

A BILL

*i n t i t u l e d*

An Act to amend the Small and Medium Industries Development Corporation Act 1995.

[ ]

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

**Short title and commencement**

**1.** (1) This Act may be cited as the Small and Medium Industries Development Corporation (Amendment) Act 2009.

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

**Amendment of long title**

**2.** The Small and Medium Industries Development Corporation Act 1995 [*Act 539*], which is referred to as the "principal Act" in this Act, is amended by substituting for the long title the following long title:

"An Act to provide for the establishment of the National Small and Medium Enterprises Development Council and the establishment and incorporation of the Small and Medium Enterprises Corporation Malaysia and for matters connected therewith."

**Amendment of section 1**

3. Section 1 of the principal Act is amended by substituting for the words "Small and Medium Industries Development Corporation Act 1995" the words "Small and Medium Enterprises Corporation Malaysia Act 1995".

**Amendment of section 2**

4. Section 2 of the principal Act is amended—

- (a) by deleting the definition of "manufacturing activity";
- (b) by deleting the definition of "small and medium industry";
- (c) in the definition of "Fund", by substituting for the words "Small and Medium Industries Development Fund" the words "Small and Medium Enterprises Development Fund";
- (d) by inserting after the definition of "Corporation" the following definition:
  - ' "Council" means the National Small and Medium Enterprises Development Council established under section 2A;';
- (e) by inserting before the definition of "company" the following definition:
  - ' "Chairman" means the Chairman of the Small and Medium Enterprises Corporation Malaysia;';
- (f) in the definition of "Corporation", by substituting for the words "Small and Medium Industries Development Corporation" the words "Small and Medium Enterprises Corporation Malaysia"; and
- (g) by inserting after the definition of "Minister" the following definition:
  - ' "small and medium enterprises" means enterprises as may be determined by the Council.'

**New Part IA**

**5.** The principal Act is amended by inserting after Part I the following Part:

"PART IA

THE COUNCIL

**Establishment of the Council**

**2A.** (1) A body to be known as the "National Small and Medium Enterprises Development Council" is established.

(2) The objective of the Council is to ensure the comprehensive and co-ordinated development of small and medium enterprises across all sectors of the economy.

**Composition of the Council**

**2B.** (1) The Council shall consist of the following members:

- (a) the Prime Minister as the Chairman;
- (b) the Minister;
- (c) the Minister of Finance;
- (d) the Minister responsible for agriculture and agro-based industry, or his representative;
- (e) the Minister responsible for human resources, or his representative;
- (f) the Minister responsible for science, technology and innovations, or his representative;
- (g) the Minister responsible for rural and regional development, or his representative;

- (h) the Minister responsible for higher education, or his representative;
- (i) the Minister responsible for tourism, or his representative;
- (j) the Minister responsible for domestic trade, cooperative and consumerism, or his representative;
- (k) the Minister responsible for plantation industries and commodities, or his representative;
- (l) a Minister in the Prime Minister's Department, or his representative;
- (m) the Minister of the State Government of Sabah responsible for development and industry in Sabah, or his representative;
- (n) the Minister of the State Government of Sarawak responsible for development and industry in Sarawak, or his representative;
- (o) the Chief Secretary to the Government, or his representative;
- (p) the Director General of the Economic Planning Unit of the Prime Minister's Department, or his representative; and
- (q) the Governor of Bank Negara Malaysia, or his representative.

(2) In addition to the persons mentioned in subsection (1), the Chairman may appoint the following persons as members of the Council:

- (a) a representative from the association related to the small and medium enterprises;
- (b) a representative from the manufacturing sector;
- (c) a representative from the services sector;
- (d) a representative from the agriculture sector; and
- (e) such number of other persons.

(3) The members referred to in paragraphs (2) (a), (b), (c), (d) and (e)-

(a) shall be appointed by the Chairman for a term not exceeding two years; and

(b) shall be eligible for reappointment upon expiry of his term of office.

(4) The Corporation shall act as Secretariat to the Council.

### **Functions of the Council**

2c. (1) The Council shall have the following functions:

(a) to formulate broad policies and strategies to facilitate the overall development of small and medium enterprises across all sectors of the economy;

(b) to review the roles and responsibilities of Government ministries and agencies in relation to the development of small and medium enterprises across all sectors of the economy;

(c) to enhance co-operation and co-ordination, as well as to guide Government ministries and agencies to ensure effective implementation of development policies and action plans for small and medium enterprises across all sectors of the economy;

(d) to encourage and strengthen the role of the private sector in supporting the overall development of the small and medium enterprises across all sectors of the economy; and

(e) to perform any other functions conferred upon the Council under this Act.

