



LAWS OF MALAYSIA

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Act 238

PENSIONS ADJUSTMENT ACT 1980

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PENSIONS ADJUSTMENT ACT 1980

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LAWS OF MALAYSIA**Act 238****PENSIONS ADJUSTMENT ACT 1980**

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LAWS OF MALAYSIA**Act 238****PENSIONS ADJUSTMENT ACT 1980**

An Act to provide for the adjustment of pensions and other benefits of officers in the public service and in statutory and local authorities and of the dependants of such officers, for the granting and adjustment of pensions and other benefits of the dependants of certain categories of such officers, and for matters related thereto.

[1 July 1980]

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 Parliament assembled, and by the authority of the same, as follows:

Short title, commencement and application

1. (1) This Act may be cited as the Pensions Adjustment Act 1980 and shall be deemed to have come into force on 1 July 1980.

(2) Subject to this section, this Act shall apply throughout Malaysia in respect of —

- (a) officers who on retirement receive or are entitled to receive pensions or other benefits under any written law;
- (b) the dependants of officers referred to in paragraph (a) who, on the death in service or in retirement of the officers concerned, receive or are entitled to receive pensions or other benefits under any written law;
- (c) the dependants of officers referred to in paragraph (a) being dependants who, prior to the coming into force of this Act, were not entitled to receive pensions or other benefits under any written law; and

- (d) the dependants of officers who had died or die in service under the old scheme where the officers had been or have been confirmed in their appointments and, in respect of pensionable officers, emplaced on the pensionable establishment in accordance with the written law or the terms and conditions of service applicable to their case, being dependants who, prior to the coming into force of this Act, were not entitled to receive pensions or other benefits under any written law.
- (3) *(Deleted by Act A1345).*
- (4) *(Deleted by Act A1345).*

Interpretation

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

“child” means a child of a deceased officer —

- (a) who is a child under twenty-one years of age and includes —
- (i) a posthumous child, a dependent step-child and an illegitimate child of the officer; and
 - (ii) a child adopted by the officer under any written law relating to adoption or under any custom or usage, on satisfactory proof of such adoption; and
- (b) who is a child of any age and is mentally retarded or physically and permanently incapacitated and is incapable of supporting himself;

“current salary scale” means the latest salary scale which is, on or after the coming into force of this Act, applicable to officers of the public service and employees of statutory and local authorities to whom the revision of salaries made by the Federal Government with effect from 1 January 1976, or any other subsequent revision thereof made by the Federal Government from time to time, is applicable;

“dependant” means a widow, widower, child, mother or father of a deceased officer;

“Director General” means the Director General of the Public Services;

“last drawn salary” means —

- (a) the actual last drawn monthly substantive salary of an officer before his death or retirement; or
- (b) where it is to his advantage, in the case of an officer who dies or retires before being confirmed in a second or subsequent appointment which he holds at the time of death or retirement, the last drawn monthly substantive salary of the last appointment in which he had been confirmed prior to his death or retirement, inclusive of any notional increments in salary that he would have been entitled to, in accordance with the service principles applicable to his case, were he to have reverted to that last appointment; or
- (c) in the case of a person for the portion of whose service in any of the territories which constitute Malaysia the Federal Government is responsible for the payment of pension or other benefit under any written law, the actual last drawn monthly substantive salary of that person when he so was last in the service of that territory; or
- (d) in the case of an officer referred to in regulation 22 of the Pensions Regulations 1957 [*L.N. 233/1957*], the last drawn monthly substantive salary of the office for which he opts or may have opted for the purpose of computing his reckonable service under that regulation;

and where such officer or person is or was in receipt of or entitled to receive any pensionable allowance in the public service or in the service of a statutory or local authority or, in the case of a person referred to in paragraph (c), in the service of any of the territories which constitute Malaysia, the pensionable allowances shall form part of his last drawn salary;

“officer” means an officer of the public service or an employee of any statutory or local authority who, prior to his retirement or death, was serving in Malaysia or in any of the territories which presently constitute Malaysia;

