligasi kewangan kepada mana-mana orang—

- (a) yang secara langsung atau tidak langsung tertakluk kepada kuasa rasminya;
- (b) yang dengannya pegawai itu ada atau mungkin ada urusan rasmi;
- (c) yang tinggal atau memiliki tanah atau menjalaukan perniagaan di dalam kawasan tempatan tempat dia mempunyai kuasa rasmi; atau
- (d) yang menjalankan perniagaan pemberian pinjaman wang.

(2) Walau apa pun subkaerah (1), seseorang pegawai boleh meminjam wang daripada atau menjadi penjamin kepada mana-mana orang yang meminjam wang daripada, mana-mana institusi kewangan, penanggung insurans atau koperasi, atau menanggung hutang dengan cara pemerolehan barang-barang melalui perjanjian sewa beli, jika—

- (a) institusi kewangan, penanggung insurans atau koperasi yang daripadanya pegawai itu meminjam tidaklah secara langsung tertakluk kepada kuasa rasminya.
- (b) peminjam itu tidak dan tidak akan membawa kepada skandal awam dan tidak boleh ditafsirkan sebagai suatu penyalahgunaan oleh pegawai itu kedudukan rasmi pegawai itu untuk faedah peribadinya; dan
- (c) agregat hutangnya tidak atau tidak mungkin menyebabkan pegawai itu berada dalam keterhutangan kewangan yang serius sebagaimana yang ditakrifkan di bawah subkaerah 17(7) dan (8).

(3) Tertakluk kepada subkaerah (2), seseorang pegawai boleh menanggung hutang yang berbangkit daripada—

- (a) jumlah wang yang dipinjam atas cagaran tanah yang digadaikan atau digadaijanjikan, jika jumlah wang yang dipinjamkan itu tidak melebihi nilai tanah itu;
- (b) overdraft atau kemudahan kredit lain yang diluluskan oleh institusi kewangan;

- (c) jumlah wang yang dipinjamkan daripada penanggung insurans atas cagaran polisi insurans;
- (d) jumlah wang yang dipinjam daripada Kerajaan Malaysia, Kerajaan Negeri, Majlis atau mana-mana koperasi; atau
- (e) jumlah wang yang kena dibayar atas barang-barang yang diperoleh melalui perjanjian sewa beli.

Keterhutangan kewangan yang serius

17. (1) Seseorang pegawai tidak boleh dengan apa-apa cara menyebabkan dirinya berada dalam keterhutangan kewangan yang serius.

(2) Keterhutangan kewangan yang serius kerana apa-apa jua pun sebab, selain akibat malang yang tidak dapat dielakkan yang tidak disebabkan dengan apa-apa cara oleh pegawai itu sendiri, hendaklah dianggap sebagai memburukkan nama Majlis dan hendaklah menyebabkan pegawai itu boleh dikenakan tindakan tatatertib.

(3) Jika keterhutangan kewangan yang serius telah berlaku akibat malang yang tidak dapat dielakkan, Majlis boleh memberi pegawai itu apa-apa bantuan sebagaimana yang wajar mengikut hal keadaan.

(4) Jika seseorang pegawai mendapati bahawa hutangnya menyebabkan atau mungkin menyebabkan keterhutangan kewangan yang serius kepadanya, atau suatu prosiding sivil berbangkit daripada hutang itu telah dimulakan terhadapnya, dia hendaklah dengan serta-merta melaporkan hakikat ini kepada Yang Dipertua.

(5) Seseorang pegawai yang tidak melaporkan atau lengah melaporkan keterhutangan kewangannya yang serius atau melaporkan keterhutangannya yang serius tetapi tidak mendedahkan takat keberhutangannya itu dengan sepenuhnya atau memberikan keterangan yang palsu atau yang mengelirukan mengenai keterhutangannya adalah melakukan suatu pelanggaran tatatertib dan boleh dikenakan tindakan tatatertib.

(6) Tanpa menjelaskan peruntukan-peruntukan lain dalam peruntukan ini, jika hutang pegawai itu terjumlah kepada suatu keterhutangan kewangan yang serius tetapi dia belum dihukum bankrap, Yang Dipertua hendaklah mengarahkan Ketua Jabatan memantau dan, dari semasa ke semasa, mengkaji semula kes itu.

(7) Bagi maksud kaedah ini, ungkapan "keterhutangan kewangan yang serius" ertiinya keadaan keterhutangan seseorang pegawai yang, setelah diambil kira amauu hutang yang ditanggung olehnya, telah sebenarnya menyebabkan kesusahan kewangan yang serius kepadanya.

(8) Tanpa menjelaskan pengertian am ungkapan "keterhutangan kewangan yang serius" yang dinyatakan dalam subkaedah (7), seseorang pegawai hendaklah disifatkan sebagai berada dalam keterhutangan kewangan yang serius jika—

- (a) agregat hutang dan nilai tanggungan tidak bercagarnya pada bila-bila masa tertentu melebihi sepuluh kali emolumen bulanannya;

- (b) dia ialah seorang penghutang penghakiman dan hutang penghakiman itu tidak dijelaskan dalam tempoh satu bulan dari penerimaan perintah bermeterai penghakiman itu; atau
- (c) dia ialah seorang bankrap atau seorang pemakan gaji tidak solven mengikut mana-mana yang berkenaan selagi apa-apa penghakiman terhadapnya yang memihak kepada Ketua Pengarah Insolvensi masih belum dijelaskan atau selagi tidak ada pembatalan penghukuman kebankrappannya.

(9) Walau apa pun peruntukan di bawah subkaedah (7), mana-mana pegawai boleh berhutang bagi maksud pinjaman pendidikan selagi dia tidak disytiharkan bankrap.

Laporan mengenai keterhutangan kewangan yang serius

18. (1) Pendaftar, Timbalan Pendaftar atau Penolong Kanan Pendaftar Mahkamah Tinggi dan Pendaftar Mahkamah Sesyen dan Mahkamah Majistret hendaklah berkenaan dengan apa-apa prosiding dalam mahkamah masing-masing, melaporkan kepada Ketua Jabatan yang berkenaan tiap-tiap kes mengenai pegawai—

- (a) yang selaku seorang penghutang penghakiman, didapati daripada fail guaman tidak menjelaskan hutangnya dalam tempoh satu bulan dari penerimaan perintah bermeterai penghakiman itu;
- (b) yang telah memfaikan petisyen dalam kebankrappannya sendiri atau untuk mendapatkan perintah pentadbiran pemakan gaji; atau
- (c) yang terhadapnya suatu petisyen pemutang dalam kebankrapan telah diserahkan.

(2) Ketua Pengarah Insolvensi hendaklah, sebaik sahaja dia telah menyiasat dengan secukupnya tentang hal ehwal seseorang pegawai yang menjadi seorang bankrap atau pemakan gaji yang tidak solven, menyampaikan kepada Ketua Jabatan yang berkenaan suatu laporan yang mengandungi perkara-perkara yang berikut:

- (a) pernyataan hal ehwal yang difaikkan oleh si bankrap atau pemakan gaji tidak solven itu mengikut undang-undang kebankrapan yang sedang berkuat kuasa;
- (b) amain bayaran ansuran yang diperintahkan atau yang dicadangkan dibuat;
- (c) sama ada atau tidak Ketua Pengarah Insolvensi bercadang untuk memulakan apa-apa prosiding selanjutnya dan, jika demikian, suatu pertanyaan ringkas mengenai jenis prosiding selanjutnya itu;
- (d) sebab utama kebankrapan itu;
- (e) sama ada pada pendapatnya kes itu melibatkan malang yang tidak dapat dielakkan, kelakuan hina atau apa-apa hal keadaan lain yang khas, yang memihak atau tidak memihak kepada pegawai itu; dan
- (f) apa-apa perkara lain yang difikirkannya patut.

(3) Ketua Jabatan hendaklah menghantar laporan yang diterima di bawah subkaedah (1) dan (2) berserta dengan laporannya mengenai kerja dan kelakuan

pegawai itu sebelum dan sejak keterlalutangan kewangannya yang serius kepada Jawatankuasa Tatatertib yang berkenaan.

(4) Setelah menimbangkan semua laporan itu, Jawatankuasa Tatatertib yang berkenaan hendaklah menutuskan sama ada hendak mengambil tindakan tatatertib pegawai berkenaan dan, jika demikian, apa tindakan yang hendak diambil.

(5) Jika tindakan tatatertib yang diambil di bawah subkaedah (4) berkeputusan dengan hukuman tangguh pergerakan gaji, Jawatankuasa Tatatertib yang berkenaan boleh, apabila habisnya tempoh penangguhan pergerakan gaji tersebut, memerintahkan supaya suatu amaun yang sama banyak dengan amaun yang diterima daripada pergerakan gaji yang dipulihkan itu ditambahkan kepada ansuran-ansuran yang kena dibayar kepada Ketua Pengarah Insolvensi atau kepada mana-mana pembiutang penghakiman.

(6) Seseorang pegawai yang mendapat pembatalan kebankrapannya bolehlah dikira sebagai telah memulihkan kedudukan kewangannya dengan sepenuhnya.

Meminjamkan wang

19. (1) Seseorang pegawai tidak boleh meminjamkan wang dengan faedah, sama ada dengan atau tanpa cagaran.

(2) Penyimpanan wang secara deposit tetap atau ke dalam suatu akaun dalam mana-mana institusi kewangan atau koperasi atau dalam bon yang diterbitkan oleh Kerajaan Malaysia atau Kerajaan Negeri atau mana-mana badan berkanun tidak boleh dianggap sebagai peminjaman wang dengan faedah bagi maksud kaedah ini.

Penglibatan dalam pasaran niaga hadapan

20. Tiada pegawai boleh melibatkan dirinya sebagai pembeli atau penjual atau selainnya dalam pasaran niaga hadapan tempatan atau luar negara.

Cabutan bertuah, loteri, dsb.

21. Seseorang pegawai tidak boleh mengadakan atau mengelolakan atau mengambil bahagian dalam apa-apa cabutan bertuah atau loteri selain bagi maksud kebijakan.

Penerbitan buku, dsb.

22. Seseorang pegawai tidak boleh menerbitkan atau menulis apa-apa buku, majalah atau karya lain yang berdasarkan maklumat rasmi terperingkat.

Membuat pernyataan awam

23. (1) Seseorang pegawai tidak boleh, secara lisan atau bertulis atau dengan apa-apa cara lain—

- (a) membuat apa-apa pernyataan awam yang boleh memudaratkan apa-apa dasar, rancangan atau keputusan Kerajaan Malaysia, Kerajaan Negeri atau Majlis tentang apa-apa isu;

- (b) membuat apa-apa pernyataan awam yang boleh memalukan atau memburukkan nama Kerajaan Malaysia, Kerajaan Negeri atau Majlis;
- (c) membuat apa-apa ulasan tentang kelebihan apa-apa dasar, rancangan atau keputusan Kerajaan Malaysia, Kerajaan Negeri atau Majlis; atau
- (d) mengedarkan apa-apa pernyataan atau ulasan sama ada yang dibuat olehnya atau mana-mana orang lain.

(2) Seseorang pegawai tidak boleh sama ada secara lisan atau bertulis dengan apa-apa cara lain—

- (a) membuat apa-apa ulasan tentang kelebihan apa-apa dasar, rancangan atau keputusan Kerajaan Malaysia, Kerajaan Negeri atau Majlis;
- (b) memberikan apa-apa maklumat berdasarkan fakta berhubung dengan penjalanan fungsi Majlis;
- (c) memberikan apa-apa penjelasan berkenaan dengan apa-apa peristiwa atau laporan yang melibatkan Majlis; atau
- (d) menyebarkan apa-apa ulasan, maklumat atau penjelasan sedemikian sama ada yang dibuat olehnya atau mana-mana orang lain,

melainkan jika kebenaran bertulis, sama ada secara am atau khusus, telah diperoleh terlebih dahulu daripada Yang Dipertua.

(3) Subkaedah (2) tidaklah terpakai bagi apa-apa ulasan, maklumat atau penjelasan yang dibuat, diberikan atau disebarluaskan jika kandungan ulasan, maklumat atau penjelasan itu telah diluluskan oleh Yang Dipertua.

(4) Bagi maksud kaedah ini “pernyataan awam” termasuklah apa-apa pernyataan atau ulasan yang dibuat kepada pihak akhbar atau orang ramai atau semasa memberikan apa-apa syaran atau ucapan awam atau dalam apa-apa penyiaran atau penerbitan, tanpa mengambil kira caranya.

Larangan bertindak sebagai seorang penyunting dsb., dalam mana-mana penerbitan

24. Seseorang pegawai tidak boleh bertindak sebagai penyunting bagi atau mengambil bahagian secara langsung atau tidak langsung dalam pengurusan, atau dengan apa-apa cara membuat apa-apa sumbangan kewangan atau selainnya kepada mana-mana penerbitan termasuk mana-mana surat khabar, majalah atau jurnal tanpa mengambil kira cara surat khabar, majalah atau jurnal itu diterbitkan, kecuali penerbitan yang berikut:

- (a) penerbitan jabatan;
- (b) penerbitan profesional;
- (c) penerbitan organisasi sukarela yang tidak bercorak politik; dan
- (d) penerbitan yang diluluskan secara bertulis oleh Yang Dipertua bagi maksud peruntukan ini.

Mengambil bahagian dalam politik

25. (1) Kecuali sebagaimana yang diperuntukkan dalam subkaedah (3), seseorang

pegawai dalam Kumpulan Pengurusan dan Profesional adalah dilarang mengambil bahagian aktif dalam aktiviti politik atau memakai mana-mana lambang sesuatu parti politik, dan khususnya dia tidak boleh—

- (a) membuat apa-apa pernyataan awam, sama ada secara lisan atau bertulis, yang memberikan suatu pandangan yang berat sebelah atas apa-apa perkara yang menjadi isu antara parti-parti politik;
- (b) menerbitkan atau mengedarkan buku, makalah atau risalah yang mengemukakan pandangananya yang berat sebelah atau pandangan orang lain, tentang apa-apa perkara yang berkaitan dengan mana-mana parti politik;
- (c) terlibat dalam merayu undi bagi menyokong mana-mana calon pada suatu pilihanraya umum, pilihan raya kecil, atau apa-apa pilihan raya untuk apa-apa jawatan dalam mana-mana parti politik;
- (d) bertindak sebagai ejen pilihan raya atau ejen tempat mengundi atau atas apa-apa sifat untuk atau bagi pihak seseorang calon dalam sesuatu pilihan raya bagi Dewan Rakyat atau bagi mana-mana Dewan Undangan Negeri;
- (e) masuk bertanding untuk apa-apa jawatan dalam mana-mana parti politik; atau
- (f) memegang apa-apa jawatan dalam mana-mana parti politik.

(2) Seseorang pegawai dalam Kumpulan Sokongan boleh bertanding atau memegang jawatan atau dilantik ke dalam apa-apa jawatan dalam suatu parti politik setelah terlebih dahulu mendapatkan kelulusan bertulis Yang Dipertua.

(3) Walau apa pun peruntukan subkaerah (1), seseorang pegawai yang dibenarkan bercuti sehingga ke tarikh persaraannya bagi maksud menghabiskan cutinya yang terkumpul boleh mengambil bahagian dalam aktiviti politik dengan syarat bahawa—

- (a) pegawai itu terlebih dahulu telah mendapatkan kelulusan bertulis daripada Yang Dipertua; dan
- (b) dengan penglibatan sedemikian pegawai itu tidak melanggar peruntukan Akta Rahsia Rasmi 1972 [Akta 88].

(4) Sesuatu permohonan bagi kelulusan di bawah perenggan (3)(a) hendaklah dibuat sekurang-kurangnya tiga bulan sebelum tarikh pegawai itu dibenarkan bercuti sebelum persaraannya.

(5) Tiada apa-apa jua dalam kaedah ini boleh menghalang seseorang pegawai daripada menjadi anggota biasa mana-mana parti politik.

(6) Seseorang pegawai yang telah diterima menjadi anggota biasa mana-mana parti politik hendaklah memberitahu fakta ini dengan seberapa segera yang mungkin kepada Yang Dipertua.

Memulakan prosiding undang-undang dan bantuan guaman

26. (1) Jika seseorang pegawai berkehendakkan bantuan guaman sebagaimana yang diperuntukkan di bawah subkaedah (3) pegawai itu tidak boleh memulakan prosiding undang-undang bagi kepentingan peribadinya berkaitan dengan perkara-perkara yang berbangkit daripada tugas awamnya tanpa persetujuan terlebih dahulu daripada Yang Dipertua.

(2) Seseorang pegawai yang menerima notis mengenai permulaan prosiding undang-undang atau permulaan prosiding undang-undang yang dicadangkan terhadapnya berkaitan dengan perkara-perkara yang berbangkit daripada tugas awamnya atau yang menerima apa-apa proses mahkamah berhubungan dengan prosiding undang-undang tersebut hendaklah dengan segera melaporkan perkara itu kepada Ketua Jabatan bagi mendapat arahan tentang sama ada dan bagaimana notis atau mengikut mana-mana yang berkenaan proses mahkamah itu hendaklah diakui terima, dijawab atau dibela.

(3) Seseorang pegawai yang berkehendakkan bantuan guaman untuk mengambil dan mengarah seseorang peguam bela dan peguam cara bagi maksud prosiding undang-undang berkaitan dengan perkara-perkara yang berbangkit daripada tugas rasminya boleh membuat permohonan kepada Yang Dipertua.

(4) Permohonan di bawah subkaedah (3) hendaklah mengandungi segala fakta dan hal keadaan kes itu berserta dengan pendapat Ketua Jabatannya yang telah dipertimbangkan tentang jenis penglibatan pegawai itu dan hendaklah dialamatkan dan dikemukakan kepada Yang Dipertua.

(5) Apabila diterima permohonan itu di bawah subkaedah (3), Yang Dipertua boleh melulus atau menolak permohonan itu tertakluk kepada nasihat pegawai undang-undang atau peguam bela dan peguam cara yang dilantik oleh Majlis tentang—

- (a) amaun bantuan guaman yang hendak diluluskan;
- (b) peguam bela dan peguam cara yang hendak diambil dan diarahkan oleh pegawai itu; atau
- (c) apa-apa syarat lain yang pegawai undang-undang Majlis atau peguam bela dan peguam cara yang dilantik di bawah perenggan (b) yang difikirkan baik,

dan kepada syarat tersirat selanjutnya bahawa, sekiranya pegawai itu diawardkan kos oleh Mahkamah apabila selesai prosiding undang-undang tersebut, tiada bayaran berkenaan dengan bantuan guaman yang diluluskan demikian akan dibuat oleh Majlis melainkan jika amaun kos yang diawardkan demikian kepadanya itu tidak mencukupi untuk membayar caj-caj mengambil dan mengarahkan seseorang peguam bela dan peguam cara.

(6) Caj untuk mengambil, tanpa kelulusan Yang Dipertua, khidmat seorang peguam bela dan peguam cara yang diambil dan diarah oleh atau bagi pihak seseorang pegawai dalam prosiding undang-undang berkaitan dengan perkara-perkara yang berbangkit daripada tugas rasminya tidak akan dibayar oleh Majlis.

BAHAGIAN IV
KETIDAKHADIRAN TANPA CUTI

Tidak hadir untuk bertugas

27. Dalam bahagian ini “tidak hadir”, berhubung dengan seseorang pegawai, termasuklah tidak hadir bagi apa-apa jua tempoh masa dan di tempat pegawai itu dikehendaki hadir bagi pelaksanaan tugas-tugasnya.

Tindakan tatatertib kerana tidak hadir tanpa cuti

28. Ketidakhadiran untuk bertugas oleh seseorang pegawai tanpa cuti atau tanpa terlebih dahulu mendapatkan kebenaran atau tanpa sebab yang munasabah boleh menyebabkan pegawai itu dikenakan tindakan tatatertib.

