

GIG WORKERS BILL 2025

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A BILL

i n t i t u l e d

An Act to protect the rights of a gig worker, to provide for the duties of a contracting entity, to regulate terms and conditions of the service agreement entered into between the contracting entity and the gig worker, to provide for dispute resolution mechanism, to provide for the establishment of the Consultative Council, to provide for the establishment of the Gig Workers Tribunal and to provide for related matters.

[]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Gig Workers Act 2025.

(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.

Interpretation

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

“this Act” includes any subsidiary legislation made under this Act;

“award” means an award made by the Tribunal in respect of any dispute or matter referred to it or any decision or order made by the Tribunal under this Act;

“prescribed” means prescribed by the Minister by regulations made under this Act;

“contracting entity” means—

(a) an individual;

(b) any person including a body of persons incorporated or registered under any written law; or

(c) any platform provider,

who engages and enters into a service agreement with a gig worker for the performance of service by the gig worker in exchange for payment of earnings;

“Council” means the Consultative Council established under section 46;

“internal grievance mechanism” means a dispute resolution mechanism provided by a contracting entity in a service agreement for the purpose of addressing and resolving any grievance, dispute or matter that concerns a gig worker;

“Minister” means the Minister charged with the responsibility for human resources;

“gig worker” means an individual who—

(a) is a citizen or a permanent resident of Malaysia;

(b) enters into a service agreement with a contracting entity for the performance of—

(i) any service with any contracting entity who is a platform provider; or

(ii) any service as specified in the Schedule with any contracting entity who is not a platform provider; and

(c) receives earnings for the service;

“earnings” means any payment payable to a gig worker under a service agreement but does not include tip and gratuities, and other benefits received by the gig worker;

“platform provider” means any digital intermediary system provider who connects the service by a gig worker to a service user;

“service agreement” means any agreement, whether orally or in writing and whether express or implied, between a contracting entity and a gig worker who provides a service in Malaysia in exchange for earnings, but does not include a “contract of service” as defined under the Employment Act 1955 [*Act 265*], the Labour Ordinance of Sabah [*Sabah Cap. 67*], the Labour Ordinance of Sarawak [*Sarawak Cap. 76*] and the Occupational Safety and Health Act 1994 [*Act 514*] or a “contract of employment” as defined under the Industrial Relations Act 1967 [*Act 177*];

“gig workers’ association” means any association registered under the Societies Act 1966 [*Act 335*] which shall consist of the gig workers for the purpose of representing the interests and welfare of the gig workers;

“dispute” means any dispute between a gig worker and a contracting entity in relation to the terms and conditions of the service agreement, any rights of the gig worker or any other matters relating to it under this Act;

“tip and gratuities” means—

(a) a payment voluntarily made to a gig worker in addition to the earnings; or

- (b) a payment voluntarily made through a contracting entity with the intention that the payment would be made to the gig worker in addition to his earnings;

“Tribunal” means the Gig Workers Tribunal established under Part V of this Act.

PART II

SERVICE AGREEMENT

Service agreement

3. Every service agreement entered into between a contracting entity and a gig worker shall specify the terms and conditions as follows:

- (a) parties to the agreement;
- (b) period of the agreement;
- (c) services to be provided by the gig worker;
- (d) obligations of the parties;
- (e) rate and details of earnings of the gig worker;
- (f) method of payment of earnings; and
- (g) any gig worker’s benefits or tip and gratuities, if any.

Saving of existing service agreement

4. Every service agreement lawfully entered into between a contracting entity and a gig worker before the coming into force of this Act, shall if it is still legally binding upon the parties, continue in force for such period as may be specified in the agreement and the parties shall be subject and entitled to the benefits under this Act.

Prevailing terms and conditions

5. (1) If any terms and conditions of a service agreement, whether such agreement was entered into before or after the coming into force of this Act, is less favourable to a gig worker against the terms and conditions provided for under this Act, the terms and conditions of the service agreement shall be void.

(2) The less favourable terms and conditions referred to in subsection (1) shall be substituted with the terms and conditions as provided under this Act.

Validity of terms and conditions

6. Notwithstanding section 5, a contracting entity and a gig worker may agree to any terms and conditions which is more favourable to the gig worker.

Matters not provided under this Act

7. If there is no provision made in respect of any matter under this Act, the matter shall not be prevented from being provided in a service agreement or from being negotiated upon between a contracting entity and a gig worker.

PART III

GIG WORKER

Rights of gig worker

8. (1) A gig worker—

- (a) shall be informed of the agreed terms and conditions of the service agreement;
- (b) shall be informed of the agreed service to be performed;
- (c) shall be informed of the agreed rate and details of earnings before the gig worker agrees to perform the service;

- (d) shall be informed of the method of payment of earnings, tip and gratuities, and other benefits;
- (e) shall receive earnings for the service rendered within the period as agreed by the contracting entity and the gig worker;
- (f) shall be consulted and informed if there is any variation of terms and conditions of the service agreement;
- (g) shall not be terminated of his service without just cause or excuse; and
- (h) shall be provided with any dispute resolution mechanism.

(2) In addition to the rights referred to in subsection (1), a gig worker who enters into a service agreement with a platform provider—

- (a) shall be informed of the automated monitoring systems through electronic means used by the platform provider to monitor, supervise or evaluate the gig worker, including the consequences arising from it;
- (b) shall be informed of the automated decision-making systems through electronic means used by the platform provider to make decision relating to assignment of the service and gig worker's working conditions; and
- (c) shall be provided with the non-automated review mechanism to the systems referred to in paragraphs (a) and (b) used by the platform provider.

(3) Any terms and conditions in the service agreement which purports to contract out or waive a gig worker's rights shall be null and void.

Prohibition on contracting entity in respect of certain acts

9. A contracting entity shall not—

- (a) impose any condition in a service agreement seeking to restraint the rights of a gig worker to enter into any agreement with other parties;

- (b) discriminate against any gig worker in relation to conditions of work, assignment of service or payment of earnings; or
- (c) terminate the service agreement without just cause or excuse.

Rights of gig worker to join, participate in or establish gig workers' association

10. Any terms and conditions of a service agreement shall be void if the terms and conditions, in any way, restrict or exclude the rights of a gig worker—

- (a) to associate with any other person for the establishment of a gig workers' association;
- (b) to join any gig workers' association; or
- (c) to participate in any activity organized by any gig workers' association, whether the gig worker holds office in the association or otherwise.

Rights to earnings

11. (1) Where a service agreement does not provide any terms and conditions in relation to the payment of earnings to a gig worker, a contracting entity shall pay the earnings within the period of seven days from the date of completion of the service.

(2) Any contracting entity who contravenes subsection (1) commits an offence.

Deduction of earnings, tip and gratuities

12. (1) A contracting entity shall not make any deduction from a gig worker's earnings or tip and gratuities unless the deduction—

- (a) is made to the extent of any overpayment of earnings made during the immediately preceding three months from the month in which the deduction is to be made, by reason of mistake made by the contracting entity;

(b) is authorized under this Act or any other written law; or

(c) is permitted by the Director General in the form and manner as he may determine.

(2) Any contracting entity who contravenes subsection (1) commits an offence.

Right to be issued earnings slip

13. (1) A gig worker may request an earnings slip from a contracting entity other than an individual.

(2) Upon receiving request by the gig worker under subsection (1), the contracting entity other than an individual shall issue the earnings slip in the form and manner as may be determined by the Director General.

(3) Any contracting entity other than an individual who contravenes subsection (2) commits an offence.

Deactivation under service agreement, etc.

14. (1) A platform provider shall have the right to deactivate the access of a gig worker to his digital intermediary system if—

(a) the deactivation is in accordance with the terms and conditions under the service agreement; or

(b) there is misconduct committed by the gig worker in the course of performing his service.

(2) A gig worker is deactivated from the digital intermediary system if the platform provider modifies, suspends or terminates the gig worker's access to his digital intermediary system in a way that prevents the gig worker from performing his service under the service agreement.

(3) The platform provider may modify or suspend the access of the gig worker to his digital intermediary system for a period not exceeding fourteen days for the purpose of holding an inquiry for the matters referred to in subsection (1).

