

D.R. 1/2006

RANG UNDANG-UNDANG

b e r n a m a

Suatu Akta untuk meminda Akta Kilang dan Jentera 1967.

DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Kilang dan Jentera (Pindaan) 2006.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta*.

Pindaan seksyen 2

2. Akta Kilang dan Jentera 1967 [*Akta 139*], yang disebut "Akta ibu" dalam Akta ini, dipinda dalam seksyen 2 —

(a) dalam subperenggan (1)(ix), dengan menggantikan perkataan "five thousand cubic feet" dengan perkataan "one hundred and forty cubic metres"; dan

(b) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

"(3) Any pipeline used for transporting dangerous substances which may cause fire, explosion or adverse health effects to any person (other than petroleum or

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petroleum products) which is used in connection with and for the purposes of a factory, shall be deemed to be part of the factory.

(4) For the purpose of subsection (3), "pipelines" means the physical facilities or any part of the physical facilities through which dangerous substances which may cause fire, explosion or adverse health effects to any person (other than petroleum or petroleum products) in the form of liquid or vapour or any combination of liquid or vapour are transported, and includes pipes, pumps, compressors, meters, regulators and fabricated assemblies."

Pindaan seksyen 3

3. Seksyen 3 Akta ibu dipinda—

(a) dengan memasukkan sebelum takrif "article" takrif yang berikut:

' "amusement device" means any contrivance or a combination of contrivances, or rides, equipment or plant or any other similar device which are designed or intended to entertain or amuse people **and** which can be installed repeatedly without loss of substance, whether temporarily or permanently, at fairs, amusement parks or other locations;

"amusement park" means a tract or area used principally as a location for amusement devices and structures;';

(b) dengan memasukkan selepas takrif "engineer" takrif yang berikut:

⁴ "fair" means an enterprise principally devoted to the exhibition of products of agriculture or industry and at or in connection with which amusement devices **and** temporary structures are provided;';

- (c) dengan memasukkan selepas takrif "fence" takrif yang berikut:

' "fired pressure vessel" means an enclosed vessel under pressure greater than atmospheric pressure which is subjected to direct firing, but does not include a steam boiler;';

- (d) dalam takrif "hoist", dengan memasukkan koma selepas perkataan "carriage";

- (e) dengan menggantikan takrif "hoisting machine" dengan takrif yang berikut:

' "hoisting machine" means any equipment for lifting, raising or lowering load such as a lift, escalator, hoist, crane, winch, dragline, piling machine, aerial cableway, funicular railway, access platform, dumbwaiter, vertical conveyor lifter and mechanical loading ramp, and includes transporter, walkalator and other similar equipment, but does not include manual hoist and materials handling equipment;';

- (f) dengan memasukkan selepas takrif "Inspector" takrif yang berikut:

' "licensed person" means any person licensed under section 7D of the Act;';

- (g) dalam takrif "machinery" —

(i) dengan memasukkan selepas perkataan "unfired pressure vessels," perkataan "fired pressure vessels, pipelines,";

(ii) dengan memasukkan selepas perkataan "driven machinery," perkataan "materials handling equipment, amusement device or any other similar machinery";

(iii) dengan memasukkan selepas perkataan "casting," perkataan "cutting,"; dan

(iv) dengan menggantikan perkataan "metals" di mana-mana jua terdapat dengan perkataan "materials";

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(h) dengan memasukkan selepas takrif "maintain" takrif yang berikut:

' "manufacturing or commercial secret" means highly sensitive information relating to —

- (a) any manufacturing process;
- (b) any product, raw material, by-product formulation;
- (c) any idea of duplication or cloning of product; or
- (d) any technical information on operating system,

and that the information has been declared as manufacturing or commercial secret in writing by the occupier or owner;

"materials handling equipment" means any power-driven equipment for handling materials, and includes forklift, conveyor, stacker, excavator, tractor, dumper or bulldozer but does not include hoisting machine;';

(i) dengan memasukkan selepas takrif "Panel" takrif yang berikut:

' "petroleum" means any mineral oil or relative hydrocarbon and natural gas existing in its natural condition and casinghead petroleum spirit, and includes —

- (a) bituminous shales and other stratified deposits from which oil can be extracted; and
- (b) petroleum products;

"petroleum products" means material derived from petroleum, natural gas or asphalt deposits, and includes gasoline, kerosene, diesel fuel, fuel oil, lubricating oil, liquefied petroleum gas, wax, grease, butane, benzene, propane and any like flammable and combustible liquids;';

(j) dengan memasukkan selepas takrif "serious bodily injury" takrif yang berikut:

' "special scheme of inspection" means an inspection system approved by the Chief Inspector pertaining to periodical inspections for certain classes of machinery and its auxiliary;'; dan

(k) dengan menggantikan takrif "work of engineering construction" dengan takrif yang berikut:

' "work of engineering construction" means the construction, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling, or demolition of—

