

A BILL

*i n t i t u l e d*

An Act to amend the Employees Provident Fund Act 1991.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

1. (1) This Act may be cited as the Employees Provident Fund (Amendment) Act 2019.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

**Amendment of section 4**

2. The Employees Provident Fund Act 1991 [*Act 452*], which is referred to as the “principal Act” in this Act, is amended in paragraph 4(1)(d)—

(a) by substituting for the word “eighteen” the word “twenty”;

- (b) in subparagraph (i), by inserting before the word “five” the words “not more than”;
- (c) in subparagraph (ii), by inserting before the word “five” the words “not more than”;
- (d) in subparagraph (iii), by inserting before the word “five” the words “not more than”; and
- (e) in subparagraph (iv)—
  - (i) by substituting for the word “three” the words “not more than five”;
  - (ii) by inserting after the word “have” the words “knowledge or”;
  - (iii) by inserting after the word “business” the words “, economy, social security”; and
  - (iv) by substituting for the words “other relevant experience” the words “other relevant knowledge or experience”.

### **Amendment of section 6**

#### **3. Section 6 of the principal Act is amended—**

- (a) by renumbering the existing section as subsection (1);
- (b) in subsection (1) as renumbered, by deleting the words “and shall be eligible for reappointment”; and
- (c) by inserting after subsection (1) as renumbered the following subsection:
  - “(2) A member of the Board referred to in subsection (1) shall be eligible for reappointment but no member shall hold office for a total term of more than twelve years.”.

**Amendment of section 9**

**4.** Section 9 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

**“Quorum of the Board”**; and

(b) in subsection (1), by substituting for the word “six” the word “eight”.

**Amendment of section 18**

**5.** Subsection 18(1) of the principal Act is amended—

(a) by deleting paragraph (c); and

(b) in paragraph (e)—

(i) by substituting for the word “three” the word “four”;

(ii) by inserting after the word “have” the words “knowledge or”;

(iii) by inserting after the word “business” the words “, economy”; and

(iv) by substituting for the words “other relevant experience” the words “other relevant knowledge or experience”.

**Amendment of section 39**

**6.** Section 39 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

**“Preventing person from leaving Malaysia without paying contributions”**;

(b) in subsection (1)—

(i) by substituting for paragraph (a) the following paragraph:

“(a) Where the chief executive officer has reason to believe that any person is about or is likely to leave Malaysia without paying any outstanding and due contributions under this Act, the chief executive officer may issue to the Director General of Immigration a certificate containing particulars of the person and the outstanding and due contributions with a request that the person be prevented from leaving Malaysia, unless he pays the outstanding and due contributions, or furnishes security to the satisfaction of the chief executive officer for its payment.”;

(ii) in paragraph (b), by substituting for the words “banishment or immigration the Inspector General of Police or” the words “immigration,”; and

(iii) in paragraph (d), by substituting for the words “moneys due” the words “the outstanding and due contributions”;

(c) in subsection (2), by deleting the words “, a police officer”; and

(d) by inserting after subsection (2) the following subsections:

“(3) Any person who, knowing that a certificate has been issued in respect of him under subsection (1), leaves Malaysia without paying all the outstanding and due contributions specified in the certificate or furnishing security to the satisfaction of the chief executive officer for its payment shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand ringgit or to both.

(4) For the purpose of this section, “contributions” includes any dividend or late payment charges due on any contributions.”.

**Amendment of section 43**

7. Subsection 43(8) of the principal Act is amended—

- (a) in paragraph (c), by inserting after the word “employee” the words “, whether or not”; and
- (b) in paragraph (d), by substituting for the words “within the meaning of this Act” the words “, whether or not within the meaning of this Act,”.

**New Part VB**

8. The principal Act is amended by inserting after Part VA the following part:

“PART VB

ELECTION BY MEMBER OF THE FUND TO TRANSFER HIS  
CONTRIBUTIONS

**Transfer of employee’s contributions**

**53c.** The contributions of a member of the Fund affected by the transfer into the account of another member of the Fund under this Part shall be the employee’s contributions of the first mentioned member of the Fund.

**Election by member of the Fund to transfer his contributions**

**53d.** (1) Notwithstanding section 51 and subject to the conditions and criteria as specified in the Eighth Schedule, a member of the Fund may elect to transfer his contributions at the rate specified in the Eighth Schedule into the account of another member of the Fund who is or are his lawful wife or wives.