(4) The platform provider shall notify the gig worker in respect of such modification or suspension referred to in subsection (3) by giving a notice in writing to the gig worker.

(5) Where the platform provider finds that there is no reason to deactivate the access of the gig worker to his digital intermediary system under paragraph 1(a) or (b), the platform provider shall—

- (a) reactivate the access of the gig worker to his digital intermediary system; and
- (b) pay to the gig worker half of the amount of the average daily earnings for such modification or suspension periods and the payment shall be calculated based on the earnings on the actual service day within thirty days period preceding the modification or suspension period.

(6) Where the platform provider finds that the deactivation is in accordance with the terms and conditions under the service agreement or any misconduct has been committed by the gig worker, the platform provider may—

- (a) terminate the access of the gig worker to his digital intermediary system and the service agreement; or
- (b) continue with the modification or suspension of the access of the gig worker to his digital intermediary system for a further period not exceeding seven days without terminating the service agreement.

(7) The platform provider shall give the right to be heard to the gig worker before taking any action under paragraph 6(a) or (b).

(8) Upon the expiration of the period referred to in paragraph (6)(b), the platform provider shall reactivate the access of the gig worker to his digital intermediary system.

(9) The platform provider shall give a written explanation to the gig worker for any decision made under subsection (6).

(10) Any platform provider who contravenes subsection (4), (5), (7), (8) or (9) commits an offence.

Priority of earnings over other debts

15. (1) Where by order of a court made upon the application of the secured creditor or the person liable under any of the provisions of this Act to pay the earnings due to any gig worker, or any money due to the person liable is attached or garnished, the court or the receiver or the manager shall not authorize payment of the proceeds of the sale, or of the money so attached or garnished, to the secured creditor or the debenture holder until the court or the receiver or the manager have ascertained and caused to be paid, out of such proceeds or money, the earnings of such gig worker, which the person liable was liable to pay at the date of such sale, attachment or garnishment:

Provided that the total amount of the earnings of any gig worker to which priority over the claim of a secured creditor given under this section shall not exceed the amount due by the contracting entity to the gig worker as earnings for any four consecutive months' service.

(2) For the purposes of this section—

“secured creditor” includes any person holding a mortgage, charge, lien or decree;

“person liable” includes any person who exercises his rights under a debenture of any property.

Duties of contracting entity under this Part

16. A contracting entity shall have the duty to fulfil the rights of a gig worker as provided under this Part.

PART IV

DISPUTE RESOLUTION

Internal grievance mechanism

17. (1) Subject to paragraph 8(1)(h), a gig worker may lodge a complaint of a dispute in writing to a contracting entity other than an individual or a sole proprietor.

(2) Upon receiving the complaint from the gig worker, the contracting entity other than an individual or a sole proprietor shall initiate and resolve the dispute by way of an internal grievance mechanism provided under the service agreement within thirty days from the date of the complaint is lodged.

(3) This section shall not apply to any dispute in relation to deactivation under section 14.

Conciliator

18. (1) The Director General for Industrial Relations, the Deputy Director General for Industrial Relations and any officer appointed under subsection 2A(2) of the Industrial Relations Act 1967 shall be the Conciliator for the purposes of this Part.

(2) The Conciliator shall have the general direction, control, powers and supervision of all matters relating to this Part.

(3) A gig worker may lodge a complaint of dispute for a conciliation in the case of—

- (a) a complaint of dispute is lodged against a contracting entity who is an individual or a sole proprietor;
- (b) the gig worker is dissatisfied with the decision of platform provider under subsection 14(9);
- (c) an internal grievance mechanism is not provided by the contracting entity under section 17;

- (d) the gig worker is dissatisfied with the decision of the contracting entity through internal grievance mechanism; or
- (e) the dispute failed to be resolved through internal grievance mechanism after thirty days period under section 17 has lapsed.

Conciliation proceedings

19. (1) The complaint of dispute under subsection 18(3) shall be filed to the Conciliator in the manner as prescribed.

(2) Upon receiving the complaint of dispute, the Conciliator shall take any step necessary or expedient to initiate conciliation proceedings for promoting an expeditious settlement.

(3) Notwithstanding subsection (2), where a dispute occurs or is expected to occur, which in the opinion of the Conciliator is not likely to be settled between the parties, the Conciliator may, if he deems it necessary in the public interest, take any step necessary or expedient to initiate conciliation proceedings for promoting an expeditious settlement whether or not the dispute has been reported to him.

(4) Where a settlement is reached between the parties, the Conciliator shall record the terms of the settlement between the parties.

(5) Where the Conciliator is satisfied that there is no likelihood of the dispute being settled, the Conciliator shall refer the matter to the Tribunal.

(6) The steps to be taken by the Conciliator under this Part shall be done in the manner as prescribed.

Conciliation by Minister

20. (1) Notwithstanding any provision under this Part, the Minister may conciliate any dispute.

(2) Where a settlement is reached between the parties, the Minister shall direct the Conciliator to record the terms of the settlement between the parties.

(3) Where the Minister is satisfied that there is no likelihood of the dispute being settled, the Minister shall refer the dispute to the Tribunal.

Non-compliance of terms of settlement

21. (1) Where any of the terms of the settlement under subsection 19(4) or 20(2) is not complied with, any party may lodge a complaint to the Conciliator.

(2) If the Conciliator finds that any of the terms of settlement recorded under subsection 19(4) or 20(2) is not been complied with by any of the parties, the Conciliator shall refer the matter to the Tribunal.

Public servant

22. Any Conciliator while discharging his duties or performing his functions or exercising his powers under this Part shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

Application of Public Authorities Protection Act 1948

23. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Conciliator in respect of any act, neglect or default done or committed by him in good faith or any omission by him in good faith, in such capacity.

PART V

GIG WORKERS TRIBUNAL

Establishment of Tribunal

24. There shall be established a tribunal to be known as the “Gig Workers Tribunal”.

Members, terms of office and allowances

25. (1) The Tribunal shall consist of the following members who shall be appointed by the Minister:

(a) a President and a Deputy President to be appointed from amongst the officers of the Judicial and Legal Service;

(b) not less than five other members which shall comprise of—

(i) persons who are officers of or who have held office in the Judicial and Legal Service; or

(ii) persons who are admitted as advocates and solicitors under the Legal Profession Act 1976 [*Act 166*], the Advocates Ordinance of Sabah [*Sabah Cap. 2*] or the Advocates Ordinance of Sarawak [*Sarawak Cap. 110*], and who have not less than seven years' standing; or

(iii) notwithstanding subparagraph (ii), a qualified person as defined in the Legal Profession Act 1976, with at least fifteen years of experience in labour and industrial relations in the ministry charged with the responsibility for human resources may be considered for appointment as a member under this paragraph.

(2) The members of the Tribunal referred to in subsection (1)—

(a) shall hold office for a term not exceeding three years; and

(b) shall be eligible for re-appointment upon expiration of the term of office but shall not be appointed for more than three consecutive terms.

(3) The members of the Tribunal appointed under paragraphs (1)(a) and (b) shall be paid any allowances as may be determined by the Minister.

Temporary exercise of functions of President

26. Where, the President is for any reason unable to perform his functions or during any period of vacancy in the office of the President, the Deputy President shall perform the functions of the President.

Vacation of office

27. The office of a member of the Tribunal shall become vacant upon—

- (a) the death of the member;
- (b) the member resigning from the office by giving three months' written notice to the Minister; or
- (c) expiration of his term of office.

Revocation of appointment

28. The Minister may revoke the appointment of a member of the Tribunal appointed under subsection 25(1)—

- (a) if his conduct, whether in connection with his duties as a member of the Tribunal or otherwise, has been such as to bring discredit to the Tribunal;
- (b) if he becomes incapable of properly carrying out his duties as a member of the Tribunal;
- (c) if he has been convicted on a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under any law relating to corruption;
 - (iii) an offence under this Act; or
 - (iv) any other offence punishable with imprisonment for more than two years;

- (d) if he is adjudged bankrupt by a court of competent jurisdiction;
- (e) if he has been found or declared to be of unsound mind or has otherwise become incapable of managing his affairs; or
- (f) if he absents himself from three consecutive sittings of the Tribunal without leave of the President.