- (a) any erection, edifice, structure, caisson, mast, tower, pylon, wall, fence or chimney, whether constructed wholly or partly above or below ground level;
- (b) any road works, dock, harbour works, railway, siding, cableway, tramway line, inland navigation, air field or aerodrome;
- (c) any drainage, sewer, sewage works, irrigation, river control works, sea defence work or earth retaining structure;
- (d) any electrical, mechanical, water, gas, petrochemical or telecommunication works; or
- (e) any bridge, viaduct, dam, reservoir, lagoon, earthworks, pipeline, sewer, aqueduct, culvert, drive, shaft, tunnel or reclamation works,

and includes —

- (aa) any formwork, falsework, scaffold or any works which form an integral part of, or are preparatory to or temporary to, the works described in paragraphs (a) to (e);

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(bb) site clearance, soil investigation and improvement, earth-moving, excavation, laying of foundation, site restoration and landscaping; and

(cc) such other works as may be specified by the Minister.'

Pindaan seksyen 5

4. Seksyen 5 Akta ibu dipinda dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

"(3) The Chief Inspector may in writing delegate any of the functions, powers or duties assigned to him under this Act to any Deputy Chief Inspector, Senior Inspector or Inspector, subject to such terms and conditions as he thinks fit.

(4) A delegation under this section shall not preclude the Chief Inspector himself from performing or exercising at any time any of the functions, powers or duties so delegated."

Pindaan seksyen 6

5. Seksyen 6 Akta ibu dipinda—

(a) dengan menomborkan semula seksyen yang sedia ada sebagai subseksyen (1) seksyen itu; dan

(b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

"(2) A licensed person, all his servants and agents and other persons employed by him shall, while discharging their duties as a licensed person and such servants, agents and employees, be deemed to be public servants within the meaning of the Penal Code."

Seksyen baru 7A, 7B, 7C, 7D, 7E dan 7F

6. Akta ini dipinda dengan memasukkan selepas seksyen 7 seksyen yang berikut:

"Entry into premises with a search warrant and the power of seizure

7A. (1) Where information is given on oath to a magistrate that there is reasonable cause for suspecting that there is in a factory or premises any article, thing, book, document, plant, substance, installation or part thereof which has been used to commit or is intended to be used to commit an offence under this Act or regulation made thereunder, he shall issue a warrant under his hand by virtue of which an Inspector named or referred to in the warrant may enter the factory or premises at any reasonable time by day or night, and search for and seize or seal the article, thing, book, document, plant, substance, installation or part thereof.

Entry into premises without a search warrant and the power of seizure

7B. Where an Inspector is satisfied upon information received that he has reasonable grounds for believing that, by reason of delay in obtaining a search warrant, any article, thing, book, document, plant, substance, installation or part thereof in a factory or premises which has been used to commit or is intended to be used to commit an offence under this Act or any regulation made thereunder is likely to be removed or destroyed, he may enter the factory or premises without a warrant and seize or seal the article, thing, book, document, plant, substance, installation or part thereof found therein.

Service of list of things seized

7c. The Inspector seizing any article, thing, book, document, plant, substance, installation or part thereof under section 7A or 7B shall prepare a list of things seized and forthwith, deliver a copy of the list signed by him to the occupier, or his agent or servant present in the premises, and if the premises are unoccupied or if the occupier, or his agent or servant is absent the Inspector shall, wherever possible, post a list of the things seized on the premises and make a police report thereafter.

Appointment, powers and duties of a licensed person

7D. (1) Notwithstanding any other provisions of this Act, the Minister shall have the power to grant a licence on such conditions as he may think fit to any person to perform any of the functions specified in this Act as the functions of a licensed person as it appears to him to be necessary.

(2) The Minister may, make an order for the purpose of subsection (1) and in particular but without prejudice to the generality of the foregoing, such order may—

- (a) prescribe the qualification and standards of competency of persons to be employed by a licensed person;
- (b) prescribe the powers of a person employed by a licensed person to carry out the functions of a licensed person;
- (c) prescribe the records to be kept by a licensed person;
- (d) prescribe the returns to be submitted by a licensed person to the Chief Inspector at certain intervals;
- (e) regulate the inspection by the Chief Inspector of the premises of a licensed person and the records kept thereat;
- (f) prescribe inspection standards for a licensed person to comply with; and
- (g) prescribe the functions or duties to be carried out by a licensed person.

(3) The Minister may, by order published in the *Gazette*, authorize a licensed person to demand, prescribe, collect and retain charges, fees and levy in respect of the services provided by the licensed person.

(4) An order made under subsection (3) shall specify —

- (a) the type of services in respect of which charges, fees or levy may be demanded, collected and retained; and
- (b) the duration of the authorization to demand, collect and retain the charges, fees or levy.

