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# **(MY) INDUSTRIAL RELATIONS REGULATIONS 2009 (P.U.(A) 356/2009)**

Unannotated Statutes of Malaysia - Subsidiary Legislations

## **Unannotated Statutes of Malaysia - Subsidiary Legislations** > **INDUSTRIAL RELATIONS REGULATIONS 2009 (P.U.(A) 356/2009)**

### **INDUSTRIAL RELATIONS** REGULATIONS 2009 (P.U.(A) 356/2009) **INDUSTRIAL RELATIONS** REGULATIONS 2009

[P.U.(A) 356/2009]

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## SCHEDULE

IN exercise of the powers conferred by [section 62](#) of the **Industrial Relations Act** 1967 [**Act** 177], the Minister makes the following regulations:

PART I PRELIMINARY<sup>1</sup>. Citation and commencement

- (1) These regulations may be cited as the **Industrial Relations** Regulations 2009.
- (2) These Regulations come into operation on 8 October 2009.

## 2. Interpretation

- (1) In these Regulations —

“date of claim” means the date as of which Form A is dated;

“responsible officer” means —

(a) in **relation** to an employer, the proprietor, manager or other person responsible for the management of the business or affairs of the employer; and

(b) in **relation** to a trade union of employers or workmen, the President or Vice President or Secretary or Assistant Secretary of the trade union or any equivalent position by whatever name called.

“secret ballot” means a secret ballot taken for the purpose of determining the percentage of workmen or any class of workmen, in respect of whom a claim for recognition is being sought, who are members of the union making the claim.

- (2) The forms referred to in these Regulations shall be such forms as prescribed in the Schedule.

PART II RECOGNITION OF TRADE UNIONS<sup>3</sup>. Claim for recognition

- (1) Any claim for recognition by a trade union of workmen under subsection 9(2) of the **Act** shall be substantially in Form A and shall be signed by a responsible officer of such trade union.
- (2) The purpose of a claim for recognition is to enable the trade union of workmen to commence collective bargaining with the employer or trade union of employers as provided under subsection 13(1) of the **Act**,
- (3) The original of Form A together with a copy of the rules of such trade union shall be served —
  - (a) on the employer or trade union of employers, as the case may be, at their registered address or principal place of business by AR registered post or courier; or
  - (b) personally on a responsible officer of such employer or trade union of employers.
- (4) An acknowledgment of service from the responsible officer in Form A-I shall be sufficient proof of the service of Form A on him.
- (5) A copy of the said Form A together with a copy of the rules of such trade union shall at the same time be sent to the Director General.

## 4. Notification for according recognition

Upon according recognition under subsection 9(3A) of the **Act**, the employer or trade union of employers shall,

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within twenty-one days, notify the Director General of such recognition.

## 5. Ascertaining the service of Form A

- (1) Where a trade union of workmen makes a report to the Director General within fourteen days under subsection 9(4) of the Acts the Director General may take such necessary steps where practicable within fourteen days to determine whether Form A has been served according to subregulation 3(3) on the employer or trade union of employers concerned,
- (2) Where the Director General is satisfied that Form A has not been served according to subregulation 3(3), the claim for recognition is deemed to have lapsed and the trade union of workmen concerned may serve a new Form A on the employer or trade union of employers concerned.

## 6. Ascertaining competency and membership of trade union

Where the Director General is satisfied that Form A has been properly served, the Director General may without delay —

- (a) refer the issue on competency of the trade union concerned to the Director General of Trade Unions for him to ascertain, where practicable within sixty days from the date of reference; and
- (b) direct the employer or the trade union of employers, as the case may be, to furnish him, within fourteen days from the receipt of the direction or any other period specified in the direction, particulars of the workmen in respect of whom the claim for recognition is made and who are in the employment of the employer, or the respective employers who are members of the trade union of employers, as the case may be, as on the date of claim, substantially in Form B signed by a responsible officer.

## 7. Convening meeting for secret ballot

- (1) Upon receipt of Form B, the Director General shall, by notice in writing, convene a meeting for the purpose of conducting a secret ballot under paragraph 9(4A)(b) of the Act, between the trade union of workmen making the claim for recognition and the employer or the trade union of employers concerned.
- (2) In the event that no agreement is reached between the trade union of workmen making the claim for recognition and the employer or the trade union of employers concerned regarding the particulars of the workmen in Form B, the Director General shall decide on the final list as in Appendix A1 of Form B.