Tatacara dalam hal ketidakhadiran tanpa cuti

29. (1) Jika seseorang pegawai tidak hadir bertugas tanpa cuti atau tanpa terlebih dahulu mendapat kebenaran atau tanpa sebab yang munasabah, Ketua Jabatannya hendaklah, seberapa segera yang mungkin, melaporkan hakikat itu berserta dengan tarikh-tarikh dan hal keadaan ketidakhadiran itu dan apa-apa maklumat selanjutnya berkenaan dengan ketidakhadiran itu kepada Jawatankuasa Tatatertib yang berkenaan.

(2) Jawatankuasa Tatatertib yang berkenaan boleh, setelah menimbangkan laporan Ketua Jabatan di bawah subkaedah (1), memulakan tindakan tatatertib terhadap pegawai itu.

Tatacara jika pegawai tidak hadir tanpa cuti dan tidak dapat dikesan

30. (1) Jika seseorang pegawai tidak hadir bertugas tanpa cuti atau tanpa terlebih dahulu mendapat kebenaran atau tanpa sebab yang munasabah selama tujuh hari bekerja berturut-turut dan tidak dapat dikesan, Ketua Jabatannya hendaklah menyebabkan suatu surat diserahkan kepada pegawai itu sendiri atau dihantar melalui Pos Berdaftar Akuan Terima kepada pegawai itu di alamatnya yang akhir diketahui, mengarahkan pegawai itu supaya segera melaporkan diri untuk bertugas.

(2) Jika, selepas surat itu diserahkan—

- (a) pegawai itu melaporkan diri untuk bertugas; atau
- (b) pegawai itu tidak melaporkan diri untuk bertugas atau tiada khabar didengar daripadanya,

Ketua Jabatannya hendaklah mengemukakan suatu laporan kepada Jawatankuasa Tatatertib yang berkenaan dan Jawatankuasa Tatatertib itu hendaklah memulakan tindakan tatatertib terhadap pegawai itu.

(3) Jika surat itu tidak diserahkan kepada pegawai itu sendiri disebabkan pegawai itu tidak lagi tinggal di alamatnya yang akhir diketahui atau jika surat Pos Berdaftar Akuan Terima telah dikembalikan tidak terserah, Ketua Jabatan hendaklah melaporkan perkara itu kepada Jawatankuasa Tatatertib yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat ke atas pegawai itu.

(4) Jawatankuasa Tatatertib yang berkenaan hendaklah apabila menerima laporan yang disebutkan dalam subkaedah (3) mengambil langkah untuk menyiarkan suatu notis dalam sekurang-kurangnya satu surat khabar harian yang diterbitkan dalam bahasa kebangsaan dan mempunyai edaran di seluruh Negara sebagaimana yang ditentukan oleh Jawatankuasa Tatatertib itu—

- (a) hakikat bahawa pegawai itu telah tidak hadir bertugas dan tidak dapat dikesan; dan
- (b) menghendaki pegawai itu melaporkan diri untuk bertugas dalam masa tujuh hari dari tarikh penyiaran itu.

(5) Jika pegawai itu melaporkan diri untuk bertugas dalam masa tujuh hari dari tarikh penyiaran notis yang disebut dalam subkaedah (4), Ketua Jabatannya hendaklah melaporkan perkara itu kepada Jawatankuasa Tatatertib yang berkenaan dan Jawatankuasa Tatatertib itu hendaklah memulakan prosiding tatatertib terhadap pegawai itu.

(6) Jika pegawai itu tidak melaporkan diri untuk bertugas dalam masa tujuh hari dari tarikh penyiaran notis yang disebut dalam subkaedah (4), pegawai itu hendaklah disifatkan telah dibuang kerja daripada perkhidmatan berkuat kuasa mulai dari tarikh dia tidak hadir bertugas.

(7) Pembuangan kerja seseorang pegawai menurut kuasa subkaedah (6) hendaklah disiarkan dalam *Warta*.

(8) Tertakluk kepada kaedah 31, Ketua Jabatan boleh mengarahkan pegawai yang pada masa itu dipertanggungkan dengan tanggungjawab kewangan untuk menanggulangi apa-apa emolumen bagi tempoh yang pegawai itu tidak hadir.

Pelucutan emolumen kerana tidak hadir untuk bertugas

31. (1) Jika seseorang pegawai telah didapati bersalah kerana tidak hadir untuk bertugas tanpa cuti atau tanpa terlebih dahulu mendapat kebenaran atau tanpa sebab yang munasabah, pegawai itu tidak berhak kepada apa-apa emolumen bagi tempoh ketidakhadirannya dan segala emolumen sedemikian hendaklah disifatkan telah terlucut hak walaupun Jawatankuasa Tatatertib yang berkenaan tidak mengarahkan pelucuthakkannya itu.

(2) Seseorang pegawai yang emolumennya telah terlucut hak di bawah subkaedah (1) hendaklah diberitahu secara bertulis mengenai pelucuthakan itu di alamatnya yang akhir diketahui.

(3) Pelucuthakkkan emolumen menurut subkaedah (1) bukanlah suatu hukuman tatatertib.

BAHAGIAN V

PEGAWAI YANG TERTAKLUK KEPADA PROSIDING JENAYAH, DSB.

Tatacara jika prosiding jenayah telah dimulakan terhadap seseorang pegawai

32. (1) Seseorang pegawai hendaklah dengan segera memaklumkan Ketua Jabatannya jika apa-apa prosiding jenayah telah dimulakan terhadapnya dalam mana-mana Mahkamah.

(2) Jika prosiding jenayah dimulakan terhadap seseorang pegawai. Pendaftar Timbalan Pendaftar atau Penolong Kanan Pendaftar Mahkamah Tinggi dan Pendaftar Mahkamah Sesyen dan Mahkamah Majistret yang di dalam mahkamahnya prosiding itu dimulakan hendaklah menghantar kepada Ketua Jabatan yang di bawahnya pegawai itu sedang berkhidmat—

- (a) pada permulaan prosiding itu. suatu laporan yang mengandungi maklumat-maklumat yang berikut:
 - (i) pertuduhan atau pertuduhan-pertuduhan terhadap pegawai itu;
 - (ii) jika pegawai itu telah ditangkap. tarikh dan waktu penangkapannya;
 - (iii) sama ada atau tidak pegawai itu diikat jamin; dan
 - (iv) apa-apa maklumat lain yang berkaitan; dan
- (b) di akhir prosiding itu. keputusan Mahkamah itu dan apa-apa maklumat yang berhubungan dengan apa-apa rayuan. jika ada yang telah difaiklan oleh mana-mana pihak.

(3) Jika Ketua Jabatan tidak mendapat laporan menurut subkaedah (2) tetapi dia mengetahui dari mana-mana punca bahawa prosiding jenayah telah dimulakan dalam mana-mana Mahkamah terhadap seseorang pegawai yang sedang berkhidmat dibawahnya. Ketua Jabatan itu hendaklah mendapatkan suatu laporan yang mengandungi maklumat yang disebut dalam perenggan (2)(a) dan (b) daripada Pendaftar. Timbalan Pendaftar atau Penolong Kanan Pendaftar Mahkamah Tinggi dan Pendaftar Mahkamah Sesyen dan Mahkamah Majistret.

(4) Setelah laporan yang disebut dalam subkaedah (2) dan (3) diterima. Ketua Jabatan hendaklah mengemukakan laporan itu kepada Jawatankuasa Tatatertib yang mempunyai kuasa untuk menjatuhkan hukuman buang kerja atau turun pangkat berserta dengan syor Ketua Jabatan itu tentang sama ada pegawai itu patut ditahan daripada kerja.

(5) Setelah menimbangkan laporan dan perakuan Ketua Jabatan yang dikemukakan kepadanya di bawah subkaedah (4). Jawatankuasa Tatatertib yang berkenaan boleh. jika difikirkannya sesuai, menahan pegawai itu daripada menjalankan tugasnya.

(6) Sebaik sahaja selesai prosiding jenayah terhadap pegawai itu. Ketua Jabatannya hendaklah mendapatkan daripada Pendaftar. Timbalan Pendaftar atau Penolong Kanan Pendaftar Mahkamah Tinggi dan Pendaftar Mahkamah Sesyen dan Mahkamah Majistret yang di hadapannya kes itu diselesaikan dan mengemukakan kepada Jawatankuasa Tatatertib yang berkenaan—

- (a) keputusan Mahkamah itu; dan
- (b) maklumat berhubung dengan rayuan. jika ada yang telah difaiklan oleh pegawai itu atau Pendakwa Raya.

(7) Jika prosiding jenayah terhadap seseorang pegawai itu berkeputusan dengan pensabitannya. Jawatankuasa Tatatertib yang berkenaan yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat hendaklah. sama ada atau tidak pegawai itu merayu terhadap sabitan itu. menggantung pegawai itu

daripada menjalankan tugasnya berkuat kuasa mulai dari tarikh sabitannya sementara menunggu keputusan Jawatankuasa Tatatertib di bawah kaedah 33.

(8) Jika prosiding jenayah terhadap seseorang pegawai berkeputusan dengan pembebasannya dan tiada rayuan dibuat oleh atau bagi Pendakwa Raya terhadap pembebasan itu, pegawai itu hendaklah dibenarkan menjalankan semula tugasnya dan pegawai itu berhak untuk menerima apa-apa emolumen yang telah tidak dibayar dalam tempoh penahanan kerjanya, serta juga cuti rehat tahunan dan kelayakan lain yang pegawai itu berhak kepadanya dalam tempoh penahanan kerjanya.

(9) Jika prosiding jenayah terhadap pegawai itu berkeputusan dengan pembebasannya dan rayuan dibuat oleh Pendakwa Raya, Jawatankuasa Tatatertib yang berkenaan yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat hendaklah memutuskan sama ada wajar atau tidak pegawai itu patut terus ditahan kerja sehingga rayuan itu diputuskan.

(10) Jika prosiding jenayah terhadap seseorang pegawai berkeputusan dengan pensabitannya tetapi atas rayuan pegawai itu telah dibebaskan, pegawai itu hendaklah dibenarkan menjalankan semula tugasnya dan pegawai itu berhak untuk menerima apa-apa emolumen yang telah tidak dibayar dalam tempoh penahanan kerja atau penggantungan kerjanya atau kedua-duanya, serta juga cuti rehat tahunan dan kelayakan lain yang pegawai itu berhak kepadanya dalam tempoh penahanan kerja atau penggantungan kerjanya atau kedua-duanya.

(11) Jika prosiding jenayah terhadap seseorang pegawai berkeputusan dengan pembebasannya tetapi atas rayuan pegawai itu telah disabitkan, Jawatankuasa Tatatertib yang berkenaan yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat hendaklah menggantung pegawai itu daripada menjalankan tugasnya berkuatkuasa mulai dari tarikh sabitannya sementara menunggu keputusan Jawatankuasa Tatatertib di bawah kaedah 33.

(12) Bagi maksud kaedah ini, perkataan "pembebasan" termasuklah pelepasan yang tidak terjuumlah kepada penbebasan.

Tanggungjawab Ketua Jabatan jika pegawai telah disabitkan kerana kesalahan jenayah

33. (1) Jika prosiding jenayah terhadap seseorang pegawai berkeputusan dengan pensabitannya dan pegawai itu tidak merayu terhadap sabitan itu, atau jika rayuannya terhadap sabitan itu telah ditolak atau jika rayuan oleh Pendakwa Raya terhadap pembebasannya berkeputusan dengan pensabitannya, Ketua Jabatannya hendaklah dengan segera mendapatkan suatu salinan keputusan Mahkamah itu daripada Pendaftar, Timbalan Pendaftar atau Penolong Kanan Pendaftar Mahkamah Tinggi dan Pendaftar Mahkamah Sesyen dan Mahkamah Majistret yang olehnya pegawai itu telah disabitkan atas rayuannya telah ditolak.

(2) Apabila keputusan yang disebut dalam subkaedah (1) diterima, Ketua Jabatan hendaklah mengennakkan keputusan itu kepada Jawatankuasa Tatatertib yang berkenaan yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat berserta dengan rekod perkhidmatan pegawai itu dan perakuan Ketua Jabatan bahawa—

(a) pegawai itu patut dibuang kerja atau diturunkan pangkat;

- (b) pegawai itu patut dihukum dengan apa-apa hukuman selain buang kerja atau turun pangkat;
- (c) perkhidmatan pegawai itu patut ditamatkan demi kepentingan awam; atau
- (d) tiada hukuman patut dikenakan.

bergantung kepada jenis dan keseriusan kesalahan yang telah dilakukan berbanding dengan takat sabitan itu telah memburukkan nama Majlis.

Tindakan tatatertib tidak boleh diambil sehingga prosiding jenayah selesai

34. (1) Jika prosiding jenayah telah dimulakan terhadap seseorang pegawai dan masih belum selesai, tiada apa-apa tindakan tatatertib boleh diambil terhadap pegawai itu berasaskan alasan yang sama dengan pertuduhan jenayah dalam prosiding jenayah itu.

(2) Tiada apa-apa jua dalam subkaedah (1) boleh ditafsirkan sebagai menghalang tindakan tatatertib diambil terhadap pegawai itu sementara menunggu penyelesaian prosiding jenayah itu jika tindakan itu diasaskan pada apa-apa alasan lain yang berbangkit daripada kelakuannya dalam pelaksanaan tugasnya.

Akibat pembebasan

35. (1) Seseorang pegawai yang telah dibebaskan daripada suatu pertuduhan jenayah dalam mana-mana prosiding jenayah tidak boleh dikenakan tindakan tatatertib atas pertuduhan yang sama.

(2) Tiada apa-apa jua dalam subkaedah (1) boleh ditafsirkan sebagai menghalang tindakan tatatertib diambil terhadap pegawai itu atas apa-apa alasan lain yang berbangkit daripada kelakuannya berhubung dengan pertuduhan jenayah itu, sama ada atau tidak berkaitan dengan pelaksanaan tugasnya, selagi alasan-alasan bagi tindakan tatatertib itu tidak membangkitkan secara substantial isu-isu yang sama dengan isu-isu dalam prosiding jenayah yang berhubungan dengan pertuduhan jenayah yang daripadanya pegawai itu telah dibebaskan.

Tatacara jika terdapat suatu perintah tahanan, buang negeri, dsb.

36. (1) Jika-

- (a) suatu perintah tahanan selain suatu perintah tahanan reman sementara menunggu perbicaraan atau bagi maksud penyiasatan;
- (b) suatu perintah pengawasan, kediaman terhad, buang negeri atau deportasi; atau
- (c) suatu perintah yang mengenakan apa-apa bentuk sekatan atau pengawasan, sama ada dengan bon atau selainnya,

telah dibuat terhadap seseorang pegawai di bawah mana-mana undang-undang yang berhubungan dengan keselamatan Malaysia atau mana-mana bahagian Malaysia, pencegahan jenayah, tahanan pencegahan, kediaman terhad, buang negeri, imigresen atau perlindungan wanita dan gadis atau perlindungan kanak-kanak, Ketua Jabatan pegawai itu hendaklah memohon untuk mendapatkan suatu salinan perintah itu daripada pihak berkuasa yang berkenaan.

(2) Apabila suatu salinan perintah yang disebut dalam subkaedah (1) diterima, Ketua Jabatan hendaklah mengemukakannya kepada Jawatankuasa Tatatertib yang berkenaan yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat berserta dengan rekod perkhidmatan pegawai itu dan perakuan Ketua Jabatan bahawa—

- (a) pegawai itu patut dibuang kerja atau diturunkan pangkat;
- (b) pegawai itu patut dihukum dengan apa-apa hukuman selain buang kerja atau turun pangkat;
- (c) perkhidmatan pegawai itu patut ditamatkan demi kepentingan awam; atau
- (d) tiada hukuman patut dikenakan.

bergantung kepada takat keburukan yang telah dibawa oleh pegawai itu kepada Majlis.

Pertimbangan Jawatankuasa Tatatertib dalam kes sabitan dan tahanan

37. (1) Jika, setelah menimbangkan laporan, rekod perkhidmatan dan perakuan Ketua Jabatan yang dikemukakan kepadanya di bawah kaedah 33 dan 36, Jawatankuasa Tatatertib yang berkenaan berpendapat bahawa—

- (a) pegawai itu patut dibuang kerja atau diturunkan pangkat, Jawatankuasa Tatatertib itu hendaklah mengenakan hukuman buang kerja atau turun pangkat, sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib itu;
- (b) kesalahan yang kerananya pegawai itu disabitkan tidak mewajarkan hukuman buang kerja atau turun pangkat tetapi mewajarkan pengenaan suatu hukuman yang lebih ringan. Jawatankuasa Tatatertib itu hendaklah mengenakan ke atas pegawai itu mana-mana satu atau lebih hukuman selain buang kerja atau turun pangkat sebagaimana yang dinyatakan dalam kaedah 46 sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib; atau
- (c) tiada hukuman patut dikenakan ke atas pegawai itu. Jawatankuasa Tatatertib itu hendaklah membebaskannya.

(2) Jika, setelah menimbangkan laporan, rekod perkhidmatan dan perakuan Ketua Jabatan yang dikemukakan kepadanya di bawah subkaedah 36(2), Jawatankuasa Tatatertib yang berkenaan berpendapat bahawa—

- (a) pegawai itu patut dibuang kerja atau diturunkan pangkat, Jawatankuasa Tatatertib itu hendaklah mengenakan hukuman buang kerja atau turun pangkat, sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib itu;
- (b) alasan yang berdasarkaninya perintah itu telah dibuatkan terhadap pegawai itu tidak mewajarkan hukuman buang kerja atau turun pangkat tetapi mewajarkan pengenaan suatu hukuman yang lebih ringan, Jawatankuasa Tatatertib itu hendaklah mengenakan ke atas pegawai itu mana-mana satu atau lebih hukuman selain buang kerja atau turun pangkat sebagaimana yang dinyatakan dalam kaedah 46 sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib itu ; atau

- (c) tiada hukuman patut dikenakan ke atas pegawai itu, Jawatankuasa Tatatertib itu hendaklah membebaskannya.
- (3) Jika hukuman selain buang kerja telah dikenakan ke atas seseorang pegawai atau jika pegawai itu telah dibebaskan oleh Jawatankuasa Tatatertib yang berkenaan. Jawatankuasa Tatatertib itu hendaklah mengarahkan pegawai itu supaya menjalankan semula tugasnya.

BAHAGIAN VI
TATACARA TATATERTIB
Bab I – Am

Syarat-syarat bagi pembuangan kerja atau penurunan pangkat

38. (1) Tertakluk kepada subkaedah (2). tiada seorang pegawai pun boleh dibuang kerja atau diturunkan pangkat dalam apa-apa prosiding tatatertib di bawah Bahagian ini, melainkan jika pegawai itu telah terlebih dahulu diberitahu secara bertulis mengenai alasan-alasan yang berdasarkan tindakan itu dicadangkan dan pegawai itu telah diberi peluang yang munasabah untuk didengar.

(2) Subkaerah (1) tidak terpakai dalam hal yang berikut:

- (a) jika seseorang pegawai telah dibuang kerja atau diturunkan pangkat atas alasan kelakuan yang berkenaan dengannya suatu pertuduhan jenayah telah dibuktikan terhadapnya;
- (b) jika Jawatankuasa Tatatertib yang berkenaan berpuas hati bahawa kerana sesuatu sebab, yang hendaklah direkodkan olehnya secara bertulis, tidaklah semunasabahnya praktik untuk menjalankan kehendak subkaedah (1);
- (c) jika Setiausaha Kerajaan Negeri berpuas hati bahawa demi keselamatan Negeri atau mana-mana darinya tidaklah suai manfaat untuk menjalankan kehendak; atau
- (d) jika apa-apa perintah tahanan, pengawasan, kediamanan terhad, buang negeri atau deportasi telah dibuat terhadap pegawai itu atau jika apa-apa bentuk sekatan atau pengawasan dengan bon atau selainnya telah dikenakan ke atas pegawai itu, di bawah mana-mana undang-undang yang berhubungan dengan keselamatan Malaysia atau mana-mana bahagiannya, pencegahan jenayah, tahanan pencegahan, kediamanan terhad, buang negeri, imigresen, atau perlindungan wanita dan gadis.

