



NEGERI TERENGGANU DARUL IMAN

# Warta Kerajaan

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AKTA KERAJAAN TEMPATAN 1976

(AKTA 171)

KAEDAH-KAEDAH KELAKUAN DAN TATATERTIB PEGAWAI

(MAJLIS DAERAH SETIU) 2014

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AKTA KERAJAAN TEMPATAN 1976  
(AKTA 171)

KAEDAH-KAEDAH KELAKUAN DAN TATATERTIB PEGAWAI  
(MAJLIS DAERAH SETIU) 2014

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

BAHAGIAN I  
PERMULAAN

**Nama dan permulaan kuat kuasa**

1. Kaedah-kaedah ini bolehlah dinamakan **Kaedah-Kaedah Kelakuan Dan Tatatertib Pegawai (Majlis Daerah Setiu) 2014** dan hendaklah mula berkuat kuasa pada tarikh ianya disiarkan dalam Warta.

**Pemakaian**

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

**Tafsiran**

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

“Anggota Majlis” ertinya seseorang yang dilantik di bawah seksyen 10 Akta;

“Akta” ertinya Akta Kerajaan Tempatan 1976 [*Akta 171*];

“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 diambil sebagai anak angkat oleh pegawai itu di bawah mana-mana undang-undang bertulis yang berhubungan 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 untuk menanggung dirinya sendiri;

“disabitkan” atau “sabitan”, berhubung dengan seseorang pegawai, ertinya suatu dapatan oleh Mahkamah di bawah mana-mana 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 elaun 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 Bank Islam 1983 [Akta 276] atau mana-mana bank yang ditubuhkan di bawah mana-mana undang-undang bertulis;

“Ketua Jabatan” ertinya seseorang pegawai yang bertanggungjawab bagi sesuatu jabatan atau seumpamanya mengikut Senarai Perjawatan yang diluluskan oleh pentadbiran Majlis dan termasuklah timbalan ketua jabatan yang bertindak bagi pihaknya;

“kesalahan jenayah” ertinya apa-apa kesalahan yang melibatkan fraud, ketidakjujuran atau tingkahlaku keji;

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

“Lembaga Tata tertib” ertinya Lembaga Tata tertib yang ditubuhkan di bawah subseksyen 16(4) Akta;

“Mahkamah” ertinya Mahkamah, termasuklah Mahkamah Syariah, yang mempunyai bidang kuasa wibawa untuk membicarakan seseorang bagi sesuatu kesalahan jenayah;

“Majlis” ertinya Majlis Daerah Setiu;

“pegawai” ertinya mana-mana pegawai yang diambil bekerja oleh Majlis termasuklah mana-mana pegawai yang dilantik secara tetap, kontrak, sementara, sambilan atau seumpamanya tetapi tidak termasuk—

(a) Yang DiPertua, Anggota Majlis atau Setiausaha; dan

(b) mana-mana orang yang dilantik secara pinjaman ke dalam perkhidmatan Majlis dan yang terus tertakluk kepada syarat-syarat pelantikan dan peminjamannya;

“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];

“Setiausaha” ertinya Setiausaha Majlis Daerah Setiu; dan

“Yang Dipertua” ertinya Yang Dipertua Majlis Daerah Setiu.

## 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 Kaedah-Kaedah ini oleh seseorang pegawai boleh menyebabkannya dikenakan tindakan tatatertib menurut Kaedah-Kaedah ini.

### **Kegagalan memberi dan mematuhi aku janji**

5. (1) Seseorang pegawai yang gagal memberi aku janji sebagaimana yang diperuntukkan oleh Majlis, setelah dikehendaki berbuat demikian oleh Lembaga Tatatertib atau Ketua Jabatannya, melakukan suatu pelanggaran tatatertib dan boleh dikenakan tindakan tatatertib menurut Kaedah-Kaedah ini.

(2) Tanpa menjejaskan subkaedah 4(2) seseorang pegawai yang, setelah diberikan aku janji yang dirujuk dalam subkaedah (1), gagal mematuhi terma-terma aku janji itu, melakukan suatu pelanggaran tatatertib dan boleh dikenakan tindakan tatatertib menurut Kaedah-Kaedah ini.

## BAHAGIAN III TUGAS KAWALAN DAN PENGAWASAN TATATERTIB

### **Tugas untuk menjalankan kawalan dan pengawasan tatatertib**

6. (1) Tiap-tiap 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.

BAHAGIAN IV  
TATA KELAKUAN**Am**

7. (1) Seseorang pegawai hendaklah pada setiap masa memberikan taat setianya kepada Yang di-Pertuan Agong, Sultan Terengganu, negara, kerajaan persekutuan, kerajaan negeri Terengganu dan Majlis.

(2) Seseorang pegawai tidak boleh—

- (a) membelakangkan kewajipannya kepada Majlis demi kepentingan peribadinya;
- (b) berkelakuan dengan sedemikian cara yang mungkin menyebabkan kepentingan peribadinya bercanggah dengan kewajipannya kepada Majlis;
- (c) berkelakuan dengan apa-apa cara yang mungkin menyebabkan syak yang munasabah bahawa—
  - (i) dia telah membiarkan kepentingan peribadinya bercanggah dengan kewajipannya kepada Majlis sehingga menjejaskan kebergunaannya sebagai seorang pegawai Majlis; atau
  - (ii) dia telah menggunakan kedudukannya sebagai pegawai Majlis 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 ialah 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; dan
- (j) cuai dalam melaksanakan tugas-tugasnya.



**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) Sebutan dalam subkaedah (1) tentang perlakuan sesuatu perbuatan yang bersifat seksual terhadap 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 pelakuan itu memburukkan atau mencemarkan nama Majlis.

**Pekerjaan luar**

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

- (a) mengambil bahagian, sama ada secara langsung atau tidak langsung, dalam pengurusan atau urusan apa-apa perusahaan komersil, 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 dahulu 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 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 menjalankan tugas rasminya;
- (b) tidak akan dengan apa-apa cara cenderung menjejaskan kebergunaan pegawai itu sebagai seorang pegawai Majlis; dan
- (c) tidak akan dengan apa-apa cara cenderung bercanggah dengan kepentingan Majlis atau menjadi 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 didepositkan dengan Majlis sementara menunggu keputusan Yang Dipertua, 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.

### **Etiket 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 Yang Dipertua.

(2) Seseorang pegawai yang dikehendaki menghadiri sesuatu upacara rasmi hendaklah berpakaian sebagaimana yang ditentukan bagi upacara itu, dan jika etiket 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 kegunaannya 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 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 tatatertib 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 perkhidmatan dengan syarat pegawai itu telah mencapai umur persaraan pilihan yang ditentukan oleh Kerajaan pada masa itu.

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

### **Hadiah, dsb.**

12. (1) Tertakluk kepada peruntukan kaedah ini, seseorang pegawai tidak boleh menerima atau memberikan dan tidak boleh membenarkan pasangannya 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 boleh, 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) Yang Dipertua boleh membenarkan pemungutan sumbangan secara spontan oleh pegawai-pegawai bagi maksud pemberian hadiah kepada seseorang pegawai 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 kaedah 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 kepada pemberinya mengikut cara yang ditentukan oleh Yang Dipertua.

**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 ke perkhidmatan Majlis atau pada bila-bila masa selepas itu sebagaimana yang dikehendaki oleh Yang Dipertua, mengisytiharkan secara bertulis kepada Lembaga Tatatertib, segala harta yang dipunyai olehnya, pasangannya, anaknya atau yang dipegang oleh mana-mana orang bagi pihaknya, pasangannya atau anaknya.

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

(3) Jika, selepas membuat suatu perisytiharan di bawah subkaedah (1), seseorang pegawai, pasangannya atau anaknya memperoleh apa-apa harta, sama ada secara langsung atau tidak langsung, atau apa-apa harta yang telah diperoleh olehnya, pasangannya atau anaknya dilupuskan, pegawai itu hendaklah dengan segera mengisytiharkan pemerolehan atau pelupusan harta itu kepada Lembaga Tatatertib.