## 8. Employer and trade union to assist Director General

- (1) Where the Director General has given direction under paragraph 6(h) or served a notice under regulation 7, the employer or trade union of employers, and the trade union of workmen concerned shall furnish the Director General with such information as he may require and shall give every assistance to the Director General to enable him to conduct the secret ballot expeditiously.
- (2) No person, employer or trade union shall in any way obstruct the taking of a secret ballot.

## 9. Notice for secret ballot

- (1) Where the Director General of Trade Unions has ascertained the competency of the trade union of workmen concerned he shall notify the Director General.
- (2) Upon receipt of the notification that the trade union of workmen concerned is competent, the Director General shall fix the date for the taking of a secret ballot which date shall where practicable be within thirty days from the date of the notification.
- (3) Where the date for the taking of a secret ballot has been determined, the Director General shall issue a notice in Form C to the trade union of workmen, employer or trade union of employers concerned.
- (4) Where the date for the taking of a secret ballot has been determined, the Director General shall issue a notice in Form C to the trade union of workmen, employer or trade union of employers concerned.
- (5) No person shall remove, deface or destroy the notice for secret ballot until after the completion of the secret ballot.

## 10. Persons entitled to vote

All workmen or any class of workmen as in Appendix A1 of Form B shall be entitled to vote in a secret ballot.

## 11. Formula to ascertain percentage of membership

- (1) (1) The percentage of membership shall be calculated bases on the following formula:

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number of votes indicating membership x 100% number of workmen entitled to vote

(2) The strength of the membership shall be determined on a simple majority vote basis.

#### 12. Notification of result

The Director General shall as soon as the result of the secret ballot is ascertained communicate such result to the trade union of workmen, employer or trade union of employers concerned in Form D.

#### 13. Decision of Minister

(1) A decision of the Minister under subsection 9(1D) of the **Act** as to who are the workmen employed in a managerial, executive, confidential or security capacity shall be substantially in Form E.

(2) A decision of the Minister under subsection 9(5) of the **Act** whether a trade union of workmen be accorded recognition or not be accorded recognition shall be substantially in Form E

#### PART III NOTICE OF STRIKE AND LOCK-OUT 14. Notice of strike

The notice of strike referred to in subsection 43(1) of the **Act** shall be substantially in Form I and shall be signed by the President, the Secretary and two other officers of the trade union concerned in the trade dispute.

#### 15. Service of notice of strike

Two copies of a notice of strike shall be served on the employer —

- (a) where the employer is the Government, by delivering the notice personally, or by sending the notice by AR registered post or courier, to the Head of the Department in which the workmen who are to go on strike are employed, and where they are employed in a particular area where there is a local Head of Department, by delivering the notice personally, or by sending the notice by AR registered post or courier to such local Head of Department;
- (b) where the employer is a statutory authority, by delivering the notice personally, or by sending the notice by AR registered post or courier, to the President, Chairman, Secretary or other principal officer, by whatever name called, of the statutory authority;
- (c) where the employer is a hospital, clinic, sanatorium or similar institution, by delivering the notice personally, or by sending the notice by AR registered post or courier, to any person who is in charge such hospital, clinic, sanatorium or similar institution;
- (d) where the employer is an organization or body, whether corporate or unincorporate, not being a statutory authority, by delivering the notice personally, or by sending the notice by AR registered post or courier, to the Chairman, the President, the Secretary or any other principal officer, by whatever name called, of such organization or body; and
- (e) in a case other than that provided for in a paragraphs (a) to (d) by delivering the notice personally, or by sending the notice by AR registered post or courier, to the employer at the address at which he normally conducts his business.

#### 16. Notice of lock-out

The notice of lock-out referred to in subsection 43(2) of the **Act** shall be substantially in Form J and shall be signed by the responsible officer of the employer concerned in the trade dispute.

#### 17. Service of notice of lock-out

Two copies of the notice of lock-out shall be posted in conspicuous places at the employer's property where they are easily visible to his workmen concerned in the trade dispute and one copy shall be served personally on the President or the Secretary of the trade union of which such workmen are members.

#### PART IV REPRESENTATION ON DISMISSALS 18. Notice to attend conference

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- (1) Where a workman fails to attend none of the conferences under subparagraph 2G(8)(b) of the **Act** after two attempts, the Director General shall send a notice in Form G by AR Registered post to the workman's last known address to attend a conference.
- (2) The Director General shall deem the representation made by a workman as withdrawn where the workman —
- (a) fails to attend the conference on the date specified in Form G; and
  - (b) fails to give any reasonable excuse within sixty days after the date of such conference.
- (3) Where the Director General deems the representation as withdrawn, he shall issue a notice in Form H to the workman concerned at his last known address.