Pengerusi Jawatankuasa Tatatertib hendaklah menentukan jenis pelanggaran tatatertib

39. Jika seseorang pegawai dikatakan telah melakukan suatu kesalahan tatatertib—

- (a) Pengerusi Jawatankuasa Tatatertib yang berkenaan bagi pegawai itu; atau
- (b) jika terdapat lebih daripada satu peringkat Jawatankuasa Tatatertib berkenaan dengan pegawai itu, Pengerusi Jawatankuasa Tatatertib yang mempunyai bidang kuasa untuk mengenakan hukuman selain buang kerja atau turun pangkat.

hendaklah, sebelum memulakan apa-apa prosiding tatatertib berkenaan dengan pegawai itu, menimbangkan dan menentukan sama ada kesalahan tatatertib yang diadukan itu adalah daripada jenis yang patut dikenakan hukuman buang kerja atau turun pangkat atau suatu hukuman yang lebih ringan daripada buang kerja atau turun pangkat.

(2) Jika Pengerusi Jawatankuasa Tatatertib yang disebut dalam perenggan (1)(a) atau (b) menentukan bahawa kesalahan tatatertib yang diadukan itu adalah daripada jenis yang patut dikenakan hukuman buang kerja atau turun pangkat, pegawai itu hendaklah merujukkan kes itu kepada Jawatankuasa Tatatertib yang mempunyai bidang kuasa untuk mengenakan hukuman sedemikian.

*Bab 2 – Prosiding tatatertib tidak dengan tujuan buang kerja
atau turun pangkat*

Dalam kes tatatertib tidak dengan tujuan buang kerja atau turun pangkat

40. (1) Jika ditentukan di bawah subkaedah 39(2) bahawa kesalahan tatatertib yang diadukan terhadap seseorang pegawai adalah daripada jenis yang patut dikenakan suatu hukuman yang lebih ringan daripada buang kerja atau turun pangkat, Pengerusi Jawatankuasa Tatatertib yang berkenaan yang disebut dalam perenggan 39 (1)(a) atau (b), setelah berpuas hati bahawa wujud suatu kesalahan tatatertib, hendaklah memaklumkan pegawai itu melalui notis di bawah kaedah 61 fakta kesalahan tatatertib yang dikatakan telah dilakukan olehnya dan hendaklah memberi pegawai itu peluang untuk membuat representasi bertulis dalam tempoh dua puluh satu hari dari tarikh dia dimaklumkan mengenai fakta itu.

(2) Jika Jawatankuasa Tatatertib yang berkenaan berpendapat bahawa representasi pegawai itu mengkehendaki penjelasan lanjut, Jawatankuasa Tatatertib itu boleh menghendaki pegawai itu supaya memberikan penjelasan lanjut dalam suatu tempoh sebagaimana yang ditetapkan oleh Jawatankuasa Tatatertib itu.

(3) Jika, setelah menimbangkan representasi pegawai itu dan penjelasan lanjut pegawai itu (jika penjelasan lanjut diberikan), Jawatankuasa Tatatertib yang berkenaan:

- (a) mendapati pegawai itu bersalah atas kesalahan tatatertib yang dikatakan telah dilakukan olehnya, Jawatankuasa Tatatertib itu hendaklah mengenakan ke atas pegawai itu mana-mana satu atau lebih hukuman selain buang kerja atau turun pangkat sebagaimana yang dinyatakan dalam kaedah 46 sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib itu; atau
- (b) mendapati pegawai itu tidak bersalah, Jawatankuasa Tatatertib itu hendaklah membebaskannya.

*Bab 3 – Prosiding tatatertib dengan tujuan buang kerja
atau turun pangkat*

Tatacara dalam kes tatatertib dengan tujuan buang kerja atau turun pangkat

41. (1) Jika ditentukan di bawah subkaedah 39(2) bahawa kesalahan tatatertib yang diadukan terhadap seseorang pegawai adalah daripada jenis yang patut dikenakan

hukuman buang kerja atau turun pangkat. Pengerusi Jawatankuasa Tatatertib yang berkenaan yang kepadanya kes itu dirujuk hendaklah menimbaangkan segala maklumat yang ada.

(2) Jika didapati oleh Pengerusi Jawatankuasa Tatatertib yang berkenaan bahawa wujud suatu kes *prima facie* terhadap pegawai itu. Pengerusi Jawatankuasa Tatatertib yang berkenaan hendaklah—

- (a) mengaralikan supaya suatu pertuduhan yang mengandungi fakta kesalahan tatatertib yang dikatakan telah dilakukan oleh pegawai itu dan alasan-alasan yang berdasarkannya pegawai itu dicadangkan supaya dibuang kerja atau diturunkan pangkatnya dihantar kepada pegawai itu; dan
- (b) menghendaki pegawai itu untuk membuat dalam tempoh dua puluh satu hari dari tarikh dia dimaklumkan pertuduhan itu melalui notis dibawah kaedah 61, suatu representasi bertulis yang mengandungi alasan-alasan yang padanya dia bergantung untuk membebaskan dirinya.

(3) Jika, setelah menimbaangkan representasi yang dibuat menurut subkaedah (1). Jawatankuasa Tatatertib yang berkenaan berpendapat bahawa kesalahan tatatertib yang dilakukan oleh pegawai itu tidak mewajarkan hukuman buang kerja atau turun pangkat. Jawatankuasa Tatatertib yang berkenaan menganakan ke atas pegawai itu apa-apa hukuman yang lebih ringan yang dinyatakan dalam kaedah 46 sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib itu.

(4) Jika pegawai itu tidak membuat apa-apa representasi dalam temponi yang dinyatakan dalam perenggan (2)(b), atau jika pegawai itu telah membuat representasi sedemikian tetapi representasi itu tidak dapat membersihkan dirinya sehingga memuaskan hati Jawatankuasa Tatatertib yang berkenaan, Jawatankuasa Tatatertib itu hendaklah terus menimbaangkan dan membuat keputusan tentang pembuangan kerja atau penurunan pangkat pegawai itu.

(5) Jika Jawatankuasa Tatatertib yang berkenaan berpendapat bahawa kes terhadap pegawai itu menghendaki penjelasan lanjut, Jawatankuasa Tatatertib boleh menubuhkan suatu Jawatankuasa Penyiasatan bagi maksud mendapatkan penjelasan lanjut sedemikian.

Jawatankuasa Penyiasatan

42. (1) Jawatankuasa Penyiasatan hendaklah terdiri daripada tidak kurang daripada dua orang pegawai.

(2) Anggota-anggota Jawatankuasa Penyiasatan hendaklah berpangkat lebih tinggi daripada pegawai yang disiasat itu tetapi Ketua Jabatan pegawai yang disiasat itu tidak boleh menjadi anggota Jawatankuasa Penyiasatan.

Tatacara yang hendaklah diikuti oleh Jawatankuasa Penyiasatan

43. (1) Jawatankuasa Penyiasatan—

- (a) hendaklah memberitahu pegawai yang disiasat itu tarikh persoalan mengenai pembuangan kerja atau penurunan pangkatnya akan dibawa di hadapan Jawatankuasa Penyiasatan; dan

(b) boleh memanggil dan memeriksa mana-mana saksi atau mengambil apa-apa tindakan sebagaimana yang difikirkan perlu atau patut oleh Jawatankuasa Penyiasatan untuk mendapatkan penjelasan lanjut mengenai kes itu.

(2) Jika Jawatankuasa Penyiasatan berpandangan bahawa pegawai itu patut dibenarkan hadir di hadapan Jawatankuasa Penyiasatan untuk membersihkan dirinya, pegawai itu hendaklah menghadirkan dirinya di hadapan Jawatankuasa itu bagi maksud itu.

(3) Jika saksi-saksi telah dipanggil dan diperiksa oleh Jawatankuasa Penyiasatan, pegawai itu hendaklah diberi peluang untuk hadir dan untuk menyampaikan balas saksi-saksi bagi pihak dirinya.

(4) Tiada keterangan dokumentar boleh digunakan terhadap seseorang pegawai melainkan jika pegawai itu telah sebelum itu diberikan satu salinan keterangan itu atau telah diberi akses kepada keterangan itu.

(5) Jawatankuasa Penyiasat boleh membenarkan Majlis atau pegawai itu diwakili oleh seorang pegawai Majlis atau dalam hal yang luar biasa, oleh seorang peguam bela dan peguam cara, tetapi Jawatankuasa Penyiasatan boleh menarik balik kebenaran itu tertakluk kepada apa-apa penangguhan yang munasabah dan perlu bagi membolehkan pegawai itu untuk membentangkan kesnya sendiri.

(6) Jika Jawatankuasa Penyiasat membenarkan Majlis diwakili, Jawatankuasa Penyiasatan hendaklah juga membenarkan pegawai yang disiasat itu diwakili dengan cara yang sama.

(7) Jika pegawai yang disiasat yang dikehendaki hadir di hadapan Jawatankuasa Penyiasatan tidak hadir pada tarikh dan masa yang ditetapkan dan jika tiada alasan yang mencukupi diberikan bagi penangguhan itu, Jawatankuasa Penyiasatan boleh terus menimbangkan dan membuat keputusan tentang aduan itu atau boleh menangguhkan prosiding itu ke suatu tarikh yang lain.

(8) Setelah tamat penyiasatannya, Jawatankuasa Penyiasatan hendaklah mengemukakan suatu laporan tentang penyiasatan itu kepada Jawatankuasa Tatatertib yang berkenaan.

(9) Jika Jawatankuasa Tatatertib yang berkenaan berpendapat bahawa laporan yang dikemukakan kepadanya di bawah subkaedah (8) tidak jelas tentang perkara-perkara tertentu atau bahawa penyiasatan lanjut adalah perlu, Jawatankuasa Tatatertib yang berkenaan boleh merujukkan perkara itu semula kepada Jawatankuasa Penyiasatan bagi penyiasatan lanjut.

Alasan lanjut bagi pembuangan kerja

44. (1) Jika, semasa sesuatu penyiasatan dijalankan oleh Jawatankuasa Penyiasatan, alasan-alasan lanjut bagi pembuangan kerja pegawai yang disiasat itu telah kelihatan, Jawatankuasa Penyiasatan hendaklah memberitahu Jawatankuasa Tatatertib yang berkenaan mengenai alasan-alasan lanjut itu.

(2) Jika Jawatankuasa Tatatertib fikirkan patut diteruskan tindakan terhadap pegawai itu berdasarkan alasan-alasan lanjut itu, pegawai itu hendaklah diberi suatu pernyataan bertulis mengenai alasan-alasan itu, dan tatacara yang dinyatakan dalam kaedah 41, 42, dan 43 hendaklah terpakai berkenaan dengan alasan lanjut itu sebagaimana tatacara itu terpakai berkenaan dengan alasan asal.

Kuasa Jawatankuasa Tatatertib

45. Jika setelah menimbangkan representasi pegawai dan laporan Jawatankuasa Penyiasatan, jika ada, Jawatankuasa Tatatertib yang berkenaan—

- (a) mendapati pegawai itu bersalah atas kesalahan tatatertib yang dikatakan telah dilakukan olehnya dan pegawai itu patut dibuang kerja atau diturunkan pangkat. Jawatankuasa Tatatertib itu hendaklah mengenakan hukuman buang kerja atau turun pangkat, sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib itu;
- (b) mendapati pegawai itu bersalah atas kesalahan tatatertib yang dikatakan telah dilakukan olehnya tetapi setelah mengambil kira dalam pertimbangan hal keadaan dalam mana kesalahan tatatertib itu telah dilakukan dan faktor peringangan yang lain. kesalahan itu tidak mewajarkan hukuman buang kerja atau turun pangkat tetapi mewajarkan pengenaan suatu hukuman yang lebih ringan. Jawatankuasa Tatatertib itu hendaklah mengenakan ke atas pegawai itu mana-mana satu atau lebih hukuman selain buang kerja atau turun pangkat sebagaimana yang dinyatakan dalam kaedah 46 sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib itu; atau
- (c) mendapati pegawai itu tidak bersalah. Jawatankuasa Tatatertib itu hendaklah membebaskannya.

BAHAGIAN VII

HUKUMAN TATATERTIB

Jenis hukuman tatatertib

46. Jika seseorang pegawai didapati bersalah atas suatu kesalahan tatatertib, mana-mana satu atau apa-apa gabungan dua atau lebih hukuman yang berikut, bergantung kepada keseriusan kesalahan itu, boleh dikenakan ke atas pegawai itu—

- (a) amaran;
- (b) denda;
- (c) lucut hak emolumen;
- (d) tangguh pergerakan gaji;
- (e) turun gaji;
- (f) turun pangkat;
- (g) buang kerja.

Denda atau lucut hak emolumen

47. (1) Hukuman denda atau lucut hak emolumen hendaklah dibuat mengikut subkaedah (2), (3), (4), (5) dan (6).

(2) Apa-apa denda yang dikenakan pada mana-mana satu masa tidak boleh melebihi amaun yang sama banyak dengan emolumen bagi tujuh (7) hari pegawai yang berkenaan.

(3) Jika seseorang pegawai didenda lebih daripada sekali dalam mana-mana

bulan kalendar. agreget denda yang dikenakan ke atasnya dalam bulan itu tidak boleh melebihi amanah yang sama banyak dengan empat puluh lima peratus daripada emolumen bulanannya.

(4) Jika hukuman yang dikenakan adalah kerana pegawai tidak hadir untuk bertugas tanpa cuti atau tanpa terlebih dahulu mendapat kebenaran atau tanpa sebab yang munasabah, apa-apa pelucutahkkan emolumen pegawai itu hendaklah, melainkan jika diputuskan selainnya oleh Jawatankuasa Tatatertib yang berkenaan, dihitung dengan mengambil kira tempoh sebenar pegawai itu tidak hadir.

(5) Pelaksanaan hukuman denda atau lucut hak emolumen tidak boleh dijalankan ke atas seseorang pegawai yang tidak hadir tanpa cuti atau tanpa terlebih dahulu mendapat kebenaran atau tanpa sebab yang munasabah jika emolumen pegawai itu tidak dilucutahkkan, berkenaan dengan ketidakhadiran untuk bertugas itu, di bawah kaedah 31.

(6) Segala denda atau lucut hak emolumen hendaklah dipotong daripada emolumen bulanan pegawai itu dan hendaklah dimasukkan ke dalam hasil Majlis.

Tangguh pergerakan gaji

48. (1) Hukuman tangguh pergerakan gaji boleh dikenakan oleh Jawatankuasa Tatatertib yang berkenaan bagi tempoh—

- (a) tiga bulan;
- (b) enam bulan;
- (c) sembilan bulan; atau
- (d) dua belas bulan.

sebagaimana yang difikirkan sesuai oleh Jawatankuasa Tatatertib itu.

(2) Hukuman tangguh pergerakan gaji yang dikenakan ke atas seseorang pegawai hendaklah dilaksanakan pada tarikh ulang tahun pergerakan gaji yang berikutnya bagi pegawai itu selepas tarikh pengenaan hukuman itu oleh Jawatankuasa Tatatertib yang berkenaan.

(3) Seseorang pegawai yang ke atasnya hukuman tangguh pergerakan gaji dikenakan tidak berhak untuk menerima apa-apa pergerakan gaji bagi dan dalam tempoh hukuman itu sedang berkuat kuasa.

(4) Sesuatu hukuman tangguh pergerakan gaji hendaklah mempunyai akibat-akibat yang berikut pada pegawai yang atasnya hukuman itu dikenakan—

- (a) pergerakan gajinya hendaklah diubah ke tarikh pergerakan gaji yang paling hampir selepas tamat tempoh hukuman itu; dan
- (b) tarikh pergerakan gajinya hendaklah kekal pada tarikh yang diubah di bawah perenggan (a) sehingga pegawai itu mencapai tangga maksimum dalam jadual gajinya.

Penurunan gaji

49. (1) Jawatankuasa Tatatertib yang berkenaan boleh mengenakan hukuman turun gaji ke atas seseorang pegawai mengikut peruntukan-peruntukan yang berikut-

- (a) gaji itu hanya boleh diturunkan secara mendatar dalam peringkat gaji yang sama;
- (b) penurunan gaji itu tidak boleh melebihi tiga pergerakan gaji; dan
- (c) tempoh hukuman itu tidak boleh kurang daripada dua belas bulan tetapi tidak boleh lebih daripada tiga puluh enam bulan pada mana-mana satu masa.

(2) Hukuman turun gaji yang dikenakan ke atas seseorang pegawai hendaklah dilaksanakan pada tarikh yang ditetapkan oleh Jawatankuasa Tatatertib yang berkenaan atau jika tiada tarikh ditetapkan, pada tarikh hukuman itu dijatuhkan.

(3) Tarikh pergerakan gaji seseorang pegawai yang ke atasnya hukuman turun gaji dikenakan ke atasnya hendaklah diubah ke tarikh pergerakan gaji yang berikutnya selepas hukuman itu tamat.

(4) Seseorang pegawai yang ke atasnya hukuman turun gaji dikenakan tidak berhak untuk menerima apa-apa pergerakan gaji bagi dan dalam tempoh hukuman itu sedang berkuat kuasa.

Penurunan pangkat

50. Jawatankuasa Tatatertib yang berkenaan boleh mengenakan hukuman turun pangkat ke atas seseorang pegawai mengikut cara yang betul:

- (a) dengan menurunkan gred pegawai itu ke gred yang lebih rendah dalam skim perkhidmatan yang sama; dan
- (b) dengan menentukan bahawa gaji baru pegawai itu hendaklah pada suatu mata gaji dalam jadual gaji bagi gred yang dikurangkan itu supaya gaji itu lebih rendah daripada, tetapi paling hampir dengan, gaji akhir yang diterima oleh pegawai itu sebelum hukuman itu dikenakan ke atasnya.

Butir-butir kesalahan dan hukuman hendaklah direkodkan

51. Tiap-tiap tindakan tatatertib yang diambil terhadap seseorang pegawai yang berkeputusan dengan suatu hukuman dikenakan ke atas pegawai itu di bawah kaedah-kaedah ini hendaklah direkodkan dalam Buku Perkhidmatan pegawai ini dengan menyatakan butir-butir kesalahan yang dilakukan dan hukuman yang dikenakan.

BAHAGIAN VIII

PENAHANAN KERJA DAN PENGGANTUNGAN KERJA

Penahanan kerja bagi maksud penyiasatan

52. (1) Tanpa menjelaskan kaedah 32 dan 53, jika seseorang pegawai dikatakan atau semunasabinya disyaki telah melakukan suatu kesalahan jenayah atau suatu kesalahan tatatertib yang serius, Jawatankuasa Tatatertib yang berkenaan yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat ke atas pegawai itu boleh menahan kerja pegawai itu bagi suatu tempoh tidak melebihi dua bulan bagi maksud memudahkan penyiasatan terhadap pegawai itu.

(2) Dalam memutuskan sama ada hendak menahan kerja seseorang pegawai di bawah subkaedah (1), Jawatankuasa Tatatertib yang berkenaan hendaklah mengambil kira faktor-faktor yang berikut—

- (a) sama ada tuduhan itu atau kesalahan yang disyaki itu adalah secara langsung berhubungan dengan tugas pegawai itu; dan
- (b) sama ada kehadiran pegawai itu di pejabat akan menggandalakan penyiasatan.

(3) Jika, dalam tempoh seseorang pegawai itu ditahan kerja—

- (a) prosiding jenayah telah dimulakan terhadap pegawai itu di mana-mana Mahkamah; atau
- (b) tindakan tatatertib telah diambil terhadapnya dengan tujuan pembuangan kerja atau penurunan pangkatnya.

perintah penahanan kerja yang dibuat di bawah subkaedah (1) hendaklah terhenti berkuat kuasa mulai dari tarikh prosiding jenayah itu dimulakan atau tindakan tatatertib itu diambil terhadap pegawai itu dan Jawatankuasa Tatatertib yang berkenaan hendaklah mengambil apa-apa tindakan selanjutnya sebagaimana yang difikirkannya patut di bawah kaedah 53.

(4) Seseorang pegawai yang telah ditahan kerja di bawah peraturan ini berhak menerima emolumen penuhnya dalam tempoh penahanan kerjanya.