(4) Jika seseorang pegawai, pasangannya 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 Lembaga Tatatertib.

(5) Dalam memutuskan sama ada hendak atau tidak memberikan kebenaran di bawah subkaedah (4), Lembaga Tatatertib 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 perkhidmatan Majlis, dengan kedudukan pegawai itu sebagai seorang pegawai Majlis atau dengan apa-apa cara menjadi tidak selaras dengan kaedah 7;
- (c) apa-apa faktor lain yang dianggap perlu oleh Lembaga Tatatertib bagi menjaga keutuhan dan kecekapan Majlis dan Pegawai-Pegawai.

(6) Lembaga Tatatertib hendaklah, apabila 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 peraturan ini tentang apa-apa perisytiharan sedemikian hendaklah mematuhi prosedur 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 Lembaga Tatatertib.

### **Menyenggara taraf kehidupan yang melebihi emolumen dan pendapatan persendirian yang sah**

15. (1) Jika Ketua Jabatan berpendapat bahawa seseorang pegawai adalah atau tampaknya—

- (a) menyenggara suatu taraf kehidupan yang melebihi emolumen dan pendapatan persendiriannya 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 persendiriannya yang lain yang sah,

Ketua Jabatan 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) Ketua Jabatan 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 itu kepada Lembaga Tatatertib berserta dengan penjelasan pegawai itu, jika ada.

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

### **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 menjalankan perniagaan di dalam kawasan tempatan tempat dia mempunyai kuasa rasmi; atau
- (d) yang menjalankan perniagaan pemberian pinjaman wang.

(2) Walau apa pun subkaedah (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) peminjaman itu tidak dan tidak akan membawa kepada skandal awam dan tidak boleh ditafsirkan sebagai suatu penyalahgunaan oleh pegawai awam itu kedudukannya sebagai seorang pegawai untuk faedah peribadinya; atau
- (c) agregat hutangnya tidak atau tidak mungkin menyebabkan pegawai itu berada dalam keterhutangan kewangan yang serius sebagaimana yang ditakrifkan di bawah subkaedah 17(7) dan (8).

(3) Tertakluk kepada subkaedah (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 dipinjam itu tidak melebihi nilai tanah itu;
- (b) overdraf atau kemudahan kredit lain yang diluluskan oleh institusi kewangan;
- (c) jumlah wang yang dipinjam daripada penanggung insurans atas cagaran polisi insurans;
- (d) jumlah wang yang dipinjam daripada Kerajaan, badan berkanun 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 itu kepada Yang Dipertua.

(5) Seseorang pegawai yang tidak melaporkan atau lengah melaporkan keterhutangan kewangannya yang serius atau yang melaporkan keterhutangan kewangannya yang serius tetapi gagal 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 menjejaskan peruntukan-peruntukan lain dalam kaedah ini, jika hutang pegawai itu terjumlah kepada suatu keterhutangan kewangan yang serius tetapi dia belum dihukum bankrap, Yang Dipertua hendaklah memantau dan, dari semasa ke semasa, mengkaji semula kes itu.

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

(8) Tanpa menjejaskan 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 bulannya;
- (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 tak solven, mengikut mana-mana yang berkenaan, selagi apa-apa penghakiman terhadapnya yang memihak kepada Pegawai Pemegang Harta masih belum dijelaskan atau selagi tidak ada pembatalan penghukuman kebankrapannya.

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

### **Laporan mengenai keterhutangan kewangan yang serius**

18. (1) Jika seseorang pegawai melaporkan di bawah subkaedah 26(4) bahawa prosiding sivil telah dimulakan terhadapnya atau jika Ketua Jabatan menerima apa-apa laporan daripada mana-mana pihak bahawa prosiding sivil telah dimulakan terhadap seseorang pegawai, Yang Dipertua hendaklah mendapatkan daripada Mahkamah suatu perintah bermeterai penghakiman Mahkamah.

(2) Yang Dipertua hendaklah membuat perkiraan dengan pihak Mahkamah yang berkenaan bagi Ketua Jabatan seseorang pegawai untuk mendapatkan suatu laporan berkenaan dengan pegawai itu jika—

- (a) pegawai itu, sebagai seorang penghutang penghakiman, didapati daripada fail guaman itu telah tidak menjelaskan hutang dalam tempoh yang ditetapkan dalam perintah bermeterai penghakiman itu;
- (b) pegawai itu telah memfailkan petisyen kebankrapannya sendiri atau untuk mendapatkan perintah pentadbiran pemakan gaji ; atau
- (c) suatu petisyen pemiutang dalam kebankrapan telah diserahkan terhadap pegawai itu.

(3) Sebagai tambahan kepada perkiraan yang boleh dibuat di bawah subkaedah (2), Yang Dipertua hendaklah membuat perkiraan dengan Pegawai Pemegang Harta bagi Pegawai Pemegang Harta menyampaikan kepada Majlis suatu laporan mengenai seseorang pegawai yang menjadi seorang bankrap yang mengandungi perkara-perkara yang berikut:

- (a) pernyataan hal ehwal yang difailkan oleh pegawai itu mengikut undang-undang kebankrapan yang sedang berkuat kuasa;
- (b) amaun bayaran ansuran yang diperintahkan atau yang dicadangkan dibuat;
- (c) sama ada atau tidak Pegawai Pemegang Harta bercadang untuk memulakan apa-apa prosiding selanjutnya dan, jika demikian, suatu pernyataan ringkas mengenai jenis prosiding selanjutnya itu;



- (d) sebab utama kebangkrapan itu;
- (e) sama ada pada pendapat Pegawai Pemegang Harta kes itu melibatkan suatu 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 difikirkan oleh Pegawai Pemegang Harta, mengikut budi bicaranya, patut disebut.

(4) Ketua Jabatan hendaklah menghantar laporan pegawai dan keputusan Mahkamah yang diterima di bawah subkaedah (1) dan laporan yang diterima di bawah subkaedah (2) dan (3) kepada Lembaga Tatatertib berserta dengan laporannya mengenai kerja dan kelakuan pegawai itu sebelum dan sejak keterhutangan kewangannya yang serius.

(5) Setelah menimbangkan semua laporan dan keputusan yang dikemukakan kepadanya di bawah subkaedah (4), Lembaga Tatatertib hendaklah memutuskan sama ada hendak mengambil tindakan tatatertib terhadap pegawai itu.

(6) Jika tindakan tatatertib yang diambil terhadap pegawai itu berkeputusan dengan hukuman tangguh pergerakan gaji, Lembaga Tatatertib boleh, apabila tamat tempoh penangguhan pergerakan gaji itu, 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 Pegawai Pemegang Harta atau kepada mana-mana pemiutang penghakiman.

(7) Seseorang pegawai yang telah dilepaskan daripada kebangkrapan atau yang penghakiman kebangkrapannya telah dibatalkan hendaklah dikira sebagai telah memulihkan kedudukan kredit 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 atau oleh mana-mana badan berkanun tidak boleh dianggap sebagai peminjaman wang dengan faedah bagi maksud Kaedah ini.

### **Penglibatan dalam pasaran niaga hadapan**

20. Seseorang pegawai tidak 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 kebajikan.

**Penerbitan buku, dsb.**

22. Seseorang pegawai tidak boleh menerbitkan atau menulis apa-apa buku, makalah atau karya lain yang berasaskan 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 Majlis atau Kerajaan tentang apa-apa isu;
- (b) membuat apa-apa pernyataan awam yang boleh memalukan atau memburukkan nama Majlis atau Kerajaan;
- (c) membuat apa-apa ulasan tentang kelemahan apa-apa dasar, rancangan atau keputusan Majlis atau Kerajaan; atau
- (d) mengedarkan apa-apa pernyataan atau alasan, sama ada yang dibuat olehnya atau mana-mana orang lain.