“old scheme” means the appropriate scheme pertaining to the salaries and terms and conditions of service which is applicable to officers of the public service and employees of statutory and local authorities to whom the revision

of salaries and terms and conditions of service made by the Federal Government with effect from 1 January 1976, or any other subsequent revision of salaries, or the terms and conditions of service, or both made by the Federal Government from time to time, is not applicable;

“pension or other benefit” includes pension, retiring allowance, annual allowance, disability pension, injury allowance, derivative pension, derivative retiring allowance and dependant’s pension granted under any other written law and adjusted under this Act, or granted and adjusted under this Act, as the case may be;

“pensionable officer” means an officer who has been emplaced on the pensionable establishment or conferred pensionable status or who on retirement or death is deemed to be pensionable under any written law;

“public service” means —

- (a) the judicial and legal service;
- (b) the general public service of the Federation;
- (c) the police force;
- (d) the railway service;
- (e) the education service;
- (f) the joint public services mentioned in Article 133 of the Federal Constitution;
- (g) the public service of each State;
- (h) the Parliamentary Service referred to in the *Parliamentary Service Act 1963 [Act 394]; and
- (i) such other service as the Yang di-Pertuan Agong may by order in the *Gazette* determine to be public service for the purposes of this Act;

*NOTE— Parliamentary Service Act 1963 [Act 394] has since been repealed by paragraph 7(d) of Act A837— see also section 7 for Status of members of Parliamentary Service.

“reckonable service” means any service of an officer in Malaysia or in any of the territories which presently constitute Malaysia which has been used in the computation of the pension or other benefits of the officer on his retirement or of his dependants upon his death;

“retiring allowance” includes an annual allowance paid or payable to an officer on retirement on a non-pensionable appointment;

“statutory or local authority” means a statutory authority or local authority established under any written law relating to a statutory authority or local authority;

“written law” means any written law relating to the pensions and other benefits of officers in the public service or of employees of statutory and local authorities, and of their dependants, and includes this Act.

Adjustment of pensions and other benefits of officers and dependants

3. (1) Pensions and other benefits granted to officers and their dependants under any written law shall be adjusted annually by an increment of two percent in accordance with the provisions of this Act and shall be paid or be payable with effect from January of each year.

(2) Notwithstanding subsection (1), where the application of the specified rate of increment would result in a situation that is less favourable to an officer appointed before the coming into force of this section, the Yang di-Pertuan Agong may by order in the *Gazette* prescribe an appropriate higher percentage of increment to be applied in such case.

(3) For the purpose of an order under subsection (2), the Yang di-Pertuan Agong may prescribe—

- (a) different percentages of increment for different categories of recipients;
- (b) that the higher percentage of increment shall only apply for a specified year or any part thereof, and in such case, the date on which the adjustment shall be payable.

Adjustment of pensions, disability pensions, retiring allowances or injury allowances

3A. (1) Pensions, disability pensions, retiring allowances or injury allowances received by an officer under any written law shall be adjusted in accordance with subsection 3(1).

(2) The amount of pension, disability pension, retiring allowance or injury allowance to be used as the basis for the first of the adjustments under subsection 3(1)—

- (a) in the case of an officer who retired before or on 1 January 2012, shall be the amount of pension, disability pension, retiring allowance or injury allowance which had been adjusted on that date;
- (b) in the case of an officer who retired on or after 2 January 2012, shall be the amount of pension, disability pension, retiring allowance or injury allowance which had been granted to the officer.

(3) The adjustment referred to in subsection (1) is subject to any higher percentage of increment which may be made under subsection 3(2).

Adjustment of lowest pensions and other benefits

3B. Where an officer is receiving the lowest amount of pension or other benefit payable pursuant to section 8, the said lowest amount shall be used as the basis for the first of the adjustments under subsection 3(1).

Adjustment of derivative pension or derivative retiring allowance granted under any other written law

4. (1) Any derivative pension or derivative retiring allowance received under any other written law shall be adjusted in accordance with subsection 3(1).