Penahanan kerja

53. (1) Jawatankuasa Tatatertib yang berkenaan yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat boleh, jika difikirkannya sesuai dan patut dan dengan mengambil kira perkara-perkara yang dinyatakan dalam subkaedah (4), menahan seseorang pegawai daripada menjalankan tugasnya jika—

- (a) prosiding jenayah telah dimulakan terhadap pegawai itu; atau
- (b) prosiding tatatertib dengan tujuan supaya hukuman buang kerja atau turun pangkat dikenakan ke atasnya telah dimulakan terhadap pegawai itu.

(2) Jika seseorang pegawai telah ditahan kerja di bawah perenggan (1)(a), penahanan kerjanya boleh dijadikan berkuat kuasa mulai dari tarikh pegawai itu telah ditangkap atau dari tarikh saman telah disampaikan kepadanya.

(3) Jika seseorang pegawai telah ditahan kerja di bawah perenggan (1)(b), penahanan kerjanya boleh dijadikan berkuat kuasa mulai dari tarikh yang ditetapkan oleh Jawatankuasa Tatatertib yang berkenaan.

(4) Dalam memutuskan sama ada hendak menahan kerja seseorang pegawai di bawah subkaedah (1), Jawatankuasa Tatatertib yang berkenaan hendaklah mengambil kira faktor-faktor yang berikut:

- (a) sama ada jenis kesalahan yang dengannya pegawai itu dipertuduh adalah secara langsung berhubung dengan tugasnya;
- (b) sama ada kehadiran pegawai itu di pejabat akan menggandalakan penyiasatan;

- (c) sama ada kehadiran pegawai itu di pejabat untuk menjalankan tugas dan tanggungjawab yang biasa boleh memalukan atau boleh menjelaskan nama atau imej Majlis; atau
 - (d) sama ada dengan mengambil kira jenis kesalahan yang dengannya pegawai itu dipertuduh, penahanan kerja pegawai itu akan menyebabkan Majlis menanggung kerugian.
- (5) Jika Jawatankuasa Tatatertib yang berkenaan memanggil balik seseorang pegawai yang telah ditahan kerja di bawah subkaedah (1) untuk menjalankan semula tugasnya sedangkan prosiding jenayah atau prosiding tatatertib dengan tujuan pembuangan kerja atau penurunan pangkatnya masih belum selesai, maka—
- (a) perintah penahanan kerja itu hendaklah terhenti berkuat kuasa mulai dari tarikh pegawai itu menjalankan semula tugasnya;
 - (b) pegawai itu hendaklah dibayar emolumen penuluhan mulai tarikh pegawai itu menjalankan semula tugasnya; dan
 - (c) apa-apa bahagian emolumennya yang telah tidak dibayar semasa penahanan kerjanya tidak boleh dibayar sehingga prosiding jenayah atau prosiding tatatertib dengan tujuan pembuangan kerja atau penurunan pangkatnya selesai dan suatu keputusan berkaitan dengan emolumen itu dibuat oleh Jawatankuasa Tatatertib yang berkenaan.
- (6) Dalam tempoh penahanan kerjanya di bawah kaedah ini, seseorang pegawai berhak melainkan jika dan sehingga pegawai itu digantung kerja atau dibuang kerja, untuk menerima tidak kurang daripada setengah emolumennya sebagaimana yang difikirkan patut oleh Jawatankuasa Tatatertib yang berkenaan.
- (7) Tanpa menjelaskan subkaedah 32(7) dan 37(3), jika seseorang pegawai telah dibebaskan daripada pertuduhan jenayah atau telah dilepaskan tetapi pelepasan itu tidak terjumlah kepada suatu pembebasan atau telah dibebaskan daripada apa-apa pertuduhan tatatertib, apa-apa bahagian emolumennya yang telah tidak dibayar kepadanya semasa pegawai itu ditahan kerja hendaklah dibayar kepadanya.

Penggantungan kerja

54. (1) Jawatankuasa Tatatertib yang berkenaan yang mempunyai bidang kuasa untuk mengenakan hukuman buang kerja atau turun pangkat boleh menggantung seseorang pegawai daripada menjalankan tugasnya jika—

- (a) pegawai itu telah disabitkan oleh mana-mana Mahkamah; atau
 - (b) suatu perintah sebagaimana yang dinyatakan dalam kaedah 36 telah dibuat terhadap pegawai itu.
- (2) Tempoh penggantungan kerja di bawah kaedah ini hendaklah mula berkuat kuasa dari tarikh sabitan atau tarikh kuat kuasa perintah itu, mengikut mana-mana yang berkenaan.
- (3) Seseorang pegawai yang telah digantung daripada menjalankan tugasnya—
- (a) tidak boleh dibenarkan untuk menerima apa-apa bahagian emolumennya yang telah tidak dibayar dalam tempoh penahanan kerjanya di bawah kaedah 53; dan

(b) tidak berhak untuk menerima apa-apa emolumen sepanjang tempoh penggantungan kerjanya.

(4) Keputusan oleh Jawatankuasa Tatatertib yang berkenaan untuk menggantung kerja seseorang pegawai hendaklah dimaklumkan kepadanya secara bertulis.

Emolumen yang tidak dibayar

55. (1) Jika prosiding tatatertib terhadap seseorang pegawai berkeputusan dengan pegawai itu dibuang kerja, pegawai itu tidak berhak kepada apa-apa bahagian emolumennya yang telah tidak dibayar kepadanya dalam tempoh penahanan kerja atau penggantungan kerjanya.

(2) Jika prosiding tatatertib terhadap seseorang pegawai berkeputusan dengan suatu hukuman selain buang kerja dikenakan ke atas pegawai itu, pegawai itu berhak untuk menerima apa-apa bahagian emolumennya yang telah tidak dibayar kepadanya dalam tempoh penahanan kerja atau penggantungan kerjanya.

Perjalanan semua tugas

56. Jika seseorang pegawai telah ditahan kerja di bawah kaedah 53 atau digantung kerja di bawah kaedah 54, dan prosiding tatatertib terhadap pegawai itu berkeputusan dengan suatu hukuman selain buang kerja dikenakan ke atas pegawai itu, Jawatankuasa Tatatertib yang berkenaan hendaklah mengarahkan pegawai itu supaya menjalankan semula tugasnya.

Tatacara tatatertib bagi seseorang pegawai yang sedang berkhidmat di luar Malaysia

57. Jika prosiding jenayah telah dimulakan terhadap seseorang pegawai di luar Malaysia, pegawai itu hendaklah ditahan kerja mengikut kaedah 53, dan jika pegawai itu telah disabitkan, tindakan tatatertib hendaklah diambil di bawah Kaedah-Kaedah ini terhadapnya.

Pegawai tidak boleh meninggalkan Malaysia tanpa kebenaran bertulis

58. (1) Seseorang pegawai yang telah ditahan kerja atau digantung daripada menjalankan tugasnya tidak boleh meninggalkan Malaysia tanpa terlebih dahulu mendapat kebenaran bertulis daripada Pengerusi Jawatankuasa Tatatertib yang berkenaan.

(2) Jika pegawai yang telah ditahan kerja atau digantung daripada menjalankan tugasnya sedang berkhidmat di luar Malaysia, pegawai itu hendaklah segera dipanggil balik ke Malaysia dan pegawai itu tidak boleh meninggalkan Malaysia tanpa terlebih dahulu mendapat kebenaran bertulis daripada Pengerusi Jawatankuasa Tatatertib yang berkenaan.

(3) Walau apa pun peruntukan subkaedah 53 (6), Jawatankuasa Tatatertib yang berkenaan hendaklah mengambil segala langkah yang perlu untuk menghentikan pembayaran apa-apa emolumen kepada seseorang pegawai yang telah ditahan kerja tetapi telah meninggalkan Malaysia tanpa terlebih dahulu mendapat kebenaran bertulis daripada Pengerusi Jawatankuasa Tatatertib yang berkenaan.

BAHAGIAN IX
PENAMATAN DEMI KEPENTINGAN AWAM

Penamatan demi kepentingan awam

59. (1) Walau apa pun apa-apa peruntukan dalam Kaedah-Kaedah ini, jika Kerajaan Negeri atau Majlis mendapati atau jika representasi dibuat kepada Kerajaan Negeri atau Majlis bahawa adalah wajar perkhidmatan seseorang pegawai ditamatkan demi kepentingan awam, Kerajaan Negeri atau Majlis bolehlah meminta laporan penuh daripada Ketua Jabatan di mana pegawai itu sedang berkhidmat atau telah berkhidmat.

(2) Laporan yang disebut dalam subkaedah (1) hendaklah mengandungi butir-butir berhubung dengan kerja dan kelakuan pegawai itu dan ulasan-ulasan Ketua Jabatan, jika ada.

(3) Jika, setelah menimbang laporan yang diterima di bawah subkaedah (1), Kerajaan Negeri atau Majlis berpuas hati bahawa, memandangkan syarat-syarat perkhidmatan, kegunaan pegawai itu kepada perkhidmatan, kerja dan kelakuan pegawai itu dan segala hal keadaan lain kes itu, adalah wajar demi kepentingan awam untuk berbuat demikian, Kerajaan Negeri boleh meminta Majlis atau Majlis boleh, mengikut mana yang berkenaan, menamatkan perkhidmatan pegawai itu mulai dari tarikh yang hendaklah ditentukan oleh Kerajaan Negeri atau Majlis.

(4) Walau apa pun jua dalam Kaedah-Kaedah ini dan mana-mana undang-undang lain yang berlawanan, apabila menamatkan perkhidmatan mana-mana pegawai demi kepentingan awam di bawah kaedah ini, pegawai itu boleh tidak diberikan apa-apa peluang untuk didengar dan seseorang pegawai yang perkhidmatannya telah ditamatkan demi kepentingan awam di bawah peruntukan ini tidak boleh, bagi maksud Akta Kerajaan Tempatan 1976 [*Akta 171*], dianggapkan telah dibuang kerja, tidak kira sama ada penamatkan perkhidmatan pegawai itu melibatkan suatu elemen hukuman atau yang berkaitan dengan kelakuan berhubung dengan jawatannya yang Kerajaan Negeri atau Majlis menganggap tidak memutuskan atau patut disalahkan.

BAHAGIAN XI
PELBAGAI

Surc妖

60. (1) Walau apa pun apa-apa jua yang terkandung dalam Kaedah-Kaedah ini, Jawatankuasa Tatatertib boleh mengenakan surc妖 terhadap mana-mana pegawai mengikut apa-apa tatacara kewangan yang berkuat kuasa atau terpakai kepada Majlis.

(2) Tiap-tiap pengenaan surc妖 di bawah subkaedah (1) hendaklah direkodkan dalam rekod perkhidmatan pegawai itu.

Penyampaian notis, dokumen dsb.

61. (1) Tiap-tiap pegawai hendaklah memberi Ketua Jabatannya alamat kediamannya atau apa-apa perubahan alamat itu dan alamat itu hendaklah menjadi alamatnya bagi maksud menyampaikan kepadanya apa-apa notis atau dokumen yang dikehendaki disampaikan di bawah peruntukan-peruntukan ini atau bagi maksud berkomunikasi dengannya mengenai apa-apa perkara yang berhubungan dengan kaedah-kaedah ini.

(2) Apa-apa notis, dokumen atau komunikasi yang ditinggalkan di atau diposkan ke atau dihantar dengan apa-apa cara lain yang munasabah ke alamat bagi penyampaian yang diberikan di bawah subkaedah (1) hendaklah disifatkan telah disampaikan atau diberitahu dengan sempurna kepada pegawai itu.

Tandatangan pada surat dan persuratan lain

62. Apa-apa surat-menyerat antara Jawatankuasa Tatatertib yang berkenaan atau Jawatankuasa Rayuan Tatatertib yang berkenaan dengan pegawai yang tertakluk kepada tindakan tatatertib hendaklah ditandatangani oleh Pengerusi Jawatankuasa Tatatertib yang berkenaan atau Jawatankuasa Rayuan Tatatertib yang berkenaan atau oleh mana-mana anggota Jawatankuasa Tatatertib atau Jawatankuasa Rayuan Tatatertib yang berkeuaan bagi pihak Pengerusi.

Pembatalan dan kecualian

63. (1) Kaedah-Kaedah Pegawai Majlis Daerah Manjung (Kelakuan dan Tatatertib) 1989 [Pk.PU 29/1989], selepas ini dirujuk sebagai "Kaedah-Kaedah yang dibatalkan" adalah dengan ini dibatalkan.

(2) Jika pada tarikh permulaan kuat kuasa Kaedah-Kaedah ini-

- (a) prosiding tatatertib telah dimulakan dengan memberitahu pegawai secara bertulis alasan-alasan atas mana tindakan tatatertib dicadangkan terhadapnya;
- (b) prosiding tatatertib sedang didengar dan belum selesai di hadapan Jawatankuasa Tatatertib atau Jawatankuasa Rayuan Tatatertib; atau
- (c) prosiding tatatertib sedang didengar atau telah didengar tetapi tiada perintah atau keputusan telah dibuat mengenainya.

prosiding itu hendaklah diteruskan dan diselesaikan di bawah Kaedah-Kaedah yang dibatalkan.

JADUAL I
Majlis Perbandaran Manjung
[subkaedah 6 (1)]
SURAT AKU JANJI

Saya..... No. Kad Pengenalan

..... beralamat di majlis dengan sesungguhnya berjanji bahawa saya akan mematuhi, Kaedah-Kaedah Pegawai Majlis Perbandaran Manjung (Kelakuan dan Tatatertib) 2013. Perintah-Perintah Am. Pekeliling dan Surat Pekeliling serta peraturan dan arahan lain yang dikeluarkan dan dikuatkuasakan oleh Kerajaan dari semasa ke semasa sepanjang perkhidmatan saya dengan Kerajaan. Maka dengan ini saya berjanji sebagaimana yang dikelihndaki di bawah Kaedah 7. Kaedah-Kaedah Pegawai Majlis Perbandaran Manjung (Kelakuan dan Tatatertib) 2013 bahawa saya:

- (i) akan sentiasa taat kepada Yang di-Pertuan Agong, Negara dan Kerajaan;
- (ii) akan sentiasa melaksanakan tugas dengan cermat, bersungguh-sungguh, cekap, jujur, amanah dan bertanggungjawab;
- (iii) tidak akan memberlakukan tugas rasmi demi kepentingan peribadi saya;
- (iv) tidak akan berkelakuan dengan cara yang mungkin menyebabkan kepentingan peribadi bercanggah dengan tugas rasmi saya;
- (v) tidak akan berkelakuan dengan cara yang boleh menimbulkan syak yang munasabah bahawa saya telah membiarkan kepentingan peribadi saya bercanggah dengan tugas rasmi sehingga menjelaskan kegunaan saya sebagai pegawai Majlis;
- (vi) tidak akan menggunakan kedudukan saya sebagai pegawai Majlis bagi faedah diri saya sendiri;
- (vii) tidak akan berkelakuan dengan cara yang boleh memburukkan dan mencemarkan nama perkhidmatan Majlis;
- (viii) tidak akan membawa sebarang bentuk pengaruh atau tekanan luar untuk menyokong atau memajukan tuntutan saya atau pegawai lain berhubung dengan perkhidmatan Majlis; dan
- (ix) tidak akan ingkar perintah atau berkelakuan dengan cara yang boleh ditafsirkan sebagai ingkar perintah.

Saya sesungguhnya faham bahawa jika saya disabitkan kerana telah melanggar Aku Janji ini, saya boleh dikenakan tindakan tatatertib mengikut Kaedah-Kaedah Pegawai Majlis Perbandaran Manjung (Kelakuan dan Tatatertib) 2013.

.....
(Tandatangan Pegawai)

.....
(Jawatan Pegawai)

Di Hadapan :

.....
(Tandatangan Ketua Jabatan)
b.p Yang Dipertua

.....
(Nama dan No. Kad Pengenalan Ketua Jabatan)

.....
(Tarikh)

.....
(Cap Rasmi Jabatan)

JADUAL II

MAJLIS PERBANDARAN MANJUNG

[subkaerah 11(2)]

PERAKUAN OLEH PEGAWAI PERUBATAN KERAJAAN

Kepada:

Saya seorang Pegawai Perubatan Kerajaan mengesahkan bahawa saya telah menjalankan pemeriksaan fizikal dan mental terhadap pegawai yang berikut;

Nama:

No. Kad Pengenalan:

Alamat:

Pada: Di:

Berdasarkan pemeriksaan fizikal dan mental yang dijalankan dan keputusan ujian dadah pegawai yang tersebut di atas, saya memperakui bahawa **—

- (a) dia ialah seorang penagih dadah sebagaimana yang ditakrifkan dalam Akta Penagih Dadah (Rawatan dan Pemulihan) 1983 [Akta 283];
- (b) dia ialah seorang yang menggunakan atau mengambil, selain bagi maksud perubatan, suatu dadah berbahaya atau menyalahgunakan suatu dadah berbahaya yang disenaraikan dalam Jadual Pertama kepada Akta Dadah Berbahaya 1952 [Akta 234];
- (c) dia bukan seorang penagih dadah sebagaimana yang ditakrifkan dalam Akta Penagih Dadah (Rawatan dan Pemulihan) 1983 [Akta 283] atau menggunakan dadah yang disenaraikan dalam Jadual Pertama kepada Akta Dadah Berbahaya 1952 [Akta 234].

Jenis dadah/dadah-dadah berbahaya* sebagaimana yang disenaraikan dalam Jadual Pertama kepada Akta Dadah Berbahaya 1952 [Akta 234] yang dilaporkan positif dalam keputusan ujian dadah pegawai yang tersebut di atas ialah;

.....
.....
.....
.....

Bersama ini dikemukakan keputusan ujian dadah pegawai yang tersebut di atas bertarikh dan Nombor Rujukan Makmal

.....
*(Tandatangan Pegawai Perubatan Kerajaan
dan Cap Rasmi)*

Tarikh

* sila potong mana-mana yang berkenaan
** sila tanda (/) di mana berkenaan

Dibuat 18 September 2013
[MPM.JU2.W/1/6; PU.Pk. 59/72(v)]

DATO' ZAMRI BIN MAN
*Yang Dipertua
Majlis Perbandaran Manjung*

Disahkan 30 September 2013
[PU.PK.59/72(v)]

RUMAIZI BIN BAHARIN @ MD. DAUD
*Setiausaha
Majlis Mesyuarat Kerajaan
Perak Darul Ridzuan*

LOCAL GOVERNMENT ACT 1976

MANJUNG MUNICIPAL COUNCIL OFFICERS
(CONDUCT AND DISCIPLINE) RULES 2013

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LOCAL GOVERNMENT ACT 1976

MANJUNG MUNICIPAL COUNCIL OFFICERS
(CONDUCT AND DISCIPLINE) RULES 2013

IN exercise of the powers conferred by subsection 17(1) of the Local Government Act 1976 [*Act 171*] the Manjung Municipal Council, with the approval of the State Authority, makes the following rules:

PART 1
PRELIMINARY**Citation**

1. These regulations may be cited as the **Manjung Municipal Council Officers (Conduct and Discipline) Rules 2013**.

Interpretation

2. In these Rules, unless the context otherwise requires—

“child” means a child of an officer who is dependent on him including:

- (a) posthumous child, a dependant step-child and an illegitimate child of the officer;
- (b) child adopted by the officer under any written law relating to adoption or under any custom or usage, upon satisfactory evidence of that adoption; and
- (c) child, regardless of his age, who is mentally retarded or physically and permanently incapacitated and is incapable of supporting himself;

“convicted” or “conviction”, in relation to an officer, means a finding by Court, under any written law that such officer is guilty of a criminal offence;

“emolument” means all remuneration in money due to an officer and includes basic pay, fixed rewards, incentive payments and other monthly allowance;

“salary” means the basic pay of an officer;

“financial institution” means a bank or financial institution licensed under the Banking and Financial Institutions Act 1989 [*Act 372*] or an Islamic bank licensed under the Islamic Banking Act 1983 [*Act 276*] or any other bank established under any written law;

“Disciplinary Appeal Committee” means the appropriate Disciplinary Appeal Committee established under the Disciplinary Committee of Manjung Municipal Council Rules 2013;

“Disciplinary Committee” means the appropriate Disciplinary Committee established under the Disciplinary Committee of Manjung Municipal Council Rules 2013;

“Head of Department” means any officer who heads any department in accordance with the list of the offices approved by the State Authority or authorized by the Council to carry out the responsibility of heading a department;

“Co-operative society” means a co-operative society registered under the Co-operative Societies Act 1993 [Act 502];

“Court” means a court, including a Syariah Court, which has competent jurisdiction under any written law to try a person for a criminal offence;

“Council” means the Manjung Municipal Council;

“officer” means any officer of the Council appointed on a permanent, or temporary basis; and

“insurer” means an insurer licensed under the Insurance Act 1996 [Act 553] or a takaful operator registered under the Takaful Act 1984 [Act 312].