Resignation and filling of vacancy

29. (1) The President, the Deputy President or the members of the Tribunal appointed under subsection 25(1) may at any time resign his office by giving three months' written notice to the Minister.

(2) Where the President, the Deputy President or a member appointed under subsection 25(1) ceases to be a member of the Tribunal, the Minister may appoint another person to fill the vacancy for the remainder of the term for which the vacating member was appointed.

Registrar, officers and staff

30. (1) The Minister shall appoint a Registrar, a Deputy Registrar, and such number of officers and staff as may be necessary for carrying out the functions of the Tribunal.

(2) The duties of the Registrar, Deputy Registrar, and other officers and staff of the Tribunal shall, subject to this Act, be as the President directs.

(3) The Registrar, a Deputy Registrar and such number of officers appointed under subsection (1) shall be from the Industrial Relations Officers Scheme of Service.

Public servant

31. Any member or officer of the Tribunal while discharging his duties or performing his functions or exercising his powers under this Part shall be deemed to be a public servant within the meaning of the Penal Code.

Application of Public Authorities Protection Act 1948

32. The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceedings against any member or officer of the Tribunal in respect of any act, neglect or default done or committed by him in good faith or any omission by him in good faith, in such capacity.

Jurisdiction and power of Tribunal

33. (1) The Tribunal shall have jurisdiction to hear and determine any dispute or matter referred to it by the Conciliator or the Minister under Part IV of this Act and may grant any award as it deems just and appropriate.

(2) The Tribunal shall not have any jurisdiction for the provisions of offence under this Act and all matters under Part VIII of this Act.

(3) Any complaint referred to the Tribunal may include loss or damages of a consequential in nature.

(4) The Tribunal shall have the power, in any proceedings before it—

- (a) to order that any party be joined, substituted or struck off; and
- (b) to direct and do all such things as necessary or expedient for the expeditious determination of the matter before it.

Sittings of Tribunal

34. (1) The jurisdiction of the Tribunal shall be exercised by any of the following persons sitting alone:

- (a) the President of the Tribunal;
- (b) the Deputy President of the Tribunal; or
- (c) any member of the Tribunal selected by the President.

(2) The Tribunal may sit in two or more sittings on such day and at such time and place as may be determined by the President.

(3) If the member presiding over any proceedings in respect of a complaint dies or becomes incapacitated, or is for any other reason unable to complete or dispose of the proceedings, the proceedings shall be heard afresh by another member of the Tribunal, unless the parties agree that the proceedings be continued by another member of the Tribunal.

Notice of complaint of dispute

35. Upon a dispute being referred by the Conciliator or the Minister under Part IV of this Act to the Tribunal, the Registrar shall give a written notice in the prescribed form to the parties in the dispute containing the details of the day, time and place of the hearing.

Right to appear at hearing

36. (1) At the hearing, every party to the proceedings shall be entitled to appear and be heard.

(2) For the purposes of any hearing of a complaint under this Part—

(a) a contracting entity may be represented by his duly authorized employee; or

(b) a gig worker may be represented by any official or authorized member of the gig workers' association or by any of his family members.

(3) Save as provided in subsection (2), no party shall be represented by an advocate and solicitor.

Hearings to be public

37. All hearings before the Tribunal shall be open to the public.

Procedures of Tribunal

38. The proceedings of the Tribunal shall be conducted in accordance with the procedures as may be prescribed.

Tribunal may act in absence of party

39. The Tribunal may hear and determine the complaint before it notwithstanding the absence of any party to the proceedings if it is proved to the satisfaction of the Tribunal that a notice of the hearing has been duly served on the absent party.

Evidence

40. (1) The Tribunal may —

- (a) procure and receive all such evidence on oath or affirmation, whether written or oral, and examine all such persons as witnesses, as the Tribunal thinks necessary;
- (b) require the production before it of any information, book, paper, document, record or thing;
- (c) administer such oath, affirmation or statutory declaration as the case may require;
- (d) seek and receive any other evidence and make any other inquiries as it thinks fit;
- (e) summon the parties to the proceedings or any other person to attend before it to give evidence or to produce any document, record or other thing in his possession or otherwise to assist the Tribunal in its deliberations;
- (f) receive expert evidence;
- (g) direct that any information, book, paper, document or thing tendered in evidence shall not be disclosed or published in any newspaper or otherwise;

- (h) direct that any evidence shall be taken in private and no person shall be present during the taking of that evidence unless permitted by the Tribunal; and
- (i) direct and do all such things as may be necessary or expedient for the expeditious determination of the complaint.

(2) A summons issued under paragraph (1)(e) shall be served and enforced as if it were a summons issued by a subordinate court.

(3) Any person who contravenes paragraph (1)(g) commits an offence.

Exclusion of evidence

41. (1) Where a dispute relates to matters as to which conciliation proceedings have taken place, no evidence shall be produced in the proceedings before the Tribunal other than a written statement in respect of that matter as agreed to and signed by the parties to the dispute.

(2) No evidence shall be given in the proceedings before the Tribunal on any offer relating to any matter connected with the dispute made without prejudice by any person except with the consent of that person.

(3) The exclusions specified in subsections (1) and (2) shall be applicable in any proceedings before any court.

Award of Tribunal

42. (1) The Tribunal shall make an order in the form of an award without delay and, where practicable, within thirty days from the last date of the hearing before the Tribunal.

(2) Every award after the hearing shall be pronounced before the parties either on the conclusion of the hearing or on any subsequent day of which notice shall be given to the parties.

(3) The Tribunal shall state in writing reasons for the award or dismissal of the complaint together with any finding of facts that the Tribunal has noted or recommendations that the Tribunal has made in those proceedings and shall be handed to the parties in the manner together with a fee as may be prescribed—

(a) upon request of any party to the proceedings; or

(b) if any party to the proceedings appeal against the award of the Tribunal under section 44.

(4) An award of the Tribunal under subsection (1) may specify one or more of the following:

(a) that a party to the proceedings compensate to any other party;

(b) that a party complies with any terms and conditions in the service agreement;

(c) that a party complies with any provision of this Act;

(d) that a party is entitled to perform his service or to access the digital intermediary system;

(e) that a party is given permission to deactivate the access of the other party from the digital intermediary system;

(f) that a party is paid the full amount of earnings, tip and gratuities, or other benefits due and payable for his service;

(g) that a party is refunded for wrongful deduction of earnings;

(h) that a party is refunded for any overpayment;

(i) that a party is compensated for any loss or damage suffered;

(j) that a party is entitled to deduct the earnings of other party;

(k) that the service agreement be varied or set aside, wholly or partly;

- (*l*) that costs to or against any party be paid;
- (*m*) that interest be paid on any sum or monetary award at a rate not exceeding eight per centum per annum, unless it has been otherwise agreed between the parties;
- (*n*) that the complaint is dismissed; or
- (*o*) to direct and do all such things as are necessary or expedient.

(5) The Tribunal may rectify in any award any clerical error or mistake arising from any accidental slip or omission.

Award of Tribunal to be binding

43. (1) Every award made by the Tribunal under section 42—

- (*a*) shall be binding on all parties to the proceedings; and
- (*b*) shall be deemed to be an order of a sessions court notwithstanding any written law to the contrary, and may be enforced accordingly by any party to the proceedings.

(2) For the purpose of paragraph (1)(*b*), the Registrar shall send a copy of the award made by the Tribunal to the sessions court having jurisdiction in the place to which the award relates to or in the place where the award was made and the court shall cause the copy to be recorded.

Appeal to High Court

44. (1) Any person aggrieved by the decision of the Tribunal may appeal to the High Court.

(2) The appeal referred to in subsection (1) shall be brought within fourteen days from the date of the award is pronounced by the Tribunal.

Criminal penalty for failure to comply

45. (1) Any person who fails to comply with an award made by the Tribunal within the period specified commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(2) In the case of a continuing offence, the offender shall, in addition to the penalties under subsection (1), be liable to a fine not exceeding five hundred ringgit for each day or part of a day during which the offence continues after conviction.

