

# **SOCIAL INCLUSION ACT 2012**

ACT [ ]

An Act to provide for the development and implementation of an integrated plan of action to address serious marginalisation within Malaysian society.

WHEREAS a socially inclusive society is one where the basic needs of all members of that society are met so as to enable them to live in dignity;

AND WHEREAS a substantial number of Malaysian citizens have been pushed to the margins of society and prevented from participating fully in society with the result that they are marginalised, amongst others, from employment and educational opportunities and social and community networks;

AND WHEREAS such individuals have negligible access to power and decision making bodies, minimal opportunity of influencing decisions or policies that affect them, and little chance of improving their standard of living;

AND WHEREAS such disadvantages are entrenched over generations and result in a cycle of inter-generational transmission of inequality;

AND WHEREAS it is recognised that the development and implementation of integrated plans of action that address this marginalisation is essential for the continued progress and development of the nation;

ENACTED by Parliament as follows:

## **PART I PRELIMINARY**

## 1. Short title and commencement

- (1) This Act may be cited as the [**Social Inclusion Act 2012**].
- (2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

## 2. Interpretation

In this Act, unless the context requires otherwise:-

“Asset Base” means the level of educational attainment, employment skills, general health status and nutrition; and financial resources of individuals, families and communities

“affiliates” includes foundations, companies and entities funded by Government that are involved in poverty alleviation and community development programmes

“Commission” means the Social Inclusion Commission established under section 3 of this Act

“marginalisation” means the process by which individuals or groups is excluded, fully or partially, from exercising their economic, social and political rights. Marginalisation prevents human beings from realizing their full potential and from participating fully as meaningful members of a society.

“plan of action” means an integrated and comprehensive agenda that encompasses policies, programmes and projects overseen and implemented by the Commission

“social inclusion” is a process which ensures that those at risk of poverty and social exclusion gain the opportunities and resources necessary to

participate fully in economic, social and cultural life and to enjoy a standard of living and well-being that is considered normal in the society in which they live. It ensures that they have a greater participation in decision making which affects their lives and access to their fundamental rights

## **PART II**

### **ESTABLISHMENT OF THE COMMISSION**

#### **3. Establishment of the Commission**

- (1) A body corporate to be known as the "Social Inclusion Commission" is established.
- (2) The Commission shall have perpetual succession and a common seal.
- (3) The Commission may sue and be sued in its name.
- (4) Subject to and for the purposes of this Act, the Commission may, upon such terms as the Commission deems fit-
  - (a) enter into contracts; and
  - (b) in respect of movable and immovable property and interest in movable and immovable property of every description:
    - (i) acquire, purchase and take such property and interest; and
    - (ii) hold, enjoy, convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, or otherwise dispose of, or deal with, such property and any interest in the property vested in the

## Commission.

### **4. Common seal**

- (1) The common seal of the Commission shall bear a device as approved by the Commission and the seal may from time to time be broken, changed, altered and made anew as the Commission thinks fit.
- (2) Until a seal is provided by the Commission, a stamp bearing the words "Social Inclusion Commission" may be used and shall be deemed to be its common seal.
- (3) The common seal shall be kept in the custody of the Chairman or any other person authorized by the Commission, and shall be authenticated by either the Chairman or by such other person authorized by the Chairman in writing.
- (4) All deeds, documents and other instruments purporting to be sealed with the common seal and authenticated in accordance with subsection (3), shall, until the contrary is proved, be deemed to have been validly executed.
- (5) Any deed, document and other instrument which, if executed by a person not being a body corporate, is not required to be under seal may in like manner be executed by a member of the Commission or any other person authorized by the Commission on behalf of the Commission.
- (6) The common seal of the Commission shall be officially and judicially noticed.

### **5. Composition of the Commission**

- (1) The Commission shall consist of seven members.

- (2) The members of the Commission shall be appointed by the Yang di-Pertuan Agong on the recommendation of the Prime Minister whose recommendation shall be determined by Parliament in accordance with Section 6.
- (3) The members of the Commission shall be appointed from persons who have knowledge of, or practical experience in or pertaining to the subject of this Act.
- (4) A member of the Commission shall hold office for a period of three years and is eligible for reappointment once for another period of three years.