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

- (a) membuat apa-apa ulasan tentang kelebihan apa-apa dasar, rancangan atau keputusan Majlis atau Kerajaan;
- (b) memberikan apa-apa maklumat berdasarkan fakta berhubung dengan penjalanan fungsi Majlis atau Kerajaan;
- (c) memberikan apa-apa penjelasan berkenaan dengan apa-apa peristiwa atau laporan yang melibatkan Majlis atau Kerajaan; 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 disebarkan 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, orang awam atau semasa memberikan apa-apa syarahan, ucapan awam, dalam apa-apa penyiaran atau penerbitan, tanpa mengambil kira caranya.

#### **Larangan bertindak sebagai 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 Majlis, jabatannya atau kakitangannya;
- (b) penerbitan profesional;
- (c) penerbitan organisasi sukarela yang tidak bercorak politik; dan
- (d) penerbitan yang diluluskan secara bertulis oleh Yang Dipertua bagi maksud kaedah ini.

#### **Mengambil bahagian dalam politik**

25. (1) Kecuali sebagaimana yang diperuntukkan dalam subkaedah (3), seseorang pegawai dalam Kumpulan Pengurusan Tertinggi dan Kumpulan Pengurusan dan Profesional adalah dilarang mengambil bahagian 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 mengedar buku, makalah atau risalah yang mengemukakan pandangannya 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 pilihan raya 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, memegang jawatan atau dilantik ke dalam apa-apa jawatan dalam suatu parti politik setelah terlebih dahulu mendapatkan kelulusan bertulis Lembaga Tatatertib.

(3) Walau apa pun peruntukan subkaedah (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 Lembaga Tatatertib; 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 Ketua Jabatannya.

### **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 tugasnya di Majlis 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 tugasnya di Majlis 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 berbangkit daripada tugasnya di Majlis 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 Jabatan 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 Majlis atau seumpamanya 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 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 mengarah seseorang peguambela dan peguamcara.

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

(7) Bagi maksud kaedah ini, “Pegawai Undang-Undang” termasuklah Penolong Pegawai Undang-Undang.

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BAHAGIAN V  
KETIDAKHADIRAN TANPA CUTI

**Ketidakhadiran tanpa cuti**

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

**Tindakan tatatertib kerana ketidakhadiran tanpa cuti**

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

**Prosedur dalam hal ketidakhadiran tanpa cuti**

29. Jika seseorang pegawai tidak hadir bertugas tanpa cuti, 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 Lembaga Tatatertib.

**Prosedur jika pegawai tidak hadir tanpa cuti dan tidak dapat dikesan**

30. (1) Jika seseorang pegawai tidak hadir bertugas tanpa cuti, 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 Lembaga Tatatertib dan Lembaga Tatatertib itu hendaklah memulakan tindakan tatatertib terhadap pegawai itu.

(3) Jika surat itu tidak dapat 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 Lembaga Tatatertib.

(4) Lembaga Tatatertib hendaklah, apabila menerima laporan yang disebut 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 Lembaga 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 tempoh tujuh hari dari tarikh penyiaran itu.

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

(6) Jika pegawai itu gagal melaporkan diri untuk bertugas dalam tempoh 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*.

#### **Pelucuthakan emolumen kerana tidak hadir/ketidakhadiran untuk bertugas**

31. (1) Jika seseorang pegawai telah didapati bersalah kerana tidak hadir untuk bertugas tanpa cuti, 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 Lembaga Tatatertib tidak mengarahkan pelucuthakan itu.

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

(3) Pelucuthakan emolumen oleh sebab subkaedah (1) bukanlah suatu hukuman tatatertib.

#### BAHAGIAN VI

#### PEGAWAI YANG TERTAKLUK KEPADA PROSIDING JENAYAH, DSB.

#### *Prosedur Am*

#### **Prosedur 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 telah sampai kepada pengetahuan Ketua Jabatannya seseorang pegawai daripada apa-apa punca bahawa prosiding jenayah telah dimulakan dalam mana-mana Mahkamah terhadap pegawai itu, Ketua Jabatannya itu hendaklah mendapatkan daripada Pendaftar, Timbalan Pendaftar atau Penolong Kanan Pendaftar Mahkamah yang—

- (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 difailkan oleh mana-mana pihak.

(3) Apabila laporan yang mengandungi maklumat yang disebutkan dalam perenggan (2)(a) diterima daripada Pendaftar, Timbalan Pendaftar atau Penolong Kanan Pendaftar Mahkamah, Ketua Jabatannya hendaklah mengemukakan laporan itu kepada Lembaga Tatatertib berserta dengan syor Ketua Jabatannya itu tentang sama ada atau tidak pegawai itu patut ditahan daripada kerja.

(4) Setelah menimbangkan laporan dan perakuan Ketua Jabatannya yang dikemukakan kepadanya di bawah subkaedah (3), Lembaga Tatatertib boleh, jika difikirkannya sesuai, menahan pegawai itu daripada menjalankan tugasnya.

(5) Sebaik sahaja selesai prosiding jenayah terhadap pegawai itu, Ketua Jabatannya hendaklah mendapatkan daripada Pendaftar, Timbalan Pendaftar atau Penolong Kanan Pendaftar Mahkamah yang di hadapannya kes itu diselesaikan dan mengemukakan kepada Lembaga Tatatertib—

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

(6) Jika prosiding jenayah terhadap seseorang pegawai itu berkeputusan dengan pensabitannya, Lembaga Tatatertib 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 Lembaga Tatatertib di bawah kaedah 33.



(7) Jika prosiding jenayah terhadap seseorang pegawai berkeputusan dengan pembebasannya, dan tiada rayuan dibuat oleh atau bagi pihak 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 segala kelayakan yang pegawai itu berhak kepadanya dalam tempoh penahanan kerjanya.

(8) Jika prosiding jenayah terhadap pegawai itu berkeputusan dengan pembebasannya dan rayuan dibuat oleh Pendakwa Raya, Lembaga Tatatertib hendaklah memutuskan sama ada atau tidak pegawai itu patut terus ditahan kerja sehingga rayuan itu diputuskan.

(9) 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 segala kelayakan yang pegawai itu berhak kepadanya dalam tempoh penahanan kerja atau penggantungan kerjanya atau kedua-duanya.

(10) Jika prosiding jenayah terhadap seseorang pegawai berkeputusan dengan pembebasannya tetapi atas rayuan pegawai itu telah disabitkan, Lembaga Tatatertib hendaklah menggantung pegawai itu daripada menjalankan tugasnya berkuat kuasa dari tarikh sabitannya sementara menunggu keputusan Lembaga Tatatertib di bawah kaedah 33.

(11) Bagi maksud kaedah ini, “pembebasan” termasuklah pelepasan yang tidak terjumlah kepada pembebasan.

### **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 yang olehnya pegawai itu telah disabitkan atau rayuannya telah ditolak.

(2) Apabila keputusan yang disebut dalam subkaedah (1) diterima, Ketua Jabatan hendaklah mengemukakan keputusan itu kepada Lembaga Tatatertib 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; atau
- (d) tiada hukuman patut dikenakan

bergantung kepada jenis dan keseriusan kesalahan yang telah dilakukan berbanding dengan takat sabitan itu telah memburukkan nama perkhidmatan 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 berhubung dengan pertuduhan jenayah yang daripadanya pegawai itu telah dibebaskan.

#### **Prosedur 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 selainya,

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 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 Lembaga Tatatertib 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; atau
- (d) tiada hukuman patut dikenakan,

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

#### **Pertimbangan Lembaga Tatatertib dalam kes sabitan dan tahanan**

37. (1) Jika, setelah menimbangkan laporan, rekod perkhidmatan dan perakuan Ketua Jabatan yang dikemukakan kepadanya di bawah subkaedah 33(2), Lembaga Tatatertib berpendapat bahawa—

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

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

- (a) pegawai itu patut dibuang kerja atau diturunkan pangkat, Lembaga Tatatertib itu hendaklah mengenakan hukuman buang kerja atau turun pangkat, sebagaimana yang difikirkan sesuai;
  - (b) alasan yang berdasarkannya perintah itu telah dibuat terhadap pegawai itu tidak mewajarkan hukuman buang kerja atau turun pangkat tetapi mewajarkan pengenaan suatu hukuman yang lebih ringan, Lembaga 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; atau
  - (c) tiada hukuman patut dikenakan ke atas pegawai itu, Lembaga Tatatertib itu hendaklah membebaskannya.
- (3) Jika hukuman selain buang kerja telah dikenakan ke atas seseorang pegawai atau jika tiada hukuman telah dikenakan ke atasnya, Lembaga Tatatertib hendaklah mengarahkan pegawai itu supaya menjalankan semula tugasnya.