PART VI**CONSULTATIVE COUNCIL****Establishment of Consultative Council**

46. There shall be established a council to be known as the “Consultative Council”.

Functions and powers of Council

47. (1) The functions of the Council shall be to advise and make recommendation to the Government at such time as the Minister may determine on the following matters:

- (a) the minimum earnings rates including the coverage in accordance to sectors, regional areas, types of gig worker or the services and other categories or matters relating to the minimum earnings rate and earnings;
- (b) the formula to be applied in relation to minimum earnings rate and earnings in accordance to sectors, regional areas, types of gig worker or the services and other categories or matters relating to the minimum earnings rate and earnings;
- (c) the minimum standard to be applied in accordance to sectors, regional areas, types of gig worker or services and other categories or matters relating to the provisions of this Act;

- (d) the non-application of the recommendation in paragraph (a), (b) or (c) to any sector, regional area, type of gig worker or service and other categories or matters;
- (e) the commencement date of any order made by the Minister under this Part;
- (f) the revision of any order made under this Part; or
- (g) any other matter in relation to matters under paragraphs (1)(a) to (f).

(2) The Council shall have the power to do all things necessary or expedient or incidental to the performance of its function including—

- (a) to consult the relevant stakeholders on all matters relating to paragraphs (1)(a) to (g);
- (b) to collect and analyse data and information, and to conduct research on matters related thereto, including at international level;
- (c) to co-ordinate and supervise, and to evaluate the impact of, the implementation of any order issued under this Part;
- (d) to deliberate on all matters relating to paragraphs (1)(a) to (g);
- (e) to disseminate information and analysis on all matters relating to this Act; and
- (f) to carry out any other function as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

(3) If the Minister determine that the Council shall advise and make recommendation to the Government on matters under paragraphs (1)(a) to (g), the Council shall meet as the Chairman may determine.

Recommendation by Council

48. Before any recommendation is made under paragraphs 47(1)(a) to (g), the Council shall exercise its powers under paragraphs 47(2)(a) to (f).

Decision on recommendation

49. (1) The Government may, after considering the recommendation by the Council—

- (a) agree with the recommendation;
- (b) disagree with the recommendation and determine the matters specified in paragraphs 47(1)(a) to (g); or
- (c) direct the Council to review the recommendation and make a fresh recommendation within the period as may be determined by the Government.

(2) Where the Government directs the Council to review the recommendation and make a fresh recommendation under paragraph (1)(c), then paragraphs 47(2)(a) and (b) and subsection 47(1) shall apply.

(3) The Government may, after considering the fresh recommendation made pursuant to subsection (2)—

- (a) agree with the fresh recommendation; or
- (b) disagree with the fresh recommendation and determine the matters specified in paragraphs 47(1)(a) to (g).

Order of Minister

50. (1) Where the Government agrees with the recommendation of the Council, the Minister shall make order published in the *Gazette* on the matters specified in paragraphs 47(1)(a) to (g) as agreed to or determined by the Government.

(2) The order shall specify the person governed by the order and the effects of the order.

(3) The Minister may, upon the direction of the Government amend or revoke the order.

(4) Any person who contravenes the order issued under subsection (1) commits an offence.

Membership of the Council

51. (1) The Council shall consist of the following members who shall be appointed by the Minister by notification in the *Gazette*:

(a) a Chairman;

(b) a Deputy Chairman;

(c) a Secretary from amongst the officers of the Industrial Relations Officers Scheme of Service;

(d) members from amongst the public officers;

(e) members representing the contracting entities;

(f) members representing the gig workers; and

(g) other members.

(2) The numbers to be appointed for paragraphs (1)(d) to (g) shall be determined by the Minister.

(3) The Chairman, the Deputy Chairman and the members of the Council referred to in paragraph (1)(g) shall be appointed from amongst persons, who in the opinion of the Minister, have knowledge, experience and expertise in matters relating to the gig industry.

(4) The members of the Council referred to in paragraph (1)(d) shall be appointed by office.

(5) The number of members of the Council appointed under paragraph (1)(e) shall be the same number of members of the Council appointed under paragraph (1)(f) at any one time.

(6) The Council shall consist of members not exceeding twenty-nine persons at any time.

Temporary exercise of functions of Chairman

52. (1) The Deputy Chairman shall act as the Chairman for the period when—

- (a) the office of the Chairman is vacant;
- (b) the Chairman is absent from duty or from Malaysia; or
- (c) the Chairman is, for any other reason, unable to carry out his functions.

(2) The Deputy Chairman shall, during the period in which he is carrying out the functions of the Chairman under this section, be deemed to be the Chairman.

Secretary

53. (1) The Secretary shall be responsible—

- (a) to manage the affairs of the Council;
- (b) to implement the decisions of the Council; and
- (c) to carry out any other duties as directed by the Council.

(2) The Secretary shall, in carrying out his responsibilities, act under the power and direction of the Council.

Tenure of office

54. (1) The members of the Council shall hold office for a term not exceeding three years and may be reappointed.

(2) Notwithstanding subsection (1), the members of the Council appointed under paragraphs 51(1)(c) and (d) shall hold office until the appointment is revoked under subsection 56(1).

Allowances

55. The members of the Council shall be paid such allowances as may be determined by the Minister.

Revocation of appointment and resignation

56. (1) The Minister may, at any time, revoke the appointment of a member of the Council.

(2) A member of the Council may resign from office by giving thirty days' written notice to the Minister.

Vacation of office

57. (1) The office of a member of the Council shall be vacated if—

(a) he dies;

(b) there has been proved against him, or he has been convicted of, a charge in respect of—

(i) an offence involving fraud, dishonesty or moral turpitude;

(ii) an offence under any law relating to corruption;
or

(iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;

(c) he is adjudged bankrupt by a court of competent jurisdiction;

- (d) he has been found or declared to be of unsound mind or has otherwise become incapable of discharging his duties;
- (e) he absents himself from two consecutive meetings of the Council without leave of the Chairman, or in the case of the Chairman, without leave of the Minister;
- (f) his resignation is accepted by the Minister; or
- (g) his appointment is revoked by the Minister.

(2) If the office of a member of the Council is vacated, the Minister may, if necessary, appoint another person to hold the office for the remaining period vacated by that member or for an interim period until a new member is appointed to that office, as the Minister thinks fit.

Meetings

58. (1) The Council shall meet at least four times in a year as may be determined by the Chairman.

(2) A notice in writing shall be given to the members of the Council at least three days before the meeting is held.

(3) The Chairman shall preside at all meetings of the Council and—

- (a) in the absence of the Chairman at any meeting of the Council for any reason, the Deputy Chairman shall preside at the meeting; or
- (b) in the absence of the Chairman and the Deputy Chairman at any meeting of the Council for any reason, any other member of the Council appointed by the Chairman shall preside at the meeting.

(4) The quorum of the meeting of the Council shall be two-thirds of the members of the Council, including the Chairman.

(5) Every member of the Council presents at the meeting of the Council shall be entitled to one vote.

(6) If there is an equality of votes, the Chairman, the Deputy Chairman or any other members of the Council presiding at the meeting of the Council under subsection (1) shall have the casting vote.

Minutes

59. (1) The Council shall cause the minutes of all its meetings to be maintained and kept in a proper form.

(2) Any minutes made of a meeting of the Council shall, if duly signed by the Chairman, be admissible in evidence in all legal proceedings without further proof.

(3) Every meeting of the Council in respect of which minutes of the proceedings have been made in accordance with subsection (2) shall be deemed to have been duly convened and held and all members at the meeting to have been duly qualified to act.

Council may invite others to attend meetings

60. (1) The Council may invite any person not being a member of the Council to attend its meetings to advise on any matter under discussion, but that person is not entitled to vote at the meeting.

(2) Any person invited under subsection (1) may be paid such allowances as may be determined by the Council.

Procedures

61. Subject to this Act, the Council may determine its own procedures.

Council may establish committees

62. (1) The Council may establish any committee as it considers necessary or expedient to assist it in the performance of its functions.

(2) The Council shall appoint any of its members to be the head of a committee.

(3) The Council may appoint any of its members or any qualified person to be members of a committee.