(2) A member of the Fund who elects to transfer his contributions shall make an application to the Board by submitting such particulars or documents, and in such manner, as determined by the Board.

(3) After receiving an application under subsection (2), the Board shall transfer the contributions of the member of the Fund who elects to transfer his contributions into the account of another member of the Fund elected by him on a monthly basis or in accordance with such other period as determined by the Board subject to the availability of contributions in the account of the member of the Fund who makes the election.

### **Cessation of transfer of contributions**

**53E.** (1) Upon the occurrence of any circumstances specified in the Eighth Schedule in relation to a transfer of contributions, a member of the Fund who has elected to transfer his contributions under section 53D may apply to the Board to cease the transfer.

(2) An application for cessation of transfer of contributions under subsection (1) shall be made to the Board by submitting such particulars or documents, and in such manner, as determined by the Board.

(3) After receiving an application under subsection (2), the Board shall cease the transfer of the contributions.

(4) Any amount that has been transferred into the account of the member of the Fund who receives the contributions transferred before the date of cessation of transfer of the contributions shall be retained in the account of such member of the Fund.

### **Re-transfer of contributions**

**53F.** Where contributions under section 53D have been erroneously transferred, the Board may re-transfer the contributions, including any dividend, into the account of the member of the Fund who has elected to transfer the contributions, subject to the amount standing to the credit of the member of the Fund who has erroneously received the contributions transferred.”.

**Amendment of section 55A**

9. Subsection 55A(2) of the principal Act is amended by substituting for the words “Paragraphs 54(1)(c), (e) and subsection” the word “Subsection”.

**Amendment of section 55B**

10. Section 55B of the principal Act is amended by inserting after subsection (2) the following subsection:

“(3) This section shall not apply to a member of the Fund who has attained the age of fifty-five years who falls within the category of the member of the Fund under paragraph 54(1)(c) or (e) or paragraph 70c(1)(b) or (c).”.

**New Eighth Schedule**

11. The principal Act is amended by inserting after the Seventh Schedule the following schedule:

“EIGHTH SCHEDULE

[Sections 53D and 53E]

ELECTION BY A MEMBER OF THE FUND TO TRANSFER HIS  
CONTRIBUTIONS

Transfer of contributions of a member of the Fund into the account of another member of the Fund who is or are his lawful wife or wives

- (1) Subject to the criteria specified in columns (1) and (2) of the following table, a member of the Fund may elect to transfer his contributions at the rate specified in column (3) into the account of another member of the Fund who is or are his lawful wife or wives and their marriage has been registered under the laws of Malaysia.
- (2) The transfer of contributions may be ceased by the member of the Fund who elects to transfer his contributions upon the occurrence of any of the following circumstances:
  - (a) dissolution of marriage between the member of the Fund who elects to transfer his contributions and the member of the Fund who receives the contributions transferred;

- (b) death of the member of the Fund who receives the contributions transferred.

(1) Criteria of a member of the Fund who elects to transfer his contributions	(2) Criteria of a member of the Fund who receives the contributions transferred	(3) Rate of contributions to be transferred
<p>The member of the Fund—</p> <p>(a) is a Malaysian citizen or is not a Malaysian citizen; and</p> <p>(b) receives employer's contributions on a monthly basis</p>	<p>The member of the Fund is a Malaysian citizen</p>	<p>2% ——— x the employee's contributions of the member of the Fund who elects to transfer such contributions</p> <p>11%</p> <p>The total contributions which includes cents shall be rounded to the next ringgit”.</p>

#### EXPLANATORY STATEMENT

This Bill seeks to amend the Employees Provident Fund Act 1991 (“Act 452”).

2. *Clause 1* contains the short title of the proposed Act and the power of the Minister to appoint the commencement date of the proposed Act.
3. *Clause 2* seeks to amend section 4 of Act 452 regarding the membership of the Board.

*Subclause 2(a)* seeks to amend paragraph 4(1)(d) of Act 452 to increase the total number of members of the Board to be appointed under that paragraph from not more than eighteen to not more than twenty.

*Subclause 2(e)* seeks to amend subparagraph 4(1)(d)(iv) of Act 452 to increase the number of members of the Board to be appointed under that subparagraph from not more than three to not more than five. The amendment



further provides that the members under that subparagraph shall be appointed from amongst persons who have knowledge or experience in finance, business, economy, social security or other relevant knowledge or experience.