## BAHAGIAN VII PROSEDUR TATATERTIB

### *Bab 1 – 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 berdasarkannya tindakan itu dicadangkan dan pegawai itu telah diberi peluang yang munasabah untuk didengar.

- (2) Subkaedah (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 Lembaga Tatatertib berpuas hati bahawa kerana sesuatu sebab, yang hendaklah direkodkan olehnya secara bertulis, tidaklah semunasabahnya praktik untuk menjalankan kehendak subkaedah (1);
  - (c) jika Lembaga Tatatertib berpuas hati bahawa demi kepentingan keselamatan Malaysia atau mana-mana bahagiannya tidaklah suai manfaat untuk menjalankan kehendak subkaedah (1); atau

- (d) jika apa-apa perintah tahanan, pengawasan, kediaman 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 Persekutuan atau mana-mana bahagiannya, pencegahan jenayah, tahanan pencegahan, kediaman terhad, buang negeri, imigresen, perlindungan wanita dan gadis atau perlindungan kanak-kanak.

**Pengerusi Lembaga Tatatertib hendaklah menentukan jenis pelanggaran tatatertib**

39. Jika seseorang pegawai dikatakan telah melakukan suatu kesalahan tatatertib, Pengerusi Lembaga Tatatertib hendaklah, sebelum memulakan apa-apa prosiding tatatertib berkenaan dengan pegawai itu, menimbangkan dan menentukan sama ada kesalahan tatatertib yang diadakan 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.

*Bab 2 - Prosiding Tatatertib tidak dengan tujuan buang kerja atau turun pangkat*

**Prosedur dalam kes tatatertib tidak dengan tujuan buang kerja atau turun pangkat**

40. (1) Jika ditentukan di bawah kaedah 39 bahawa kesalahan tatatertib yang diadakan terhadap seseorang pegawai adalah daripada jenis yang patut dikenakan suatu hukuman yang lebih ringan daripada buang kerja atau turun pangkat, Pengerusi Lembaga Tatatertib, setelah berpuas hati bahawa wujud suatu kesalahan tatatertib, hendaklah memaklumkan pegawai itu melalui notis di bawah kaedah 60 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 Lembaga Tatatertib berpendapat bahawa representasi pegawai itu menghendaki penjelasan lanjut, Lembaga Tatatertib itu boleh menghendaki pegawai itu supaya memberikan penjelasan lanjut dalam suatu tempoh sebagaimana yang ditetapkan oleh Lembaga Tatatertib itu.

(3) Jika, setelah menimbangkan representasi pegawai itu dan, jika penjelasan lanjut diberikan, penjelasan lanjut pegawai itu, Lembaga Tatatertib—

- (a) mendapati pegawai itu bersalah atas kesalahan tatatertib yang dikatakan telah dilakukan olehnya, Lembaga 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; atau
- (b) mendapati pegawai itu tidak bersalah, Lembaga Tatatertib itu hendaklah membebaskannya.

*Bab 3 - Prosiding tata tertib dengan tujuan buang kerja atau turun pangkat*

**Prosedur dalam kes tata tertib dengan tujuan buang kerja atau turun pangkat**

41. (1) Jika ditentukan di bawah kaedah 39 bahawa kesalahan tata tertib yang diadakan terhadap seseorang pegawai adalah daripada jenis yang patut dikenakan hukuman buang kerja atau turun pangkat, Pengerusi Lembaga Tata tertib hendaklah menimbangkan segala maklumat yang ada.

(2) Jika didapati oleh Pengerusi Lembaga Tata tertib bahawa wujud suatu kes *prima facie* terhadap pegawai itu, Pengerusi Lembaga Tata tertib hendaklah—

- (a) mengarahkan supaya suatu pertuduhan yang mengandungi fakta kesalahan tata tertib 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 di bawah kaedah 60, suatu representasi bertulis yang mengandungi alasan-alasan yang padanya dia bergantung untuk membebaskan dirinya.

(3) Jika, setelah menimbangkan representasi yang dibuat di bawah perenggan (2)(b), Lembaga Tata tertib berpendapat bahawa kesalahan tata tertib yang dilakukan oleh pegawai itu tidak mewajarkan hukuman buang kerja atau turun pangkat, Lembaga Tata tertib boleh mengenakan ke atas pegawai itu apa-apa hukuman yang lebih ringan yang dinyatakan dalam kaedah 46 sebagaimana yang difikirkan sesuai.

(4) Jika pegawai itu tidak membuat apa-apa representasi dalam tempoh yang dinyatakan dalam perenggan (2)(b), atau jika pegawai itu telah membuat representasi sedemikian tetapi representasi itu tidak dapat membersihkan dirinya sehingga memuaskan hati Lembaga Tata tertib, Lembaga Tata tertib itu hendaklah terus menimbangkan dan membuat keputusan tentang pembuangan kerja atau penurunan pangkat pegawai itu.

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

**Jawatankuasa Penyiasatan**

42. (1) Jawatankuasa Penyiasatan hendaklah terdiri 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.

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**Prosedur yang hendaklah diikuti oleh Jawatankuasa Penyasatan**

43. (1) Jawatankuasa Penyasatan—

- (a) hendaklah memberitahu pegawai yang disiasat itu tarikh persoalan mengenai pembuangan kerja atau penurunan pangkatnya akan dibawa di hadapan Jawatankuasa Penyasatan; dan
- (b) boleh memanggil dan memeriksa mana-mana saksi atau mengambil apa-apa tindakan sebagaimana yang difikirkan perlu atau patut oleh Jawatankuasa Penyasatan untuk mendapatkan penjelasan lanjut mengenai kes itu.

(2) Jika Jawatankuasa Penyasatan berpandangan bahawa pegawai itu patut dibenarkan hadir di hadapan Jawatankuasa Penyasatan 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 Penyasatan, pegawai itu hendaklah diberi peluang untuk hadir dan untuk menyoal balas saksi-saksi bagi pihak dirinya.

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

(5) Jawatankuasa Penyasatan boleh membenarkan Majlis atau pegawai itu diwakili oleh seorang pegawai Majlis atau, dalam hal yang luar biasa, oleh seorang penguambela dan peguamcara, tetapi Jawatankuasa Penyasatan 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 Penyasatan membenarkan Majlis diwakili, Jawatankuasa Penyasatan hendaklah juga membenarkan pegawai yang disiasat itu diwakili dengan cara yang sama.

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

(8) Setelah tamat penyiasatannya, Jawatankuasa Penyasatan hendaklah mengemukakan suatu laporan tentang penyiasatan itu kepada Lembaga Tatatertib.

(9) Jika Lembaga Tatatertib berpendapat bahawa laporan yang dikemukakan kepadanya di bawah subkaedah (8) tidak jelas tentang perkara-perkara tertentu atau bahawa penyiasatan lanjut adalah perlu, Lembaga Tatatertib boleh merujuk 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 Lembaga Tatatertib mengenai alasan-alasan lanjut itu.

(2) Jika Lembaga Tatatertib fikirkan patut diteruskan tindakan tatatertib terhadap pegawai itu berdasarkan alasan-alasan lanjut itu, pegawai itu hendaklah diberi suatu pernyataan bertulis mengenai alasan-alasan itu, dan prosedur yang dinyatakan dalam kaedah 41, 42 dan 43 hendaklah terpakai mutatis mutandis berkenaan dengan alasan lanjut itu.