(2) The Council may, from time to time, give directions to the Corporation which are consistent with the provisions of this Act and the Corporation shall give effect to such directions.

(3) The Council may perform any other function that is incidental or consequential to any of the functions specified in subsection (1) and do all such things as may be necessary or expedient for carrying out its functions under this Act.

(4) The Council shall meet as and when a meeting is convened by the Chairman of the Council but not less than once a year.

(5) The Council may determine its own procedure."

### **Amendment of section 3**

6. Section 3 of the principal Act is amended by substituting for the words "Small and Medium Industries Development Corporation" the words "Small and Medium Enterprises Corporation Malaysia".

### **Amendment of section 4**

7. Section 4 of the principal Act is amended by substituting for subsection (1) the following subsection:

"(1) The Corporation shall consist of the following members:

- (a) a Chairman;
- (b) a Deputy Chairman who shall be a representative from the Ministry of International Trade and Industry;
- (c) a representative of the Ministry of Finance;
- (d) a representative of the Economic Planning Unit of the Prime Minister's Department;
- (e) three representatives from the chambers of commerce;
- (f) a representative from the manufacturing sector;
- (g) a representative from the services sector;
- (h) a representative from the agriculture sector;

- (i) the Chief Executive Officer of the Corporation;  
and
- (j) such other members, not exceeding six, as the Minister may determine."

**Substitution of section 12**

8. The principal Act is amended by substituting for section 12 the following section:

**"Functions of the Corporation**

**12.** (1) The Corporation shall have the following functions:

- (a) to co-ordinate, monitor and evaluate the implementation of the policies, strategies and programmes for small and medium enterprises across all sectors of the economy in line with the objectives of the Council;
- (b) to undertake studies related to the development of small and medium enterprises across all sectors of the economy;
- (c) to co-operate with Government ministries and agencies in the implementation of the policies, strategies and programmes for small and medium enterprises across all sectors of the economy;
- (d) to become the centre for collection, reference and dissemination of information related to small and medium enterprises across all sectors of the economy;
- (e) to furnish annual reports on small and medium enterprises across all sectors of the economy to the Council;
- (f) to act as the Secretariat to the Council; and
- (g) in the manufacturing and services sectors —
  - (i) to undertake promotional activities to promote the growth of small and medium enterprises;

- (ii) to promote co-operation among small and medium enterprises;
- (iii) to encourage industrial linkages with large industries; and
- (iv) to develop human resource in the small and medium enterprises.

(2) For the purposes of this section, "services" means all services except banking, insurance, real estate and the business of dealing in securities."

### **Amendment of section 13**

9. Section 13 of the principal Act is amended—

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

"(c) to establish, maintain and manage a database and information system on small and medium enterprises across all sectors of the economy which includes the profile, economics and statistical data on the development programmes from any ministry or agency;"

(b) by inserting after paragraph (d) the following paragraphs:

"(da) to give grants or other financial assistance to small and medium enterprises across all sectors of the economy;

(db) to require the furnishing of information by small and medium enterprises across all sectors of the economy on matters relating to their business other than information no other member, officer, employee, agent or person has by any means access to it;

(dc) to develop small and medium enterprises across all sectors of the economy;" and

(c) in paragraph (e), by substituting for the words "small and medium industries" the words "small and medium enterprises across all sectors of the economy".

**New section 14A**

**10.** The principal Act is amended by inserting after section 14 the following section:

**"Power to grant loans**

**14A.** In the discharge of its functions and the exercise of its powers, the Corporation may grant loans for such purposes as may be approved by the Minister after consultation with the Minister of Finance, and such loans may be granted subject to such terms and conditions as the Corporation may, with the approval of the Minister, deem fit to impose in particular cases."

**New section 17A**

**11.** The principal Act is amended by inserting after section 17 the following section:

**"Power to establish companies**

**17A.** The Corporation may, from time to time, with the approval of the Minister and the concurrence of the Minister of Finance, establish companies by such names as the Corporation may determine to carry out and have the charge, conduct and management on behalf of the Corporation of any project, scheme or enterprise determined by the Corporation in the discharge of its functions and the exercise of its powers."

**Amendment of section 18**

**12.** Section 18 of the principal Act is amended by substituting for the words "Small and Medium Industries Development Fund" wherever they appear the words "Small and Medium Enterprises Development Fund".

**Amendment of section 19**

**13.** Section 19 of the principal Act is amended by inserting after paragraph (d) the following paragraphs:

"(da) the disbursement of grants or other financial assistance under this Act;

(db) the granting of loans under section 14A;"

**Amendment of Schedule**

**14.** The Schedule to the principal Act is amended—

(a) in subparagraph 1(1), by substituting for the word "four" the words "one-third of the total number of the members of the Corporation"; and

(b) in subparagraph 2(3), by substituting for the words "Small and Medium Industries Development Corporation" the words "Small and Medium Enterprises Corporation Malaysia".

**Savings and transitional provisions**

**15.** (1) All references to the Small and Medium Industries Development Corporation Act 1995 in any written law or document shall, on the coming into operation of this Act, be construed as references to the Small and Medium Enterprises Corporation Malaysia Act 1995.

(2) The change of name of "Small and Medium Industries Development Corporation" to "Small and Medium Enterprises Corporation Malaysia" upon the coming into operation of this Act shall not affect any rights or obligations of the Corporation or render defective any legal proceedings by or against it, and any legal proceedings that could have been continued or commenced by or against it before the date of coming into operation of this Act may be continued or commenced under its new name.

(3) All actions, regulations, orders, directions, notifications, approvals, decisions, guidelines and other executive acts made, given or done under, or in accordance with, or by virtue of the principal Act before the coming into operation of this Act shall be deemed to have been made, given or done under, or in accordance

with, or by virtue of, the corresponding provision introduced or amended by this Act, and shall continue to remain in full force and effect in relation to the persons to whom they apply until amended, repealed or rescinded under, in accordance with, or by virtue of, the corresponding provision introduced or amended by this Act.

(4) All moneys contained in or due to be paid into the Small and Medium Industries Development Fund established under section 18 of the principal Act shall, on the coming into operation of this Act, be transferred to and be deemed to be part of the Small and Medium Enterprises Development Fund.

(5) All deeds, documents and other instruments executed by the Corporation under the common seal of "Small and Medium Industries Development Corporation" before the coming into operation of this Act shall continue to remain in full force and effect on the coming into operation of this Act.

#### EXPLANATORY STATEMENT

This Bill seeks to amend the Small and Medium Industries Development Corporation Act 1995 ("Act 539").

2. *Clause 1* contains the short title and provision on commencement of the proposed Act.

3. *Clause 2* seeks to amend the long title of Act 539 to reflect the new main objective of the Act which is to establish the National Small and Medium Enterprises Development Council and the Small and Medium Enterprises Corporation Malaysia. The National Small and Medium Enterprises Development Council will be the highest policy making body for the development of small and medium enterprises across all sectors of the economy.

4. *Clause 3* seeks to amend section 1 of Act 539 to amend the short title of Act 539. The Act is to be known after this as the "Small and Medium Enterprises Corporation Malaysia Act 1995".

5. *Clause 4* seeks to amend section 2 of Act 539 to introduce the definitions of "Chairman", "Council" and "small and medium enterprises". This *clause* also seeks to amend the definitions of "Corporation" and "Fund". The definitions of "manufacturing activity" and "small and medium industry" are also deleted by this *clause*.

6. *Clause 5* seeks to introduce a new Part IA into Act 539 to provide for the establishment, composition and functions of the National Small and Medium Enterprises Development Council.
7. *Clause 6* seeks to amend section 3 of Act 539 to change the name of the Corporation. The Corporation will now be known as the "Small and Medium Enterprises Corporation Malaysia".
8. *Clause 7* seeks to amend subsection 4(1) of Act 539 to include the representatives from the chambers of commerce, the manufacturing sector, the services sector and the agriculture sector as members of the Corporation.
9. *Clause 8* seeks to amend section 12 of Act 539 to list out the new extended functions of the Corporation.
10. *Clause 9* seeks to amend section 13 of Act 539 to widen the powers of the Corporation which now include the power to develop small and medium enterprises, power to give grants and power to require the furnishing of information by small and medium enterprises. This clause also seeks to refine and clarify the existing powers of the Corporation conferred under section 13.
11. *Clause 10* seeks to introduce a new section 14A into Act 539 to empower the Corporation to grant loans to small and medium enterprises.
12. *Clause 11* seeks to introduce a new section 17A into Act 539 to empower the Corporation to establish companies.
13. *Clause 12* seeks to amend section 18 of Act 539 to change the name of the Fund established under the section. The Fund will now be known as the "Small and Medium Enterprises Development Fund".
14. *Clause 13* seeks to amend section 19 of Act 539 to allow the Fund to be expended for the disbursement of grants and the granting of loans.
15. *Clause 14* seeks to amend subparagraph 1(1) of the Schedule to Act 539 to change the quorum for a meeting of the Corporation from four members to one-third of the total number of the members of the Corporation. It also seeks to amend subparagraph 2(3) in consequence of the change of name of the Corporation.
16. *Clause 15* provides for savings and transitional provisions.

**FINANCIAL IMPLICATIONS**

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

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