(1A) The amount of derivative pension or derivative retiring allowance to be used as the basis for the first of the adjustments under subsection 3(1)—

- (a) in the case of a recipient who received the derivative pension or derivative retiring allowance before or on 1 January 2012, shall be the amount of derivative pension or derivative retiring allowance which had been adjusted on that date;
- (b) in the case of a recipient who received the derivative pension or derivative retiring allowance on or after 2 January 2012, shall be the amount of derivative pension or derivative retiring allowance which had been granted to the recipient.

(1B) The adjustment referred to in subsection (1) is subject to any higher percentage of increment which may be made under subsection 3(2).

(2) The derivative pension or derivative retiring allowance granted under any other written law and adjusted under the subsection 3(1) shall be paid for life if the recipient is —

- (a) a widow of an officer or, in the case of an officer to whom the Pensions Act 1980 [Act 227] or the Statutory and Local Authorities Pensions Act 1980 [Act 239] applies, his widow or her widower;
- (b) a child referred to in paragraph (2)(b) of the interpretation of “child”.

(3) Notwithstanding subsection (2) and the subsection 3(1), the payment of such derivative pension or derivative retiring allowance after the expiration of the period of twenty years from the date of retirement of an officer or the date immediately following the date of death in service of an officer shall only be made where the recipient —

- (a) if a widow of an officer or, in the case of an officer to whom the Pensions Act 1980 or the Statutory and Local Authorities Pensions Act 1980 applies, his widow or her widower, was married to the officer while the officer was still in service;
- (b) if a child or dependent step-child, is a child or dependent step-child of a marriage that had taken place while the officer was still in service;
- (c) if an adopted child, was adopted while the officer was still in service;

(d) if an illegitimate child, was conceived while the officer was still in service.

(4) For the avoidance of doubt, it is declared that where the marriage to the officer concerned had been contracted after his retirement and his death occurs within a period of twenty years of his retirement, his widow, or a child of that marriage, or both such widow and child, as the case may be, or, in the case of an officer to whom the Pensions Act 1980 or the Statutory and Local Authorities Pensions Act 1980 applies, his widow, her widower, or a child of that marriage, or both such widow and child, or both such widower and child, as the case may be, shall be entitled to a derivative pension or derivative retiring allowance according to the entitlement of the officer but only for a period which is the difference between the period of twenty years and the period during which the officer had been in retirement; and where the death of the officer occurs after the period of twenty years of his retirement, no derivative pension or derivative retiring allowance whatsoever shall be payable.

(5) Notwithstanding this section and the subsection 3(1), no payment of such derivative pension or derivative retiring allowance shall be made or, if made, such payment shall cease where the recipient is —

(a) *(Deleted by Act A1169)*;

(b) a child, other than a child referred to in paragraph 2(b) of the interpretation of “child” or in paragraph (c), upon marriage or attaining the age of twenty-one years, whichever occurs earlier;

(c) a child who is receiving education in an institution of higher learning but not beyond education leading to a first degree, upon completing or ceasing to receive such education or upon marriage, whichever occurs earlier.

Grant and adjustment of derivative pensions or derivative retiring allowances for certain dependants under old scheme

5. (1) Notwithstanding any other written law to the contrary but subject to this Act, where an officer had died or dies —

(a) in service under the old scheme and —

- (i) he had been or has been confirmed in his appointment and emplaced on the pensionable establishment; or
 - (ii) he would have been entitled on retirement to an annual allowance, also called a retiring allowance; or
- (b) in retirement under the old scheme and he was in receipt of or would have been entitled to receive a pension or an annual allowance, also called a retiring allowance,

in accordance with the written law or the terms and conditions of service applicable to his case, his widow or child, or both widow and child, if not in receipt of or not entitled to receive any derivative pension or derivative retiring allowance under any other written law, shall, upon the coming into force of this Act, be granted a derivative pension or derivative retiring allowance according to the eligibility or entitlement of the officer to a pension or an annual allowance, also called a retiring allowance.

(2) The derivative pension or derivative retiring allowance granted under subsection (1) shall be adjusted in accordance with subsection 3(1).