#### **Kuasa Lembaga Tatatertib**

45. Jika, setelah menimbang representasi pegawai dan laporan Jawatankuasa Penyiasatan, jika ada, Lembaga Tatatertib—

- (a) mendapati pegawai itu bersalah atas kesalahan tatatertib yang dikatakan telah dilakukan olehnya dan pegawai itu patut dibuang kerja atau diturunkan pangkat, Lembaga Tatatertib itu hendaklah mengenakan hukuman buang kerja atau turun pangkat, sebagaimana yang difikirkan sesuai;
- (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 peringanan yang lain, kesalahan itu tidak mewajarkan hukuman buang kerja atau turun pangkat tetapi mewajarkan pengenaan suatu hukuman yang lebih ringan, Lembaga 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; atau
- (c) mendapati pegawai itu tidak bersalah, Lembaga Tatatertib itu hendaklah membebaskannya.

### BAHAGIAN VIII 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 hari pegawai yang berkenaan.

(3) Jika seseorang pegawai didenda lebih daripada sekali dalam mana-mana bulan kalendar, agregat denda yang dikenakan ke atasnya dalam bulan itu tidak boleh melebihi amaun 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, tanpa terlebih dahulu mendapat kebenaran atau tanpa sebab yang munasabah, apa-apa pelucuthakan emolumen pegawai itu hendaklah, melainkan jika diputuskan selainnya oleh Lembaga Tatatertib, 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, tanpa terlebih dahulu mendapat kebenaran atau tanpa sebab yang munasabah jika emolumen pegawai itu telah dilucuthakkan, 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 Lembaga Tatatertib bagi tempoh—

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

sebagaimana yang difikirkan sesuai.

(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 penganan hukuman itu oleh Lembaga Tatatertib.

(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.

### **Turun gaji**

49. (1) Lembaga Tatatertib 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 Lembaga Tatatertib atau jika tiada tarikh ditetapkan, pada tarikh hukuman itu dijatuhkan.

(3) Tarikh pergerakan gaji yang dikenakan ke atas seseorang pegawai hendaklah dilaksanakan pada tarikh yang ditetapkan oleh Lembaga Tatatertib atau jika tiada tarikh ditetapkan, pada tarikh hukuman itu dikenakan.

(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.

### **Turun pangkat**

50. Lembaga Tatatertib boleh mengenakan hukuman turun pangkat ke atas seseorang pegawai mengikut cara yang berikut:

- (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 masa 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.

## BAHAGIAN IX

### PENAHANAN KERJA DAN PENGGANTUNGAN KERJA

#### **Penahanan kerja bagi maksud penyiasatan**

51. (1) Tanpa menjejaskan kaedah 32 dan 52, jika seseorang pegawai dikatakan atau semunasabahnya disyaki telah melakukan suatu kesalahan jenayah atau suatu kesalahan tatatertib yang serius, Lembaga Tatatertib 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), Lembaga Tatatertib hendaklah mengambil kira faktor-faktor yang berikut—

- (a) sama ada pengatahan itu atau kesalahan yang disyaki itu adalah secara langsung berhubungan dengan tugas pegawai itu; dan
  - (b) sama ada kehadiran pegawai itu di pejabat akan menggendalakan 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 Lembaga Tatatertib hendaklah mengambil apa-apa tindakan selanjutnya sebagaimana yang difikirkannya patut di bawah kaedah 52.

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

### **Penahanan kerja**

52. (1) Lembaga Tatatertib boleh, jika difikirkannya sesuai dan patut dan dengan mengambil kira perkara-perkara yang dinyatakan dalam subkaedah (4), menahan seorang 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 Lembaga Tatatertib.

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

- (a) sama ada jenis kesalahan yang dengannya pegawai itu dipertuduh adalah secara langsung berhubungan dengan tugasnya;
- (b) sama ada kehadiran pegawai itu di pejabat akan menggendalakan penyiasatan;
- (c) sama ada kehadiran pegawai itu di pejabat untuk menjalankan tugas dan tanggungjawabnya yang biasa boleh memalukan atau boleh menjejaskan 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 Lembaga Tatatertib 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 penuhnya 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 Lembaga Tatatertib.

(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 Lembaga Tatatertib.

(7) Tanpa menjejaskan subkaedah 32(7), 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**

53. (1) Lembaga Tatatertib boleh menggantung seseorang pegawai daripada menjalankan tugasnya jika—

- (a) pegawai itu telah disabitkan oleh mana-mana Mahkamah jenayah; 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 52; dan
- (b) tidak berhak untuk menerima apa-apa emolomen sepanjang tempoh penggantungan kerjanya.

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

#### **Emolomen yang tidak dibayar**

54. (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.

#### **Penyambungan semula tugas**

55. Jika seseorang pegawai telah ditahan kerja di bawah kaedah 52 atau digantung kerja di bawah kaedah 53, dan prosiding tatatertib terhadap pegawai itu berkeputusan dengan suatu hukuman selain buang kerja dikenakan ke atas pegawai itu, Lembaga Tatatertib hendaklah mengarahkan pegawai itu supaya menjalankan semula tugasnya.

#### **Prosedur tatatertib bagi seseorang pegawai yang sedang berkhidmat di luar Malaysia**

56. Jika prosiding tatatertib telah dimulakan terhadap seseorang pegawai di luar Malaysia, pegawai itu hendaklah ditahan kerja mengikut kaedah 52, dan jika pegawai itu telah disabitkan, tindakan tatatertib hendaklah diambil di bawah kaedah-kaedah ini terhadapnya.

#### **Pegawai tidak boleh meninggalkan Malaysia tanpa kebenaran bertulis**

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

(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 Lembaga Tatatertib.

(3) Walau apa pun subkaedah 52(6), Lembaga Tatatertib 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 Lembaga Tatatertib.

#### BAHAGIAN X PELBAGAI

#### **Pemakaian Kaedah-Kaedah**

58. Prosedur-prosedur tatatertib yang diperuntukkan dalam kaedah-kaedah ini hendaklah terpakai bagi apa-apa pelanggaran apa-apa peruntukan Kaedah-Kaedah Majlis Daerah Setiu (Kelakuan dan Tatatertib Pegawai) 1990 [Tr.P.U. 22/93] sebagaimana prosedur itu terpakai bagi apa-apa pelanggaran terhadap mana-mana peruntukan Kaedah-Kaedah ini.

#### **Butir-butir kesalahan dan hukuman hendaklah dicatatkan**

59. 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 dicatatkan dalam rekod perkhidmatan pegawai itu dengan menyatakan butir-butir kesalahan yang telah dilakukan dan hukuman yang telah dikenakan.

#### **Penyampaian notis, dokumen dsb.**

60. (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 kaedah-kaedah 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 dposkan 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**

61. Apa-apa surat-menyurat antara Lembaga Tatatertib dengan pegawai yang tertakluk kepada tindakan tatatertib hendaklah ditandatangani oleh Pengerusi Lembaga Tatatertib atau oleh mana-mana anggota Lembaga Tatatertib bagi pihak Pengerusi.

**Pembatalan**

62. (1) Kaedah-Kaedah Majlis Daerah Setiu (Kelakuan dan Tatatertib Pegawai) 1990 [Tr.P.U. 22/93], kemudian daripada ini disebut “Kaedah-Kaedah yang dibatalkan”, adalah dengan ini dibatalkan.

(2) Jika pada tarikh mula berkuatkuasanya kaedah-kaedah ini, prosiding tatatertib belum selesai di hadapan Lembaga Tatatertib, prosiding itu hendaklah diteruskan di bawah dan dengan menepati kaedah-kaedah ini; tetapi jika pada mula berkuatkuasanya kaedah-kaedah ini, mana-mana perkara tatatertib sedang didengar, atau telah didengar tetapi tiada perintah atau keputusan telah dibuat mengenainya, prosiding itu hendaklah diteruskan di bawah kaedah-kaedah yang dibatalkan.