- (5) A licensed person authorized under subsection (3) shall—
- (a) maintain such account, books and records in respect of the payment and collection of charges, fees or levy as the Chief Inspector may require;
 - (b) furnish to the Chief Inspector such information, returns and accounts in respect of the payment and collection of charges, fees or levy as the Chief Inspector may require; and
 - (c) permit the Chief Inspector or any other person authorized in writing by the Chief Inspector to have access to or examine or inspect any document, machinery or equipment maintained or used for the payment or collection of charges, fees or levy.

(6) The authorization of a licensed person under subsection (3) shall not render the Federal Government liable to any person in respect of any injury, damage or loss occasioned by the failure of the licensed person to carry out his obligations under this Act in respect of which charges, fees or levy are demanded, collected and retained.

(7) If a licensed person contravenes any condition of the licence or any of the provisions of any order made under this section or any of the provisions of subsection (5) with which he is required to comply he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(8) Notwithstanding the licensing of a person under this section, the Minister may give directions to the Chief Inspector to exercise any of the functions which under the terms of the licence are to be carried out by such person.

Revocation of licence

7E. (1) If the Chief Inspector is satisfied that a licensed person has breached any condition of the licence, the Chief Inspector may give a notice in writing to the licensed person requiring him to comply with the condition which he has breached and take all measures stipulated therein within the period stated in the notice.

(2) If by the time the period stipulated in the notice expires the licensed person has failed to comply with the notice, the Chief Inspector shall present a report to the Minister on such failure.

(3) If, after considering the report from the Chief Inspector, the Minister is satisfied that the breach is serious in nature or affects or may affect the safety and health of workers or members of the public and that the licensed person has failed or refused to take or has not taken all measures stipulated in the notice for the purpose of ensuring compliance with the condition which the licensed person has breached, the Minister may give the licensed person a notice stating that he proposes to revoke the licence given to such person and the notice shall also state—

- (a) the breach alleged against the licensed person and the actions or omissions that constitute the breach; and
- (b) the period (which must not be less than thirty days from the date of the notice) within which the licensed person may make representations pertaining to the revocation.

(4) After the expiry of the period stated in the notice and after considering any representations made by the licensed person, the Minister may decide whether to continue with the proposed revocation or take no further action.

(5) Notice shall be given to the licensed person by the Minister informing him of the decision where the Minister decides to revoke the licence or take no further action, and the decision shall come into force on the date the notice is delivered to the licensed person.

(6) The decision of the Minister under this section is final.

(7) Notwithstanding the revocation of the licence, the validity of any certificate of fitness issued by the licensed person shall continue to be valid until the expiry date thereof and the licensed person shall continue to assume any obligation, duty and responsibility imposed by or in connection with the issuance of the certificate of fitness.

Granting of new licence upon revocation

7F. (1) Upon the revocation under section 7E of a licence granted to the licensed person, the Minister may, after consulting the Chief Inspector, appoint another person to carry out, discharge, assume or perform any of the functions, obligations, duties, responsibilities and conditions conferred or imposed by the revoked licence, and to receive any payments, benefits or privileges which the person whose licence is revoked is entitled to receive or enjoy under the terms and conditions of the licence.

(2) The person whose licence is revoked and his agents or employees shall render all necessary assistance and cooperation to the person appointed by the Minister under subsection (1)."

Pindaan seksyen 8

7. Akta ibu dipinda dengan menggantikan seksyen 8 dengan seksyen yang berikut:

"Obstruction an offence

8. Any person who —

- (a) refuses to allow or wilfully delays or obstructs an Inspector or a licensed person from entering a factory in the exercise of any power under this Act;
- (b) fails to comply with any notice, other than a notice given under subsection 39(3) or 40(4), lawfully given by a licensed person in the exercise of any power under this Act;
- (c) wilfully withholds any information as to who is the occupier or owner of any factory or machinery or conceals or prevents a person from appearing before or being examined by an Inspector or a licensed person, or in any manner obstructs an Inspector or licensed person;
- (d) conceals the location or existence of any other person or any plant or substance from an Inspector or a licensed person;

- (e) prevents or attempts to prevent any person from assisting an Inspector or a licensed person;
- (f) in any other way, hinders, impedes or opposes an Inspector or a licensed person in the exercise of his power under the Act or any regulations made thereunder; or
- (g) fails to comply with any order lawfully given by an Inspector or a licensed person in the exercise of any power under this Act,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both."

Pindaan seksyen 9

8. Akta ibu dipinda dengan menggantikan seksyen 9 dengan seksyen yang berikut:

"Confidentiality of information

9. (1) Except for the purpose of this Act or for the purpose of any civil or criminal proceedings under this Act or any other written law, no person appointed under section 4 or licensed person and employees of the licensed person shall disclose any manufacturing or commercial secret which may at any time come to his knowledge or has been obtained by him in the course of his duties under this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both."

Pindaan seksyen 19

9. Seksyen 19 Akta ibu dipinda dengan memasukkan selepas subseksyen (3) subseksyen yang berikut:

"(4) A certificate of fitness in respect of any machinery which is being dismantled or repaired or is damaged for any reason shall terminate upon such dismantlement, repair or

damage, but the Chief Inspector may exempt any machinery from the application of this subsection if in his opinion the machinery will not cause any danger to any person or property.

(5) For the purpose of subsection (4) —

"damage" means any physical defect caused to any machinery during operation or otherwise which may affect the strength and integrity of the machinery during subsequent operation;

"dismantle" means to undo any part of any machinery which may affect the strength, integrity or functional capability of that machinery;

"repair" means any work done to make good any part of any machinery which has been damaged.

(6) Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both."

Seksyen baru 19A

10. Akta ibu dipinda dengan memasukkan selepas seksyen 19 seksyen yang berikut:

"Power to revoke certificate of fitness obtained by way of fraud or misrepresentation

19A. (1) The Chief Inspector shall revoke or terminate a certificate of fitness if he is satisfied that the certificate of fitness has been obtained by way of fraud or misrepresentation.

(2) Any person who is aggrieved by the decision of the Chief Inspector under subsection (1) may, within fourteen days from the date of such decision being notified to him, appeal to the Minister by way of writing.

(3) The decision of the Minister under this subsection shall be final."

Pindaan seksyen 22

11. Perenggan 22(b) Akta ibu dipinda dengan menggantikan perkataan "feet" di mana-mana jua terdapat dengan perkataan "metre".

Seksyen baru 29A

12. Akta ibu dipinda dengan memasukkan selepas seksyen 29 seksyen yang berikut:

"Machinery not to be manufactured, etc., without written authority

29A. NO person shall manufacture, fabricate, test, install, maintain, dismantle or repair any machinery which is prescribed unless he has a written authority issued by the Chief Inspector."

Pindaan seksyen 31

13. Seksyen 31 Akta ibu dipinda—

- (a) dengan memotong perkataan "either";
- (b) dengan memasukkan selepas perenggan (a) perenggan yang berikut:
 - "(aa) causes serious bodily injury to any person;";
- (c) dalam perenggan (b), dengan menggantikan perkataan "four days" dengan perkataan "three clear days excluding the day of the accident;"; dan
- (d) dengan menggantikan perkataan "to the nearest inspector" dengan perkataan "to the inspector having jurisdiction for the area in which the accident or dangerous occurrence has taken place."

Pindaan seksyen 32

14. Seksyen 32 Akta ibu dipinda dalam nota bahu dengan menggantikan perkataan "industrial" dengan perkataan "occupational".

Pindaan seksyen 33

15. Seksyen 33 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan menggantikan perkataan "section 31" dengan perkataan "paragraphs 31 (a), (aa) and (c) and may make a preliminary investigation of the circumstances of any accident that causes bodily injury as described in paragraph
- (b) dalam perenggan (2)(a) dan (c), dengan menggantikan perkataan "industrial" dengan perkataan "occupational"; dan
- (c) dalam subseksyen (4) —
 - (i) dalam perenggan (a), dengan menggantikan perkataan "Senior" dengan perkataan "Chief; dan
 - (ii) dalam perenggan (b), dengan menggantikan perkataan "may be prescribed" dengan perkataan "the Minister may determine".

Pindaan seksyen 36

16. Akta ibu dipinda dengan menggantikan seksyen 36 dengan seksyen yang berikut:

"Installation of machinery, etc.

36. (1) No person shall install or caused to be installed —

- (a) any machinery in any factory; or
- (b) any machinery in respect of which a certificate of fitness is prescribed,

except with the written approval of the Inspector.

(2) For the purpose of obtaining the approval referred to in subsection (1) there shall be submitted to the Inspector such particulars as may be prescribed.

(3) When any machinery in respect of which a certificate of fitness is prescribed has been installed, a written notice shall be served by the occupier or owner of the factory on—

- (a) the Inspector, who may as soon as conveniently may be, make an inspection of the machinery; or
- (b) a licensed person where applicable, who shall within one month from the date of receipt of the written notice make an inspection of the machinery.

(4) If, upon inspection, the Inspector or the licensed person finds that the machinery —

- (a) complies with the requirements under this Act, the Inspector or the licensed person shall issue upon payment of the prescribed fee a certificate of fitness in the prescribed form specifying that the machinery has passed the inspection on the date of the inspection; or
- (b) does not comply with the requirements, the occupier or owner of the factory shall pay to the Government or the licensed person such payments as may be prescribed for the services rendered despite the non-issuance of a certificate of fitness.

(5) Where a certificate of fitness is refused, the Inspector or the licensed person shall specify the grounds for such refusal.

(6) A person aggrieved by the refusal of the Inspector or the licensed person to issue a certificate of fitness may appeal to the Chief Inspector, and on such appeal, the Chief Inspector shall cause a re-inspection to be carried out at the expense of the aggrieved person and after the re-inspection may cause to be issued or refuse to issue a certificate of fitness.

(7) The decision of the Chief Inspector under subsection (6) shall be final.

(8) The licensed person shall employ only a person with the prescribed qualification and competency to carry out the inspection and to issue a certificate of fitness under this section."

Pindaan seksyen 37

17. Seksyen 37 Akta ibu dipinda—

- (a) dengan menomborkan semula seksyen yang sedia ada sebagai subseksyen (1) seksyen itu;
- (b) dengan memasukkan selepas perkataan "Inspector" perkataan "and licensed person"; dan
- (c) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

"(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both."

Pindaan seksyen 38

18. Seksyen 38 Akta ibu dipinda—

- (a) dalam subseksyen (2), dengan memasukkan selepas perkataan "Inspector" di mana-mana jua terdapat dengan perkataan "or licensed person"; dan
- (b) dengan memasukkan selepas subseksyen (3) subseksyen yang berikut:

"(4) The licensed person shall only have access to information in the general register and any other register or record or certificate kept in pursuance of this Act pertaining to machinery in respect of which a certificate of fitness is prescribed."

Pindaan seksyen 40**19. Seksyen 40 Akta ibu dipinda—**

- (a) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

"(1) All factories and machinery in respect of which a certificate of fitness is not prescribed shall be inspected by an Inspector at such periods and in such manner as may be prescribed.";

- (b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

"(1A) All machinery in respect of which a certificate of fitness is prescribed shall be inspected by an Inspector or a licensed person at such periods and in such manner as may be prescribed.";

- (c) dalam subseksyen (2), dengan menggantikan perkataan "Every occupier of a factory" dengan perkataan "The occupier of every factory and the owner or person having possession of any machinery";

- (d) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

"(2A) For the purpose of subsection (1A), the occupier of every factory and the owner or person having possession of any machinery in respect of which a certificate of fitness is prescribed shall afford to an Inspector or a licensed person all reasonable facilities for inspection and testing and all information as may reasonably be required in connection with the inspection."; dan

- (e) dengan memasukkan selepas subseksyen (4) subseksyen yang berikut:

"(5) Any factory owner or occupier may apply to the Chief Inspector for approval for a special scheme of inspection.

(6) The Chief Inspector may approve the application under subsection (5) if he is satisfied that the prescribed requirements in respect of the machinery in question in relation to the special scheme of inspection have been fulfilled.

(7) Upon the approval under subsection (6), the inspection of the machinery shall be conducted according to the special scheme of inspection.

(8) Any person who contravenes subsection 40(3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both."

Pindaan seksyen 41

20. Seksyen 41 Akta ibu dipinda—

(a) dalam subseksyen (1) —

- (i) dengan memasukkan selepas perkataan "by an Inspector" perkataan "or any decision made by a licensed person";
- (ii) dengan memasukkan selepas perkataan "of such order" perkataan "or decision"; dan
- (iii) dengan memasukkan selepas perkataan "vary the order" perkataan "or decision"; dan

(b) dalam subseksyen (4)—

- (i) dengan menggantikan perenggan (a) dengan perenggan yang berikut:

"(a) The Minister shall appoint a Board of Appeal for the purpose of considering any appeal made under this section.";

- (ii) dalam perenggan (b), dengan menggantikan perkataan "nominated by him as Chairman and two members selected from the panel appointed under paragraph (a)" dengan perkataan "as the Chairman and two

members nominated by the Minister, who in his opinion, have wide experience and knowledge in matters relating to the subject matter of the appeal";

(iii) dengan memasukkan selepas perenggan (d) perenggan yang berikut:

"(da) The decision of the Board of Appeal shall be final and shall not be questioned in any court."; dan

(iv) dengan menggantikan perenggan (e) dengan perenggan yang berikut:

"(e) Every member of the Board of Appeal may be paid an allowance at such rates as the Minister may determine.".

Pindaan seksyen 44

21. Seksyen 44 Akta ibu dipinda dalam subseksyen (1) dan (2) dengan memasukkan selepas perkataan "an Inspector" perkataan "and a licensed person".

Seksyen baru 47A

22. Akta ibu dipinda dengan memasukkan selepas seksyen 47 seksyen yang berikut:

"Protection against personal liability

47A. Subject to the provisions of this Act and any regulations made under this Act, no Inspector or licensed person shall be personally liable for any loss or damage caused by his act or omission in carrying out the duties under this Act or any regulations made under this Act, unless the loss or damage was caused intentionally or through recklessness or negligence on the part of the Inspector or licensed person.".

Pindaan seksyen 48

23. Seksyen 48 Akta ibu dipinda—

- (a) dengan menomborkan semula seksyen yang sedia ada sebagai subseksyen (1) seksyen itu; dan
- (b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

"(2) Any fees payable and due to the Government under this Act shall be a debt due to and recoverable by the Government.

(3) Any fees payable and due to a licensed person under this Act shall be a debt due to and recoverable by the licensed person."

Pindaan seksyen 51

24. Seksyen 51 Akta ibu dipinda—

- (a) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

"(1) Any person who contravenes section 31, subsections 34(1), 36(1), 38(1) and 39(1), shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.";

- (b) dalam subseksyen (2) —

- (i) dengan memasukkan selepas perkataan "Act" perkataan "or any regulation made under this Act";
- (ii) dengan menggantikan perkataan "two" dengan perkataan "fifty"; dan
- (iii) dengan memasukkan selepas perkataan "ringgit" perkataan "or to imprisonment for a term not exceeding one year or to both.";

- (c) dalam subseksyen (3), dengan menggantikan perkataan "one hundred" dengan perkataan "two thousand"; dan
- (d) dengan memasukkan selepas subseksyen (3) subseksyen yang berikut:

"(4) Any person who without reasonable excuse fails to comply with any written order or notice issued under subsection 39(3) or 40(4) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both and to a further fine not exceeding two thousand ringgit for each day or part of a day during which the offence continues after the first day in respect of which the conviction is recorded."

Seksyen baru 51A

25. Akta ibu dipinda dengan memasukkan selepas seksyen 51 seksyen yang berikut:

"Jurisdiction to try offences

51A. Notwithstanding any written law to the contrary, a Court of a First Class Magistrate shall have jurisdiction to try any offence under this Act and to impose the full punishment for any such offence."

Pindaan seksyen 52

26. Akta ibu dipinda dengan menggantikan seksyen 52 dengan seksyen yang berikut:

"Institution of prosecution

52. No prosecution in respect of any offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor."

Pindaan seksyen 52A

27. Akta ibu dipinda dengan menggantikan seksyen 52A dengan seksyen yang berikut:

"Power to compound offences

52A. (1) The Chief Inspector or any Deputy Chief Inspector or any Senior Inspector appointed under subsection 4(1) may, with the consent in writing of the Public Prosecutor, compound any offence committed by any person which is punishable under this Act or any regulations made under this Act.

(2) The Chief Inspector or any Deputy Chief Inspector or any Senior Inspector may, in a case where he deems it fit and proper so to do, compound an offence by making a written offer to the person who has committed the offence to compound the offence on the payment to the Chief Inspector or the Deputy Chief Inspector or the Senior Inspector, as the case may be, within such time as may be specified in the offer, of such sum of money as may be specified in the offer, which shall not exceed fifty per centum of the amount of the maximum fine (including the daily fine, if any, in the case of a continuing offence) to which the person would have been liable if he had been convicted of the offence.

(3) An offer under subsection (2) may be made at any time after the offence has been committed, but before any prosecution is instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or within such extended period as the Chief Inspector or the Deputy Chief Inspector or the Senior Inspector may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2) no prosecution shall thereafter be instituted in respect of the offence against the person to whom the offer to compound was made.

(5) Any money paid to the Chief Inspector or a Deputy Chief Inspector or a Senior Inspector under subsection (2) shall be paid into and form part of the Federal Consolidated Fund."

Pindaan seksyen 55

28. Seksyen 55 Akta ibu dipinda dalam subseksyen (2) —

- (a) dalam subperenggan (a)(ii), dengan memasukkan selepas perkataan "steam receivers" perkataan ", fired pressure vessels, unfired pressure vessels"; dan
- (b) dengan memotong perenggan (b).

Pindaan seksyen 56

29. Subseksyen 56(1) Akta ibu dipinda—

- (a) dalam perenggan (a), dengan memasukkan selepas perkataan "section 4" perkataan "and the duties of a licensed person;";
- (b) dengan memasukkan selepas perenggan (c) perenggan yang berikut:
 - "(ca) prescribe the standard of cleanliness and permissible exposure limit to be observed and the means of removal of or controlling injurious and offensive physical, biological or chemical hazards arising from certain processes in factories, or classes or descriptions of factories and the special measures to be taken which may include employee exposure monitoring, to protect the health of persons employed in the factories;";
- (c) dengan menggantikan perenggan (g) dengan perenggan yang berikut:
 - "(g) prescribe the times at which and the manner in which certain classes of machinery shall be inspected and to empower the Chief Inspector to stipulate the times at which and manner in which

factories and machinery shall be inspected, the notice, if any, to be given in relation to such inspections and the preparations to be made for such inspections;"

(d) dengan memasukkan selepas perenggan (g) perenggan yang berikut:

"(g) prescribe the requirements, procedure and processing fees in respect of the approval of a special scheme of inspection;"

(e) dengan menggantikan perenggan (h) dengan perenggan yang berikut:

"(h) prescribe the qualifications to be possessed by, the procedure for the registration of, the renewal of registration and deregistration of, the duties of and processing fees to be paid by and the register to be maintained by—

(i) any person before they may be placed in charge of or entrusted with the care or management of or operating any specified machinery;

(ii) any person manufacturing, fabricating, installing, testing, inspecting, maintaining, dismantling, or repairing any specified machinery as required under section 29A;

(iii) any person carrying out environmental monitoring including noise monitoring and audiometric testing; and

(iv) any person carrying out inspection, testing and examination of control equipment;"

(f) dengan memasukkan selepas perenggan (j) perenggan yang berikut:

"(ja) prescribe the requirement, procedure, and processing fees in respect of approval of any equipment for environment monitoring including

noise monitoring, audiometric testing equipment and facilities, personal protective equipment or laboratory for analysis;" dan

(g) dengan memasukkan selepas perenggan (k) perenggan yang berikut:

"(ka) prescribe the qualification and standard of competency of employees of a licensed person under subsection 36(8); and

(kb) prescribe any terms, conditions or fees for any person to obtain any licence to manufacture, fabricate, install, import, supply, inspect or maintain and dismantle boilers, unfired pressure vessels and hoisting machines from the Chief Inspector."

Pindaan Jadual Ketiga

30. Jadual Ketiga Akta ibu dipinda dalam tajuk dengan menggantikan perkataan "INDUSTRIAL" dengan perkataan "OCCUPATIONAL".

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Akta Kilang dan Jentera 1967 ("Akta 139").

2. *Fasal 1* mengandungi tajuk ringkas dan kuasa Menteri untuk menetapkan tarikh permulaan kuat kuasa Akta yang dicadangkan.

3. *Fasal 2* bertujuan untuk meminda seksyen 2 Akta 139 untuk memasukkan talian paip dalam takrif kilang.

4. *Fasal 3* bertujuan untuk meminda seksyen 3 Akta 139 untuk memasukkan talian paip, vesel tekanan api, kelengkapan pengendalian bahan, alat hiburan dan kelengkapan untuk memotong logam dalam takrif "jentera". Ini akan mempunyai kesan meluaskan skop Akta 139 supaya meliputi butir-butir itu.

5. *Fasal 4* bertujuan memperuntukkan bagi perwakilan kuasa atau kewajipan oleh Ketua Pemeriksa kepada mana-mana Timbalan Ketua Pemeriksa, Pemeriksa Kanan atau Pemeriksa.

6. *Fasal 5* bertujuan untuk meminda seksyen 6 Akta 139 untuk menyifatkan orang berlesen, pekerja dan ejennya sebagai pekhidmat awam mengikut pengertian Kanun Keseksaan.
7. *Fasal 6* bertujuan untuk memasukkan seksyen baru 7A, 7B, 7C, 7D, 7E dan 7F ke dalam Akta 139. Seksyen baru 7A, 7B dan 7C memperkatakan kuasa pemeriksa untuk memasuki premis dengan atau tanpa waran menggeledah dan kuasa untuk menyita sementara seksyen baru 7D memperkatakan pelantikan, kuasa dan kewajipan orang berlesen. Seksyen baru 7E memperuntukkan pembatalan lesen jika orang berlesen melanggar apa-apa syarat lesen dan seksyen 7F membenarkan Menteri untuk memberi suatu lesen baru di atas pembatalan itu.
8. *Fasal 7* bertujuan untuk meminda seksyen 8 Akta 139 untuk memperluaskan skop kesalahan menghalang supaya meliputi halangan terhadap orang berlesen dan untuk meningkatkan denda maksimum yang sedia ada yang boleh dikenakan daripada lima ribu ringgit kepada dua ratus ribu ringgit.
9. *Fasal 8* bertujuan untuk meminda seksyen 9 Akta 139 bagi melarang pendedahan maklumat rahsia pengeluaran atau perdagangan yang diperolehi semasa menjalankan kewajipan, kecuali dalam keadaan tertentu.
10. *Fasal 9* bertujuan untuk memasukkan subseksyen baru 19(4) ke dalam Akta 139 untuk memperuntukkan bagi penamatan perakuan kelayakan mana-mana jentera yang sedang dibuka atau dibaiki atau yang rosak.
11. *Fasal 10* bertujuan untuk memasukkan seksyen baru 19A ke dalam Akta 139. Seksyen yang dicadangkan ini bertujuan memberi kuasa kepada Ketua Pemeriksa untuk membatalkan mana-mana perakuan kelayakan yang diperolehi secara fraud atau salah nyataan.
12. *Fasal 12* bertujuan untuk memasukkan seksyen baru 29A ke dalam Akta 139. Seksyen yang dicadangkan melarang pengeluaran, pengujian, pemasangan atau pembaikan mana-mana jentera yang ditetapkan melainkan terdapat suatu kebenaran bertulis yang dikeluarkan oleh Ketua Pemeriksa.
13. *Fasal 13* bertujuan untuk meminda seksyen 31 Akta 139 untuk menghendaki suatu kemalangan atau kejadian berbahaya yang menyebabkan kecederaan tubuh yang serius dilaporkan kepada Pemeriksa yang mempunyai bidang kuasa bagi kawasan tempat kemalangan atau kejadian berbahaya itu berlaku.
14. *Fasal 14* bertujuan untuk meminda seksyen 32 Akta 139 untuk menggantikan istilah "penyakit industri" dengan istilah "penyakit pekerjaan" memandangkan istilah yang disebut kemudian itu merupakan istilah yang lebih sesuai sekarang.
15. *Fasal 15* bertujuan untuk meminda seksyen 33 Akta 139 supaya penyiasatan awal hanya dikehendaki dalam kes apabila sesuatu kemalangan telah menyebabkan kehilangan nyawa kepada mana-mana orang atau kerosakan yang serius kepada jentera atau lain-lain harta.

16. *Fasal 16* bertujuan untuk meminda seksyen 36 Akta 139 untuk menghendaki suatu notis bertulis disampaikan kepada Pemeriksa atau orang berlesen apabila apa-apa jentera yang berkenaan dengannya suatu perakuan kelayakan yang ditetapkan telah dipasang dan Pemeriksa atau orang berlesen akan membuat suatu pemeriksaan ke atas jentera itu. Jika setelah pemeriksaan dibuat, perakuan kelayakan tidak diberikan, orang yang terkilan boleh merayu kepada Ketua Pemeriksa untuk pemeriksaan semula.
17. *Fasal 17* bertujuan untuk meminda seksyen 37 Akta 139 untuk menghendaki mana-mana orang yang memiliki apa-apa jentera yang berkenaan dengannya suatu perakuan kelayakan telah ditetapkan untuk menghantar butir-butir yang berhubungan dengan jentera itu kepada orang berlesen, selain seseorang Pemeriksa.
18. *Fasal 18* mencadangkan subseksyen baru 38(4) yang memberi akses kepada orang berlesen terhadap maklumat dalam daftar am atau lain-lain daftar mengenai jentera yang berkenaan dengannya suatu perakuan kelayakan telah ditetapkan.
39. *Fasal 19* bertujuan untuk meminda seksyen 40 Akta 139 untuk memberi kuasa kepada orang berlesen untuk memeriksa jentera yang berkenaan dengannya suatu perakuan kelayakan telah ditetapkan. *Fasal* ini juga bercadang memasukkan suatu subseksyen baru 40(2A) yang menghendaki penghuni sesuatu kilang memberi Pemeriksa dan orang berlesen segala kemudahan yang munasabah bagi pemeriksaan dan pengujian jentera yang berada dalam milikan penghuni.
20. *Fasal 20* bertujuan untuk meminda subseksyen 41(1) Akta 139 untuk membenarkan rayuan dibuat terhadap keputusan orang berlesen, dan untuk memasukkan suatu perenggan baru 41 (4)(da) bagi memperuntukkan kemuktamadan keputusan Lembaga Rayuan.
21. *Fasal 21* bertujuan untuk meminda seksyen 44 Akta 139 untuk menghendaki supaya notis di bawah subseksyen 44(1) dan 44(2) hendaklah juga diberikan kepada orang berlesen.
22. *Fasal 22* bertujuan untuk memasukkan seksyen baru 47A ke dalam Akta 139 untuk mengadakan peruntukan bagi perlindungan kepada Pemeriksa dan orang berlesen terhadap liabiliti persendirian bagi apa-apa kerugian atau kerosakan yang disebabkan semasa menjalankan kewajipan mereka, melainkan ianya disebabkan dengan sengaja atau melalui perbuatan melulu atau kecuai.
23. *Fasal 23* bertujuan untuk meminda seksyen 48 Akta 139 supaya orang berlesen boleh mendapatkan apa-apa fi yang kena dibayar kepadanya sebagai hutang yang kena dibayar kepadanya.
24. *Fasal 24* bertujuan untuk meminda seksyen 51 Akta 139 untuk meningkatkan denda maksimum yang sedia ada dalam subseksyen 51(1), (2) dan (3). *Fasal* ini juga mencadangkan subseksyen baru 51(4) yang menjadikan kegagalan mematuhi apa-apa perintah atau notis bertulis di bawah subseksyen 39(3) atau 40(4) Akta itu sebagai suatu kesalahan.
25. *Fasal 25* bertujuan untuk memasukkan seksyen baru 51A ke dalam Akta 139 untuk memberi kuasa kepada Mahkamah Majistret Kelas Pertama sebagai mahkamah yang mempunyai bidang kuasa untuk membicarakan dan mengenakan hukuman penuh bagi mana-mana kesalahan di bawah Akta.

26. *Fasal 26* bertujuan untuk meminda seksyen 52 Akta 139 bagi pemulaan pendakwaan di bawah Akta supaya ia selaras dengan Perkara 145 Perlembagaan Persekutuan.

27. *Fasal 27* bertujuan untuk meminda seksyen 52A Akta 139 untuk menyatakan tatacara untuk pengkompaunan kesalahan di bawah Akta.

28. *Fasal 29* bertujuan untuk meminda seksyen 56 Akta 139 yang memperkatakan kuasa Menteri untuk membuat peraturan.

29. Pindaan lain yang tidak disebut secara khusus dalam Huraian ini merupakan pindaan yang kecil dan berbangkit.

IMPUKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan.

[PN(U²)2268]