(4) The members of a committee may be paid such allowances as may be determined by the Council.

(5) The Council may at any time revoke the appointment of any member of a committee, make changes in the composition of the members of a committee or dissolve a committee.

(6) Subject to any direction of the Council, the committee may determine its own procedure.

(7) The head of each committee shall cause minutes of all its meetings to be maintained and kept in proper form and copies of the minutes shall be submitted by the committee to the Council as soon as practicable.

(8) A committee may invite any person not being a member of the committee to attend its meetings to advise on any matter under discussion, but that person is not entitled to vote at the meeting.

(9) Any person invited under subsection (8) may be paid such allowances as may be determined by the Council.

Secretariat

63. (1) There shall be a secretariat to the Council with such number of public officers to assist the Council and the Secretary.

(2) The secretariat shall be subject to the direction, control and supervision of the Secretary.

Obligation of secrecy

64. (1) Except for any of the purposes of this Part or for the purposes of any civil or criminal proceedings under any written law, or as approved by the Minister—

- (a) no member of the Council or committee, or officer of the Council, while he serves as the Chairman, member or officer, shall disclose any information which has been obtained by him in the course of his duties; and
- (b) no other person who, by any means, has access to any information or document relating to the affairs of the Council shall disclose such information or document.

(2) Any person who contravenes subsection (1) commits an offence.

Funds

65. The Government shall provide sufficient funds for the Council annually to enable the Council to perform its functions and exercise its powers under this Act.

Validity of acts and proceedings

66. No act done or proceedings taken under this Part shall be questioned on the ground of—

- (a) a vacancy in the membership of, or any defect in the establishment of the Council; or
- (b) an omission, a defect or an irregularity not affecting the merits of the case.

Public servant

67. Any member of the Council or committee, or officer of the Council while discharging his duties or performing his functions or exercising his powers under this Part shall be deemed to be a public servant within the meaning of the Penal Code.

Application of Public Authorities Protection Act 1948

68. The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceedings against any member of the Council or committee, or officer of the Council in respect of any act, neglect or default done or committed by him in good faith or any omission by him in good faith, in such capacity.

PART VII

PROVISION RELATING TO SUPERVISION AND ENFORCEMENT OF PART III, PART V AND PART VI

Director General and officers

69. (1) The Director General of Labour appointed under the Employment Act 1955 shall be the Director General for the purposes of this Part.

(2) The Deputy Director General of Labour appointed under the Employment Act 1955 shall be the Deputy Directors General for the purposes of this Part.

(3) In the absence of the Director General, the Deputy Directors General shall have all powers and may discharge all duties and perform all functions conferred on the Director General under this Part.

(4) Subject to the general direction, control and supervision as may be determined by the Director General, all or any power under this Part may be conferred by the Director General to—

- (a) any officer appointed under the Employment Act 1955;
- (b) the Director of Labour or any officer appointed under the Labour Ordinance of Sabah; or
- (c) the Director of Labour or any officer appointed under the Labour Ordinance of Sarawak.

Functions of Director General

70. For the purposes of this Part, the Director General shall—

- (a) supervise the compliance of duties by a contracting entity in relation to the rights of a gig worker;
- (b) enforce the award made by the Gig Workers Tribunal;
- (c) determine the mechanism and amount of deduction of a gig worker's earnings, and tip and gratuities under section 12;
- (d) determine the form and manner of an earnings slip to be issued to the gig worker under section 13; and
- (e) enforce the order made by the Minister under Part VI.

Powers of Director General

71. The Director General shall have the general direction, control, powers and supervision of all matters relating to this Part.

Investigating officers and enforcement officers

72. For the purposes of this Part, the Director General may appoint any number of investigating officers and enforcement officers as may be necessary.

Authority card

73. (1) The Director General shall issue an authority card to each investigating officer and enforcement officer.

(2) Where an investigating officer exercises any of the powers under this Part, he shall on demand, produce to the person against whom the power is being exercised, the authority card.

Power of enforcement, investigation and inspection

74. (1) Any officer appointed as an enforcement officer or investigating officer under this Part, shall have the power—

- (a) to enforce any relevant provision in Part III, Part V and Part VI;
- (b) to enter into any premise and to inspect any document, record or other relevant thing to ensure compliance with any relevant provision in Part III, Part V and Part VI;
- (c) to seize any document, record or other relevant thing for the purposes of investigation under Part III, Part V and Part VI; and
- (d) to investigate the commission of any offence under Part III, Part V and Part VI.

(2) For the purposes of this Part, an investigating officer shall have all the powers of a police officer of whatever rank as provided for under the Criminal Procedure Code [*Act 593*] in relation to enforcement, investigation and inspection.

Compounding of offences

75. (1) For the purposes of this Part, the Director General may, with the consent in writing of the Public Prosecutor, compound any offence committed by any person under Part III, Part V and Part VI prescribed to be a compoundable offence by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the Director General of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within such time as may be specified in his written offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(3) If the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under this section—

- (a) no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made; and
- (b) any document or thing seized in connection with the offence may be released by the Director General, subject to such terms as the Director General thinks fit.

(5) All sums of money received by the Director General under this section shall be paid into and form part of the Federal Consolidated Fund.

Public servant

76. Any officer while discharging his duties or performing his functions or exercising his powers under this Part shall be deemed to be a public servant within the meaning of the Penal Code.

Application of Public Authorities Protection Act 1948

77. The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceedings against any officer in respect of any act, neglect or default done or committed by him in good faith or any omission by him in good faith, in such capacity.

PART VIII

SOCIAL SECURITY PROTECTION

Definition

78. In this Part, unless the context otherwise requires—

“Organization” has the meaning assigned to it in the Employees’ Social Security Act 1969 [*Act 4*];

“Inspector” has the meaning assigned to it in the Employees’ Social Security Act 1969.

Director General and Deputy Directors General, powers, functions and duties

79. (1) The Director General and the Deputy Directors General appointed under section 59 of the Employees’ Social Security Act 1969 shall be the Director General and the Deputy Directors General for the purposes of this Part.

(2) The Director General and the Deputy Directors General shall have all the powers including powers of an Inspector, functions and duties under this Part.

Inspector, etc., powers, functions and duties

80. (1) An Inspector appointed under section 12 of the Employees’ Social Security Act 1969 shall be subject to the direction and control of the Director General or of such other officer or servant of the Organization authorized by the Director General to act on behalf of the Director General, and of any other Inspector superior to the Inspector in rank, and shall exercise his powers, perform his functions and discharge his duties under this Part in compliance with such directions and control of the Director General.

(2) An Inspector shall have all the powers, functions and duties conferred under this Part.

Application of this Part

81. This Part shall apply to a contracting entity who is a platform provider that enters into a service agreement with the gig worker for the performance of any service.

Rights of gig worker under this Part

82. For the purposes of this Part, a gig worker shall have the rights—

- (a) to social security contributions deducted from the earnings payable to the gig worker, made by the contracting entity on behalf of the gig worker to the Organization; and
- (b) to have access to such deduction of social security contributions in the digital intermediary system which is developed by the contracting entity.

Duties of contracting entity under this Part

83. For the purposes of this Part, a contracting entity who is a platform provider shall have the duties—

- (a) to submit the gig worker's information to the Organization in the form and manner as may be determined by the Organization;
- (b) to ensure the registration of the gig worker under the Self-Employment Social Security Scheme administered by the Organization as provided in the Self-Employment Social Security Act 2017 [Act 789] in the form and manner as may be determined by the Organization;
- (c) to make deduction from the earnings of the gig worker and contribute to the social security scheme administered by the Organization on behalf of the gig worker in the form and manner as may be determined by the Organization;

- (d) to implement mandatory contribution deduction in the form and manner as may be determined by the Organization and in accordance with the percentage of the contribution amount as may be prescribed;
- (e) to notify the gig worker to pay the shortfall amount of the minimum monthly contribution to the Organization in the form and manner as may be determined by the Organization, if the amount of contribution deducted by the platform provider does not reach the minimum rate of contribution based on the selected insured monthly earnings under the Self-Employment Social Security Act 2017;
- (f) to notify the gig worker to select the amount of the monthly contribution payable to the Organization if the contribution deducted by the platform provider exceeds the minimum rate of contribution based on the selected insured monthly earnings under the Self-Employment Social Security Act 2017 within the duration and in the manner as may be prescribed;
- (g) to provide a mechanism in his digital intermediary system that can connect with the Organization's system for the purposes of social security scheme and any matter relating to it in the form and manner as may be determined by the Organization; and
- (h) to implement any measure relating to occupational safety and health and welfare of the gig worker as directed by the Organization in any co-operation programme between the Organization and contracting entity.