(2A) The amount of derivative pension or derivative retiring allowance to be used as the basis for the first of the adjustments under subsection 3(1) shall be the amount of derivative pension or derivative retiring allowance which had been adjusted until 31 December 2012.

(2B) Notwithstanding subsection (2A), where a dependant is eligible to be granted a derivative pension or derivative retiring allowance under subsection (1) but has not been paid such derivative pension or derivative retiring allowance as at 1 January 2013, the adjustment of the derivative pension or other benefits shall first be made until 31 December 2012 in accordance with this section and other related provisions which were in operation before 1 January 2013 before it is adjusted in accordance with subsection 3(1).

(2C) The adjustment referred to in subsection (2) is subject to any higher percentage of increment which may be made under subsection 3(2).

(3) The derivative pension or derivative retiring allowance granted under subsection (1) and adjusted under this Act shall be paid for life if the recipient is —

(a) a widow of an officer referred to in paragraph (1)(a) or (b);

(b) a child referred to in paragraph 2(b) of the interpretation of “child”.

(4) Notwithstanding subsection (3) and the subsection 3(1), the payment of such derivative pension or derivative retiring allowance after the expiration of the period of twenty years from the date of retirement of an officer or the date immediately following the date of death in service of an officer shall only be made where the recipient —

(a) if a widow of an officer, was married to the officer while the officer was still in service;

(b) if a child or dependent step-child, is a child or dependent step-child of a marriage that had taken place while the officer was still in service;

(c) if an adopted child, was adopted while the officer was still in service;

(d) if an illegitimate child, was conceived while the officer was still in service.

(5) For the avoidance of doubt, it is declared that where the marriage to the officer concerned had been contracted after his retirement and his death occurs within a period of twenty years of his retirement, his widow, or a child of that marriage, or both such widow and child, as the case may be, shall be entitled to a derivative pension or derivative retiring allowance according to the entitlement of the officer but only for a period which is the difference between the period of twenty years and the period during which the officer had been in retirement; and where the death of the officer occurs after the period of twenty years of his retirement, no derivative pension or derivative retiring allowance whatsoever shall be payable.

(6) Notwithstanding this section and the subsection 3(1), no payment of such derivative pension or derivative retiring allowance shall be made or, if made, such payment shall cease where the recipient is —

(a) *(Deleted by Act A1169)*;

(b) a child, other than a child referred to in paragraph 2(b) of the interpretation of “child” or in paragraph (c), upon marriage or attaining the age of twenty-one years, whichever occurs earlier;

- (c) a child who is receiving education in an institution of higher learning but not beyond education leading to a first degree, upon completing or ceasing to receive such education or upon marriage, whichever occurs earlier.

(7) A derivative pension or a derivative retiring allowance granted and adjusted under this Act shall be paid or be payable in such proportion as the Yang di-Pertuan Agong thinks fit and such derivative pension or derivative retiring allowance may be reapportioned among other eligible recipients whenever a recipient dies or ceases to be eligible for such payment.

6. *(Deleted by Act A1447).*

7. *(Deleted by Act A568).*

Lowest pension, etc., for full service

8. (1) Notwithstanding any other written law to the contrary but subject to subsection 3(1), where any pension or other benefit granted and adjusted under this Act or granted under any other written law and adjusted under this Act is calculated on the basis of reckonable service of not less than twenty-five years —

- (a) the lowest amount of pension or derivative pension payable after adjustment shall not be less than one hundred and eighty ringgit per month;
- (b) the lowest amount of retiring allowance or derivative retiring allowance payable after adjustment shall not be less than three-quarters of one hundred and eighty ringgit per month.

(2) The Yang di-Pertuan Agong may by order in the *Gazette* increase the lowest amount of pension or other benefit payable pursuant to this section.

9. *(Deleted by Act A1477).*

Adjustment of dependant's pension

10. (1) Where a dependant's pension is granted under any written law, it shall be adjusted in accordance with subsection 3(1) but the factor applicable shall be the factor applicable under that written law.

(2) Where the factor referred to in subsection (1) changes according to the eligibility of the dependant as specified under that written law, the dependant's pension shall be adjusted based on the notional salary as determined under subsection (3) using the new factor applicable under that written law.