PART V GENERAL19. Revocation

The ***Industrial Relations*** Regulations, 1980 [*P.U. (A) 254/1980*] are revoked.

## 20. Saving and transitional

(1) Any claim of recognition submitted on and after 28 February 2008 and is pending before the employer or trade union of employers, or responsible officer of such employer or trade union of employers shall be dealt with and disposed of in accordance with these Regulations.

(2) In the case of a claim for recognition referred to in subregulation (1) using the forms prescribed in the ***Industrial Relations*** Regulation 1980 revoked in regulation 19, the employer or trade union of employers shall serve the Form B and Appendix A within twelve months or such other extended period as may be determined by the Director General, after the date of the commencement of these Regulations.

FORM A

[Subregulation 3(1)]

### NOTICE OF CLAIM FOR RECOGNITION

To

(name of employer or trade union of employers)

address at

Postcode Town/City

We

(name of trade union of workmen)

address at

Postcode Town/City

hereby serve this claim for recognition pursuant to subsection 9(2) of the ***Industrial Relations Act*** 1967 m respect of—

2. A copy of the rules of our trade union is enclosed.

Date:

Signature : .

Name :

(Block Letters)

Designation :

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c.c.

Director General for **Industrial Relations**,Department of **Industrial Relations**

FORM A-I

[Subregulation 3(4)]

## ACKNOWLEDGMENT OF PERSONAL SERVICE

I hereby acknowledge that Form A has been served on me.

Signature :

Name :

(Black Letters)

Designation :

FORM B

[Paragraph 6(b)] PARTICULARS OF WORKMEN

We .

(name of employer trade union of employers)

address at

Postcode Town/City

hereby declare that the information given in Appendix A are true and correct to the best of my knowledge and belief.

Signature :

Name : ..

(Block Letters)

Designation :

Date :

Appendix A

The following is a list of the names and particulars of all the workmen in my employment as on the date of claim in respect of whom the claim for recognition is made.

No.	Name of workmen (Block Letters)	National Registration Identity Card/Passport No.	Occupation/Desi gnation	Date of commencement of employment	Remarks (if any)







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Postcode Town/City

(name of trade union of workmen)

address at

Postcode Town/City

TAKE NOTICE that pursuant to paragraph 9(4A)( b) of the **Industrial Relations Act** 1967 a secret ballot will be conducted as follows:

VENUE :

DATE

TIME

The workmen who are eligible to vote are as in Appendix A1 of form B.

.....

Director General for **Industrial Relations** Department of **Industrial Relations** Malaysia

Date:

FORM D

(Regulation 12)

NOTIFICATION OF THE RESULT OF SECRET BALLOT

The result of the secret ballot conducted on are as follows:

(date)

A.	TOTAL NUMBER OF VOTERS (Appendix A1)
B.	TOTAL NUMBER OF BALLOT PAPERS ISSUED
	VOTES CAST
C.	TOTAL NUMBER OF SPOILT VOTES
D.	TOTAL NUMBER OF VOTES WHO ARE MEMBER OF THE UNION
E.	TOTAL NUMBER OF VOTES WHO ARE NOT MEMBERS OF THE UNION

Formula for ascertaining percentage is  $D/A \times 100$  % PERCENTAGE OF MEMBERSHIP =

.....

Director General for **Industrial Relations** Department of **Industrial Relations**

Date:

FORM E

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[Subregulation 13(1)]

DECISION ON CAPACITY OF WORKMEN

WHEREAS

(name of trade union of workmen)

address at ..... , .....

.....  
.....

Postcode ..... Town/City.....

as to whether are workmen employed in a managerial, executive, confidential or security capacity at

(name of employer or trade union of employers)

address at.....

Postcode ..... Town/City.....

AND WHEREAS the matter has not been resolved under subsection 9(1B) of the **Industrial Relations Act** 1967 and the Director General has accordingly notified the Minister under subsection 9(1c) of the **Act**.