Liability of contracting entity

84. (1) If the Organization is satisfied that there is a fraudulent action or omission in the registration or payment of contributions of the gig worker, whether directly or indirectly by the contracting entity or any third party, any arrears in the payment of contributions or deduction of the earnings of the gig worker, shall be paid by the contracting entity to the Organization.

(2) If the contracting entity or any third party is involved in giving any benefit or making any payment under the social security contribution scheme administered by the Organization to any gig worker in the event that the gig worker is not entitled to receive it under such social contribution scheme, the contracting entity or such third party shall be liable to repay to the Organization the value of the benefit or the amount of such payment.

(3) In the event the contracting entity or such third party is unable to repay the value of the benefit or the amount of such payment under subsection (2), as the case may be, his representative shall be liable to repay the value of the benefit or the amount of such payment, if any.

(4) The value or amount payable under this section may be recovered as a civil debt payable to the Organization.

Punishment for giving false information

85. Where any person, for the purpose of causing any payment of contribution or benefit under this Part—

- (a) makes or causes to be made any false statement or false representation; or
- (b) makes in writing or signs any declaration, form, report, certificate or other document required by this Part which is untrue or incorrect in any material particular,

shall be punished with imprisonment for a term which may extend to two years or with a fine not exceeding ten thousand ringgit or to both.

Punishment for failure to pay contributions, etc.

86. If any person—

- (a) fails to pay any contribution or any deduction of contribution which is payable under this Part or fails to pay in accordance with the mechanism as may be determined by the Organization;

- (b) deducts or attempts to deduct contribution which is not determined by the Organization;
- (c) fails or refuses to submit any statement, record or any document which is required under this Act;
- (d) makes a false statement, record or document;
- (e) obstructs any Inspector, officer and servant or other official of the Organization in the discharge of his duties; or
- (f) contravenes any of the requirements of this Part,

commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding ten thousand ringgit or to both.

Court's order in respect of contributions due and payable to Organization

87. (1) Upon any person being found guilty of any offence under paragraph 86(a) or (b), the court before which the person is found guilty shall order such person to pay to the Organization the amount of any contributions or deduction of contributions, together with any interest credited on it, due and payable to the Organization and certified by the authorized officer of the Organization to be due from such person prior to the date of such finding of guilt, and the certificate of the authorized officer shall be *prima facie* evidence of the amount due and payable.

(2) Such contributions or deduction of contributions shall be recoverable in the same manner as, and shall be appealable as if it were, an order for payment of compensation under section 426 of the Criminal Procedure Code, unless the court directs the payment of the sum to be made by instalments, the court shall direct that the sum be paid in not more than six instalments within the period of six months.

(3) Upon any person being found guilty of an offence under paragraph 86(c) pertaining to the submission of statement, record or any document, the court before which the person is found guilty shall order such person to submit the required statement, record or document within the time as may be determined by the court.

Trial for more than one offence

88. Notwithstanding the provisions of any written law to the contrary, any person may be charged with and tried at any one trial for any number of offences under paragraph 86(a) or (b), not exceeding thirty-six and such offences shall, for the purposes of the law for the time being in force relating to criminal procedure, be deemed to form part of the same transaction.

Copy of entry to be *prima facie* evidence

89. In any legal proceeding, a copy of an entry in the accounts of the Organization certified by an authorized officer of the Organization shall be *prima facie* evidence of such entry having been made and such contents in the entry is true.

Compounding of offences

90. (1) The Director General may, with the consent in writing of the Public Prosecutor, compound any offence committed by any person under this Part prescribed to be a compoundable offence by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the Director General of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within such time as may be specified in his written offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(3) If the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under this section —

- (a) no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made; and
- (b) any document or thing seized in connection with the offence may be released by the Director General, subject to such terms as the Director General thinks fit.

(5) All sums of moneys received by the Director General under this section shall be paid into and form part of the Federal Consolidated Fund.

Power of investigation

91. Any investigation of offence relating to any provision under this Part which involves the contracting entity and the gig worker shall be conducted by the Organization in accordance with the investigation powers as provided for under Part IX of the Self-Employment Social Security Act 2017.

Public servant

92. Any officer of the Organization while discharging his duties or performing his functions or exercising his powers under this Part shall be deemed to be a public servant within the meaning of the Penal Code.

Application of Public Authorities Protection Act 1948

93. The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceedings against any officer of the Organization in respect of any act, neglect or default done or committed by him in good faith or any omission by him in good faith, in such capacity.

Matters to be decided by Tribunal under Self-Employment Social Security Act 2017

94. The Tribunal established under Part VII of the Self-Employment Social Security Act 2017 shall have the powers to decide on any matter in respect of this Part referred to the Tribunal by any person.

PART IX**OCCUPATIONAL SAFETY AND HEALTH****Director General, Deputy Director General and officers**

95. (1) The Director General and the Deputy Director General of Occupational Safety and Health appointed under the Occupational Safety and Health Act 1994 [*Act 514*] shall be the Director General and the Deputy Director General for the purposes of this Part.

(2) The Director General and the Deputy Director General shall have all the powers, functions and duties under this Part.

(3) Subject to the general direction, control and supervision of the Director General, any officer appointed under the Occupational Safety and Health Act 1994 shall exercise all powers conferred on the Director General under this Part.

Functions of Director General

96. For the purposes of this Part, the Director General shall supervise the compliance of duties by a contracting entity and a gig worker in relation to occupational safety and health of the gig worker.

Powers of Director General

97. The Director General shall have the general direction, control, powers and supervision of all matters relating to this Part.

Application of this Part

98. This Part shall apply to—

- (a) a contracting entity other than an individual; and
- (b) a gig worker.

Investigating officers and enforcement officers

99. For the purposes of this Part, the Director General may appoint any number of investigating officers and enforcement officers as may be necessary.

Authority card

100. (1) The Director General shall issue an authority card to each investigating officer and enforcement officer.

(2) Where an investigating officer exercises any of the powers under this Part, he shall on demand, produce to the person against whom the power is being exercised, the authority card.

Power of enforcement, investigation and inspection

101. (1) Any officer appointed as an enforcement officer or investigating officer under this Part, shall have the power—

- (a) to enforce any relevant provision in this Part;
- (b) to enter into any premise and to inspect any document, record or other relevant thing to ensure compliance with any relevant provision in this Part;
- (c) to seize any document, record or other relevant thing for the purposes of investigation under this Part; and
- (d) to investigate the commission of any offence under this Part.

(2) For the purposes of this Part, an investigating officer shall have all the powers of a police officer of whatever rank as provided for under the Criminal Procedure Code in relation to enforcement, investigation and inspection.

Compounding of offences

102. (1) For the purposes of this Part, the Director General may, with the consent in writing of the Public Prosecutor, compound any offence committed by any person under this Part prescribed to be a compoundable offence by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the Director General of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within such time as may be specified in his written offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(3) If the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under this section—

- (a) no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made; and
- (b) any document or thing seized in connection with the offence may be released by the Director General, subject to such terms as the Director General thinks fit.

(5) All sums of money received by the Director General under this section shall be paid into and form part of the Federal Consolidated Fund.

Duties of contracting entity under this Part

103. (1) For the purposes of this Part, a contracting entity shall—

- (a) conduct risk assessment by evaluating the risks to safety and health arising out of hazards at work to determine and implement the appropriate measures for risk control;

- (b) ensure adequate safety and health measures in respect of any equipment and facility provided for the use of the gig worker;
- (c) ensure that the gig worker is not exposed to safety and health risk arising out of the arrangements and processes provided by the contracting entity while the gig worker is performing his service;
- (d) ensure that the gig worker has adequate information, instruction, training and supervision as is necessary arising out of the risk assessment conducted for the gig worker to perform his service;
- (e) develop and implement procedures for dealing with emergencies that may arise while the gig worker is performing his service; and
- (f) notify the Director General of any occupational accident or occupational diseases which has occurred while the gig worker is performing his service.