(3) Bagi maksud menyelesaikan suatu pendengaran di hadapannya, atau membuat sesuatu perintah atau memberi sesuatu keputusan mengenai perkara yang didengar sebelum mula berkuatkuasanya kaedah-kaedah ini, Lembaga Tatatertib hendaklah menyelesaikan pendengaran itu mengikut kuasa yang terletak hak padanya sebaik sahaja mula berkuatkuasanya kaedah-kaedah ini dan boleh membuat apa-apa perintah atau keputusan yang boleh dibuat olehnya di bawah kuasa yang terletak hak padanya sebaik sahaja sebelum mula berkuatkuasanya kaedah-kaedah ini.

(4) Bagi maksud kaedah ini, “Lembaga Tatatertib” hendaklah mempunyai pengertian yang diberikan kepadanya di bawah kaedah-kaedah yang dibatalkan.

Diperbuat oleh Majlis Daerah Setiu di dalam Mesyuaratnya pada 30 Mac 2014  
[MDS. 002 / 10 1 JLD-18-3/2014]

HAJI SAMIUN BIN SALLEH  
*Yang Dipertua,*  
*Majlis Daerah Setiu*

Disahkan oleh Pihak Berkuasa Negeri dalam mesyuaratnya pada 3 Ogos 2014.  
[SUK. TR. 192/12/233 BHG. 8-(21)]

*Setiausaha,*  
*Majlis Mesyuarat Kerajaan,*  
*Terengganu*



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LOCAL GOVERNMENT ACT 1976  
(ACT 171)

RULES OF CONDUCT AND DISCIPLINE OF OFFICER  
(SETIU DISTRICT COUNCIL) 2014

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LOCAL GOVERNMENT ACT 1976  
(ACT 171)

RULES OF CONDUCT AND DISCIPLINE OF OFFICER  
(SETIU DISTRICT COUNCIL) 2014

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

PART I  
PRELIMINARY

**Name and commencement**

1. These rules may be cited as the **Rules Of Conduct And Discipline Of Officer (Setiu District Council) 2014** and shall come into force on the date of its publication in the *Gazette*.

**Application**

2. These rules shall apply to an officer of the Council.

**Interpretation**

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

“Councillor “ means a person appointed under section 10 of the Act;

“The Act” means the the Local Government Act 1976 [Act 171];

“child” means a child of an officer under his care, including—

- (a) a posthumous child, dependent stepchild and illegitimate child of such officer;
- (b) a child adopted by him under any written law relating to adoption or under any custom or usage, by satisfactory evidence of such adoption; and
- (c) a child, no matter what age, are mentally retarded or physically disabled and permanently and that not being able to carry himself;

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

“emoluments” means all remuneration in money due to an officer and includes basic salary, fixed allowances, incentive payments and other monthly allowances;

“salary” means the basic salary 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 bank established under any written law;

“Head of Department” means an officer in charge of a department or the like in accordance with the approved Establishment List by administration of the Council and includes the deputy heads of departments acting on his behalf;

“criminal offence” means any offense involving fraud, dishonesty or indecent behaviour;

“cooperative” means cooperative registered under Co-operatives Act 1993 [Act 502];

“Disciplinary Board” means the Disciplinary Board established under subsection 16 (4) of the Act;

“Court” means the Court, including Syariah Court, which has competent jurisdiction to try a person for a criminal offence;

“Council” means the Setiu District Council;

“officer” means any officer who is employed by the Council, including any officer appointed on a permanent, contract, temporary, part-time or as such but does not include—

- (a) The President, Councillor or the Secretary; and
- (b) any person appointed on secondment to the service of the Council and continue to be subject to the terms of appointment and secondment;

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

“Secretary” means the Secretary of Setiu District Council; and

“President” means President of Setiu District Council.

## PART II

### OBLIGATION TO COMPLY WITH THE RULES

#### **Obligation to comply with the 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.

#### **Failure to give and to comply with undertakings**

5. (1) An officer who fails to give the undertaking provided by the Council, after being required to do so by the Disciplinary Board 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

#### DUTIES OF CONTROL AND DISCIPLINARY SUPERVISION

#### **Duty of control and disciplinary supervision**

6. (1) Every officer shall exercise the control and disciplinary 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 control and disciplinary supervision over his subordinates or to take action against his subordinate 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.

### PART IV

#### CODE OF CONDUCT

#### **General**

7. (1) An officer shall at all times give his loyalty to the Yang di-Pertuan Agong, the Sultan of Terengganu, the country, the federal government, the state government of Terengganu and the Council.

(2) An officer shall not—

- (a) subordinate his duty to the Council of private interests;
- (b) conduct himself in such a manner as is likely to bring his private interests into conflict with his duty to the Council;
- (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 duty to the Council so as to impair his usefulness as an officer of the Council; or
  - (ii) he has used his position as an officer of the Council for his personal interest;
  - (d) conduct himself in such a manner as to bring the Council into disrepute or bring discredit to the Council;
  - (e) lack of efficiency or effort;
  - (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; and
  - (j) be negligent in performing his duties.

**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 as an officer of a Council, 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 his 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 usefulness of the officer 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 position of the officer 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 of the President, 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 President.



(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 drug, 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 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 abusing or dependent on a dangerous drug may be terminated provided that the officer has attained the optional retirement age specified by the Government at that time.

(4) For purposes 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 may, if he thinks fit, permit the officer to receive a letter of recommendation from any person, association, body, or group of persons on the occasion of the retirement of officer or transfer so long as such letter of recommendation is not enclosed in a receptacle of value.

(3) The President may permit the collection of spontaneous contributions by officers under his charge for the purpose of making a presentation to an officer on the occasion of the retirement of officer, transfer or marriage or any 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 rule, such present may be formally accepted but the officer shall, as soon as practicable, submit to his 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 to the giver, in accordance to the method prescribed by the Mayor/President.

### **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 to the service of the Council or at any time thereafter as may be required by the Mayor/President, declare in writing to the Disciplinary Board, all his properties owned by him, his spouse, child or held by any person on his behalf, his spouse or child.

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

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

(4) If an officer, 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 Disciplinary Board.

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

- (a) the size, amount or value of the property in relation to the emoluments of the officer 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 service of the Council, with the position of the officer as an officer of the Council or be in anyway inconsistent with rule 7;

- (c) any other factor which the Disciplinary Board may consider necessary for upholding the integrity and efficiency of the Council and its officers.

(6) The Disciplinary Board shall, if satisfied with the declaration of property made by the officer, direct that it be recorded in the records of service of the officer that the declaration has been made.

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

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

**Maintaining a standard of living beyond emoluments and legitimate private means**

15. (1) Where the Head of Department 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 Head of Department shall, by notice in writing, requires 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 Head of Department 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 Disciplinary Board together with the explanation of the officer, if any.

(3) Upon receipt of the report under subrule (2), the Disciplinary Board 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 cooperative society, or incur debt through the acquisition of goods by means of hire-purchase agreements, if—

- (a) the financial institution, insurer or cooperative 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 public position to his private advantage; or
- (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 subrules 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 Government, statutory body or any cooperative society; or
- (e) payment due on goods acquired by means of hire-purchase agreements.

**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 his 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 rule, where the debts of an officer amount to serious pecuniary indebtedness but he has not been adjudged a bankrupt, the President shall monitor and, from time to time, review the case.

(7) For the purpose of this rule, the expression “serious pecuniary indebtedness” means the state of indebtedness of an officer which, having regard to the amount of debts incurred by him, 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 Official Assignee 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 on the serious pecuniary indebtedness**

18. (1) If an officer reports under subrule 26 (4) that civil proceedings were instituted against him or if the Head of Department received any reports from any party that civil proceedings are instituted against an officer, the President shall obtain from the Court sealed copy of the Court judgement.

(2) The President shall make arrangements with the Court in respect of the Head of Department an officer to get a report of the officer if—

- (a) the officer, as a judgment debtor, obtained from the suit to have settled the debt within the period specified in the order of the sealed of the judgment;
- (b) the officer has filed himself a petition in bankruptcy or to obtain an administration order of wage earner; or
- (c) a petition of creditor in the bankruptcy was submitted against the officer.