(3) The notional salary—

- (a) in the case of a dependant who received the dependant's pension before or on 1 January 2012, shall be the amount of the corresponding last drawn salary received by an officer on 1 January 2012 which has been calculated with an increment of two percent annually up to the year when the factor changes;
- (b) in the case of a dependant who received the dependant's pension on or after 2 January 2012, shall be the amount of the last drawn salary received by an officer on the date of his death which has been calculated with an increment of two percent annually up to the year when the factor changes.

(4) Where a higher percentage of increment has been prescribed under subsection 3(2), the increment specified under subsection (3) shall be calculated using that prescribed higher percentage.

(5) The amount of dependant's pension adjusted under subsection (2) shall be used as the basis for adjustments under subsection (1) in subsequent years.

(6) The adjustment referred to in subsection (1) is subject to any higher percentage of increment which may be made under subsection 3(2).

(7) For the purpose of this section, "corresponding last drawn salary" means the corresponding last drawn salary which had been adjusted on 1 January 2012 pursuant to this Act before the coming into force of this section.

Amendment of maximum reckonable service

10A. (1) Where the maximum reckonable service under any written law is amended, the adjustment in accordance with subsection 3(1) to the pension or other benefits shall be modified accordingly and shall be based on the amount of the pension or other benefits calculated based on the notional salary as determined by the Director General through the formula prescribed under the written law.

(2) In determining the calculation of the notional salary for the purpose of subsection (1), the Director General may use the calculation of notional salary as specified in subsection 10(3) with necessary modifications.

Disability pension, etc., to be in addition to pension or other benefit

11. Notwithstanding any written law to the contrary, the disability pension or injury allowance and dependant's pension referred to in sections 3A and 10 shall be paid or be payable in addition to any pension or other benefit which is granted under any other written law and adjusted under this Act or granted and adjusted under this Act, as the case may be.

12. (*Deleted by Act A568*).

Where information not sufficient to determine amount of pension, etc.

13. Where, for the purpose of granting and adjusting or adjusting any pension or other benefit under this Act, the Director General is not in possession of sufficient information to enable him to determine the amount of pension or other benefit payable, the amount payable shall, in the case of—

- (a) a pension or retiring allowance, be fifty per cent of the highest pension or retiring allowance payable to an officer of an equivalent grade on the current salary scale as the officer whose pension or retiring allowance is to be adjusted under this Act;
- (b) a derivative pension or derivative retiring allowance, be of the same amount as the pension or retiring allowance payable under paragraph (a);

- (c) a disability pension or an injury allowance, be fifty per cent of the maximum disability pension or injury allowance payable, calculated on the highest factor provided under the written law under which the officer retired and the highest salary payable to an officer of an equivalent grade on the current salary scale as the officer whose disability pension or injury allowance is to be adjusted under this Act;
- (d) a dependant's pension, be fifty per cent of the maximum dependant's pension payable, calculated on the highest factor provided under the written law under which the officer died in service or in retirement and the highest salary payable to an officer of an equivalent grade on the current salary scale as the officer in respect of whose dependant the dependant's pension is to be adjusted under this Act.

Director General may re-determine proper amount of pension or other benefit

13A. (1) Where any pension or other benefit is granted under any other written law and adjusted under this Act or granted and adjusted under this Act in the circumstances referred to in section 13 and subsequent thereto the Director General receives such information as is sufficient to enable him to re-determine the proper amount of pension or other benefit payable, he shall re-determine the same.

(2) Where, upon re-determination under subsection (1), the proper amount of pension or other benefit payable is found to be —

- (a) less than the amount paid under section 13, the proper amount shall be payable instead with effect from the date of re-determination and the amount overpaid shall be deemed to have been overpaid by mistake of fact but shall, however, not be recoverable from the person concerned; or
- (b) more than the amount paid under section 13, the proper amount shall be payable instead together with arrears, if any.