Application

3. These Rules shall apply to an officer of the Council.

PART II **DUTY TO COMPLY WITH RULES**

Duty to comply with Rules

4. (1) An officer shall comply with the provisions of these Rules.

(2) The breach of any provision of these Rules shall render an officer liable to disciplinary action in accordance with these Rules.

Duty to exercise disciplinary control and supervision

5. (1) It is the duty of every officer to exercise disciplinary control and supervision over his subordinates and to take appropriate action as soon as possible for any breach of the provisions of these Rules.

(2) An officer who fails to exercise disciplinary control and supervision over his subordinates or to take action against his subordinates who breaches any provision of these Rules shall be deemed to have been negligent in the performance of his duties and to be irresponsible, and he shall be liable to disciplinary action.

Failure to give and to comply with undertaking

6. (1) An officer who fails to give the undertaking as provided in the Schedule I and after being required to do so by the appropriate Disciplinary Committee or his Head of Department, commits a breach of discipline and shall be liable to disciplinary action in accordance with these Rules.

(2) Without prejudice to subrule 4(2) an officer who having given the undertaking referred to in subrule (1), fails to comply with the terms of such undertaking commits a breach of discipline and shall be liable to disciplinary action in accordance with these Rules.

PART III **CODE OF CONDUCT**

Code of conduct

7. (1) An officer shall at all times gives his loyalty to the Yang di-Pertuan Agong, the State Government, the Country and the Council.

- (2) An officer shall not—
- (a) subordinate his official duty to his personal interests;
 - (b) conduct himself in such a manner as is likely to bring his private interests into conflict with his official duty;
 - (c) conduct himself in any manner likely to cause a reasonable suspicion that—
 - (i) he has allowed his private interests to come into conflict with his official duty so as to impair his usefulness as an officer of the Council; or
 - (ii) he has used his official position for his personal advantage;
 - (d) conduct himself in such a manner as to bring the Council into disrepute or bring discredit to the Council;
 - (e) lack efficiency or industry;
 - (f) be dishonest or untrustworthy;
 - (g) be irresponsible;
 - (h) bring or attempt to bring any form of outside influence or pressure to support or advance any claim relating to or against the Council, whether the claim is his own claim or that of any other officer;
 - (i) be insubordinate or conduct himself in any manner which can be reasonably construed as being insubordinate;
 - (j) be negligent in performing his duties; and
 - (k) leave the country without the permission of the President.

Sexual harassment

8. (1) An officer shall not subject another person to sexual harassment, that is to say, an officer shall not—

- (a) make any sexual advance, or any request for sexual favours, to another person; or
- (b) do any act of a sexual nature in relation to another person, in circumstances in which a reasonable person, having regard to all the circumstances, would be offended, humiliated or intimidated.

(2) A reference in subrule (1) to the doing of an act of a sexual nature to another person—

- (a) includes the making of a statement of a sexual nature to, or in the presence of, that other person, whether the statement is made orally or in writing or in any other manner; and
- (b) is not limited to the doing of such act at workplace or during working hours only as long as the doing of such act brings the Council into disrepute or bring discredit to the Council.

Outside employment

9. (1) Unless and to the extent that he is required or authorized to do so in the course of his duties, an officer shall not —

- (a) take part, either directly or indirectly, in the management or dealings of any commercial, agricultural or industrial undertaking;
- (b) undertake for reward any work with any institution, company, firm or private individual;
- (c) as an expert, furnish any report or give any evidence, whether gratuitously or for reward; or
- (d) function as an executor, administrator or receiver.

(2) Notwithstanding subrule (1), an officer may, with the prior written permission of the President, carry on any of the activities or perform any of the services specified in that subrule, either for his benefit or for the benefit of his close relatives or any non-profit-making body of which he is an office bearer.

(3) In considering whether or not permission should be granted to any officer under subrule (2), the President shall have regard to the code of conduct as laid down in rule 7 and shall ensure that the activity or service —

- (a) does not take place during office hours and during such time when the officer is required to perform his official duties;
- (b) does not in any way tend to impair the officer's usefulness as an officer of the Council; and
- (c) does not in any way tend to conflict with the interests of the Council or be inconsistent with the officer's position as an officer of the Council.

(4) Except as may otherwise be determined by the Council, all sums of money received by an officer as remuneration for carrying on any of the activities or performing any of the services mentioned in subrule (1) shall be deposited with the Council pending its decision as to the amount, if any, which may be retained by the officer personally and by any other officer who assists such officer in carrying on the activity or performing the service.

Dress etiquette

10. (1) An officer on duty shall always be properly attired in such manner as may be specified by the Council through directives issued from time to time by the Council.

(2) An officer who is required to attend an official function shall be attired as specified for the function, and if the dress etiquette for such function is not specified, he shall be appropriately attired for such function.

Drugs

11. (1) An officer shall not use or consume any dangerous drugs, except as may be prescribed for his use or consumption for medicinal purposes by a medical practitioner who is registered under the Medical Act 1971 [Act 50], or abuse or be dependent on any dangerous drug.

(2) If a Government Medical Officer certifies in the form as prescribed in Schedule II that an officer is using or consuming, other than for medicinal purposes, a dangerous drug or is abusing or dependent on a dangerous drug, that officer shall be liable to disciplinary action with a view to dismissal.

(3) Notwithstanding subrule (2), the service of an officer whom a Government Medical Officer has certified to be using or consuming, other than for medicinal purposes, a dangerous drug or is abusing or dependent on a dangerous drug may be terminated in the public interest under rule 59 if the officer has attained the optional retirement age specified by the Council at that time.

(4) For the purpose of this rule, "dangerous drug" means any drug or substance listed in the First Schedule to the Dangerous Drugs Act 1952 [Act 234].

Presents, etc.

12. (1) Subject to the provisions of this rule, an officer shall not receive or give nor shall he allow his spouse or any other person to receive or give on his behalf any present, whether in a tangible form or otherwise, from or to any person, association, body or group of persons if the receipt or giving of such present is in any way connected, either directly or indirectly, with his official duties.

(2) The President, if he thinks fit, permit an officer to receive a letter of recommendation from any person, association, body or group of persons on the occasion of the officer's retirement or transfer so long as such letter of recommendation is not enclosed in a receptacle of value.

(3) The Head of Department may permit the collection of spontaneous contributions by officers under his charge for the purpose of making a presentation to an officer in his Department on the occasion of the officer's retirement, transfer or marriage or any other appropriate occasion.

(4) If the circumstances make it difficult for an officer to refuse a present or token of value, the receipt of which is prohibited by this regulation, such present may be formally accepted but the officer shall, as soon as practicable, submit to the President a written report containing a full description and the estimated value of the present and the circumstances under which it was received.

(5) Upon receipt of a report made under subrule (4), the President shall—

(a) permit the officer to retain the present; or

(b) direct that the present be returned, through the Head of Department, to the giver.

Entertainment

13. An officer may give to or accept from any person any kind of entertainment if—

(a) the entertainment does not in any manner influence the performance of his duties as an officer of the Council in the interest of that person; and

(b) the giving or acceptance of such entertainment is not in any way inconsistent with rule 7.

Ownership of property

14. (1) An officer shall, on his appointment or at any time thereafter as may be required by the Council, declare in writing to the President all properties owned by him or by his spouse or child or held by any person on his behalf or on behalf of his spouse or child.

(2) An officer who does not own any property shall make a declaration in writing to that effect.

(3) Where, after making a declaration under subrule (1), an officer or his spouse or child acquires any property, either directly or indirectly, or any property acquired by him or by his spouse or child is disposed of, that officer shall immediately declare such acquisition or disposal of property to the President.

(4) Where an officer or his spouse or child intends to acquire any property and the acquisition is inconsistent with rule 7 the acquisition shall not be made without the prior written permission of the President.

(5) In deciding whether or not to grant permission under subrule (4), the President shall have regard to the following matters:

- (a) the size, amount or value of the property in relation to the officer's emoluments and any legitimate private means;
- (b) whether the acquisition or holding of such property will or is likely to conflict with the interests of the Council or with the officer's position as an officer of the Council, or be in any way inconsistent with rule 7; and
- (c) any other factor which the President may consider necessary for upholding the integrity and efficiency of the Council.

(6) The President shall, if he is satisfied with the declaration of property made by the officer, direct that it be recorded in the officer's records of service that the declaration has been made.

(7) Every declaration under subrule (1) shall be categorized as classified and every person who gains information under this regulation of any such declaration shall comply with the procedures and regulations pertaining to the management of the Council's classified documents.

(8) In this rule, "property" includes property of any description, whether movable or immovable, as may be prescribed by the President from time to time.

Maintaining a standard of living beyond emoluments and legitimate private means

15. (1) Where the President is of the opinion that an officer is or appears to be—

- (a) maintaining a standard of living which is beyond his emoluments and other legitimate private means, if any; or
- (b) in control or in possession of pecuniary resources or property, movable or immovable, the value of which is disproportionate to, or which could not reasonably be expected to have been acquired by the officer with his emoluments and other legitimate private means,

the President shall, by notice in writing, require the officer to give a written explanation within a period of thirty days from the date of receipt of such notice on how he is able to maintain such standard of living or how he obtained such pecuniary resources or property.

(2) The President shall, upon receipt of the explanation under subrule (1) or, where the officer fails to give any explanation within the specified period, upon the expiry of such period, report this fact to the appropriate Disciplinary Committee together with the officer's explanation, if any.

(3) Upon receipt of the report under subrule (2), the appropriate Disciplinary Committee may take disciplinary action against the officer or take such other action against the officer as it deems fit.

Borrowing money

16. (1) No officer may borrow from any person or stand as surety to any borrower, or in any manner place himself under a pecuniary obligation to any person—

- (a) who is directly or indirectly subject to his official authority;
- (b) with whom the officer has or is likely to have official dealings;
- (c) who resides or possesses land or carries on business within the local limits of his official authority; or
- (d) who carries on the business of money lending.

(2) Notwithstanding subrule (1), an officer may borrow money from, or stand as surety to any person who borrows money from, any financial institution, insurer or co-operative society, or incur debt through the acquisition of goods by means of hire-purchase agreement, if—

- (a) the financial institution, insurer or co-operative society from which the officer borrows is not directly subject to his official authority;
- (b) the borrowing does not and will not lead to public scandal and cannot be construed as an abuse by the officer of his official position to his private advantage; and
- (c) the aggregate of his debts does not or is not likely to cause the officer to be in serious pecuniary indebtedness as defined under subrule 17(7) and (8).

(3) Subject to subrule (2), an officer may incur debts arising from—

- (a) sums borrowed on the security of land charged or mortgaged, where the sums borrowed do not exceed the value of the land;
- (b) overdrafts or other credit facilities approved by financial institutions;
- (c) sums borrowed from insurers on the security of insurance policies;
- (d) sums borrowed from the Federal Government, State Government, Council or any co-operative society; or
- (e) payment due on goods acquired by means of hire-purchase agreement.

Serious pecuniary indebtedness

17. (1) An officer shall not in any manner cause himself to be in serious pecuniary indebtedness.

(2) Serious pecuniary indebtedness from whatever cause, other than as a result of unavoidable misfortune not contributed to in any way by the officer himself, shall be regarded as bringing disrepute to the Council and shall render the officer liable to disciplinary action.

(3) Where serious pecuniary indebtedness has occurred as a result of unavoidable misfortune, the Council may give to the officer such assistance as the circumstances may warrant.

(4) If an officer finds that his debts cause or are likely to cause serious pecuniary indebtedness to him, or civil proceedings arising from the debt have been instituted against him, he shall immediately report this fact to the President.

(5) An officer who fails or delays in reporting his serious pecuniary indebtedness or who reports his serious pecuniary indebtedness but fails to disclose its full extent or gives a false or misleading account of such indebtedness commits a breach of discipline and shall be liable to disciplinary action.

(6) Without prejudice to the other provisions of this regulation, where an officer's debts amount to serious pecuniary indebtedness but he has not been adjudged a bankrupt, the President shall direct the Head of Department to monitor and, from time to time, review the case.

(7) For the purpose of this regulation, the expression "serious pecuniary indebtedness" means the state of an officer's indebtedness which, having regard to the amount of debts incurred by him, has actually caused serious financial hardship to him.

(8) Without prejudice to the general meaning of the expression "serious pecuniary indebtedness" set out in subrule (7), an officer shall be deemed to be in serious pecuniary indebtedness if—

- (a) the aggregate of his unsecured debts and liabilities at any given time exceeds ten times his monthly emoluments;
- (b) he is a judgement debtor and the judgement debt has not been settled within the period of one month upon receipt of the sealed order of the judgement; or
- (c) he is a bankrupt, or an insolvent wage earner, as the case may be, for so long as any judgement against him in favour of the Director General of Insolvency remains unsatisfied or for so long as there is no annulment of his adjudication of bankruptcy.

(9) Notwithstanding subrule (7), an officer may incur debts for the purpose of education loan so long as he is not declared a bankrupt.

Report of serious pecuniary indebtedness

18. (1) The Registrar, Deputy Registrar or Senior Assistant Registrar of the High Court and the Registrar of the Sessions Court and Magistrates' Court shall in respect

of civil proceedings in their courts, report to the appropriate Head of Department every case of an officer—

- (a) who, being a judgement debtor, does not appear from the file of the suit to have settled the debt within the period of one month upon receipt of the sealed order of the judgement;
- (b) who has filed his own petition in bankruptcy or for a wage earner's administration order; or
- (c) against whom a creditor's petition in bankruptcy has been presented.

(2) The Director General of Insolvency shall, as soon as he has sufficiently investigated the affairs of an officer who is a bankrupt or an insolvent wage earner, communicate to the appropriate Head of Department a report containing the following matters:

- (a) the statement of affairs filed by the bankrupt or an insolvent wage earner in accordance with the bankruptcy law for the time being in force;
- (b) the amount of installment payment ordered or proposed to be made;
- (c) whether or not the Director General of Insolvency proposes to initiate any further proceedings and, if so, a brief indication relating to the nature of those further proceedings;
- (d) the main cause of the bankruptcy;
- (e) whether in his opinion the case involves unavoidable misfortune, dishonorable conduct or any other special circumstances, favorable or unfavorable to the officer; and
- (f) any other matter which he thinks fit.

(3) The Head of Department shall forward the report received under subrules (1) and (2) together with his report on the officer's work and conduct before and since his serious pecuniary indebtedness to the appropriate Disciplinary Committee.

(4) After considering all the reports, the appropriate Disciplinary Committee shall decide whether to take disciplinary action against the officer concerned and, if so, what action to take.

(5) If the disciplinary action taken under subrule (4) results in a punishment of deferment of salary movement, the appropriate Disciplinary Committee may, on the expiry of the deferment of salary movement, order that an amount equivalent to the restored salary movement be added to the installments payable to the Director General of Insolvency or to any judgment creditor.

(6) An officer who obtains an annulment of his bankruptcy may be treated as having fully restored his credit.

Lending Money

19. (1) An officer shall not lend money with interest, whether with or without security.

(2) The placing of money on fixed deposit or into an account in any financial institution or co-operative society or in bonds issued by the Federal Government or

State Government or by any statutory body shall not be regarded as lending of money with interest for the purposes of this rule.

Involvement in the futures market

20. No officer shall involve himself as a buyer or seller or otherwise in any local or foreign futures market.

Lucky draws, lotteries, etc.

21. An officer shall not hold or organize or participate in any lucky draws or lotteries other than for purposes of charity.

Publication of books, etc.

22. An officer shall not publish or write any book, article or other work which is based on classified official information.

Making public statement

23. (1) An officer shall not, orally or in writing or in any other manner—

(a) make any public statement that is detrimental to any policy, programme or decision of the Federal Government, State Government or Council on any issue;

(b) make any public statement which may embarrass or bring disrepute to the Federal Government, State Government or Council;

(c) make any comments on any weaknesses of any policy, programme or decision of the Federal Government, State Government or Council; or

(d) circulate such statement or comments, whether made by him or any other person.

(2) An officer shall not, either orally or in writing or in any other manner—

(a) make any comments on the advantages of any policy, programme or decision of the Federal Government, State Government or Council;

(b) give any factual information relating to the exercise of the functions of the Council;

(c) give any explanation in respect of any incident or report which involves the Council; or

(d) disseminate any such comment, information or explanation whether made by him or any other person.

unless the prior written permission, either generally or specifically, has first been obtained from the President.

(3) Subrule (2) shall not apply to any comment, information or explanation made, given or disseminated where the contents of the comment, information or explanation had been approved by the President.

(4) For the purpose of this rule, "public statement" includes any statement or comment made to the press or to the public or in the course of any public lecture or speech or in any broadcast or publication, regardless of the means.

Prohibition on acting as editor, etc. in any publication

24. An officer shall not act as the editor of, or take part directly or indirectly in the management of, or in any way make any financial contribution or otherwise to, any publication, including any newspaper, magazine or journal, regardless of the means by which it is published, except the following publications:

- (a) departmental publications;
- (b) professional publications;
- (c) publications of non-political voluntary organization; and
- (d) publications approved in writing by the President for the purposes of this provisions.

Taking part in politics

25. (1) Except as provided in subrule (3), an officer in the Managerial and Professional Group is prohibited from taking an active part in political activities or wearing any emblem of a political party, and in particular he shall not—

- (a) make any public statement, whether orally or in writing, that would adopt a partisan view on any matter which is an issue between political parties;
- (b) publish or circulate books, articles or leaflets setting forth his partisan views, or the views of others, on any matter pertaining to any political party;
- (c) engage in canvassing in support of any candidate at a general election, by-election or any election to any office in any political party;
- (d) act as an election agent or a polling agent or in any capacity for or on behalf of a candidate at an election to the Dewan Rakyat or to any State Legislative Assembly;
- (e) stand for election for any post in any political party; or
- (f) hold any post in any political party.

(2) An officer in the Support Group may stand for election or hold office or be appointed to any post in a political party after first obtaining the written approval of the President.

(3) Notwithstanding the provisions of subrule (1), an officer who has been granted leave until the date of his retirement for the purpose of finishing his accumulated leave may participate in political activities provided that—

- (a) he has obtained the prior written approval of the President; and
- (b) by being so engaged he does not contravene the provisions of the Official Secrets Act 1972 [Act 88].

(4) An application for approval under paragraph (3)(a) shall be made at least three months prior to the date the officer is allowed to go on leave prior to retirement.

(5) Nothing in this rule shall preclude an officer from being an ordinary member of any political party.

(6) An officer who has been accepted as an ordinary member of any political party shall as soon as possible inform this fact to the President.

Institution of legal proceedings and legal aid

26. (1) Where an officer desires legal aid as provided for under subrule (3) he shall not institute legal proceedings in his own personal interests in connection with matters arising out of his official duties without the prior consent of the President.

(2) An officer who receives a notice of the institution or intended institution of legal proceedings against him in connection with matters arising out of his official duties or who receives any process of court relating to such legal proceedings shall immediately report the matter to the Head of Department for instruction as to whether and how the notice or, as the case may be, the process of court is to be acknowledged, answered or defended.

(3) An officer who desires legal aid to retain and instruct an advocate and solicitor for the purpose of legal proceedings in connection with matters arising out of his official duties may make an application to the President.

(4) An application under subrule (3) shall contain all the facts and circumstances of the case together with the considered opinion of the Head of Department as to the nature of the officer's involvement and shall be addressed and submitted to the President.