(2) Any contracting entity who contravenes subsection (1) commits an offence.

Duties of gig worker under this Part

104. (1) Any gig worker shall comply with—

- (a) any safety and health measures provided by the contracting entity under paragraph 103(1)(b);
- (b) instructions given by the contracting entity under paragraph 103(1)(d); and
- (c) procedures for dealing with emergency under paragraph 103(1)(e) developed or implemented by the contracting entity.

(2) Any gig worker who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Public servant

105. Any officer while discharging his duties or performing his functions or exercising his powers under this Part shall be deemed to be a public servant within the meaning of the Penal Code.

Application of Public Authorities Protection Act 1948

106. The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceedings against any officer in respect of any act, neglect or default done or committed by him in good faith or any omission by him in good faith, in such capacity.

PART X

MISCELLANEOUS

Prosecution

107. No prosecution shall be instituted for an offence under this Act without the consent in writing of the Public Prosecutor.

General penalty

108. Any person who contravenes—

(a) any provision of this Act; or

(b) any summons, order or direction given or made under this Act,

for which no penalty is expressly provided shall, on conviction, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding fifty thousand ringgit or to both.

Offence by body corporate, etc.

109. Where an offence under this Act has been committed by a body, incorporated or registered under any written law—

- (a) in the case of a body corporate, any person who is a director, manager, secretary or any other officer responsible for the management of the body corporate at the time of the commission of the offence;
- (b) in the case of a partnership or sole proprietor, every partner in the partnership or the sole proprietor at the time of the commission of the offence; or
- (c) in the case of an association or a society or any other body registered under any written laws, the president, the chairman, the secretary, the treasurer or other similar officer of the association or society at the time of the commission of the offence,

may be charged jointly or severally with the body corporate, partnership, sole proprietor, association or society or any other body registered under any written laws, and if the body corporate, partnership, sole proprietor, association or society or any other body registered under any written laws is found guilty of the offence, the person referred to in paragraph (a), (b) or (c) shall be deemed to have committed the offence, unless he proves that the offence was committed without his knowledge or connivance or that he took all reasonable precautions or he had exercised due diligence to prevent the commission of the offence.

Power to amend Schedule

110. The Minister may, by order published in the *Gazette*, amend the Schedule.

Power to exempt

111. The Minister may by order exempt, subject to any conditions as he may think fit to impose, any person or class of persons from any of the provisions of this Act.

Power to make regulations

112. The Minister may make regulations to prescribe—

- (a) the procedures for the conciliation proceedings and any related matter;
- (b) the procedures, proceedings and fees under Part V;
- (c) the offences which may be compounded, the forms to be used, and the methods and procedures for compounding such offences under this Act;
- (d) any matter to be prescribed by the Minister under Part VIII; and
- (e) any other matter for the better carrying out of the provisions of this Act.

SCHEDULE

[Section 2]

| (1) No. | (2) Service | (3) Relevant gig worker |
|------------|--------------------------|--|
| 1. | Acting | Actor |
| 2. | Filming activities | Film production crew |
| 3. | Music-related activities | (a) singer (b) musician (c) composer (d) lyricist |
| 4. | Aesthetic | (a) make-up artist (b) hair stylist (c) stylist |

| (1) No. | (2) Service | (3) Relevant gig worker |
|------------|---|--|
| 5. | Translation | (a) sign interpreter (b) interpreter or translator (c) transcriber |
| 6. | Journalism | (a) journalist (b) stringer |
| 7. | Prenatal and postnatal care or treatment | Caregiver |
| 8. | Palliative, elderly and rehabilitation care | Caregiver |
| 9. | Photography and videography | (a) photographer (b) videographer |

EXPLANATORY STATEMENT

The Gig Workers Act 2025 (“the proposed Act”) seeks to protect the rights of the gig worker, to provide for the duties of the contracting entity, to regulate terms and conditions of the service agreement entered into between a contracting entity and gig worker, to provide for dispute resolution mechanism, to provide for the establishment of the Consultative Council, to provide for the establishment of the Gig Workers Tribunal and to provide for related matters.

PART I

2. Part I of the proposed Act deals with preliminary matters.
3. *Clause 1* contains the short title and the commencement of the proposed Act.
4. *Clause 2* contains the definitions of certain words and expressions used in the proposed Act.

PART II

5. Part II of the proposed Act deals with provisions relating to the service agreement and all related matters.
6. *Clause 3* seeks to provide for the terms and conditions to be specified in the service agreement for the purpose of protecting the gig worker's right.
7. *Clause 4* seeks to provide for saving of existing service agreement to ensure that any existing service agreements made between contracting entity and a gig worker before the commencement of the proposed Act which is still legally binding upon the parties, to continue in force and the parties shall be subject and entitled to the benefit under the proposed Act.
8. *Clause 5* seeks to provide that any less favourable terms and conditions to the gig worker under the service agreement shall be void.
9. *Clause 6* seeks to provide that any terms and conditions which is more favourable to the gig worker than any terms and conditions provided under the proposed Act shall be valid.
10. *Clause 7* seeks to provide that if any matter is not provided for under the proposed Act, such matter is not prevented from being provided for in the service agreement or being negotiated upon between a contracting entity and a gig worker.

PART III

11. Part III of the proposed Act deals with provisions relating to the gig workers and their rights which are protected under the proposed Act.
12. *Clause 8* seeks to provide for the rights of a gig worker including additional rights if the contracting entity is a platform provider.
13. *Clause 9* seeks to prohibit contracting entity from restraining the rights of a gig worker to have an agreement with other parties, discriminating any gig worker in respect of the service agreement or terminating the service agreement unfairly.
14. *Clause 10* seeks to prohibit any terms and conditions in the service agreement which purports to restrict or exclude the rights of gig worker to join, participate or establish a gig workers' association and participate in any activity organised by the gig workers' association.
15. *Clause 11* seeks to provide for the rights to earnings of the gig worker. Any person who fails to pay earnings to the gig worker within the specified time under this *clause* commits an offence.
16. *Clause 12* seeks to provide for deduction of earnings and tip and gratuities of the gig worker.
17. *Clause 13* seeks to provide for the right of gig worker to request for an earnings slip.

18. *Clause 14* seeks to provide for deactivation of the access to the digital intermediary system of the gig worker by the platform provider.

19. *Clause 15* seeks to provide for priority over the claim of a secured creditor of earnings due to any gig worker over other debts.

20. *Clause 16* seeks to provide for duties of contracting entity to fulfil rights of the gig worker as provided under this Act.

PART IV

21. Part IV of the proposed Act deals with the internal grievance mechanism and conciliation process under the proposed Act.

22. *Clause 17* seeks to provide for the internal grievance mechanism which shall be provided by the contracting entity other than an individual or a sole proprietor.

23. *Clause 18* seeks to provide for reference of disputes for conciliation by the Director General for Industrial Relations, the Deputy Director General for Industrial Relations and officers appointed under the Industrial Relations Act 1967 who shall be a Conciliator under this Part.

24. *Clause 19* seeks to provide for the conciliation proceedings.

25. *Clause 20* seeks to provide for the conciliation by the Minister.

26. *Clause 21* seeks to provide for the non-compliance of the terms of settlement by any party who has reached settlement agreement.

27. *Clause 22* seeks to provide that all officers shall be deemed as public servants within the meaning of the Penal Code.

28. *Clause 23* seeks to provide for the application of the Public Authorities Protection Act 1948.

PART V

29. Part V of the proposed Act deals with the Gig Workers Tribunal and other related matters.

30. *Clause 24* seeks to provide for the establishment of the Gig Workers Tribunal.

31. *Clause 25* seeks to provide for the membership of Tribunal, terms of office and allowances.

32. *Clause 26* seeks to provide for the temporary exercise of functions of the President by the Deputy President.

