TEACHER REPRESENTATION AND VOICE
(TRADE UNION ACT 1959 (ACT 262))
MALAYSIA
PART V

CONSTITUTION

27. Membership of public officers and employees of statutory authorities.

(1) Subject to subsection (2), no public officer shall join or be a member of any trade union or shall be accepted as a member of any trade union.

(2) The Yang di-Pertuan Agong may by notification in the Gazette exempt from the provisions of subsection (1), either wholly or subject to such conditions as may be specified in such notification, any public officers or any category, class or description of public officers other than-

(a) members of the Royal Malaysian Police;

(b) members of any prison service;

(c) members of the Armed Forces;

(d) public officers engaged in a confidential or security capacity;

(e) public officers who are prohibited under any written law from forming or being members of a trade union; and

(f) public officers holding any post in the Managerial and Professional Group, except such public officers, or such class, category or description of public officers in such Group, as are excluded from the operation of this paragraph by a direction in writing issued by the Chief Secretary to the Government.

(3) (a) No person employed by a statutory authority shall join or be a member of, or be accepted as a member by any trade union unless the membership of that trade union is confined exclusively to persons employed by that particular statutory authority.

(aa) Notwithstanding subsection (3) (a), any person employed by a statutory authority who-

(i) holds any post in the Managerial and Professional Group or the equivalent thereof, shall not join, or be a member of, or be accepted or retained as a member by, any trade union, except such of these persons, or such class, category or description of these persons, as are excluded from the operation of this subparagraph by a direction in writing issued by the Chief Secretary to the Government; or

(ii) is engaged in a confidential or security capacity shall not join, or be a member of, or be accepted or retained as a member by, any
trade union.

(b) Any trade union whose membership is confined to persons employed by a statutory authority shall not be affiliated to any other trade union or any federation of trade unions whose membership is not otherwise so confined:

Provided that any such trade union may, after obtaining the written approval of the Minister, affiliate with a registered federation of trade unions comprising trade unions of public officers.

[Am. Act A798]

(bb) Notwithstanding subsection (3) (b), two or more trade unions of workmen employed by statutory authorities, other than workmen employed by local authorities, may, with the approval of the Minister and subject to the provisions of Part XII, form or create a federation of trade unions.

(c) For the purpose of this subsection the persons appointed to serve and serving in an institution or at a place or under a body or person specified in the first column of the Third Schedule shall be deemed to be persons employed by the authority or body specified in relation to such institution, place or person in the second column of that Schedule, and such authority or body shall be deemed to be a statutory authority.

(d) The Minister may by order add to, delete from or amend the Third Schedule.

(4) Notwithstanding subsection (3), but subject to paragraph (aa) thereof-

(a) employees of a financially autonomous local authority may join or be members of a trade union whose membership is confined exclusively to employees of one or more such financially autonomous local authorities;

(b) employees of statutory authorities other than employees of local authorities may with the approval of the Minister join or be members of a trade union whose membership is confined exclusively to employees of one or more financially autonomous local authorities.

(5) Any question under subsection (2) or (3) as to whether a person is engaged in a confidential or security capacity shall be decided by the Chief Secretary to the Government.

(6) Any person or a group of persons who have sought a direction of the Chief Secretary to the Government under subsection (2) (f) or under subsection (3) (aa) (i), and have failed to obtain such direction, or any person dissatisfied with any decision of the Chief Secretary to the Government under subsection (5), may, within thirty days of the failure to obtain such direction, or of such decision, as the case may be, appeal to the Minister responsible for
public services, whose decision thereon shall be final and conclusive.

(7) Any person who, immediately before the commencement of his subsection, is a member of a trade union but is disqualified from being a member thereof by virtue of subsection (2) (a) to (f), or by virtue of subsection (3) (aa), shall cease to be a member thereof upon the expiry of six months after the commencement of this subsection, save that-

(a) in the case of a person to whom paragraph (f) of subsection (2) applies, such person shall not cease to be a member thereof if within such period of six months he obtains the direction of the Chief Secretary to the Government under the said paragraph (f) and is exempted by a notification of the Yang di-Pertuan Agong under subsection (2); and

(b) in the case of a person to whom subparagraph (i) of paragraph (aa) of subsection (3) applies such person shall not cease to be a member thereof if within such period of six months he obtains the direction of the Chief Secretary to the Government under the said subparagraph (i):

Provided that where any such person is an officer of his trade union, he may continue to remain a member of such trade union until the expiry of the term of his office, or until the otherwise earlier ceases to hold such office, if the term of his office extends beyond the said period of six months.