(5) Upon receipt of an application under subrule (3), the President may approve or reject the application, subject to the advice of the legal officer or advocate and solicitor appointed by the Council as to—

- (a) the amount of legal aid to be approved;
- (b) the advocate and solicitor to be retained and instructed by the officer; or
- (c) any other condition which the legal officer of the Council or the advocate and solicitor appointed under paragraph (b) may consider advisable,

and to a further implied condition that, in the event of the officer being awarded costs by the Court at the conclusion of the legal proceedings, no payment in respect of the legal aid so approved will be made by the Council unless the amount of costs so awarded to him is insufficient to meet charges for retaining and instructing an advocate and solicitor.

(6) Charges for employing, without the approval of the President, an advocate and solicitor retained and instructed by or on behalf of an officer in legal proceedings in connection with matters arising out of his official duties shall not be paid for by the Council.

PART IV

ABSENCE WITHOUT LEAVE

Absence from duty

27. In this Part, "absence", in relation to an officer, includes a failure to be present for any length of time and place where the officer is required to be present for the performance of his duties.

Disciplinary action for absence without leave

28. An officer's absence from duty without leave or without prior permission or without reasonable cause shall render him liable to disciplinary action.

Procedure in cases of absence without leave

29. (1) Where an officer is absent from duty without leave or without prior permission or without reasonable cause, his Head of Department shall, as soon as possible, report that fact together with the dates and circumstances of such absence and any further information in respect of such absence to the appropriate Disciplinary Committee.

(2) The appropriate Disciplinary Committee may, after considering the report of the Head of Department under subrule (1), institute disciplinary action against the officer.

Procedure where officer is absent without leave and cannot be traced

30. (1) Where an officer is absent from duty without leave or without prior permission or without reasonable cause for seven consecutive working days and cannot be traced, his Head of Department shall cause a letter to be delivered personally or sent by A.R. Registered Post to the officer at his last-known address, directing the officer to immediately report for duty.

(2) If, after the letter is delivered—

(a) the officer reports for duty; or

(b) the officer fails to report for duty or no news is heard from him,

his Head of Department shall submit a report to the appropriate Disciplinary Committee and the Disciplinary Committee shall institute disciplinary action against the officer.

(3) If the letter cannot be delivered in person to the officer by reason of the fact that he is no longer residing at his last-known address or if the A.R. Registered Letter is returned undelivered, the Head of Department shall report the matter to the Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank upon the officer.

(4) The appropriate Disciplinary Committee shall, upon receiving the report referred to in subrule (3) take steps to publish a notice in at least one daily newspaper published in the national language and having National circulation as determined by the Disciplinary Committee—

(a) of the fact that the officer has been absent from duty and cannot be traced; and

(b) requiring the officer to report for duty within seven days from the date of such publication.

(5) If the officer reports for duty within seven days from the date of publication of the notice referred to in subrule (4), his Head of Department shall report the matter to the appropriate Disciplinary Committee and the Disciplinary Committee shall institute disciplinary proceedings against the officer.

(6) If the officer fails to report for duty within seven days from the date of the publication of the notice referred to in subrule (4), the officer shall be deemed to have been dismissed from the service with effect from the date he was absent from duty.

(7) The dismissal of an officer by virtue of subrule (6) shall be notified in the *Gazette*.

(8) Subject to rule 31, the Head of Department may instruct the officer for the time being charged with the responsibility of finance to defer any emolument for the period of which the officer was absent.

Forfeiture of emoluments due to absence from duty

31. (1) Where an officer has been found guilty for being absent from duty without leave or without prior permission or without reasonable cause, he shall not be entitled to any emolument for the period of his absence and all such emoluments shall be deemed to have been forfeited notwithstanding that the appropriate Disciplinary Committee may not have ordered such forfeiture.

(2) An officer whose emoluments are forfeited under subrule (1) shall be notified in writing of the forfeiture at his last-known address.

(3) The forfeiture of emoluments by virtue of subrule (1) is not a disciplinary punishment.

PART V

OFFICER SUBJECT TO CRIMINAL PROCEEDINGS, ETC.

Procedure where criminal proceedings are instituted against an officer

32. (1) An officer shall immediately inform his Head of Department if any criminal proceedings are instituted against him in any court.

(2) Where criminal proceedings are instituted against an officer, the Registrar, Deputy Registrar or Senior Assistant Registrar of the High Court and the Registrar of the Sessions Court and Magistrates' Court in which the proceedings are instituted shall send to the Head of Department under whom the officer is serving—

(a) at the commencement of the proceedings, a report containing the following information:

- (i) the charge or charges against the officer;
- (ii) if the officer was arrested, the date and time of his arrest;
- (iii) whether or not the officer is on bail; and
- (iv) such other information as is relevant; and

(b) at the end of the proceedings, the decision of the Court and any information relating to appeals, if any, filed by either party.

(3) Where the Head of Department has not received any report pursuant to subrule (2) but he has knowledge from any source that criminal proceedings have been instituted in any Court against an officer serving under him, he shall obtain a report containing the information referred to in paragraphs (2)(a) and (b) from the

Registrar, Deputy Registrar or Senior Assistant Registrar of the High Court and the Registrar of the Sessions Court and Magistrates' Court.

(4) Upon receipt of the report pursuant to subrules (2) and (3), the Head of Department shall forward the report to the appropriate Disciplinary Committee that has the power to impose a punishment of dismissal or reduction in rank together with his recommendation as to whether or not the officer should be interdicted from duty.

(5) Upon consideration of the report and the Head of Department's recommendation forwarded to it under subrule (4), the appropriate Disciplinary Committee may, if it deems fit, interdict the officer from the exercise of his duties.

(6) Upon the completion of the criminal proceedings against the officer, his Head of Department shall obtain from the Registrar, Deputy Registrar or Senior Assistant Registrar of the High Court and the Registrar of the Sessions Court and Magistrates' Court before whom the case was disposed of and forward to the appropriate Disciplinary Committee—

(a) the decision of that Court; and

(b) information relating to appeal, if any, filed by that officer or the Public Prosecutor.

(7) Where criminal proceedings against an officer result in his conviction, the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank shall, whether or not the officer appeals against the conviction, suspend the officer from the exercise of his duties with effect from the date of his conviction pending the decision of the Disciplinary Committee under rule 33.

(8) Where criminal proceedings against an officer result in his acquittal and there is no appeal by or on behalf of the Public Prosecutor against such acquittal, the officer shall be allowed to resume his duties and he shall be entitled to receive any emoluments which had not been paid during the period of his interdiction, as well as the annual leave and other entitlements to which he was entitled during the period of his interdiction.

(9) Where the criminal proceedings against the officer result in his acquittal and an appeal is lodged by the Public Prosecutor, the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank shall decide whether or not the officer should continue to be interdicted until the appeal is determined.

(10) Where criminal proceedings against an officer result in his conviction but on appeal the officer is acquitted, the officer shall be allowed to resume his duties and he shall be entitled to receive any emoluments which had not been paid during the period of his interdiction or suspension or both, as well as the annual leave and other entitlements to which he was entitled during the period of his interdiction or suspension or both.

(11) Where criminal proceedings against an officer result in his acquittal but on appeal the officer is convicted, the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank shall suspend the officer from the exercise of his duties with effect from the date of his conviction pending the decision of the Disciplinary Committee under rule 33.

(12) For the purpose of this regulation, the word "acquittal" includes a discharge not amounting to an acquittal.

Responsibility of Head of Department if officer is convicted of criminal offence

33. (1) Where criminal proceedings against an officer result in his conviction and he does not appeal against such conviction, or where his appeal against the conviction has been dismissed or where the Public Prosecutor's appeal against his acquittal results in his conviction, his Head of Department shall immediately obtain a copy of the Court's decision from the Registrar, Deputy Registrar or Senior Assistant Registrar of the High Court and the Registrar of the Sessions Court and Magistrates Court by which he was convicted or his appeal is dismissed.

(2) Upon receipt of the decision referred to in subrule (1), the Head of Department shall forward it to the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank together with the officer's records of service and the recommendation of the Head of Department that—

- (a) the officer should be dismissed or reduced in rank;
- (b) the officer should be punished with any punishment other than dismissal or reduction in rank;
- (c) the service of the officer should be terminated in the public interest; or
- (d) no punishment should be imposed.

depending on the nature and seriousness of the offence committed in relation to the degree of disrepute which the conviction has brought to the Council.

Disciplinary action shall not be taken until criminal proceedings are completed

34. (1) Where criminal proceedings have been instituted against an officer and are still pending, no disciplinary action shall be taken against the officer based on the same grounds as the criminal charge in the criminal proceedings.

(2) Nothing in subrule (1) shall be construed so as to prevent disciplinary action from being taken against the officer during the tendency of such criminal proceedings if the action is based on any other ground arising out of his conduct in the performance of his duties.

Consequences of an acquittal

35. (1) An officer who is acquitted of a criminal charge in any criminal proceedings shall not be subject to disciplinary action on the same charge.

(2) Nothing in subrule (1) shall be construed so as to prevent disciplinary action from being taken against the officer on any other ground arising out of his conduct in relation to the criminal charge, whether or not connected to the performance of his duties, as long as the grounds for the disciplinary action do not raise substantially the same issues as those in the criminal proceedings in relation to the criminal charge of which the officer was acquitted.

Procedure where there is an order of detention, banishment, etc.

36. (1) Where—

- (a) an order of detention other than an order of remand pending trial or for purposes of investigation;
- (b) an order of supervision, restricted residence, banishment or deportation; or
- (c) an order which imposes any form of restriction or supervision, whether with bond or otherwise.

has been made against an officer under any law relating to the security of Malaysia or any part of Malaysia, the prevention of crime, preventive detention, restricted residence, banishment, immigration or the protection of women and girls or of children, the officer's Head of Department shall apply for a copy of the order from the appropriate authority.

(2) Upon receipt of a copy of the order referred to in subrule (1), the Head of Department shall forward it to the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank together with the officer's records of service and the recommendation of the Head of Department that—

- (a) the officer should be dismissed or reduced in rank;
- (b) the officer should be punished with any punishment other than dismissal or reduction in rank;
- (c) the service of the officer should be terminated in the public interest; or
- (d) no punishment should be imposed.

depending on the degree of disrepute which the officer has brought to the Council.

Consideration of Disciplinary Committee in cases of conviction and detention

37. (1) If, after considering the report, the records of service and the Head of Department's recommendation forwarded to it under rules 33 and 36, the appropriate Disciplinary Committee is of the opinion that—

- (a) the officer should be dismissed or reduced in rank, the Disciplinary Committee shall impose the punishment of dismissal or reduction in rank, as it deems appropriate;
- (b) the offence of which the officer was convicted does not warrant a punishment of dismissal or reduction in rank but warrants the imposition of a lesser punishment, the Disciplinary Committee shall impose upon the officer any one or more of the punishments other than dismissal or reduction in rank as specified in rule 46 as it deems appropriate; or
- (c) no punishment should be imposed on the officer, the Disciplinary Committee shall acquit him.

(2) If, after considering the report, the records of service and the Head of Department's recommendation forwarded to it under subrule 36(2), the appropriate

Disciplinary Committee is of the opinion that—

- (a) the officer should be dismissed or reduced in rank, the Disciplinary Committee shall impose the punishment of dismissal or reduction in rank, as it deems appropriate;
 - (b) the grounds on which the order was made against the officer do not warrant a punishment of dismissal or reduction in rank but warrant the imposition of a lesser punishment, the Disciplinary Committee shall impose upon the officer any one or more of the punishments other than dismissal or reduction in rank as specified in rule 46 as it deems fit and proper; or
 - (c) no punishment should be imposed on the officer, the Disciplinary Committee shall acquit him.
- (3) Where a punishment other than dismissal has been imposed on an officer or where the officer has been acquitted by the appropriate Disciplinary Committee, the appropriate Disciplinary Committee shall direct the officer to resume his duties.

PART VI
DISCIPLINARY PROCEDURE
Chapter 1 – General

Conditions for dismissal or reduction in rank

38. (1) Subject to subrule (2), no officer shall be dismissed or reduced in rank in any disciplinary proceedings under this Part, unless he has first been informed in writing of the grounds on which such action is proposed and he has been afforded a reasonable opportunity of being heard.

- (2) Subrule (1) shall not apply in the following cases:
 - (a) where an officer is dismissed or reduced in rank on the ground of conduct in respect of which a criminal charge has been proved against him;
 - (b) where the appropriate Disciplinary Committee is satisfied that for some reason, to be recorded by it in writing, it is not reasonably practicable to carry out the requirements of subrule (1);
 - (c) where the State Secretary is satisfied that in the interest of the security of the State or any part thereof, it is not expedient to carry out the requirements of this rule; or
 - (d) where there has been made against the officer any order of detention, supervision, restricted residence, banishment or deportation or where there has been imposed on such officer any form of restriction or supervision by bond or otherwise, under any law relating to the security of Malaysia or any part thereof prevention of crime, preventive detention, restricted residence, banishment, immigration or protection of women and girls.

Chairman of Disciplinary Committee to determine nature of breach of discipline

39. (1) Where an officer is alleged to have committed a disciplinary offence—

- (a) the Chairman of the Disciplinary Committee appropriate to that officer; or
- (b) if there is more than one tier of Disciplinary Committee in respect of such officer, the Chairman of the Disciplinary Committee having the jurisdiction to impose a punishment other than dismissal or reduction in rank.

shall before commencing any disciplinary proceedings in respect of the officer, consider and determine whether the disciplinary offence complained of is of a nature which warrants a punishment of dismissal or reduction in rank or a punishment lesser than dismissal or reduction in rank.

(2) If the Chairman of the Disciplinary Committee referred to in paragraph (1) (a) or (b) determines that the disciplinary offence complained of is of a nature which warrants a punishment of dismissal or reduction in rank, he shall refer the case to the Disciplinary Committee which has the power to impose such punishment.

Chapter 2 – Disciplinary proceedings not with a view to dismissal or reduction in rank

Procedure in disciplinary cases not with a view to dismissal or reduction in rank

40. (1) If it is determined under subrule 39(2) that the disciplinary offence complained of against an officer is of a nature that warrants a punishment lesser than dismissal or reduction in rank, the appropriate Chairman of Disciplinary Committee referred to in paragraph 39(1)(a) or (b), on being satisfied that there exists a disciplinary offence, shall inform the officer by notice in accordance with rule 61 of the facts of the Disciplinary offence alleged to have been committed by him and shall give to the officer an opportunity to make a written representation within a period of twenty one days from the date he is informed of the facts.

(2) If the appropriate Disciplinary Committee is of the opinion that the officer's representation requires further clarification, the Disciplinary Committee may require the officer to furnish further clarification within such period as the Disciplinary Committee may specify.

(3) If, after considering the officer's representation and his further clarification (if further clarification is furnished), the appropriate Disciplinary Committee—

- (a) finds the officer guilty of the disciplinary offence alleged to have been committed by him, the Disciplinary Committee shall impose upon the officer any one or more of the punishments other than dismissal or reduction in rank as specified in rule 46 as it deems appropriate; or
- (b) finds the officer not guilty, the Disciplinary Committee shall acquit him.

*Chapter 3 – Disciplinary proceeding with a view to
dismissal or reduction in rank*

Procedure in disciplinary cases with a view to dismissal or reduction in rank

41. (1) If it is determined under subrule 39(2) that the disciplinary offence complained of against an officer is of a nature that warrants a punishment of dismissal or reduction in rank, the Chairman of the appropriate Disciplinary Committee to which the case is referred shall consider all the available information.

(2) If it appears to the Chairman of the appropriate Disciplinary Committee that there exists a *prima facie* case against the officer, the Chairman of the appropriate Disciplinary Committee shall:

(a) direct that a charge containing the facts of the disciplinary offence alleged to have been committed by the officer and the grounds on which it is proposed to dismiss the officer or reduce his rank be sent to the officer; and

(b) require the officer to make, within a period of twenty one days from the date he is informed by notice in accordance with rule 61 of the charge, a written representation containing the grounds upon which he relies to exculpate himself.

(3) If, after considering the representation made pursuant to subrule (1), the appropriate Disciplinary Committee is of the opinion that the disciplinary offence committed by the officer does not warrant a punishment of dismissal or reduction in rank, the appropriate Disciplinary Committee may impose upon the officer any of the lesser punishments specified in rule 46 as it deems appropriate.

(4) If the officer does not make any representation within the period specified in paragraph (2)(b), or if the officer makes such a representation but the representation does not exculpate himself to the satisfaction of the appropriate Disciplinary Committee, the Disciplinary Committee shall then proceed to consider and decide on the dismissal or reduction in rank of the officer.

(5) If the appropriate Disciplinary Committee is of the opinion that the case against the officer requires further clarification, the Disciplinary Committee may establish an Investigation Committee for the purpose of obtaining such further clarification.

Investigation Committee

42. (1) The Investigation Committee shall comprise not less than two officers.

(2) Members of the Investigation Committee shall be higher in rank than the officer under investigation but the Head of Department of the officer under investigation shall not be a member of the Investigation Committee.

Procedure to be followed by the Investigation Committee

43. (1) The Investigation Committee—

(a) shall inform the officer under investigation of the date when the question of his dismissal or reduction in rank will be brought before the Investigation Committee; and

(b) may call and examine any witness or take any action as it thinks necessary and proper for obtaining further clarification regarding the case.

(2) If the Investigation Committee is of the view that the officer should be allowed to be present before the Committee to exculpate himself, the officer shall present himself before the Committee for such purpose.

(3) If witnesses are called and examined by the Investigation Committee, the officer shall be given an opportunity to be present and to cross-examine the witnesses on his own behalf.

(4) No documentary evidence shall be used against an officer unless the officer has previously been supplied with a copy of the evidence or given access to the evidence.

(5) The Investigation Committee may permit the Council or the officer to be represented by an officer of the Council or in exceptional cases, by an advocate and solicitor, but the Investigation Committee may withdraw such permission subject to any reasonable and necessary adjournment to enable the officer to present his case in person.

(6) If the Investigation Committee permits the Council to be represented, it shall also permit the officer under investigation to be similarly represented.

(7) If the officer under investigation who is required to appear before the Investigation Committee fails to appear on the date and at the time appointed and if no sufficient ground is shown for an adjournment, the Investigation Committee may proceed to consider and decide on the complaint or may adjourn the proceeding to another date.

(8) Upon the completion of its investigation, the Investigation Committee shall submit a report on such investigation to the appropriate Disciplinary Committee.

(9) If the appropriate Disciplinary Committee is of the opinion that the report submitted to it under subrule (8) is vague in particular matters or that further investigation is required, the appropriate Disciplinary Committee may refer the matter back to the Investigation Committee for further investigation.

Further grounds for dismissal

44. (1) If, in the course of an investigation by the Investigation Committee, further grounds for the dismissal of the officer under investigation are disclosed, the Investigation Committee shall inform the appropriate Disciplinary Committee of the further grounds.

(2) If the Disciplinary Committee thinks fit to proceed against the officer on such further grounds, the officer shall be given a written statement of those grounds, and the procedures set out in rules 41, 42 and 43 shall apply in respect of the further grounds as they apply in respect of the original grounds.

Power of the Disciplinary Committee

45. If, after considering the officer's representation and the report of the Investigation Committee, if any, the appropriate Disciplinary Committee—

(a) finds the officer guilty of the disciplinary offence alleged to have been

committed by him and that the officer should be dismissed or reduced in rank, the Disciplinary Committee shall impose the punishment of dismissal or reduction in rank, as it deems appropriate:

- (b) finds the officer guilty of the disciplinary offence alleged to have been committed by him but that, after taking into consideration the circumstances in which the disciplinary offence was committed and other mitigating factors, such offence does not warrant a punishment of dismissal or reduction in rank but warrants the imposition of a lesser punishment, the Disciplinary Committee shall impose upon the officer any one or more of the punishments other than dismissal or reduction in rank as specified in rule 46 as it deems appropriate; or
- (c) finds the officer not guilty, the Disciplinary Committee shall acquit him.