## **6. Committee to be consulted with regard to appointment**

- (1) For the purpose of subsection 5(2) and 7(1), Parliament shall determine the persons recommended by the Prime Minister to the Yang di-Pertuan Agong for appointment as members of the Commission.
- (2) For the purposes of section 5(1), the Dewan Rakyat shall establish a Parliamentary Select Committee for the purposes of determining appropriate persons to be recommended, said Committee consisting of:
  - (a) the leader of the Opposition, who shall act as Chairman of said Committee; and
  - (b) four Members of Parliament, two of which shall be nominated by the Government and the Opposition respectively.
- (3) The said Committee may determine the conduct of its own proceedings but shall appoint three experts in matters with which the Commission shall be concerned with having regard to the unique circumstances of West Malaysia, Sabah and Sarawak to assist the said Committee in its deliberations.

- (4) The said Committee shall place its recommendations before both Houses of Parliament for their endorsement prior Parliament making known its recommendations to the Prime Minister. In the event Parliament is unable to endorse the recommendations of the said Committee, the said Committee will reconvene for further deliberations as may be warranted by circumstances.

## **7. Chairman and Vice-Chairman**

- (1) The Yang di-Pertuan Agong shall upon the recommendation of the Prime Minister designate a Chairman and a Vice-Chairman of the Commission from the members appointed under section 5.
- (2) The terms of office of the Chairman and the Vice-Chairman shall be their respective periods of membership on the Commission.
- (3) Where the Chairman of the Commission is for any reason unable to perform the functions of the Chairman, or during any period of vacancy in the office of the Chairman, the Vice-Chairman shall perform the functions of the Chairman.

## **8. Meetings of the Commission**

- (1) The Chairman of the Commission shall preside at all meetings of the Commission.
- (2) If the Chairman is absent from any meeting, the Vice-Chairman of the Commission shall preside at such meeting.
- (3) The quorum at all meetings shall be two thirds of the number of members of the Commission.
- (4) The members of the Commission shall use their best endeavours to arrive at all decisions of the meetings by

consensus failing which the decision by a two-thirds majority of the members present shall be required.

- (5) The Commission shall determine the conduct of its own proceedings.

## **9. Remuneration**

- (1) The Chairman of the Commission shall be paid such remuneration and allowances as the Yang di-Pertuan Agong may determine.
- (2) Every member of the Commission shall be paid allowances at such rates as the Yang di-Pertuan Agong may determine.
- (3) The remuneration payable to each member of the Commission shall be chargeable on the Consolidated Fund.

## **10. Vacation of office**

The office of a member of the Commission shall become vacant-

- (a) upon the death of the member;
- (b) upon the member resigning from such office by letter addressed to the Yang di-Pertuan Agong;
- (c) upon the expiration of his term of office; or
- (d) upon the member being removed from office on any of the grounds specified in section 11.

## **11. Disqualification**

A member of the Commission may be removed from office by the Yang di-Pertuan Agong if-

- (a) the member is adjudged insolvent by a court of competent jurisdiction;
- (b) the member is convicted in Malaysia or elsewhere of a criminal offence as would render him unfit to be a member of the Commission, and in particular, but not limited to, an offence involving fraud or dishonesty;
- (c) the Yang di-Pertuan Agong, after consulting a medical officer or a registered medical practitioner, is of the opinion that the member is physically or mentally incapable of continuing his office;
- (d) the member absents himself from three consecutive meetings of the Commission without obtaining leave of the Commission or, in the case of the Chairman, without leave of the Minister;
- (e) upon a determination by Parliament that the member:-
  - (i) has engaged in any paid office or employment which conflicts with his duties as a member of the Commission;
  - (ii) has misbehaved or has conducted himself in such a manner as to bring disrepute to the Commission; or
  - (iii) has acted in contravention of this Act and in conflict with his duties as a member of the Commission.

## **12. Disclosure of interest**

- (1) A member of the Commission or any committee established under section 14 who has acquired a direct or indirect interest whether by himself, a member of his family or his associate in relation to any matter under discussion by the Commission or committee shall disclose to the Commission or committee, as the case may be, the fact of his interest and the nature of that interest.

- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Commission or committee, as the case may be, in which the matter is discussed and, after the disclosure, the member-
- (a) shall not be present or take part in any deliberation or decision of the Commission or committee, as the case may be; and
  - (b) shall be disregarded for the purpose of constituting a quorum of the Commission or committee, as the case may be, when the matter is discussed or decided upon.
- (3) A member of the Commission or committee who fails to disclose his interest as required under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.
- (4) No act or proceedings of the Commission or committee shall be invalidated on the ground that any member of the Commission or committee has contravened this section.
- (5) For the purposes of this section-
- "a member of his family", in relation to a member of the Commission or a committee, includes-
- (a) his spouse;
  - (b) his parent (including a parent of his spouse);
  - (c) his child (including an adopted child or stepchild);
  - (d) his brother or sister (including a brother or sister of his spouse); and

(e) a spouse of his child, brother or sister; and

"associate", in relation to a member of the Commission or a committee, means-

(a) a person who is a nominee or an employee of the member;

(b) a firm of which the member or any nominee of his is a partner;

(c) a partner of the member;

(d) a trustee of a trust under which the member or a member of his family is a beneficiary; or

(e) any corporation within the meaning of the Companies Act 1965 [Act 125], of which the member or any nominee of his or a member of the member's family is a director or has a substantial shareholding in the corporation.

### **13. Accountability to Parliament**

(1) The Commission shall be accountable to Parliament and shall lay before both Houses of Parliament its annual reports;

(2) The Commission shall additionally lay before both Houses of Parliament detailed half-yearly reports of its affairs, such reports to include:

(a) all information necessary for Parliament to form a view as to the management of the Fund and utilisation of monies in the Fund;

(b) all information necessary for Parliament to form a view as to the affairs of the Commission and to the effectiveness

of programmes of action developed and implemented by the Commission; and

- (c) a certificate by the Auditor General confirming that the half-yearly financial records of the Fund has been audited and found to be in a satisfactory state of affairs.

Provided that the Auditor General shall similarly be required to confirm the records of the Commission for the purposes of the annual reports of the Commission.

- (3) All reports of the Commission are to be made public by, amongst others, making available at a reasonable cost copies of the reports and by causing the reports to be published on a website designated by the Commission for that purposes. The provisions of the Official Secrets Act 1972 [Act 88] shall not apply to reports of the Commission.
- (4) The Statutory Bodies (Accounts and Annual Reports) Act 1980 [Act 240] shall apply to the Commission.

#### **14. Appointment of Secretary and staff**

- (1) The Commission shall appoint a Secretary to the Commission.
- (2) The Commission may appoint such other officers and servants as may be necessary to assist the Commission in the discharge of its functions under this Act.

#### **15. Protection of members, officers and servants of the Commission**

- (1) No action, suit, prosecution or proceeding shall be instituted in any court against the Commission or against any member, officer, or servant of the Commission in respect of any act, neglect or default done or committed by him in such capacity

provided that he at the time had carried out his functions in good faith.

- (2) No action or proceeding, civil or criminal shall be instituted in any court against any member of the Commission in respect of any report made by the Commission under this Act or against any other person in respect of the publication by such person of a substantially true account of such report.
- (3) The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Commission or against any member of the Commission, any member of a committee, and employees or agents of the Commission 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.
- (4) Chapters IX and X of the Penal Code [*Act 574*] shall apply to members, officers and servants of the Commission as if references to "public servant" had been replaced with "member, officer or servant of the Commission".

### **PART III**

#### **ESTABLISHMENT OF THE FUND**

#### **16. Establishment of the Fund**

- (1) There shall be established a fund known as the "Social Inclusion Fund".
- (2) The Fund shall consist of-
  - (a) such sums as may be provided by Parliament for the purposes of this Act from time to time;
  - (b) all or any part of the fees, administrative charges or other charges imposed by or payable to the Commission under

this Act;