33. *Clause 27* seeks to provide for circumstances for the vacation of office of a member of the Tribunal.
34. *Clause 28* seeks to empower the Minister to revoke the appointment of a member of the Tribunal.
35. *Clause 29* seeks to provide for resignation and filling of vacancy of President, Deputy President, or a member of the Tribunal.
36. *Clause 30* seeks to provide for appointment of Registrar, Deputy Registrar and other officers of the Tribunal.
37. *Clause 31* seeks to provide for all members and officers of the Tribunal to be deemed as public servants within the meaning of the Penal Code.
38. *Clause 32* seeks to provide for the application of Public Authorities Protection Act 1948.
39. *Clause 33* seeks to provide for the jurisdiction and power of the Tribunal.
40. *Clause 34* seeks to provide for sittings of the Tribunal.
41. *Clause 35* seeks to provide for the Registrar to give a written notice.
42. *Clause 36* seeks to provide for the rights to appear at Tribunal hearing.
43. *Clause 37* seeks to provide for hearing to be public.
44. *Clause 38* seeks to provide for proceedings of the Tribunal.
45. *Clause 39* seeks to empower the Tribunal to hear and determine the complaint before it in the absence of any party.
46. *Clause 40* seeks to provide for the evidence to be admissible by the Tribunal.
47. *Clause 41* seeks to provide for the exclusion of evidence in the proceedings before the Tribunal.
48. *Clause 42* seeks to empower the Tribunal to make an award.
49. *Clause 43* seeks to provide that any decision of the Tribunal shall be binding.
50. *Clause 44* deals with an appeal to the High Court.
51. *Clause 45* seeks to provide for criminal penalty for failure to comply with an award.

PART VI

52. Part VI of the proposed Act deals with the establishment, functions and powers of the Consultative Council.

53. *Clause 46* seeks to provide for the establishment of the Consultative Council.

54. *Clause 47* sets out the functions and powers of the Council.

55. *Clause 48* seeks to provide for the Council to carry out its functions before any recommendation is made by the Council.

56. *Clause 49* seeks to empower the Government to consider the recommendation by the Council.

57. *Clause 50* empowers the Minister to make an order.

58. *Clause 51* contains provision on the membership of the Council.

59. *Clause 52* provides for the circumstances when the Deputy Chairman acts as the Chairman of the Council.

60. *Clause 53* provides the responsibilities of the Secretary of the Council.

61. *Clause 54* deals with the tenure of office of the members of the Council.

62. *Clause 55* seeks to provide for the payment of allowances to members of the Council.

63. *Clause 56* seeks to provide for the revocation of appointment of members of the Council and their resignation.

64. *Clause 57* seeks to provide for the circumstances for the vacation of the office of a member of the Council.

65. *Clause 58* deals with meetings of the Council.

66. *Clause 59* seeks to provide for the Council to maintain and keep minutes of its meetings.

67. *Clause 60* seeks to empower the Council to invite other persons to attend any of its meetings.

68. *Clause 61* seeks to empower the Council to determine its own procedures.

69. *Clause 62* seeks to empower the Council to establish committees.

70. *Clause 63* seeks to provide for a secretariat to the Council.

71. *Clause 64* seeks to provide for the obligation of secrecy of the member of the Council or committee, officer of the Council, or any person who has information or document of the Council.

72. *Clause 65* provides for the sufficient allocation of funds to the Council.

73. *Clause 66* seeks to provide for the validity of acts and proceedings under the proposed Act.

74. *Clause 67* seeks to provide for all the members of the Council or committee, or officer of the Council to be deemed as public servants within the meaning of the Penal Code.

75. *Clause 68* seeks to provide for the application of the Public Authorities Protection Act 1948.

PART VII

76. Part VII of the proposed Act deals with the provision relating to supervision and enforcement of Part III, Part V and Part VI.

77. *Clause 69* seeks to provide for the powers, functions and duties of the Director General of Labour for the purpose of giving effect to this Part.

78. *Clause 70* seeks to provide for the functions of the Director General under this Part.

79. *Clause 71* seeks to provide for the powers of the Director General under this Part.

80. *Clause 72* provides that the Director General may appoint any number of investigating officers and enforcement officers as may be necessary.

81. *Clause 73* provides that each investigating officer and enforcement officer shall be issued an authority card.

82. *Clause 74* seeks to empower any officer under this Part with the power of enforcement, investigation and inspection.

83. *Clause 75* seeks to provide for the compounding of offences by the Director General with the consent in writing of the Public Prosecutor.

84. *Clause 76* seeks to provide that all officers shall be deemed to be public servants within the meaning of the Penal Code.

85. *Clause 77* seeks to provide for the application of the Public Authorities Protection Act 1948.

PART VIII

86. PART VIII of the proposed Act deals with social security protection.
87. *Clause 78* contains the definitions of certain words and expressions used in this Part.
88. *Clause 79* seeks to empower the Director General and the Deputy Directors General of the Social Security Organization for the implementation of functions, powers and duties under this Part.
89. *Clause 80* seeks to empower the Inspector for the implementation of functions, powers and duties under this Part.
90. *Clause 81* seeks to provide for the application of this Part to the contracting entity who is a platform provider who enters into service agreement with the gig worker for the performance of any service.
91. *Clause 82* seeks to provide for the rights of the gig worker under this Part.
92. *Clause 83* seeks to provide for the duties of contracting entity under this Part.
93. *Clause 84* seeks to provide for the liability of contracting entity under this Part.
94. *Clause 85* seeks to provide for the offence of giving false information.
95. *Clause 86* seeks to provide for the offences for failure to pay contributions.
96. *Clause 87* seeks to provide for the court's order in respect of contributions due and payable to the Organization.
97. *Clause 88* seeks to provide for trial for more than one offence.
98. *Clause 89* seeks to provide for copy of entry to be *prima facie* evidence.
99. *Clause 90* seeks to provide for the compounding of offences.
100. *Clause 91* seeks to empower the officers of the Organization to investigate offences under this Part.
101. *Clause 92* seeks to provide that all officers of the Organization shall be deemed to be public servants within the meaning of the Penal Code.
102. *Clause 93* seeks to provide for the application of the Public Authorities Protection Act 1948.
103. *Clause 94* seeks to provide that the Tribunal established under the Self-Employment Social Security Act 2017 shall have the powers to decide on any matter in respect of this Part.

PART IX

104. Part IX of the proposed Act deals with the provision relating to occupational safety and health of the gig worker.

105. *Clause 95* seeks to provide for the powers, functions and duties of the Director General and the Deputy Director General of Occupational Safety and Health for the purpose of giving effect to this Part.

106. *Clause 96* seeks to provide for the functions of the Director General under this Part.

107. *Clause 97* seeks to provide for the powers of the Director General of Occupational Safety and Health under this Part.

108. *Clause 98* seeks to provide for the application of this Part to contracting entity other than individual, and the gig worker.

109. *Clause 99* provides that the Director General may appoint any number of investigating officers and enforcement officers as may be necessary.

110. *Clause 100* provides that each investigating officer and enforcement officer shall be issued an authority card.

111. *Clause 101* seeks to empower any officer under this Part with the power of enforcement, investigation and inspection.

112. *Clause 102* seeks to provide for the compounding of offences by the Director General.

113. *Clause 103* seeks to provide for the duties of contracting entity under this Part.

114. *Clause 104* seeks to provide for the duties of gig workers under this Part.

115. *Clause 105* seeks to provide that all officers shall be deemed as public servants within the meaning of the Penal Code.

116. *Clause 106* seeks to provide for the application of the Public Authorities Protection Act 1948.

PART X

117. PART X deals with miscellaneous provisions.

118. *Clause 107* seeks to provide that no prosecution shall be instituted for an offence without the consent in writing of the Public Prosecutor.

119. *Clause 108* seeks to provide for general penalty.

- 120. *Clause 109* seeks to provide for the offence by body corporate, etc.
- 121. *Clause 110* seeks to empower the Minister to amend Schedule.
- 122. *Clause 111* seeks to empower the Minister to exempt any person or class of persons from any of the provision of the proposed Act.
- 123. *Clause 112* seeks to empower the Minister to make regulations under the proposed Act.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)3397]