PART VII DISCIPLINARY PUNISHMENTS

Types of disciplinary punishments

46. If an officer is found guilty of a disciplinary offence, any one or any combination of two or more of the following punishments, depending upon the seriousness of the offence, may be imposed on the officer:

- (a) warning;
- (b) fine;
- (c) forfeiture of emoluments;
- (d) deferment of salary movement;
- (e) reduction of salary;
- (f) reduction in rank;
- (g) dismissal.

Fine or forfeiture of emoluments

47. (1) A punishment of fine or forfeiture of emoluments shall be made in accordance with subrules (2), (3), (4), (5) and (6).

(2) Any fine imposed on any one occasion shall not exceed an amount equivalent to seven (7) days emoluments of the officer concerned.

(3) If an officer is fined on more than one occasion in any calendar month, the aggregate of the fines imposed on him in that month shall not exceed an amount equivalent to forty-five percent of his monthly emoluments.

(4) Where the punishment is imposed as a consequence of the officer being absent from duty without leave or without prior permission or without reasonable cause, any forfeiture of the officer's emoluments shall, unless otherwise decided by the appropriate Disciplinary Committee, be calculated by having regard to the actual period the officer is absent.

(5) The implementation of the punishment of a fine or forfeiture of emoluments shall not be carried out against an officer who was absent without leave or without prior permission or without reasonable cause where the officer's emoluments have been forfeited, in respect of such absence from duty, under rule 31.

(6) All fines or forfeitures of emoluments shall be deducted from the officer's monthly emoluments and shall be paid into the revenue of the Council.

Deferment of salary movement

48. (1) The punishment of deferment of salary movement may be imposed by the appropriate Disciplinary Committee for a period of—

- (a) three months;
- (b) six months;
- (c) nine months; or
- (d) twelve months,

as the Disciplinary Committee deems appropriate.

(2) The punishment of deferment of salary movement imposed on an officer shall be executed on the next anniversary of the salary movement of that officer after the date of imposition of the punishment by the appropriate Disciplinary Committee.

(3) An officer on whom the punishment of deferment of salary movement is imposed shall not be entitled to receive any salary movement for and during the period in which the punishment is in force.

(4) A punishment of deferment of salary movement shall have the following consequences on the officer on whom the punishment is imposed—

- (a) his salary movement shall be altered to the nearest date of salary movement after the expiry of the period of punishment; and
- (b) the date of his salary movement shall remain at the date altered under paragraph (a) until the officer reaches the maximum step in his salary schedule.

Reduction of salary

49. (1) The appropriate Disciplinary Committee may impose a punishment of reduction of salary on an officer in accordance with the following provisions:

- (a) the salary can only be reduced horizontally in the same salary level;
- (b) the reduction of salary shall not exceed three salary movements; and
- (c) the duration of the punishment shall not be less than twelve months but shall not be more than thirty-six months on any one occasion.

(2) The punishment of reduction of salary imposed on an officer shall be implemented on the date as specified by the appropriate Disciplinary Committee or if no date is specified, on the date the punishment is imposed.

(3) The date of salary movement of an officer on whom the punishment of reduction of salary is imposed shall be altered to the date of the next salary movement after the punishment expires.

(4) An officer on whom the punishment of reduction of salary is imposed shall not be entitled to receive any salary movement for and during the period in which the punishment is in force.

Reduction in rank

50. The appropriate Disciplinary Committee may impose the punishment of reduction in rank on an officer in the following manner:

- (a) by reducing the grade of the officer to a lower grade in the same scheme of service; and
- (b) by determining that the officer's new salary shall be at a salary point in the salary schedule of such reduced grade such that the salary is lower than, but nearest to, the last drawn salary of the officer before the punishment is imposed on him.

Particulars of the offence and punishment to be recorded

51. Every disciplinary action taken against an officer which results in a punishment being imposed upon the officer under these Rules shall be recorded in the officer's Service Book by stating the particulars of the offence committed and the punishment imposed.

PART VIII

INTERDICTION AND SUSPENSION

Interdiction for the purpose of investigation

52. (1) Without prejudice to rules 32 and 53, if an officer is alleged or reasonably suspected of having committed a criminal offence or a serious disciplinary offence, the appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank on such officer may interdict the officer for a period not exceeding two months for the purpose of facilitating investigation against the officer.

(2) In deciding whether to interdict an officer under subrule (1), the appropriate Disciplinary Committee shall take into account the following factors:

- (a) whether the allegation or the suspected offence is directly related to the officer's duties; and
 - (b) whether the presence of the officer in the office would hamper investigation.
- (3) If, during the period an officer is under interdiction—
- (a) criminal proceedings are instituted against the officer in any Court; or
 - (b) disciplinary action is taken against him with a view to his dismissal or reduction in rank,

the interdiction order made under subrule (1) shall cease to have effect from the date such criminal proceedings are instituted or disciplinary action is taken against the officer; and the appropriate Disciplinary Committee shall take such further action as it thinks fit under regulation 53.

(4) An officer who has been interdicted under this rule shall be entitled to receive full emoluments during the period of his interdiction.

Interdiction

53. (1) The appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank may, if it thinks fit and proper and having regard to the matters specified in subrule (4), interdict an officer from the exercise of his duties if—

- (a) criminal proceeding have been instituted against the officer; or
- (b) disciplinary proceedings with a view that a punishment of dismissal or reduction in rank be imposed on him have been instituted against the officer.

(2) If an officer is interdicted under paragraph (1)(a), his interdiction may be made effective from the date he was arrested or from the date the summon was served on him.

(3) If an officer is interdicted under paragraph (1)(b), his interdiction may be made effective from such date as may be determined by the appropriate Disciplinary Committee.

(4) In deciding whether to interdict an officer under subrule (1), the appropriate Disciplinary Committee shall take into account the following factors:

- (a) whether the nature of the offence with which the officer is charged is directly related to his duties;
- (b) whether the presence of the officer in the office would hamper investigation;
- (c) whether the presence of the officer in the office to exercise his normal duties and responsibilities may be a source of embarrassment to, or may adversely affect the name or image of the Council; or
- (d) whether, taking into account the nature of the offence with which the officer is charged, the interdiction of the officer would result in the Council incurring a loss.

(5) If the appropriate Disciplinary Committee recalls an officer who has been interdicted under subrule (1) to resume his duties whilst criminal proceedings or disciplinary proceedings with a view to his dismissal or reduction in rank are still pending, then—

- (a) the order of interdiction shall cease to have effect from the date the officer resumes his duties;
- (b) the officer shall be paid his full emoluments from the date he resumes his duties; and
- (c) any part of his emoluments which has not been paid during his interdiction shall not be paid until the criminal proceedings or disciplinary proceedings with a view to his dismissal or reduction in rank have been completed and a decision as regards such emoluments has been made by the appropriate Disciplinary Committee.

(6) During the period of his interdiction under this rule, an officer shall be entitled, unless and until he has been suspended or dismissed, to receive not less than half of his emoluments as the appropriate Disciplinary Committee deems fit.

(7) Without prejudice to subrules 32(7) and 37(3), where an officer has been acquitted of a criminal charge or has been discharged but such discharge does not amount to an acquittal or has been acquitted of any disciplinary charge, any part of his emoluments which has not been paid to him while he was interdicted shall be paid to him.

Suspension

54. (1) The appropriate Disciplinary Committee having the jurisdiction to impose a punishment of dismissal or reduction in rank may suspend an officer from the exercise of his duties if—

(a) the officer has been convicted by any Court; or

(b) an order as specified in rule 36 has been made against the officer.

(2) The period of suspension under this rule shall commence from the date of conviction or the effective date of the order, as the case may be.

(3) An officer who is suspended from the exercise of his duties—

(a) shall not be allowed to receive any part of his emoluments which has not been paid during the period of his interdiction under rule 53; and

(b) shall not be entitled to receive any emoluments throughout the period of his suspension.

(4) The decision by the appropriate Disciplinary Committee to suspend an officer shall be notified to him in writing.

Unpaid emoluments

55. (1) Where disciplinary proceedings against an officer result in the officer being dismissed, he shall not be entitled to any part of the emoluments which has not been paid to him during the period of his interdiction or suspension.

(2) Where disciplinary proceedings against an officer result in a punishment other than dismissal being imposed on the officer, he shall be entitled to receive any part of his emoluments which has not been paid to him during the period of his interdiction or suspension.

Resumption of duties

56. Where an officer is interdicted under rule 53 or suspended under rule 54, and the disciplinary proceedings against the officer result in a punishment other than dismissal being imposed on the officer, the appropriate Disciplinary Committee shall order the officer to resume his duties.

Disciplinary procedures for an officer serving outside Malaysia

57. Where criminal proceedings have been instituted against an officer who is serving outside Malaysia, the officer shall be interdicted in accordance with rule 53, and if he is convicted, disciplinary action shall be taken under these Rules against him.

Officer shall not leave Malaysia without written permission

58. (1) An officer who has been interdicted or suspended from the exercise of his duties shall not leave Malaysia without the prior written permission of the Chairman of the appropriate Disciplinary Committee.

(2) If the officer who has been interdicted or suspended from the exercise of his duties is serving outside Malaysia, he shall be immediately recalled to Malaysia and he shall not leave Malaysia without the prior written permission of the Chairman of the appropriate Disciplinary Committee.

(3) Notwithstanding the provisions of subrule 53(6), the appropriate Disciplinary Committee shall take all necessary steps to stop the payment of any emoluments to an officer who has been interdicted but has left Malaysia without the prior written permission from the Chairman of the appropriate Disciplinary Committee.

PART IX**TERMINATION IN THE PUBLIC INTEREST****Termination in the public interest**

59. (1) Notwithstanding any provision in these Rules, where the State Government or Council finds or where representations are made to the State Government or Council that it is desirable that the service of an officer be terminated in the public interest, the State Government or Council may call for a full report from the Head of Department in which the officer is or has been serving.

(2) The report referred to in subrule (1) shall contain particulars relating to the work and conduct of the officer and the comments, if any, of the Head of Department.

(3) If, after considering the report received under subrule (1), the State Government or Council is satisfied that, having regard to the conditions of the service, the usefulness of the officer to the service, the work and conduct of the officer and all the other circumstances of the case, it is desirable in the public interest so to do, the State Government may request the Council to or the Council may, which ever is applicable, terminate the service of the officer with effect from such date as the State Government or the Council shall specify.

(4) Notwithstanding anything in these Regulations and any other laws to the contrary, in terminating the service of any officer in the public interest under this regulation, such officer may not be given any opportunity of being heard and an officer whose service has been terminated in the public interest under this rule shall not, for the purpose of the Local Government Act 1976 [Act 171], be regarded as having been dismissed, regardless of whether such termination of the service of the officer involved an element of punishment or was in connection with conduct in relation to his office which the State Government or the Council regards as unsatisfactory or blameworthy.

PART X
MISCELLANEOUS

Surcharge

60. (1) Notwithstanding anything contained in these Regulations, the appropriate Disciplinary Committee may impose a surcharge on any officer in accordance with any financial procedure in force or applicable to the Council.
- (2) Every imposition of a surcharge under subrule (1) shall be recorded in the officer's record of service.

Service of notice, document, etc.

61. (1) Every officer shall furnish to his Head of Department the address of his residence or any change of that address and that address shall be his address for the purpose of serving on him any notice or document required to be served under these Regulations or for the purpose of communicating with him on any matter in relation to these Rules.

(2) Any notice, document or communication left at or posted to or sent by any other reasonable means to the address for service furnished under subrule (1) shall be deemed to have been duly served on or communicated to the officer.

Signature on letters and other correspondence

62. Any correspondence between the appropriate Disciplinary Committee or the appropriate Disciplinary Appeal Committee and the officer who is subject to disciplinary action shall be signed by the Chairman of the appropriate Disciplinary Committee or the appropriate Disciplinary Appeal Committee or by any member of the appropriate Disciplinary Committee or appropriate Disciplinary Appeal Committee on behalf of the Chairman.

Revocation and savings

63. (1) The Manjung District Council Officers (Conduct and Discipline) Rules 1989 [Pk. P.U 29/1989], hereinafter referred to as "the revoked Rules" are hereby revoked.

- (2) Where on the date of the commencement of these Rules—
- (a) disciplinary proceedings has been commenced by informing the officer in writing the grounds on which it is proposed to take disciplinary action against him;
 - (b) disciplinary proceedings are being heard and are still pending before a Disciplinary Committee or Disciplinary Appeal Committee; or
 - (c) disciplinary proceeding are being heard or had been heard, but no order or decision has been made with respect to it,

the proceeding shall continue and concluded under the revoked Rules.

SCHEDULE I
MANJUNG MUNICIPAL COUNCIL
[subrule 6(1)]
UNDERTAKING

I..... Identity Card No.
 of do solemnly take oath that I will abide and observe
 these Manjung Municipal Council Officers (Conduct and Discipline) Regulations
 2013, General Orders, Circulars and Circular Letters and other regulations and
 regulations issued and enforced by the Government from time to time during my
 service with the Government. I hereby undertake as required under rule 7 of the
 Manjung Municipal Council Officers (Conduct and Discipline) Rules 2013 that I;

- (i) shall at all times be loyal to the Yang Di-Pertuan Agong, the Country and the Council;
- (ii) will continue to carry out my duty carefully, earnestly, efficiently, honestly, diligently and responsibly;
- (iii) shall not abandon my official duties for my personal interest;
- (iv) shall not behave in any manner that is likely to give rise to my personal interest, in conflict with my official duties;
- (v) shall not behave in any manner that may give rise to reasonable suspicion that I have allowed my personal interests to conflict with my official duties so to render me to abandon my duty as an officer of the Council;
- (vi) shall not use my position as an officer of the Council for my own;
- (vii) shall not behave in a way that may humiliate and bring disrepute to the Council;
- (viii) shall not use any form of external influence or pressure to support or promote any claims in respect of myself or other officers of the Council; and
- (ix) shall not disobey order or behaving in a way that could be construed as disobeying order.

I am fully aware that if I have been found to have violated any term of the undertaking above, I may be subject to disciplinary action in accordance to the Manjung Municipal Council Officers (Conduct and Discipline) Rules 2013.

.....
(Officer's Signature)

.....
(Officer's Designation)

In front of:

.....
*(Head of Department's Signature)
 on behalf of President*

.....
(Name and Identity Card No. of Head of Department)

.....
(Date)

.....
(Official Chop)

SCHEDULE II
MANJUNG MUNICIPAL COUNCIL
[subrule 11(2)]

CERTIFICATION BY THE GOVERNMENT MEDICAL OFFICER

To :

I, a Government Medical Officer certify that I have carried out a physical and mental examination on the following officer:

Name :

Identity Card No. :

Address :

On : At:

Based on the physical and mental examination that was carried out and the drug testing result of the above-mentioned officer I certify that**-

(a) he/she is a drug dependent as defined in the Drug Dependents (Treatment and Rehabilitation) Act 1983 [Act 283].

(b) he/she is using or consuming, other than for medicinal purposes a dangerous drug or abusing a dangerous drug which is listed in the First Schedule to the Dangerous Drug Act 1952 [Act 234].

(c) he/she is not a drug dependent as defined in the Drug Dependents (Treatment and Rehabilitation) Act 1983 or a drug user of any drug that is listed in the First Schedule to the Dangerous Drug Act 1952 [Act 234].

The type of dangerous drug/drugs* as listed in the First Schedule to the Dangerous Drug Act 1952 [Act 234] that was found to be positive in the drug test result of the above-mentioned officer is:

.....

Enclosed herewith the drug tests result on the above-mentioned officer dated..... and the Laboratory Reference Number.

(Government Medical Officer's Signature
and Official Seal)

Date

* Please delete whichever is inapplicable

** Please tick (/) where applicable

Made 18 September 2013
[MPM.JU2.W/1/6; PU.Pk. 59/72(v)]

DATO' ZAMRI BIN MAN
President
Manjung Municipal Council

Dated 30 September 2013
[PU.PK. 59/72(v)]

RUMAIZI BIN BAHARIN @ MD. DAUD
Secretary
State Executive Council
Perak Darul Ridzuan

Hakcipta Pencetak(B)

PERCETAKAN NASIONAL MALAYSIA BERHAD

Semua Hak Terpelihara. Tiada sebahagian juz daripada penerbitan ini boleh diterbitkan semula atau dimuatnaik di dalam bentuk yang boleh diperolehi semula atau diarkan dalam sebarang bentuk dengan apa jua cara elektronik, mekanikal, fotokopi, rakaman dan sebagainya tanpa mendapat ijin daripada Percetakan Nasional Malaysia Berhad (Pencetak kepada Kerajaan Malaysia yang dilantik)



DICETAK OLEH
PERCETAKAN NASIONAL MALAYSIA BERHAD,
CAWANGAN IPOH, PERAK DARUL RIDZUAN
BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA

LOCAL GOVERNMENT ACT 1976**ADVERTISEMENT****(MANJUNG MUNICIPAL COUNCIL) BY-LAWS 2013****ARRANGEMENT OF BY-LAWS****PART I****PRELIMINARY****By-laws**

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SCHEDULE

LOCAL GOVERNMENT ACT 1976**ADVERTISEMENT****(MANJUNG MUNICIPAL COUNCIL) BY-LAWS 2013**

In exercise of the powers conferred by section 102 of the Local Government Act 1976 [*Act 171*], the Manjung Municipal Council makes, and pursuant to section 103 of the Act, the State Authority confirms the following by-laws:

**PART I
PRELIMINARY****Citation, application and commencement**

1. (1) These by-laws may be cited as the **Advertisement (Manjung Municipal Council) By-Laws 2013**.

(2) These By-Laws shall apply only to the area administered by the Manjung Municipal Council.

(3) These By-Laws shall come into operation on the date of its publication in the *Gazette*.

Interpretation

2. In these By-Laws, unless the context otherwise requires—

“registered architect” means a person registered as such under Architect Act 1967 [*Act 117*];

“fee” means fee prescribed in the Schedule;

“sedition” shall have the same meaning assigned to it under Sedition Act 1948 [*Act 15*];

“advertisement” means any notification, posters, signboard, directive sign, intimation or publication exhibited for the purpose of bringing to the notice of the public any article, product, production, trade, business, profession, firm, corporation, organization, institution, place, premises, event, activity or any other matter or information on any hoarding, board, billboard, banner, roof, wall, paling, fence, tree, frame, plate, cloth, bar, pillar, post, wire, casing, vehicle, electronic board, hologram, unipole tower or by using laser beam or any other structure or contrivance, or any part thereof, on, in or over any building, street, public place or over any land and includes sky-sign, balloon and banner but does not include an election advertisement;

“illuminated advertisement” means any advertisement which is being illuminated from within a structure or frame of the advertisement itself by electric light such as ball lamp, fluorescent, neon and spotlight or other apparatus fixed, outside the structure or frame which emits light toward the advertisement resulting it to be seen clearly at night time;

“social community advertisement” means a temporary directional advertisement erected or exhibited for not more than seven days along a public right of way by a person to provide directions to a private, social or community function;

“election advertisement” shall have the same meaning assigned to it under Local Government (Election Advertisement) (Manjung District Council) By-Laws 1990 [Pk.P.U.31/1990];

“political advertisement” any advertisement by any political organization which displays to public;

“temporary advertisement” means any advertisement that is exhibited for a short-term period and shall include banner, sign, streamer, bunting, festive advertisement, inflatable advertisement and promotional advertisement;

“non illuminated advertisement” means any advertisement other than illuminate advertisement;

“registered civil engineer” or “registered structural engineer” means a person registered such as under the Registration of Engineers Act 1967 [*Act 138*];

“licence” means a licence issued under these By-Laws;

“Council” means the Manjung Municipal Council;

“advertisement serial number” means a series of alphabets and/or numbers that is issued by the Council to the advertisement licence which shall be exhibited on the advertisement;

“person” means—

- (i) owner or occupier of any land, building or any structure where the advertisement is exhibited; or
- (ii) any firm, corporation, company, society, co-operative society or any other organization registered in accordance with the Registration of Businesses Act 1956 [*Act 197*], Companies Act 1965 [*Act 125*], Societies Act 1966 [*Act 335*] or Co-operative Societies Act 1993 [*Act 502*];

“sign board” means any board which displays the name or the registered trade mark of any person, firm, corporation or organization, the nature of trade, business or profession carried on by such person, firm, corporation or organization;

“authorised Officer” means any officer authorised in writing by the President;

“servant” means any person appointed by the Council for the purpose of these By-Laws;

“licensee” means any person who has been issued a licence under these By-Laws;

“poster” means an advertisement measuring not more than sixty centimetres by ninety centimetres and not of the permanent in nature;

"premis" shall have the same meaning assigned to it under Street, Drainage and Building Act 1974 [Act 133]:

"licensed premises" means any premises operating any activity of trade, business or industries licenced by the Council under these By-Laws;

"sky sign" means any erection consisting of a frame, hoarding, board, bar, pillar, post, wire or any combination thereof, any erection of like nature, any visible object which floats or is kept in position by other flexible attachment, displayed for the purpose of trade or professional advertisement, in such position as to be conspicuously visible against the sky from any street or public place;

"directional sign" means a display in any manner the registered trade mark or the nature of the trade, business or professional of any person, firm, corporation or organization and intended to point the way to the premises where a sign board would not be visible from the street;

"public place" means any open space, parking place, garden, recreation and pleasure ground or square, whether enclosed or not, set apart or appropriated for the use of the public or to which the public shall at any time have access;

"poster stand" means a stand provided by the Council for display of posters; and

"President" means the President of Manjung Municipal Council.