(3) In addition to the arrangements may be made under subrule (2), the President shall make arrangements with the Official Assignee for the Official Assignee to serve on the Council, a report of an officer who is a bankrupt containing the following matters:

- (a) a statement of affairs filed by the officer in accordance with bankruptcy law which is in force;
- (b) the amount of installment payment ordered or proposed to be made;
- (c) whether or not the Official Assignee intends to initiate any further proceedings and, if so, a brief statement of the nature of further proceedings;
- (d) the main reasons for the bankruptcy;
- (e) whether in the opinion of the Official Assignee, the case involves an unavoidable misfortune, dishonourable conduct or any other special circumstances, favourable or unfavourable to the officer; and
- (f) such other matters as the Official Assignee, in its discretion, it should be mentioned.

(4) The Head of Department shall send a report of the officer and accepted the final decision of the Court under subrule (1) and the report received under subrule (2) and (3) to the Disciplinary Board together with his report on the work and conduct of the officer before and since serious pecuniary indebtedness.

(5) After considering all the reports and decisions submitted to him under subrule (4), the Disciplinary Board shall decide whether to take disciplinary action against the officer.

(6) If the disciplinary action taken against the officer result in deferment of salary movement, the Disciplinary Board may, at the expiration of deferment of salary movement, order that an amount equal to the amount received from a restored salary movement is added to the instalment or instalments payable to the Official Assignee or to any creditor.

(7) An officer who has been discharged from bankruptcy or bankruptcy order has been annulled shall be treated as fully restored his financial credit.

#### **Lending money**

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

(2) The placing of money on fixed deposit or into an account in any financial institution or cooperative society or in bonds issued by the Government or by any statutory body shall not be regarded as lending of money at interest for the purposes of this rule.

#### **Involvement in the futures market**

20. No officer shall involve himself as a buyer, 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 Council or the Government on any issue;
- (b) make any public statement which may embarrass or bring disrepute to the Council or the Government;

- (c) make any comments on any weaknesses of any policy, programme or decision of the Council or the Government; 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 Council or the Government;
  - (b) give any factual information relating to the exercise of the functions of the Council or the Government;
  - (c) give any explanation in respect of any incident or report which involves the Council or the Government; 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, public, in the course of any public lecture, speech, 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) publication of the Council, its department or staff;
- (b) professional publications;
- (c) publications of non-political voluntary organizations; and
- (d) publications approved in writing by the President for the purposes of this rule.



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**Taking part in politics**

25. (1) Except as provided in subrule (3), an officer in the Top Management Group and 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, hold office or be appointed to any post in a political party after first obtaining the written approval of the Disciplinary Board.

(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 Disciplinary Board; 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 his 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 his Head of Department.

#### **Instituting 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 duties at the Council without the prior consent of the Mayor/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 duties at the Council or who receives any process of court relating to such legal proceedings shall immediately report the matter to the Head of Department for instructions 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 duties at the Council 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 involvement of the officer 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 of 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 conditions deemed good,

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 duties at the Council shall not be paid for by the Council.

(7) For the purpose of this rule, “Legal Officer” includes Assistant Legal Officer.

PART V  
ABSENCE WITHOUT LEAVE

**Absence without leave**

27. In this Part, “absence”, in relation to an officer, includes a failure to be present for any length of time at a 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 absence of an officer from duty without leave, without prior permission or without reasonable cause shall render him liable to disciplinary action.

**Procedure in cases of absence without leave**

29. If an officer is absent from duty without leave, without prior permission or without reasonable cause, Head of Department shall, as soon as possible, report that fact together with the dates and circumstances of such failure and any further information with respect to failure to the Disciplinary Board.

**Procedure where officer is absent without leave and cannot be traced**

30. (1) Where an officer is absent from duty without leave, 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 Disciplinary Board and the Disciplinary Board 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 Board.

(4) The Disciplinary Board 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 Board—

- (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 the period of seven days from the date of such publication.

(5) If the officer reports for duty within the period of 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 Disciplinary Board and the Disciplinary Board shall institute disciplinary proceedings against the officer.

(6) If the officer fails to report for duty within the period of 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*.

#### **Forfeiture of emoluments due to absence from duty**

31. (1) Where an officer has been found guilty for being absent from duty without leave, 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 Disciplinary Board may not have ordered such forfeiture.

(2) An officer whose emoluments are forfeited under subrule (1) shall be notified in writing of the forfeiture.

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

#### PART VI

#### OFFICERS SUBJECT TO CRIMINAL PROCEEDINGS, ETC.

#### *General Procedures*

#### **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 it comes to the knowledge of the Head of Department an officer from any source that criminal proceedings have been instituted in any Court against the officer, the Head of Department shall obtain from the Registrar, Deputy Registrar or Senior Assistant Registrar of the Court—

- (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 appeal, if any, filed by either party.

(3) When a report containing the information referred to in paragraph (2)(a) received from the Registrar, Deputy Registrar or Senior Assistant Registrar of the Court, the Head of Department shall forward the report to the Disciplinary Board, together with the recommendation of the Head of Department as to whether or not the officer should be interdicted from working.

(4) Upon consideration of the report and the recommendation of the Head of Department forwarded to it under subrule (3), the Disciplinary Board may, if it deems fit, interdict the officer from exercising of his duties.

(5) Upon the completion of the criminal proceedings against the officer, the Head of Department shall obtain from the Registrar, Deputy Registrar or Senior Assistant Registrar of the Court before whom the case was disposed of and forward to the Disciplinary Board—

- (a) the decision of that Court; and
- (b) information relating to appeal, if any, filed by that officer or the Public Prosecutor.

(6) Where criminal proceedings against an officer result in his conviction, the Disciplinary Board shall, whether or not the officer appeals against the conviction, suspend the officer from exercising his duties with effect from the date of his conviction pending the decision of the Disciplinary Board under rule 33.

(7) 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.

(8) Where the criminal proceedings against the officer result in his acquittal and an appeal is lodged by the Public Prosecutor, the Disciplinary Board shall decide whether or not the officer should continue to be interdicted until the appeal is finally disposed of.

(9) 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, suspension or to both, as well as the annual leave and other entitlements to which he was entitled during the period of his interdiction, suspension or to both.

(10) Where criminal proceedings against an officer result in his acquittal but on appeal the officer is convicted, the Disciplinary Board shall suspend the officer from exercising his duties with effect from the date of his conviction pending the decision of the Disciplinary Board under rule 33.

(11) For the purpose of this rule, the word “acquittal” includes a discharge not amounting to an acquittal.

#### **Responsibilities of Head of Department if officer is convicted on criminal offences**

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 appeal of the Public Prosecutor against his acquittal results in his conviction, his Head of Department shall immediately obtain a copy of the decision of the Court from the Registrar, Deputy Registrar or Senior Assistant Registrar of the 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 Disciplinary Board together with the records of service of the officer 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; or
- (d) no punishment should be imposed,

depending on the nature and seriousness of the offence committed in relation to the degree of conviction has been discredit to the Council service.

**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 pendency 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 if 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, the protection of women and girls or protection of children, the 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 Disciplinary Board together with the records of service of the officer 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; or
- (d) no punishment should be imposed,

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

### **Consideration of Disciplinary Board in cases of conviction and detention**

37. (1) If, after considering the report, the records of service and the recommendation of the Head of Department forwarded to it under subrule 33(2), the Disciplinary Board is of the opinion that—

- (a) the officer should be dismissed or reduced in rank, the Disciplinary Board 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 Board 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 Board shall acquit him.

(2) If, after considering the report, the records of service and the recommendation of the Head of Department forwarded to it under subrule 36(2), the Disciplinary Board is of the opinion that—

- (a) the officer should be dismissed or reduced in rank, the Disciplinary Board 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 Board 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 Board shall acquit him.

(3) Where a punishment other than dismissal has been imposed on an officer or if no sentence has been imposed on him, the Disciplinary Board shall direct the officer to resume his duties.