4. *Clause 3* seeks to amend section 6 of Act 452 to introduce a new subsection 6(2) into Act 452. The new subsection 6(2) provides that a member of the Board, other than the chief executive officer, shall be eligible for reappointment but no member shall hold office for a total term of more than twelve years.

5. *Clause 4* seeks to amend subsection 9(1) of Act 452 to increase the number of members of the Board from six to eight, excluding the Chairman or Deputy Chairman, to form a quorum at all meetings of the Board.

6. *Clause 5* seeks to amend section 18 of Act 452.

*Subclause 5(a)* seeks to delete paragraph 18(1)(c) of Act 452 to remove the membership of the Governor of Bank Negara Malaysia or his representative from the Investment Panel for the purpose of avoiding any conflict of interest in discharging his duties.

*Subclause 5(b)* seeks to amend paragraph 18(1)(e) of Act 452 to increase the number of members of the Investment Panel to be appointed under that paragraph from three to four. The amendment further provides that the members under that paragraph shall be appointed from amongst persons who have knowledge or experience in finance, business, economy or other relevant knowledge or experience.

7. *Clause 6* seeks to amend section 39 of Act 452.

*Subclause 6(a)* seeks to amend paragraph 39(1)(a) of Act 452 to provide for measures to prevent a person from leaving Malaysia if the chief executive officer has reason to believe that such person is about or is likely to leave Malaysia without paying any outstanding and due contributions under Act 452.

*Subclause 6(b)* seeks to introduce new subsections 39(3) and (4) into Act 452. The proposed subsection (3) seeks to make it an offence for any person who leaves Malaysia without paying the outstanding and due contributions or furnishing security for its payment. The proposed subsection (4) provides that for the purposes of section 39 of Act 452, “contributions” includes any dividend or late payment charges due on any contributions.

8. *Clause 7* seeks to amend paragraphs 43(8)(c) and (d) of Act 452 to allow a person, whether or not he is an employer or employee within the meaning of Act 452, to elect to pay monthly contributions. An example of this category would be a housewife.

9. *Clause 8* seeks to introduce a new Part VB into Act 452. The new Part contains four new provisions namely sections 53C, 53D, 53E and 53F.

The proposed section 53c provides that the contributions of a member of the Fund affected by the transfer into the account of another member of the Fund under Part VB shall be the employee’s contributions of the first mentioned member of the Fund.

The proposed section 53D provides that a member of the Fund who fulfills the conditions and criteria as specified in the Eighth Schedule may elect to transfer his contributions at the rate specified in the Eighth Schedule into the account of another member of the Fund who is or are his lawful wife or wives.

The proposed section 53E further provides that upon the occurrence of any circumstances specified in the Eighth Schedule, a member of the Fund who has elected to transfer his contributions under section 53D may apply to the Board to cease the transfer.

Currently, under the Eighth Schedule, transfer of contributions is allowed for the purpose of transferring contributions of a member of the Fund into the account of his lawful wife or wives, who is or are also a member or members of the Fund. If the marriage between him and his wife has been dissolved or his wife has died, the member of the Fund may apply to cease the transfer.

The proposed section 53F seeks to empower the Board to re-transfer any contributions transferred, including any dividend, into the account of the member of the Fund who has elected to transfer the contributions if the contributions have been erroneously transferred.

10. *Clause 9* seeks to amend subsection 55A(2) of Act 452 to enable a member of the Fund who has attained the age of fifty-five years to withdraw all sums of money standing to his credit under section 54 of Act 452 if he is physically or mentally incapacitated from engaging in an employment or he is not a Malaysian citizen and is about to leave Malaysia.

11. *Clause 10* seeks to amend section 55B of Act 452 to introduce a new subsection 55B(3) into Act 452. The proposed subsection (3) provides that section 55B of Act 452 shall not apply to a member of the Fund who has attained the age of fifty-five years who falls within the category of the member of the Fund under paragraph 54(1)(c) or (e) or paragraph 70c(1)(b) or (c).

12. *Clause 11* seeks to introduce a new Eighth Schedule to deal with matters relating to transfer of contributions under Part VB.

13. Other amendments not specifically dealt with in this Explanatory Statement are minor or consequential in nature.

#### *FINANCIAL IMPLICATIONS*

This Bill will not involve the Government in any extra financial expenditure.

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