8 (a) In this section "Managerial and Professional Group" means the Kumpulan Pengurusan dan Iktisas referred to in paragraph 7.2 of either Pekeliling Perkhidmatan Bil. 2 Tahun 1977 or Pekeliling Perkhidmatan Bil. 4 Tahun 1977 (both dated the 31st March 1977) or in paragraph 8.2 of either Pekeliling Perkhidmatan Bil. 1 Tahun 1978 or Pekeliling Perkhidmatan Bil. 2 Tahun 1978 (both dated the 12th April 1978) issued by the Jabatan Perkhidmatan Awam. Malaysia, or, when used with reference to persons employed by a statutory authority, it means any group of persons corresponding to those referred to in the said paragraph 7.2 or the said paragraph 8.2 of the said Pekeliling-pekeliling, as the case may be.

(b) The Minister responsible for public services may from time to time, by notification in the Gazette, amend the DEFINITION of "Managerial and Professional Group" set out in this subsection.

PART V

CONSTITUTION

28. Officers.

(1) A person shall not be or act as a member of the executive of a trade union or any branch
PM(T) 10766/7/2
11 Jun 2010

Encik Ahmad Nawawi bin Shaari
Setiausaha Agung
Kesatuan Guru-Guru Melayu Malaysia Barat (KGMMB)
No. 720, Tingkat 3, Jalan Sentul
51000 KUALA LUMPUR

E. Ahmad Nawawi,

RAYUAN KEBENARIAN PEGAWAI-PEGAWAI KUMPULAN PENGURUSAN DAN PROFESIONAL MEMEGANG JAWATAN DI KESATUAN GURU-GURU MELAYU MALAYSIA BARAT (KGMMB)


2. Setelah meneliti rayuan tersebut, saya dengan ini memutuskan untuk mengambilkan keputusan memberi kebenaran kepada Pegawai Kumpulan Pengurusan dan Profesional Gred 41 hingga Gred 44 sahaja untuk menganggotai KGMMB berdasarkan peruntukan Seksyen 27(2)(f), Akta Kesatuan Sekerja 1959.

(M) (TAN SRI SIDEK HASSAN)
AKTA KESATUAN SEKERJA 1959 (AKTA 262)

SEKSYEN 27 - Keanggotaan pegawai-pegawai awam dan pekerja pihak berkuasa berkahun.

(1) Terlaluk kepada subseksyen (2), tiada seorang pun pegawai awam boleh menyertai atau menjadi seorang anggota sesuatu kesatuan sekerja atau boleh diterima sebagai seorang anggota mana-mana kesatuan sekerja.

(2) Yang di-Pertuan Agong boleh melalui pemberitahuan di dalam Warta mengeschukan, daripada peruntukan-peruntukan subseksyen (1); sama ada keesemananya atau terlaluk kepada syarat-syarat sedemikian yang ditetapkan di dalam pemberitahuan sedemikian, mana-mana orang pegawai awam atau mana-mana kategori, kelas atau merupakan pegawai awam selain daripada --

(f) pegawai-pegawai awam yang memegang sesuatu jawatan di dalam kumpulan Pengurusan dan Ikhtisas melainkan pegawai-pegawai awam atau kelas kategori atau merupakan pegawai awam di dalam kumpulan tersebut yang tidak dikeluarkan daripada pelaksanaan perenggan ini oleh suatu arahan bertulis yang dikeluarkan oleh Ketua Setiausaha Negara.

Pengecualian kepada pegawai-pegawai Kumpulan Pengurusan dan Profesional bagi menganggotai kesatuan sekerja juga adalah selaras dengan keputusan Jemaah Menteri pada 13 Disember 1978 perenggan 10(b)(v).

Perenggan 10(b)(v) - "melerang pegawai-pegawai yang menjawat jawatan penting dan pengurusan termuak, jawatan-jawatan yang mana pemegangnya boleh mempengaruhi dasar-kerajaan dan pegawai-pegawai yang tugasnya menyimpan dan menggetahui rahasia-rahasia Kerajaan seperti Setiausaha Suil dan Pembantu Khas dan juga pegawai-pegawai yang menjalankan peranan keselamatan dari menjadi ahli kesatuan sekerja"

Jemaah Menteri pada 7 Januari 1981 bersetuju memberi pengecualian kepada pegawai Kumpulan Pengurusan dan Ikhtisas dalam Tingkatan Tertinggi F (Gred 48) ke bawah.