PART II

LANGUAGE OF ADVERTISEMENTS

Language of advertisements

3. (1) Every advertisement shall be in the National Language whether solely in the National Language or together with any other language.

(2) The words and letters in the National Language shall be given prominence in its colour and at position which more clearer than other words or letters or writings in other languages that be used and its size shall not exceeding the measurement of those in the National Language.

(3) Council may add, amend or revoke any word to National Language in order to displays the advertisement by explaining any type and business activity which was prescribed.

(4) Any person shall not exhibit, erect or cause to be exhibited or erected any advertisement that does not comply with paragraphs (1) and (2).

(5) Notwithstanding paragraph (4), if the name of a firm, corporation, company, society, co-operative society or any other organization as registered under the Registration of Businesses Act 1956, Companies Act 1965, Societies Act 1966 or Co-operative Societies Act 1993 does not comprise of or include words that are in the national language, it may not be necessary to render the words into the National Language.

Correct use of the National Language

4. (1) If it appears to the Council that the National Language has not been used correctly in any advertisement, the Council may, by notice in writing, order the person who has exhibited or erected the advertisement or who has caused or permit the advertisement to be exhibited or erected, to alter the advertisement so as to correct the error in such manner and within such time as the Council may specify in the notice.

(2) Any person who fails to comply with the notice issued by the Council shall be guilty of an offence.

Advertisement of alcoholic drinks, liquor or beer

5. Any premis selling alcoholics drinks, liquor or beer shall—

(a) exhibit the alcoholics drinks, liquor or beer advertisement in the licenced premises only; and

(b) the advertisement shall not be larger than the main advertisement.

Usage of Halal signage

6. (1) No person shall use the word, logo or "Halal" or "Ditanggung Halal" signage without a certificate of Halal issued by the Islamic Development Department of Malaysia (JAKIM), the Perak Islamic Religions Department or any other relevant authority.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence.

(3) The Council may inspect the validity of the aforesaid certicate and any person who fails to produce the certificate upon request made by the Council shall be guilty of an offence.

PART III
LICENCING OF ADVERTISEMENT

Licencing of advertisements

7. No person shall exhibit or erect or cause to be exhibited or erected any advertisement without a licence issued by the Council under these By-Laws.

Application for a licence

8. (1) An application for a licence shall be made in any form as the Council may determined and including if necessary shall be accompanied with—

(a) certified true copy of all approvals granted by the Council, including the approvals of the planning permission, building plan, landscape plan and road, and the details of conditions, if any, that are attached to any of the aforesaid approvals;

(b) details of the proposed advertisement which include the proposed duration of the advertisement is to be exhibited, message to be displayed, civil, mechanical, structural, electrical and electronic specification of the advertisement duly certified by the relevant professionals;

(c) proof of ownership, tenancy, lease or a copy of the licence from the registered proprietor, tenant or lessor of the land on which the advertisement is proposed to be situated;

(d) a certified copy of the Certificate of Registration of the firm, corporation, company, society, co-operative society or organization intending to erect or exhibit the proposed advertisement; and

(e) any other documents, supporting plans and information in whatever form or manner which the Council may require.

(2) Where applicable, a plan of a structure to be erected for the purpose exhibiting for the advertisement and bearing the certificate of registered architect or structural engineer that in his opinion the structure will be sound for the period for which the advertisement expected to be exhibited.

(3) Applicant shall make payment of processing fee which has been prescribed in First Schedule when the application been submitted and the processing fee will not be refunded whether the application be approved or not by the Council.

(4) The Council shall consider the application made under paragraph (1) and may approve or refuse the application.

(5) If the Council approves the application, a licence shall be issued—

(a) in such form and subject to such conditions or restrictions as the Council may specify;

(b) with a serial number which shall be displayed on the advertisement;

(c) on payment of the fee as specified in Second Schedule;

(d) on payment of a deposit not more than ten thousand ringgit (RM10,000.00) to the Council; and

(e) to issue a licence for a period of one to three years.

(6) A person shall make new application if there are any changes towards the advertisement in any manner.

(7) The Council may require any particulars of the firm, corporation, company, society, co-operative society or any organization for the purpose of these By-Laws.

(8) A licence issued under these By-Laws is renewable subject to the Council consideration and payment of the fee as specified in the Schedule and shall be accompanied with any other documents as the Council may determine.

(9) Any fee paid under these By-Laws is not refundable.

Compliance of licence conditions

9. (1) The licensee shall comply any conditions imposed by the Council.

(2) It is an offence if the licensee contravenes any of the conditions stated in paragraph (1).

Power to impose additional conditions, amendment or to revoke the condition

10. (1) The Council may, from time to time for the public interest to—

(a) impose any additional conditions on the licence; or

(b) change or revoke any conditions impose on the licence.

(2) The licensee shall be given a notice in writing, before the Council make a decision as stated in paragraph (1).

Licence not transferable

11. (1) A licence issued under these By-Laws is not transferable unless permitted by the Council in writing.

(2) The transfer fee shall be 30% of the licence fee.

Advertisement exempted from licence

12. (1) Notwithstanding by-law 7, a person is exempted from applying a licence for the following advertisements:

(a) street numbers;

(b) name plates on houses which indicate the name and/or address of the occupant;

(c) advertisement indicating hazardous materials, whether or not containing information about such material;

(d) advertisements that provide instructions on how to enter or exit a property, use of equipment or security-related information and the size shall be reasonable to convey information to the intended recipient;

(e) any official notices issued by the Council, the courts, public bodies or public officers in carrying out his official duties;

(f) official flags of Malaysia, any states in Malaysia, the Council, Local Authority and foreign countries;

(g) official flags of any firm, corporation, company, society, co-operative society or any other organisation registered under the Registration of Businesses Act 1956 [Act 197], Companies Act 1965 [Act 125], Societies Act 1966 [Act 335] or Co-operative Societies Act 1993 [Act 502] which are raised within the property of the same on the approved posts;

(h) any building or civil engineering contractor's signboard not

exceeding 3 square metres in respect of a project carried on a property and displayed on that property only; and

(i) any other advertisement which the Council may determine from time to time.

(2) The exemption granted under paragraph (1) may be revoked by the Council at any time.

Short-term licence

13. (1) A person may apply to the Council for a short-term licence to exhibit any temporary advertisement.

(2) Unless otherwise provided by the Council, temporary advertisement shall be erected or exhibited for the maximum duration of 90 days.

(3) The temporary advertisements shall be removed on the date which the licence expires and the licensee shall be responsible for the removal of the advertisement.

Application for a short-term licence

14. (1) An application for a short-term licence shall be made to the Council in such form and shall be accompanied with any documents, supporting plans and any other information which the Council may require for such applications.

(2) Applicant shall make payment of processing fee which has been prescribed in First Schedule when the application been submitted and the processing fee will not be refunded whether the application be approved or not by the Council.

(3) The Council shall consider the application made under paragraph (1) and may approve or refuse the application.

(4) If the Council approves the application under paragraph (3), a short-term advertisement licence shall be issued—

- (a) in such form and subject to such conditions or restrictions as the Council may specify;
- (b) on payment of fee as specified in Third Schedule; and
- (c) on payment of deposit of such sum as the Council may determine.

Deposit

15. The Deposit paid under subparagraphs 8 (5) (d) and 14 (4) (c) shall be at such amount prescribed by the Council.

Forfeiture of deposit

16. (1) If the Council is satisfied that there has been a breach of any conditions or restrictions of the licence or contravention of any provisions of these By-Laws, the Council may, after giving the licensee an opportunity

of being heard, forfeit the deposit paid under subparagraphs 8 (5) (d) and 14 (4) (c) in whole or in part.

(2) If the forfeiture of such deposit is in part only, the amount not forfeited shall be refunded to the licensee without interest on the amount.

(3) On forfeiture of such deposit, the licence shall be deemed to have been revoked, unless the Council, on application of the licensee, allow the licence to continue to be in force subject to repayment of the deposit that has been forfeited.

Refund of deposit

17. Subject to By-Law 16, the deposit paid under subparagraph 8 (5) (d) or 14 (4) (c) shall be refunded to the licensee without interest on the amount deposited after the expiry or revocation of his licence and the removal of the said advertisement.

Revocation of licence

18. (1) The Council may revoke any licence with any reason which may think fit including breach of any conditions prescribed by the Council and the Council decision shall be final.

Provided that the Council shall give a written notice to the licensee 14 days prior to the making of such revocation.

(2) Where a licence is revoked, the person exhibiting the advertisement shall remove the advertisement to which the licence relates within 14 days from the date of revocation, the failure to do so is a guilty of an offence.

(3) Compensation shall not be payable to any person upon the revocation of a licence.

Licence to be exhibited and produced

19. (1) A licensee shall exhibit his licence at all times at a conspicuous place and shall produce such licence if required to do so by President or any Authorized Officer.

(2) A licensee who fails to exhibit or produce his licence under paragraph (1) shall be guilty of an offence.

(3) For the purposes of this provision, a reference to a "licence" shall include a copy of a licence certified by the Council to be true copy of the licence.

Areas of advertisement

20. (1) An advertisement licenced under these By-Laws shall only be exhibited at the places determined by the Council.

(2) Any person who fails to comply with paragraph (1) shall be guilty of an offence.

The Council refers to related department

21. In pursuance of its power under these By-Laws, the Council may refer to any related departments for safety purpose, suitability and public interest.

PART IV**MAINTENANCE OF ADVERTISEMENT****Advertisements to be in good condition**

22. All advertisements shall be maintained in a good, clean and satisfactory condition at all times.

Projection

23. The projection of advertisement displayed on buildings shall be measured from the regular line of the street.

Safety

24. Any structure or fixtures erected for the purposes of displaying any advertisement if the Council think fit shall be certified by a registered civil or structural engineer and such certification shall include the structural stability of the building or part of the building supporting the advertisements.

Maintenance

25. (1) The Council may, by notice in writing, instruct any person erecting or exhibiting any advertisement to repaint, replace or clean the advertisement within such time as may be specified in the notice.

(2) If the advertisement is likely to cause confusion or annoyance to the public, the Council may, by notice in writing, instruct the person exhibiting the advertisement to modify the said advertisement in such manner and within such time as may be specified in the notice.

Removal of advertisement

26. (1) The Council may instruct the summary removal or erasure of any advertisement, including any structure erected specially for the advertisement, in the following circumstances:

- (a) where the advertisement and structures is in a dilapidated condition and unsafe;
- (b) the advertisement is different from the one that was approved by the Council;
- (c) the advertisement is in contravention of any provisions of these By-Laws; or
- (d) advertisement without licence or the advertisement which its licence has been revoked by the Council.

(2) The Council or his servant may enter into any premise at all

reasonable times and execute the removal or erasure of any advertisement if the instruction of the summary removal or erasure of the advertisement under paragraph (1) has not been complied with.

(3) The expenses incurred for the removal or erasure of the advertisement under paragraph (2) shall be borne by the person erecting or exhibiting the advertisement or the owner or occupier of the premises on which the advertisement is erected or exhibited.

(4) In any condition which the advertisement should be removed, for the purposes of repairing, repainting or cleaning any place or structure, even though the licence for such advertisement is still valid and no claimant for the refundable shall be made by the licensee in respect of such licence.

The Council may, for the purposes of repairing, repainting or cleaning any place or structure possess by the Council, to remove any advertisement even though the licence for such advertisement is still valid and no claimant for the refundable shall be made by the licensee in respect of such licence.

(5) The Council shall not be responsible for any damages done by the Council or his servants in the course of carrying out the provisions under these By-Laws.

Provided that in the event of there being no claim made to any of the things that have been removed and seized within seven (7) days, the Council may dispose of the said things in such manner as he may thinks fit.

The Council not liable for collapsed of the structure, etc.

27. Notwithstanding that the Council has granted a licence under by-laws 8 or 14, the Council shall not be liable for any damage, collapsed, the failure of the structure or fixture of the advertisement including any damages from any person.

PART V
ENFORCEMENT

Power to enter and inspect premises

28. (1) Any Authorized Officer may—

- (a) at any reasonable time enter and inspect any premises to make any power of inspection, enquiry or execution of works relating to any offence committed or suspected to have been committed;
- (b) take any necessary step to remove any illegal advertisement or any advertisement in violation of these By-Laws; or
- (c) do any other acts necessary to give effect to any provision of these By-Laws.

Power to investigate

29. The President or any Authorized Officer may investigate any offence under these By-Laws.

Power to require name, etc., to be given

30. The President or any Authorized Officer may require any person whom he reasonably believes to have committed or has any connection with any offence under these By-Laws to furnish his full name, identity card number, address and full particulars as the President or Authorized Officer deems necessary.

Power of arrest

31. (1) The President or any Authorized Officer may arrest without warrant any person who commits in his presence or whom he reasonably believes to have committed any offence under these By-Laws—

- (a) if the name or address of the person is unknown to him and the person declines to give his name and address; or
- (b) if there is reason to doubt the accuracy of the name or address.

(2) A person arrested under these By-Laws shall be taken to a police station and shall be brought before a Magistrate within twenty-four hours, unless before that time his true name and residence are ascertained, in which case such person shall be forthwith released on his executing a bond for his appearance before a Magistrate if so required.

(3) When any such person is taken before a Magistrate, such Magistrate may either require him to execute a bond, with or without a surety, for his appearance before a Magistrate if so required, or may order him to be detained in custody until he can be tried.

The Council not liable for loss or damage

32. The Council or any Authorized Officer enforcing any of these by-laws shall not be liable for any damage or any loss resulting from the said enforcement.

Obstructions, etc.

33. A person who—

- (a) assaults, obstructs, hinders or delays the President or any Authorized Officer lawfully executing his duties under these by-laws;
- (b) fails to comply with any lawful demand, notice, order or requirement properly made to him by an Authorized Officer in the execution of his duty under these by-laws;
- (c) refuse to give Authorized Officer access to any premise, or refuse to be searched by a person authorized under these by-laws;
- (d) omits, refuses or neglects to give to an Authorized Officer any information which may reasonably be required of him and which he is empowered to give;
- (e) furnishes false, untrue or misleading information to an Authorized Officer; or

(f) fails to produce to, or conceals or attempts to conceal from, an Authorized Officer any books, accounts, documents, things or goods which such officer has reasonable grounds for suspecting were the subject-matter of or were used in the commission of an offence laws,

shall be guilty of an offence under these By-Laws.

PART VI
ADVERTISEMENT THAT IS PROHIBITED AND
NON-CONFORMING WITH THESE BY-LAWS

Prohibited advertisement

34. The following advertisements are prohibited from being erected or exhibited in the Council area unless otherwise approved by the Council—

- (a) advertisements which cause traffic hazard such as advertisements which use flashing or revolving lights, moving or variable images or lasers, advertisements which resemble road and traffic advertisements or traffic signals, advertisements which use reflective materials which may result in visual interference, advertisements which causes excessive levels of glare or light to a hazardous degree and advertisements which obstruct the line of sight of any corner, bend, turning, intersection or vehicle crossing;
- (b) advertisements within the public right-of-way or which are attached to any public property;
- (c) advertisements which are animated, moving, swinging, rotating, flashing, blinking, scintillating, fluctuating and/or contain variable images and include flood, fluorescent gel or laser lights except if the same are located at the areas specifically designated by the Council;
- (d) advertisements which are not connected to the premises upon which the same are attached;
- (e) advertisements which have less than the horizontal or vertical clearance allowed from authorized communication or energized electrical power lines other than as prescribed by the regulations and/or rules of the respective agencies concerned;
- (f) advertisements which are placed or form part of a roof or parapet of a building unless the same do not exceed the height of the existing rooflines;
- (g) advertisements which do not reflect the culture and the lifestyle of the Malaysian community;
- (h) any advertisements which contains words, publishing, picture, image, animation or any other things which made the words, publishing, picture, image, animation or any other things as that has seditious tendency; and

- (i) any other advertisement which the Council may deem fit to prohibit from being erected or exhibited in the area of the Council from time to time.

PART VII
GENERAL

Presumptions

35. In any prosecution for an offence under these By-Laws, reference to the person exhibiting an advertisement shall be construed as a reference to the person who, by himself, servant or agent, exhibits or cause to be exhibited such advertisement and shall be deemed to include—

- (a) any advertisement erected or exhibited on or in any premises was erected or exhibited by or with the permission of the owner or occupier of the premises;
- (b) any advertisement of any product was exhibited by the manufacturer of that product or, in the case of an imported product, by the local sole agent or distributor of the product; and
- (c) any advertisement of any event was exhibited by the promoter of that event or, where the promoter is not known, by the person to whom the proceeds of the sale of tickets for that event will be paid or by the person who stands to gain by such advertisement.

Prosecution

36. No prosecution shall be instituted for an offence under these By-Laws except by or with the consent of the Public Prosecutor.

Exemption

37. The Council may conditionally or unconditionally exempt any person from any provisions of these By-Laws.

Compounding of offences

38. (1) The President or any Authorized Officer may compound any offence committed by any person under these By-Laws and prescribed to be a compoundable offence by making a written offer to the person suspected of committing the offence to compound the offence upon payment to the Council of an amount of money not exceeding the amount of two hundred fifty ringgit for that offence within the time specified in the offer.

(2) An offer under paragraph (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the period specified in the offer or within such extended period as the President or any Authorized Officer may grant, prosecution for the offence may be instituted at any time after that against that person to whom the offer was made.

(3) If an offence has been compounded under paragraph (1), no prosecution

shall be instituted after that in respect of the offence against the person to whom the offer to compound was made and anything seized in connection with the offence shall be released, subject to such terms and conditions as may be prescribed.

Penalty

39. Any person who contravenes any of the provisions of these By-Laws shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding one year or both such fine and imprisonment and in the case of a continuing offence to a fine not exceeding two hundred ringgit for each day during which such offence is continued after conviction.

Service of documents

40. Service or any notice, order, compound or document required to be served under these by-laws shall be effected by an officer authorized by the Council and the service may be effected by—

- (a) personally serving upon whom the notice, order, compound or document is issued;
- (b) leaving at the usual last known address of the person upon whom the notice, order, compound or document is issued in the event that personal service cannot be effected;
- (c) sending a copy by registered post addresses to the usual last known address; or
- (d) fixing the same on some conspicuous part of the premises.

Power to amend or repeal Schedule

41. The Council may add, amend or revoke all or any part of any Schedule under these By-Laws if it is of the opinion that it is necessary to do so.

Repeal and transitional

42. (1) The Advertisements (Manjung District Council) By-Laws 1984 [Pk. P.U. 59/84] is repealed.

(2) Any notice, order, compound, licence or document made or issued under the repealed By-Laws shall be deemed to be made or issued under these By-Laws and shall continue to remain in force until revoked thereunder.