PART VII  
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 been prior 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 Disciplinary Board 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 Disciplinary Board is satisfied that in the interest of the security of the Malaysia or any part thereof is not expedient to carry out the requirements of subrule (1); or
- (d) where any order of detention, supervision, restricted residence, banishment or deportation has been made against the officer, or where any form of restriction or supervision by bond or otherwise has been imposed on such officer, under any law relating to the security of the Federation or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration, protection of women and girls or protection of children.

**Chairman of Disciplinary Board to determine nature of breach of discipline**

39. Where an officer is alleged to have committed a disciplinary offence, the Chairman of the Disciplinary Board 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.

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*Chapter 2-Disciplinary proceeding 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 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 Chairman of Disciplinary Board on being satisfied that there exists a disciplinary offence, shall inform the officer by notice in accordance with rule 60 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 Disciplinary Board is of the opinion that the representation of the officer requires further clarification, the Disciplinary Board may require the officer to furnish further clarification within such period as the Disciplinary Board may specify.

(3) If, after considering the representation of the officer and, if further clarification is furnished, his further clarification, the Disciplinary Board—

- (a) finds the officer guilty of the disciplinary offence alleged to have been committed by him, the Disciplinary Board 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 Board 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 rule 39 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 Disciplinary Board shall consider all the available information.

(2) If it appears to the Chairman of the Disciplinary Board that there exists a prima facie case against the officer, the Chairman of the Disciplinary Board 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 60 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 paragraph (2)(b), the Disciplinary Board is of the opinion that the disciplinary offence committed by the officer does not warrant a punishment of dismissal or reduction in rank, the Disciplinary Board 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 Disciplinary Board, the Disciplinary Board shall then proceed to consider and decide on the dismissal or reduction in rank of the officer.

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

#### **Investigation Committee**

42. (1) The Investigation Committee shall consist of 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 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 by the Investigation Committee 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 Investigation 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 Disciplinary Board.

(9) If the Disciplinary Board 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 Disciplinary Board 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 Disciplinary Board of the further grounds.

(2) If the Disciplinary Board thinks fit to proceed disciplinary action 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 *mutatis mutandis* in respect of the further grounds.

#### **Powers of Disciplinary Board**

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

- (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 Board 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 Board 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 Board shall acquit him.

PART VIII  
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; or
- (g) dismissal.

**Fine or forfeiture of emoluments**

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

(2) Any fine imposed on any one occasion shall not exceed an amount equivalent to for seven 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 per cent of his monthly emoluments.

(4) Where the punishment is imposed as a consequence of the officer being absent from duty without leave, without prior permission or without reasonable cause, any forfeiture of the emoluments of the officer shall, unless otherwise decided by the Disciplinary Board, 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, without prior permission or without reasonable cause where the emoluments of the officer 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 monthly emoluments of the officer 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 Disciplinary Board for a period of—

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

as it 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 Disciplinary Board.

(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.

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**Reduction of salary**

49. (1) The Disciplinary Board 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 Disciplinary Board or if no date is specified, on the date the punishment is imposed.

(3) The date of salary movement imposed on an officer shall be implemented on the date as specified by the Disciplinary Board or if no date is specified, on the date of the punishment is imposed.

(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 Disciplinary Board 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 new salary of the officer 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.

PART IX  
INTERDICTION AND SUSPENSION

**Interdiction for the purpose of investigation**

51. (1) Without prejudice to rule 32 and 52, if an officer is alleged or reasonably suspected of having committed a criminal offence or a serious disciplinary offence, the Disciplinary Board 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 Disciplinary Board shall take into account the following factors—

- (a) whether the allegation or the suspected offence is directly related to the duties of the officer; 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,

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 Disciplinary Board shall take such further action as it thinks fit under rule 52.

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

### **Interdiction**

52. (1) The Disciplinary Board may, if it thinks fit and proper and having regard to the matters specified in subrule (4), interdict an officer from exercising his duties if—

- (a) criminal proceedings 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 summons were 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 Disciplinary Board.

(4) In deciding whether to interdict an officer under subrule (1), the Disciplinary Board 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 Disciplinary Board 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 of work 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 Disciplinary Board.

(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 Disciplinary Board deems fit.

(7) Without prejudice to subrule 32 (7), 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**

53. (1) The Disciplinary Board may suspend an officer from exercising his duties if—

- (a) the officer has been convicted by any criminal 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 exercising 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 52; and
  - (b) shall not be entitled to receive any emolument throughout the period of his suspension.
- (4) The decision by the Disciplinary Board to suspend an officer shall be notified to him in writing.

#### **Unpaid emoluments**

54. (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**

55. Where an officer is interdicted under rule 52 or suspended under rule 53, and the disciplinary proceedings against the officer result in a punishment other than dismissal being imposed on the officer, the Disciplinary Board shall order the officer to resume his duties.

#### **Disciplinary procedures for an officer serving outside Malaysia**

56. Where criminal proceedings have been instituted against an officer who is serving outside Malaysia, the officer shall be interdicted in accordance with rule 52, and if he is convicted, disciplinary action shall be taken under these rules against him.

#### **Officers shall not leave Malaysia without written permission**

57. (1) An officer who has been interdicted or suspended from exercising his duties shall not leave Malaysia without the prior written permission of the Chairman of the Disciplinary Board.

(2) If the officer who has been interdicted or suspended from exercising 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 Disciplinary Board.

(3) Notwithstanding subrule 52(6), the Disciplinary Board 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 Disciplinary Board.

PART X  
MISCELLANEOUS

**Application of Rules**

58. Disciplinary procedures as provided in these Rules shall apply to any breach of any provision of the Rules of Setiu District Council [Tr.PU 22/1993 as the procedure applicable to any violation of any provision of these Rules.

**Particulars of offence and punishment to be recorded**

59. 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 records of service of the officer by stating the particulars of the offence committed and the punishment imposed.

**Service of notices, documents, etc.**

60. (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 Rules 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**

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

**Revocation**

62. (1) Council Rules Setiu District Council [Tr.P.U.22/1993], hereinafter referred to as “the revoked Rules”, are hereby revoked.

(2) Where on the date of coming into operation of these Rules, disciplinary proceeding were pending before the Disciplinary Board, the proceedings shall be continued under and in conformity with these Rules; but where on the coming into operation of these Rules, any disciplinary matter was in the course of being heard, or had been heard but no order or decision had been made thereon, the proceedings shall continue under the revoked Rules.

(3) For the purpose of completing a hearing before it, or making an order or rendering a decision on a matter heard before the coming into operation of these Rules, the Disciplinary Board shall complete the hearing in accordance with the authority vested in it immediately before the coming into operation of these Rules and may make such order or decision as it could have made under the authority vested in it immediately before the coming into operation of these Rules.

(4) For the purpose of this rule, “Disciplinary Board” shall have the meaning assigned to it under the revoked Rules.

Made by the Setiu District Council in its Meeting on the 30 March 2014  
[ MDS. 002 / 10 / 1 JLD – 18-3/2014]

HAJI SAMIUN BIN SALLEH  
*President,*  
*Setiu District Council*

Confirmed by the State Authority in its Meeting on the 3 August 2014.  
[SUK. TR. 192/12/233 BHG. 8-(21)]

*Secretary of the State Executive*  
*Council of Terengganu*

Hak Cipta Pencetak (H)

PERCETAKAN NASIONAL MALAYSIA BERHAD

Semua Hak Terpelihara. Tiada mana-mana bahagian jua daripada penerbitan ini boleh diterbitkan semula atau disimpan di dalam bentuk yang boleh diperolehi semula atau disiarkan dalam sebarang bentuk dengan apa jua cara elektronik, mekanikal, fotokopi, rakaman dan/atau sebaliknya tanpa mendapat izin daripada Percetakan Nasional Malaysia Berhad (Pencetak kepada Kerajaan Malaysia yang dilantik).



DICETAK OLEH  
PERCETAKAN NASIONAL MALAYSIA BERHAD,  
CAWANGAN KUALA TERENGGANU  
BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA