



LAWS OF MALAYSIA

REPRINT

Act 101

TABUNG ANGKATAN TENTERA ACT 1973

Incorporating all amendments up to 1 January 2006

PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
IN COLLABORATION WITH
PERCETAKAN NASIONAL MALAYSIA BHD
2006

TABUNG ANGKATAN TENTERA ACT 1973

Date of Royal Assent	20 March 1973
Date of publication in the <i>Gazette</i>	...	22 March 1973

PREVIOUS REPRINTS

<i>First Reprint</i>	1994
<i>Second Reprint</i>	2000

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Act 101

TABUNG ANGKATAN TENTERA ACT 1973

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LAWS OF MALAYSIA**Act 101****TABUNG ANGKATAN TENTERA ACT 1973**

An Act to provide for the establishment of a fund to be known as the Tabung Angkatan Tentera for the primary purposes of providing superannuation and other benefits for contributors, and for the ancillary purposes of promoting the socio-economic development and welfare of, and providing other benefits for, retiring and retired personnel of the regular forces of Malaysia and designated members of the volunteer forces.

[1 August 1972]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in the Parliament assembled, and by the authority of the same, as follows:

PART I**PRELIMINARY****Short title and application**

1. (1) This Act may be cited as the Tabung Angkatan Tentera Act 1973.
- (2) This Act shall apply throughout Malaysia.

Interpretation

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

“ancillary benefits”, in relation to designated members of the volunteer forces, means socio-economic development or welfare programmes, activities or benefits or other benefits provided for such members;

“contributor” means a person who is contributing to the Tabung and includes a person who has ceased to contribute but has not withdrawn his whole contribution from that Tabung;

“corporation” means a corporation established under section 23;

“designated members of the volunteer forces” means those mobilised members of the volunteer forces who on or after 1 August 1972 have served for a period of nine consecutive years and who are eligible, subject to such conditions as are imposed in any regulation relating to the ancillary benefits, to be considered for such ancillary benefits under this Act or any regulation made under this Act;

“Investment Panel” means the Investment Panel established under section 6;

“Lembaga” means the Lembaga Tabung Angkatan Tentera established under section 4;

“mobilised members of the volunteer forces” means those members of the volunteer forces who—

- (a) are or have been called out for full time service under section 202 of the Armed Forces Act 1972 [*Act 77*]; or
- (b) are or have been attached to the regular forces under subsection 201(3) of the Armed Forces Act 1972;

“pension” means a pension granted under any written law providing for pension for members of the regular forces of Malaysia;

“retired personnel” means an officer or a serviceman who has retired or has been discharged or who has terminated or completed his services with the regular forces of Malaysia;

“retiring personnel” means an officer or a serviceman who is about to retire or is about to be discharged or whose services with the regular forces of Malaysia is about to be terminated or completed;

“serviceman” means any person, other than an officer, who is enlisted in the regular forces of Malaysia;

“Tabung” means the Tabung Angkatan Tentera established under section 3;

“the scheme” means the scheme established under section 15A for the payment of death and disablement benefits;

“unit trust benefit” means the benefit provided for in section 15c;

“volunteer forces” has the meaning assigned to it in section 2 of the Armed Forces Act 1972 and includes the armed forces raised under the *Territorial Army Ordinance 1958 [*Ord. 52 of 1958*], the *Naval Volunteer Reserve Ordinance 1958 [*Ord. 55 of 1958*] and the *Air Force Volunteer Reserve Ordinance 1958 [*Ord. 58 of 1958*] and deemed to be raised under the Armed Forces Act 1972.

PART II

ESTABLISHMENT OF THE TABUNG ANGKATAN TENTERA

The Tabung and its objects

3. (1) There is hereby established a fund to be known as the “Tabung Angkatan Tentera” (hereinafter referred to as the “Tabung”) for the following purposes:

- (a) the primary purposes of providing superannuation and other benefits including benefits under the scheme established under section 15A, to persons specified under paragraph (3)(a); and
- (b) the ancillary purposes of promoting the socio-economic development and welfare of persons specified under paragraph (3)(b).

(1A) The following shall be paid into the Tabung:

- (a) all contributions made as hereinafter provided and such other sums as are directed by this Act to be paid into the Tabung;
- (b) all moneys earned from investment or by the operation of any project, agency, scheme or enterprise financed from the Tabung and the Reserve Fund established under section 11;
- (bb) an annual grant from the Federal Consolidated Fund for the ancillary purposes and matters related thereto under paragraph (1)(b);

*NOTE—These ordinances have been repealed by Armed Forces Act 1972 [*Act 77*].

- (c) all grants, donations, endowment, gifts, loans, contributions and bequests made to or in favour of the Tabung;
 - (d) all sums from time to time falling due to the Tabung in respect of payments of any loan made from the Tabung and the interest payable in respect of any such loan;
 - (e) moneys earned or arising from any property, investment, mortgages, charges or debentures acquired by or vested in the Tabung;
 - (f) all other sums which may in any manner become payable to or vested in the Tabung in respect of any matter incidental to its powers and duties.
- (2) The Tabung may be applied for—
- (a) withdrawals of deposits with such profits as may be decided by the Lembaga in accordance with the provisions of this Act;
 - (aa) the purchase of units in any unit trust schemes for the benefit of and to be allocated to contributors and the administrative costs and other costs relating to the unit trust benefit as determined by the Lembaga;
 - (b) repayments and interests on borrowings and such other outgoings and expenditure as may be permitted by this Act or any regulations thereunder to be paid out of the Tabung;
 - (ba) payments of death and disablement benefits pursuant to the scheme;
 - (bb) the socio-economic activities, welfare programmes and any other activities and benefits which would advance the socio-economic conditions of any retiring personnel or retired personnel or of any designated members of the volunteer forces, including loans to such persons;
 - (bc) defraying the expenditure incurred by the Lembaga or any other body including a corporation established under section 23, charged with the responsibility of undertaking the activities, programmes or benefits mentioned in paragraph (bb);
 - (c) administrative expenses including salaries and termination benefits;

(d) other expenses incidental to the management of the Tabung and the functions of the Lembaga including any moneys required to satisfy any judgment, decision or award against the Lembaga, Chairman, any member of the Lembaga, the Investment Panel, any member of the Investment Panel, officer, servant or agent of the Lembaga, by any court or tribunal, in respect of any act, neglect or default done or committed by him in such capacity.

(3) For the purpose of this section—

(a) superannuation and other benefits including benefits under the scheme established under section 15A shall be given to—

(i) servicemen;

(ii) other members of the regular forces of Malaysia who contribute to the Tabung; and

(iii) mobilised members of the volunteer forces who contribute to the Tabung;

(b) ancillary benefits shall be given to—

(i) retiring personnel or retired personnel of the regular forces of Malaysia; or

(ii) designated members of the volunteer forces,

as may be determined by the Lembaga.

(4) The Lembaga may only apply such moneys from the Tabung for the purposes mentioned in paragraph (1)(b), (2)(bb) and (bc) where the Lembaga has applied the moneys referred to in paragraph (1A)(bb) and where there are sufficient funds to discharge its obligations under section 11.

3A. (*Deleted by Act A929*).

Establishment and incorporation of Lembaga Tabung

4. (1) For the purpose of managing and maintaining the Tabung there is hereby established a body corporate by the name of “Lembaga Tabung” (hereinafter referred to as “the Lembaga”) with perpetual succession.

(2) The Lembaga shall have a common seal and may sue and be sued in its name and, subject to and for the purposes of this Act, may enter into contracts and acquire, purchase, take, hold and possess movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with any movable or immovable property or any interest vested in the Lembaga upon such terms as the Lembaga may think fit.

(3) The Lembaga shall consist of—

(a) a Chairman who shall be the Secretary General of the Ministry of Defence or such other person as may be appointed by the Minister;

(b) a Deputy Chairman who shall be a representative of the Ministry of Defence;

(c) the Deputy Secretary General to the Treasury;

(ca) the Chief Executive who shall be an *ex-officio* member;

(d) four members to be appointed by the Minister to represent the contributors, one of whom shall be the Chief of the Armed Forces Staff;

(e) such other members not exceeding four in number to be appointed by the Minister.

(4) The provisions of the First Schedule shall have effect with respect to the Lembaga.

Functions of the Lembaga and establishment of committees by the Lembaga

5. (1) It shall be the function of the Lembaga to administer and manage the Tabung in such a manner as would further the respective interests of the contributors as well as the retiring personnel and retired personnel of the regular forces of Malaysia and the mobilised members of the volunteer forces and to formulate policies in connection with any of its functions and to do such other things as may be done under this Act.

(2) For the purpose of assisting the Lembaga in the performance of its functions, the Lembaga may establish such committees consisting of such persons as the Lembaga may think fit.

(3) The Lembaga may employ and pay agents and technical advisers including advocates and solicitors, bankers, stock-brokers, surveyors or valuers or other persons, to transact any business or to do any act required to be done in the execution of its functions or for better carrying into effect of the purposes of this Act, and may pay from the Tabung all charges and expenses so incurred.

Establishment of an Investment Panel

6. (1) There shall be established an Investment Panel responsible for matters pertaining to the investment of the assets of the Tabung and the Reserve Fund established under section 11.

(2) The Investment Panel shall consist of—

- (a) a Chairman who shall be appointed by the Minister on the advice of the Lembaga;
- (b) the Governor of the Bank Negara, or the Deputy Governor;
- (c) the Chief of the Armed Forces Staff;
- (d) the Deputy Secretary General to the Treasury;
- (e) two other members with business or financial experience to be appointed by the Minister.

(3) The provisions of the Second Schedule shall have effect with respect to the Investment Panel.

Power of Minister in relation to the Lembaga

7. (1) The Minister may give to the Lembaga such directions of a general character not inconsistent with the provisions of this Act as relates to the exercise and performance of its functions and the Lembaga shall give effect to all such directions.

(2) The Lembaga shall furnish the Minister with such returns, accounts and other information with respect to the property and activities of the Lembaga as he may from time to time require.

Liability of members

8. No member of the Lembaga or of the Investment Panel shall be made personally liable for any loss or damage caused by any act or omission in the administration of the affairs of the Lembaga unless such loss or damage is occasioned by an intentional wrongful act or omission on his part.

Compulsory contributions to the Tabung

9. (1) There shall be deducted from the monthly salary of a serviceman who does not qualify for pension an amount equal to ten per centum of such salary calculated to the nearest five sen, as his contribution to the Tabung. The amount of the contribution shall be credited to the account of the serviceman.

(2) In respect of every contribution made under subsection (1), there shall be paid to the Tabung from the Consolidated Fund to the credit of the serviceman's account an amount equal to fifteen per centum of his monthly salary, calculated to the nearest five sen.

(3) Where a serviceman qualifies for pension, deduction of his salary under subsection (1) shall thereupon cease to be made and all payments made under subsection (2) which are still standing to the credit of the serviceman's account shall be withdrawn and credited to the Consolidated Fund.

(4) Where a serviceman who has not qualified for pension is granted a disability pension or a disability gratuity pursuant to the Regular Forces (Pensions, Gratuities and Other Grants) Regulations 1979 [*P.U. (A) 77/1979*], he shall also be eligible to be paid, in addition to his contributions to the Tabung under subsection (1), all payments made under subsection (2) standing to the credit of his account.

Voluntary contributions to the Tabung

10. (1) Any member of the regular forces of Malaysia who is not liable to contribute under section 9 and any mobilised member of the volunteer forces may elect to make monthly contribution to the Tabung.

(2) Subsection 9(2) shall not apply to any contribution made under this section.

(3) The amount of contributions payable by the contributor under this section shall be made by way of deductions from the monthly salary of the contributor and such amount shall be credited to the account of the contributor.

Declaration of profit

11. (1) Subject to the provisions of this section, the Lembaga may on or before 31st day of December in any year after considering the recommendation of any actuary approved by the Minister of Finance declare a rate of profit on the contributions in respect of that year.

(2) No profit shall be declared unless the Lembaga has established a Reserve Fund, and no profit shall be declared in any year unless at the end of that year—

(a) the assets of the Tabung were not less than the aggregate liabilities of that Tabung, amounts due to contributors being calculated as if immediately payable;

(b) the assets of the Reserve Fund were not less than such percentage of the amounts actually standing to the credit of the contributors as at the end of that year including the profit as the Treasury may approve;

(ba) provision is made by the Lembaga for payment into the scheme of such sums of moneys as the actuary considers sufficient for the purpose of the scheme; and

(c) no rate of profit shall be so declared unless the actuary shall have certified in his recommendation that in his opinion the ability of the Tabung to meet all payments required to be paid under this Act is not endangered by the declaration of the rate.

(3) Any payments required to be made out of the Tabung shall, in so far as the moneys in that Tabung are insufficient for that purpose, be made out of the Reserve Fund.

(4) The Lembaga may from time to time transfer assets from the Reserve Fund to the Tabung or from that Tabung to the Reserve Fund.

Withdrawals

12. (1) Subject to section 9 and subsection (2) of this section, any amount standing to the credit of a contributor's account under this Act may only be withdrawn—

(a) on the death of the contributor;

- (b) one month after the contributor has been discharged or has retired from service; or
- (c) on the contributor attaining the age of fifty years.

(2) Notwithstanding subsection (1), a contributor may withdraw a part of the amount standing to the credit of his account for the purpose of enabling him to purchase a dwelling house or land for the purpose of constructing thereon a dwelling house.

(3) For the avoidance of doubt it is declared that the expression “service” in paragraph (1)(b) means service with the armed forces as—

- (a) a serviceman until he has been discharged as a serviceman from the armed forces;
- (b) a serviceman and if he is granted a commission as an officer until he has retired as an officer from the armed forces;
- (c) an officer until he has retired from the armed forces; and
- (d) a mobilised member of the volunteer forces until he has been discharged or has retired from the armed forces.

Contributions not to be assigned or attached, etc.

13. Notwithstanding anything to the contrary contained in any other written law—

- (a) no amount of any contribution made under this Act;
- (b) no amount paid or payable under subsection 9(2); and
- (c) no amount standing to the credit of a contributor,

shall, except for the purpose of satisfying a debt due to the Government of the Federation or of a State, be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of, any debt or claim whatsoever, nor shall the Director General of Insolvency be entitled to or have any claim on any such amount.

Power to borrow

14. The Lembaga may, with the approval of the Minister of Finance, borrow any sums required by the Lembaga for the purpose of this Act and on such terms and conditions and for such period as the Minister of Finance may approve.

Investment by Lembaga

15. (1) The Lembaga may on the advice given by the Investment Panel invest moneys which are in the Tabung and in the Reserve Fund to the extent and in the manner following:

(a) not less than seventy per centum thereof—

- (i) in investments authorized by or under the Trustee Act 1949 [Act 208] or by way of deposits with any financial institution duly licensed under the Banking and Financial Institutions Act 1989 [Act 372] or under any other written law;
- (ii) in bonds, notes, mortgage papers, commercial notes, bankers' acceptances, money market papers, certificates of deposit and other debt instruments;
- (iii) in loans to any institution in Malaysia where the repayment of the principal and interest on such loans are fully guaranteed by a financial institution licensed under the Banking and Financial Institutions Act 1989 or under any other written law; or
- (iv) in debentures or other loans issued under the authority of any written law by any authority established by any written law; and

(b) not more than thirty per centum thereof—

- (i) in business and commercial enterprises which are not listed and quoted on any stock exchange established in Malaysia:

Provided that the total amount of moneys so invested in any one such enterprise shall not exceed thirty per centum of the total amount of shareholders' fund of that enterprise at the time of the investment unless prior written approval of the Minister and the Minister of Finance is obtained to invest in excess of such percentage;

- (ii) in the equity capital of any company which is listed and quoted on any stock exchange established in Malaysia;

- (iii) in loans to any enterprise or company other than an enterprise or company in which the Lembaga has made investment pursuant to subparagraph (b)(i) or (ii):

Provided that such loans shall only be given on the security of immovable property and that the value of such loans given shall not exceed seventy per centum of the value of such security as determined by a licensed land surveyor or a licensed appraiser employed independently of the owner of such property;

- (iv) in investments in securities or any other forms of investment outside Malaysia:

Provided that the prior written approval of the Minister and the Minister of Finance shall be obtained both in respect of the security or other forms of investment to be undertaken as well as the total amount of moneys to be invested in any such security or investment;

- (v) in any privatisation programme; or

- (vi) in any other investment within Malaysia:

Provided that the prior written approval of the Minister and the Minister of Finance shall be obtained in respect of the investment to be undertaken as well as the total amount of moneys to be invested.

(2) For the purposes of this section—

“shares” means the paid-up shares (whether fully paid or not) in the share capital of a company and includes stocks and the right to subscribe for any stocks or shares;

“debentures” includes debenture stock, bond, note or other securities or obligations of a company whether constituting a charge on the assets of the company or not and also includes the right to subscribe for any debenture.

Establishment of death and disablement benefits scheme

15A. (1) There shall be established a scheme to be known as the death and disablement benefits scheme for the payment of death and disablement benefits in respect of contributors.

(2) Where a contributor—

- (a) dies while in service; or
- (b) is discharged from service by reason of infirmity of mind or body,

the Lembaga may at its discretion pay respectively—

- (i) death benefits; or
- (ii) disablement benefits,

in such quantum and to such person as may be provided in regulations made under section 22.

(3) For the avoidance of doubt it is declared that—

- (a) death benefits; or
- (b) disablement benefits,

payable pursuant to the scheme do not, respectively, form any part of the estate of—

- (i) such deceased contributor; or
- (ii) such contributor who dies at any time prior to the payment of disablement benefits to him.

(4) Where any payment of death or disablement benefits is made in good faith and in accordance with the provisions of this Act and of regulations made under section 22, such payment shall constitute a full and proper discharge of all liability and no action, suit or proceeding for such payment or calling such payment into question shall be brought or shall lie against the Tabung, the Lembaga or any of the members, officers or servants of the Lembaga.

Minister may suspend, vary or discontinue death and disablement benefits scheme

15B. (1) Notwithstanding anything to the contrary in this Act, where the Minister considers it necessary so to do, he may, on the advice of the Lembaga, by order in the *Gazette* and subject to such conditions as he may consider necessary to impose, suspend, vary or discontinue the scheme.

(2) Where the Minister suspends the scheme under subsection (1), no death or disablement benefits under the scheme shall be payable unless and until the Minister, on the advice of the Lembaga, by order in the *Gazette* and subject to such conditions as he may consider necessary to impose, revokes the order of suspension made under subsection (1) and, where he so does, the scheme shall accordingly be reactivated.

(3) Where the Minister varies the scheme under subsection (1), any death or disablement benefits under the scheme shall be payable in accordance with the order of variation made under subsection (1).

(4) Where the Minister discontinues the scheme under subsection (1), all death and disablement benefits under the scheme shall cease to be payable in accordance with the order of discontinuance made under subsection (1) and any sums of moneys still available under paragraph 11 (2)(*ba*) for the purpose of the scheme shall be paid into the Tabung.

(5) Where the Minister makes any order under this section, the Lembaga shall, if necessary, make regulations, or amend any regulations made, under section 22 to give effect to that order.

Unit trust benefit

15c. (1) The Lembaga may, if it thinks fit, purchase units in unit trust schemes for the benefit of and to be allocated to contributors in accordance with regulations made under subsection (3).

(2) The unit trust benefit shall be accounted for in a separate account from the accounts referred to in sections 9 and 10.

(3) In addition to its powers under section 22, the Lembaga may, with the approval of the Minister, make such regulations as it thinks necessary for the purpose of subsection (1).

Annual estimates

16. The Lembaga shall, not later than one month before the commencement of each financial year, consider and approve an estimate of the expenditure of the Lembaga (including capital expenditure) for the ensuing year.

Accounts and audit

17. (1) The Lembaga shall cause to be kept proper accounts and other records in respect of its operations and shall cause to be prepared statements of accounts in respect of each financial year.

(2) The accounts of the Lembaga shall be audited annually by the Auditor General or any other auditor appointed by the Lembaga with the approval of the Minister of Finance.

(3) After the end of each financial year, as soon as the accounts of the Lembaga have been audited, the Lembaga shall cause a copy of the statement of accounts to be submitted to the Minister, together with a copy of any audit observation.

(4) The Minister shall cause a copy of every such statement and observation to be laid before each House of Parliament.

Annual report

18. (1) The Lembaga shall, not later than the thirtieth day of June in each year, cause to be made and submitted to the Minister a report dealing with the activities of the Lembaga during the preceding financial year and containing such information relating to the proceedings and policy of the Lembaga as the Minister may from time to time direct.

(2) The Minister shall cause a copy of every such report to be laid before each House of Parliament.

PART III

GENERAL

Appointment of Chief Executive, Deputy Chief Executive and officers and servants of the Lembaga

19. (1) Subject to the approval of the Minister, the Lembaga may appoint on such terms as the Lembaga thinks fit a Chief Executive and a Deputy Chief Executive.

(2) The Chief Executive or if a Chief Executive is not appointed, an officer of the Lembaga to be nominated by the Lembaga shall be responsible for the day to day administration and management of the

affairs of the Lembaga and shall exercise such duties and powers as may be entrusted or delegated by the Lembaga or the Chairman of the Lembaga, acting on behalf of the Lembaga.

(3) The Lembaga may appoint such officers and servants as it may consider necessary for the efficient conduct of the affairs of the Lembaga.

(4) The officers and servants of the Lembaga shall hold office for such period, receive such salaries and allowances and be subject to such terms and conditions of service including retirement benefit as may be determined by the Lembaga with the approval of the Minister.

Members, officers and servants to be deemed public servants

20. All members, officers and servants, as the case may be, of the Lembaga, the Investment Panel and any corporation established under section 23 shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

Application of Public Authorities Protection Act 1948

21. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceeding against the Lembaga, Chairman, any member of the Lembaga, the Investment Panel, any member of the Investment Panel, officer, servant or agent of the Lembaga or corporation established under section 23 and any member, officer, servant or agent of such corporation, in respect of any act, neglect or default done or committed by him in such capacity.

Power of Lembaga to make regulations

22. The Lembaga may with the approval of the Minister make regulations providing for all or any of the following matters:

- (a) the manner of payment and collection of contribution, the minimum amount of monthly contribution which may be made under section 10 and any matters incidental thereto;

- (aa) the terms and conditions to be met by any retiring personnel or retired personnel of the regular forces of Malaysia or designated members of the volunteer forces in order to qualify for any benefits under this Act;
- (b) imposition of fees in such cases as may be determined by the Lembaga;
- (c) financial and accounting procedures;
- (d) repayment of contributions under this Act, or of any part of such contributions, paid in error, together with any interest on such contributions;
- (e) payment of contributions under this Act, or of any part of such contributions, omitted to be paid in error;
- (ea) the management of the sums of moneys paid into the scheme pursuant to paragraph 11(2)(ba);
- (eb) the manner and basis of computing the death and disablement benefits payable under the scheme and the factors to be considered in respect thereof to arrive at the quantum to be paid;
- (ec) the persons to whom death and disablement benefits are to be paid, including provisions for the nomination of such persons by a contributor, the manner of revoking such nomination and the circumstances in which such nomination is to be treated as having ceased to be in effect;
- (ed) the giving effect to any order made under section 15B;
- (f) the disposal of amounts which are unclaimed, unpaid or otherwise remain in the Tabung;
- (g) the procedure for the withdrawal of amounts from the Tabung, including the evidence to be produced for the purposes of such withdrawal;
- (ga) the terms and conditions including the interest rates payable, the amounts that may be loaned, the procedure relating thereto and any other matters incidental to the giving of such loans out of the Tabung;
- (gb) the terms and conditions for the withdrawal of amounts from the Tabung, the percentages of the contributor's contribution which may be withdrawn and any other matters incidental thereto;
- (h) any matters for the purpose of carrying out into effect the provisions of this Act.

Power of Lembaga to make regulations relating to conduct and discipline

22A. (1) The Lembaga may, with the approval of the Minister, make such regulations as it deems necessary or expedient to provide for the conduct and discipline of the officers and servants of the Lembaga.

(2) The regulations made under this section may include—

(a) provisions for the establishment of appropriate disciplinary authorities for the different categories of officers and servants of the Lembaga;

(b) provisions for the establishment of a Disciplinary Appeal Board to hear appeals from the decisions of the disciplinary authorities; and

(c) provisions for—

(i) the interdiction with reduction in salary or other remuneration; or

(ii) the suspension without salary or other remuneration, of an officer or servant of the Lembaga during the pendency of disciplinary proceedings.

(3) The regulations made under this section may create such disciplinary offences and provide for such disciplinary punishments as the Lembaga may deem appropriate, and the punishments so provided may extend to dismissal or reduction in rank.

(4) The regulations made under this section may, in prescribing the procedure for disciplinary proceedings, provide for an opportunity for representations to be made by the person against whom the disciplinary proceedings are taken before a decision is arrived at by the disciplinary authority on such disciplinary charge laid against such person.

Surcharge

22B. (1) If it appears to the Lembaga that any person who is or was in the employment of the Lembaga—

(a) has failed to collect any moneys owing to the Lembaga for the collection of which he is responsible;

- (b) is or was responsible for any payment from the Tabung of moneys which ought not to have been made or for any payment of moneys which is not duly approved;
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any moneys, stamps, securities, stores or other property of the Lembaga;
- (d) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
- (e) has failed to make any payment, or is or was responsible for any delay in the payment, of moneys from the Tabung to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Lembaga,

the Lembaga shall serve on him a written notice calling on him to show cause why he should not be surcharged, and if a satisfactory explanation is not, within fourteen days from the date of service of the notice as aforesaid, furnished to the Lembaga with regard to the failure to collect, payment which ought not to have been made, payment not duly approved, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the Lembaga may surcharge against the said person a sum not exceeding the amount of any such amount not collected, such payment, deficiency, or loss, or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, or the failure to make payment, or the delay in making payment, the Lembaga may surcharge against the said person such sum as it thinks fit.

(2) The Chairman of the Lembaga shall cause the Chief Executive to be notified of any surcharge made under subsection (1) and the Chief Executive shall thereupon notify the person surcharged.

(3) The Lembaga may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Chairman of the Lembaga shall at once cause the Chief Executive to be notified of such withdrawal.

(4) The amount of any surcharge made under subsection (1) and not withdrawn under subsection (3) shall be a debt due to the Lembaga from the person against whom the surcharge is made and may be sued for and recovered in any court at the suit of the Lembaga and may also be recovered by deduction—

- (a) from the salary of the person surcharged if the Lembaga so directs; or
- (b) from the pension of the person surcharged if the Lembaga so directs,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

(5) For purposes of this section, “Chief Executive” means the Chief Executive appointed under subsection 19(1) and includes the officer of the Lembaga nominated under subsection 19(2).

Lembaga may establish corporation

23. (1) The Lembaga may from time to time, on the advice given by the Investment Panel and with the approval of the Minister and the concurrence of the Minister of Finance, by order published in the *Gazette* establish a corporation by such name as the Lembaga may think fit to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Lembaga in furtherance of its functions under this Act, and the corporation may so do either by itself or by entering into partnership or any arrangement for sharing of profits, co-operation, joint venture or otherwise.

(2) Any moneys required for the establishment of a corporation shall be derived from the moneys made available for investment under paragraph 15(1)(a).

(3) The provisions of the Third Schedule shall apply to every corporation.

FIRST SCHEDULE

[Section 4]

1. (1) The Chairman and other members of the Lembaga appointed under paragraph 4(3)(d) (other than the Chief of the Armed Forces Staff) and (e) shall serve for such period, not exceeding three years, as may be specified in their letters of appointment and they shall be eligible for reappointment.

(2) Every member shall be eligible for reappointment.

2. The appointment of the Chief of the Armed Forces Staff shall be by virtue of his office.

3. If the Chairman is unable to exercise his functions under this Act owing to illness, absence from Malaysia or for any other cause whatsoever, his functions shall be exercised by the Deputy Chairman.

4. (1) The Lembaga shall meet at least once in every six months.

(2) The Chairman or any member presiding in the absence of the Chairman and three other members shall form a quorum at any meeting of the Lembaga.

(3) In the event of the votes on any question being equal, the Chairman or the member presiding shall have the casting vote in addition to his original vote.

(4) Subject to subparagraphs (1), (2) and (3) the Lembaga may make its own procedure.

5. (1) The common seal of the Lembaga shall bear such impression as the Lembaga may approve and such seal may from time to time be broken, changed, altered or made anew by the Lembaga as it may think fit.

(2) Until a seal is provided by the Lembaga a stamp bearing the description "Lembaga Tabung" may be used and shall be deemed to be the common seal.

(3) The common seal or the stamp under subparagraph (2) shall be kept in the custody of the Chairman and shall be authenticated by him or by any officer authorized by the Lembaga in writing; and all deeds, documents, and other instruments purporting to be sealed with the said seal authenticated as aforesaid, shall until the contrary is proved be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the Lembaga; and any such document or instrument may be executed on behalf of the Lembaga by any officer or servant of the Lembaga generally or specially authorized by the Lembaga in that behalf.

(4) The seal of the Lembaga shall be officially and judicially noticed.

6. There may be paid to each member of the Lembaga out of the Tabung such allowances, including travelling and subsistence allowances, as the Lembaga may from time to time determine subject to such limits and conditions as the Minister may impose.

7. (1) Any member of the Lembaga who has or acquires, directly or indirectly, by himself, his partner or agent —

(a) any share or interest—

- (i) in any contract made with the Lembaga;
- (ii) in any work done for the Lembaga; or
- (iii) in any company or firm or in respect of any undertaking with which the Lembaga proposes to enter into a contract; or

(b) any beneficial interest in land proposed to be acquired, purchased, leased or otherwise dealt with by the Lembaga,

shall declare the nature and extent of his share or interest to the Lembaga.

(2) The declaration required to be made by a member under subparagraph (1) shall be made at a meeting of the Lembaga at which any question relating to such contract, acquisition, purchase, lease, dealing, project or scheme is first taken into consideration or at the earliest opportunity, after acquisition of such share or interest.

(3) For the purposes of this paragraph, a general notice given to the other members by a member to the effect that he is a member of any specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with or by that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any contract so made:

Provided that such notice shall be of no effect unless either it is given at a meeting of the Lembaga or the member concerned takes reasonable steps to ensure that it is brought up and read at the next meeting of the Lembaga after it is given.

(4) Every declaration made in pursuance of this paragraph shall be recorded in the minutes of the meeting at which it is made or read.

(5) A member shall not vote upon any resolution or question relating to any contract, acquisition, purchase, lease, dealing, project or scheme in which he has any share or interest, whether or not he has declared the same, nor shall he take part in any deliberation (except by the invitation of the Lembaga) or decision relating thereto or to any matter incidental thereto, and if he shall do so his vote shall not be counted, nor shall he be counted in the quorum present at the meeting for the purpose of such resolution or question.

SECOND SCHEDULE

[Section 6]

1. (1) The following persons shall be disqualified from being appointed or being members of the Investment Panel:

- (a) a person who has been convicted of an offence and sentenced to imprisonment for a term of not less than one year;
- (b) a bankrupt;
- (c) a person who is of unsound mind or is otherwise incapable of performing his duties.

(2) A member of the Investment Panel shall vacate his office if he fails to attend three consecutive meetings of that Panel without the permission in writing of the Chairman of the Investment Panel.

2. The Chairman and two other members of the Investment Panel shall form a quorum at any meeting of that Panel.

3. The Investment Panel shall meet as and when required.

4. There may be paid to each member of the Investment Panel out of the Tabung such allowances, including travelling and subsistence allowances, as the Lembaga may from time to time determine subject to such limits and conditions as the Minister may impose.

5. If any member of the Investment Panel is financially interested in any scheme, project or enterprise undertaken or is recommended by the Investment Panel to be undertaken by the Lembaga, he shall forthwith declare to the Lembaga in writing the nature and extent of his interest in such scheme, project or enterprise and of any subsequent change in the nature or extent of his interest therein.

THIRD SCHEDULE

[Section 23]

1. The Lembaga shall in the order by which a corporation is established make provision in respect of any or all of the following matters:

- (a) the purposes of and objects for the establishment of the corporation;
- (b) the rights, powers, duties and functions of the corporation, including its power to borrow;

- (c) the management of the corporation;
 - (d) the proceedings and meetings of the corporation, including the quorum required for, and the manner of voting at, meetings;
 - (e) the finances of the corporation, the accounts to be kept and the audit of the accounts;
 - (f) the terms and conditions of service of officers and servants of the corporation; and
 - (g) the relations between the corporation and the Lembaga and the Lembaga's rights of control over the corporation.
2. Subject to the provisions of this Act, the provisions of the order establishing a corporation shall be binding on it.
3. The Lembaga may at any time with the approval of the Minister and the concurrence of the Minister of Finance amend the order establishing a corporation.
4. (1) The Lembaga may with the approval of the Minister and the concurrence of the Minister of Finance by order published in the *Gazette* direct that any corporation established by it shall be wound up and dissolved in such manner as may be specified by the Lembaga.
- (2) Upon the dissolution of a corporation, its assets after payment of all liabilities shall be transferred to and shall vest in the Lembaga.
- (3) The extent of the liability of a corporation to its creditors shall be limited to the value of its assets at the time the order directing its winding up and dissolution comes into force.
- (4) The Lembaga shall not be called upon at any time to meet the liabilities of a corporation in the event that the assets of the corporation are insufficient to meet its liabilities.
5. Every corporation shall be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its name, and may enter into contracts and may hold and deal in or with any immovable or movable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Act and subject to such restrictions or limitations as the Lembaga may impose in each case.
6. (1) Every corporation shall have a common seal which shall bear such impression as the corporation, with the approval of the Lembaga, may approve, and such seal may from time to time be broken, changed, altered or made anew as the corporation shall think fit.
- (2) Until a seal is approved under this paragraph, a stamp bearing the name of the corporation encircling the letters "LTAT" may be used as a common seal.

(3) The common seal, or the stamp referred to in subparagraph (2), shall be in the custody of, and shall be authenticated by, such persons as the corporation shall direct; and all deeds, documents and other instruments purporting to be sealed with the seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the corporation; and any such document or instrument may be executed on behalf of the corporation by any officer or servant of the corporation generally or specially authorized by the corporation in that behalf.

(4) The seal of every corporation shall be officially and judicially noticed.

LAWS OF MALAYSIA

Act 101

TABUNG ANGKATAN TENTERA ACT 1973

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A489	Tabung Angkatan Tentera (Amendment) Act 1980	30-05-1980 except s. 3(<i>b</i>), 4(1)(<i>a</i>) and 4(3): 01-10-1997; s. 4(1)(<i>b</i>), 4(2), 4(4), (4)(5) and 6: 01-08-1972; s. 7: 01-08-1975; s. 11 and 12: 01-07-1983; s. 2,3(<i>a</i>), 3(<i>c</i>) and 5: 01-11-1985; s. 9: 16-05-1986
Act A646	Tabung Angkatan Tentera (Amendment) Act 1986	16-05-1986 except s. 2(1), 5(1) and 7(1)(<i>a</i>): 01-11-1985; s. 3(1) and 4(1): 01-01-1984
Act A896	Tabung Angkatan Tentera (Amendment) Act 1994	08-07-1994
Act A905	Tabung Angkatan Tentera and Tabung Bekas Perajurit (Amendment) Act 1994	01-10-1994
Act A929	Tabung Angkatan Tentera and Tabung Bekas Perajurit (Amendment) Act 1995	10-11-1995
Act A1094	Tabung Angkatan Tentera (Amendment) Act 2000	01-08-1972 s.2 and 3 (except para 3(<i>f</i>)), subpara 4(<i>a</i>)(ii), para 4(<i>b</i>) and ss.5, 6, 7 and 10: 01-12-1996; para 3(<i>f</i>), subpara 4(<i>a</i>)(i) and s.9: 23-12-2000; s.8: 24-12-2000; remaining sections

LAWS OF MALAYSIA

Act 101

TABUNG ANGKATAN TENTERA ACT 1973

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A896	08-07-1994
	Act A929	10-11-1995
	Act A1094	01-08-1972
Short title	Act A896	08-07-1994
	Act A929	10-11-1995
2	Act A489	01-11-1985
	Act A896	08-07-1994
	Act A929	10-11-1995
	Act A1094	01-08-1972; 01-12-1996
Part II—Heading	Act A929	10-11-1995
3	Act A489	01-10-1977; 01-11-1985
	Act A646	01-11-1985
	Act A896	08-07-1994
	Act A929	10-11-1995
	Act A1094	01-08-1972; 01-12-1996
3A	Act A896	08-07-1994
	Act A929	10-11-1995
4	Act A896	08-07-1994
	Act A905	01-10-1994
5	Act A896	08-07-1994
	Act A929	10-11-1995
	Act A1094	01-08-1972
6	Act A646	01-01-1984
	Act A896	08-07-1994
	Act A929	10-11-1995
9	Act A489	01-08-1972; 01-10-1977
10	Act A1094	01-08-1972
	Act A929	10-11-1995

Section	Amending authority	In force from
11	Act A489	01-11-1985
12	Act A905 Act A1094	01-10-1994 01-08-1972
13	Act A489	01-08-1972
15	Act A489 Act A646 Act A896 Act A905 Act A929 Act A1094	01-08-1975 01-01-1984 08-07-1984 01-10-1994 10-11-1995 23-12-2000
15A	Act A489 Act A646	30-05-1980 01-11-1985
15B	Act A646	16-05-1986
15C	Act A1094	01-12-1996
18	Act A905	01-10-1994
19	Act A929	10-11-1995
20	Act A489	16-05-1985
22	Act A489 Act A646 Act A896 Act A905 Act A929 Act A1094	30-05-1980 01-11-1985 08-07-1994 01-10-1994 10-11-1995 01-08-1972
22A	Act A905	01-10-1994
22B	Act A905	01-10-1994
23	Act A489 Act A905 Act A929	01-07-1983 01-10-1994 10-11-1995
First Schedule	Act A905	01-10-1994
Third Schedule	Act A489	01-07-1983