Allowances payable under administrative arrangements to cease

14. (1) Notwithstanding anything to the contrary but subject to this Act, all allowances payable under any administrative arrangements (in addition to pensions and other benefits granted under any other written law and adjusted under this Act or granted and adjusted under this Act) shall, upon the coming into force of this Act, cease to be payable.

(2) Any allowance payable to the holder of a medal under Force Order No. 627/1956 shall cease to be payable only upon the death of the officer concerned.

(3) Where the total amount of any pension or other benefit granted under any other written law and adjusted under this Act or granted and adjusted under this Act is less than the total amount of the pension or other benefit currently receivable, the total amount of pension or other benefit payable under this Act shall be equal to the total amount currently receivable.

(4) In subsection (3), the expression “the total amount currently receivable” means the pension or other benefit, together with any other related payments, actually received by the person concerned prior to the adjustment to be made under this Act on the implementation of the current salary scale.

Restoration of pension

15. (1) Where, under any written law, an officer has been granted a reduced pension by virtue of his option for a commuted pension, such officer shall, on the expiration of the period of twelve and a half years from the date of his retirement, be eligible to have his pension restored; provided that such restoration —

(a) shall not be made earlier than 1 January 1973; and

(b) shall not be applicable in the case of any pension paid after the adjustment made under this Act.

(2) Where the pension of an officer as referred to in subsection (1) has been restored after the expiration of the period of twelve and a half years from the date of his retirement but before the coming into force of this Act, such restoration shall be deemed to have been properly and legally made.

Powers to be exercised by Director General

16. All powers under this Act shall be exercisable by the Director General or any officer authorized by him in writing.

Regulations

17. The Yang di-Pertuan Agong may make regulations for the purpose of carrying out or giving effect to this Act.

LAWS OF MALAYSIA**Act 238****PENSIONS ADJUSTMENT ACT 1980**

LIST OF AMENDMENTS

Amending law	Short Title	In force from
Act A568	Pensions Adjustment (Amendment) Act 1983	01-07-1980; Except ss. 4, 13 and 14; 16-12-1983
Act A1169	Pensions Adjustment (Amendment) Act 2002	01-01-2002
Act A1345	Pensions Adjustment (Amendment) Act 2009	01-01-2009; Except s. 2, 3 and ss. 9(4); 01-01-2008
Act A1411	Pensions Adjustment (Amendment) Act 2011	01-01-2012
Act A1447	Pensions Adjustment (Amendment) Act 2013	01-01-2013

LAWS OF MALAYSIA

Act 238

PENSIONS ADJUSTMENT ACT 1980

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long Title	Act A568	01-07-1980
1	Act A568 Act A1345	01-07-1980 01-01-2008
2	Act A568 Act A1345	01-07-1980 01-01-2008
3	Act A568 Act A1447	01-07-1980 01-01-2013
3A	Act A1447	01-01-2013
3B	Ac A1447	01-01-2013
4	Act A568 Act A1169 Act A1345 Act A1411 Act A1447	01-07-1980 01-01-2002 01-01-2009 01-01-2012 01-01-2013
5	Act A568 Act A1169 Act A1345 Act A1411 Act A1447	01-07-1980 01-01-2002 01-01-2009 01-01-2012 01-01-2013
6	Act A568 Act A1447	01-07-1980 01-01-2013
7	Act A568	01-07-1980
8	Act A568 Act A1447	01-07-1980 01-01-2013
9	Act A568 Act A1447	01-07-1980 01-01-2013

Section	Amending authority	In force from
10	Act A568 Act A1447	01-07-1980 01-01-2013
10A	Act A568 Act A1447	01-07-1980 01-01-2013
11	Act A568 Act A1447	01-07-1980 01-01-2013
12	Act A568	01-07-1980
13A	Act A568	01-07-1980
14	Act A568	01-07-1980
FIRST SCHEDULE	Act A568 Act A1345 Act A1447	01-07-1980 01-01-2009 01-01-2013
SECOND SCHEDULE	Act A568 Act A1345 Act A1447	01-07-1980 01-01-2009 01-01-2013
THIRD SCHEDULE	Act A568 Act A1345	01-07-1980 01-01-2009