NOW IN EXERCISE of the powers under subsection 9(1D) of the **Industrial Relations Act** 1967, I hereby decide that:

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

Date:

*Minister of Human Resources*

FORM F

[Subregulation 13(2)]

DECISION ON TRADE UNION RECOGNITION

WHEREAS

(name of trade union of workmen}

address at

Postcode Town/City

a trade union of workmen had served a claim for recognition dated

on.....

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(name of employer or trade union of employers)

address at ...

Postcode Town/City

AND WHEREAS the Director General has accordingly notified the Minister under subsection 9(4c) of the **Industrial Relations Act** 1967.

NOW IN EXERCISE of the powers under subsection 9(5) of the **Industrial Relations Act** 1967,

I hereby decide that:

Date:

*Minister of Human Resources*

FORM G

[Subregulation 18(1)]

NOTICE TO ATTEND FINAL CONFERENCES

To:

(name of workman)

address at ...

Postcode .. Town/City

WHEREAS you. after filing a representation for reinstatement on (date), failed to attend the conferences dated on and conducted to expeditiously settle your claim.

TAKE NOTICE that you are required to attend the final conference as follows:

VENUE :

DATE :

TIME :

TAKE NOTICE, that you shall be deemed to have abandoned your representation for reinstatement in your former employment, if you fail to attend on the date, time and place indicated above unless you have reasonable excuse for such absence and you have communicated or attempted to communicate such excuse to the Director General within sixty days after the date of the final conference.

.....

*Director General for **Industrial Relations***

*Department of **Industrial Relations***

Date:

c.c

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Employer

FORM H

[Subregulation 18(3)]

NOTICE OF WITHDRAWAL OF REPRESENTATION FOR REINSTATEMENT

To:

.....

(name of workman)

address at

Postcode Town/City

TAKE NOTICE that your failure to attend the final conference at the date as specified in Form G dated.....and your failure to give any reasonable excuse for such absence within sixty days after the date of the final conference, the Director General hereby deems your representation as withdrawn.

.....

Director General for **Industrial Relations**

Department of **Industrial Relations**

Date:

c.c

Employer

FORM I

(Regulation 14)

NOTICE OF STRIKE (ESSENTIAL SERVICES)

lb.....

(name of employer)

address at .....

Postcode.....Town/City.....

You are hereby informed that we.....

(name of trade union of workmen)

address at.....

Postcode..... Town/City.....

on behalf of our members employed by you at ...

.....

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.....

(name and address of place wherein such members are employed)

shall go on strike on in respect of a

trade dispute which such members have with you in the following matter/s:

(Describe here clearly the subject matter of the trade dispute)

Signature..... Name in Block Letters..... Office held in Union

(i) .....President

(ii) .....Secretary

(iii).....

(iv) .....

Date:.....

NOTE.

This notice should be served in accordance with subsection 43(1) of the **Industrial Relations Act** 1967 and regulation 15 of the **Industrial Relations** Regulations 2009.

FORM H

[Subregulation 18(3)]

NOTICE OF WITHDRAWAL OF REPRESENTATION FOR REINSTATEMENT

To:

.....

(name of workman)

address at

Postcode Town/City

TAKE NOTICE that your failure to attend the final conference at the date as specified in Form G dated.....and your failure to give any reasonable excuse for such absence within sixty days after the date of the final conference, the Director General hereby deems your representation as withdrawn.

.....

Director General for **Industrial Relations**

Department of **Industrial Relations**

Date:

c.c

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Employer

FORM J

(Regulation 16)

NOTICE OF LOCK-OUT (ESSENTIAL SERVICES)

To

(name of trade union of workmen)

address at

Postcode Town/City

You are hereby informed that I, as the employer of your members employed at

.....

(name and address of establishment wherein the workmen are employed)

shall declare a lock-out on ..... in respect of

a trade dispute which I have with such members in the following matter/s:

.....

*(Describe here clearly the subject matter of the trade dispute)*

Signed :.....

Name ;

*(Block Letters)*

Designation :

Date :

NOTE:

This notice, should be posted and served in accordance with subsection 43(2) of the ***Industrial Relations Act*** 1967 and regulation 17 of the ***Industrial Relations*** Regulations 2009.

Made 1 September 2009

[KSM/PUU/T/01/14; PN(PU<sup>2</sup>) 198/VIII]

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Datuk Dr. S, Subramaniam  
*Minister of Human Resources*

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LIST OF AMENDMENTS

## (MY) INDUSTRIAL RELATIONS REGULATIONS 2009 (P.U.(A) 356/2009)

Amending Law	Citation	In force from
	-NIL-	

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