- (c)* all moneys derived as income from investments by the Commission;
  - (d)* all moneys received by the Commission by way of grants;
  - (e)* all other moneys and property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions and powers;
  - (f)* any costs paid to, or recovered by, the Commission in any action or proceedings, civil or criminal; and
  - (g)* all moneys lawfully received by the Commission, including interest.
- (3) The Fund shall be expended for the following purposes:
- (a)* for development expenditure incurred by the Commission in accordance with this Act;
  - (b)* paying any expenditure lawfully incurred by the Commission;
  - (c)* paying for the remuneration, allowances and other expenses of the members of the Commission, members of the committees and employees of the Commission;
  - (d)* paying any other expenses, costs or expenditure in relation to the procurement of goods and services, including the engagement of consultants, legal fees and costs and other fees and costs, properly incurred or accepted by the Commission in the performance of its functions and exercise of its powers under the competition laws;
  - (e)* purchasing or hiring equipment, machinery and any other

materials, acquiring land and any assets, and erecting buildings, and carrying out any other works and undertakings in the performance of its functions and exercise of its powers under this Act;

- (f) repaying moneys borrowed and the interest due thereon;
- (g) granting of loans, scholarships, advances, retirement benefits, pensions, gratuities and other benefits; and
- (h) generally, paying any expenses for carrying into effect the provisions of this Act.

## **PART IV**

### **FUNCTIONS AND POWERS OF THE COMMISSION**

#### **17. Functions of the Commission**

- (1) In furtherance of the objectives of this Act, the functions of the Commission shall be:
  - (a) to develop social inclusion policies;
  - (b) to identify marginalised or vulnerable individuals or communities and their needs;
  - (c) to develop and implement integrated plans of action as the Commission may consider necessary to address the marginalisation of individuals or communities, such programmes of action to be aimed at:
    - (i) a reduction in real poverty;
    - (ii) a reduction in income inequality;

- (iii) a reduction in institutional discrimination;
  - (iv) capacity building for marginalised or vulnerable communities;
  - (v) providing a social safety net for marginalised or vulnerable individuals or communities
- (d) To implement, or oversee implementation of, such plans of action as the Commission may from time to time develop;
- (e) To prescribe models of intervention;
- (f) To monitor, evaluate and approve implementation of social inclusion plans of action by the Governments of the Federation and the States; and
- (g) To oversee and manage the Fund.
- (2) In the discharge of its functions, the Commission shall have regard to Article 153 of the Federal Constitution, international law and the values that underlie an open and democratic society based on human dignity, equality and freedom. Provided that the Commission and shall consult and engage with marginalised communities on various aspects of social inclusion.
- (3) In making any recommendations to the Yang di-Pertuan Agong under Article 153 of the Federal Constitution the Prime Minister shall act in accordance with the recommendations of the Commission.
- (4) All plans of action by the Governments of the Federation and the States are to be developed in line with the social inclusion

policies of, and be approved in such manner as the Commission determines, by the Commission prior to the disbursement of any funds allocated for such plans of action by the Governments of the Federation and the States, or any ministries, agencies or affiliates of the Governments.

- (5) The Commission shall set out its reasons for approving or otherwise any plans of action by the Governments of the Federation or the States of any ministries, agencies or affiliates of the Governments, such written reasons to be incorporated into the half-yearly reports provided for under section 13(2) of this Act.

#### **17A. Publicity in connection with preparation of draft social inclusions policies**

Before commencing the preparation of a social inclusion policy, the Commission shall take such steps as will in its opinion secure –

- (a) that publicity is given to the draft social inclusion policy that will be prepared, its objectives and the purpose for its preparation, and matters that the Commission proposes to include in the policy;
- (b) that persons who may be expected to desire an opportunity of making representations to the Commission in respect of those matters are made aware that they are entitled to, and are given, an opportunity of doing so.

#### **17B. Publicity in connection with draft social inclusion policies**

- (1) When the Commission has prepared a draft social inclusion policy, it shall, before adopting it, make copies of the draft local plan available for inspection at its office, on its website and at such other places as it may determine; and each copy made available for inspection shall be accompanied by a

statement of the time, as stated in the notice published under subsection (2), within which objections to or representations in respect of the draft social inclusion policy may be made to the Commission.

(2) Before making copies of a draft social inclusion policy available for inspection under subsection (1), the Commission shall publish, in three issues of at least two local newspapers, one of which being in the national language, a notice stating the date on which copies of the draft social inclusion policy will begin to be available for inspection, the places where they will be available for inspection, and the time, which shall not be less than four weeks from the date on which copies of the draft social inclusion policy begin to be available for inspection, within which objections to or representations in respect of the draft local plan may be made to the Commission.

(3) The time stated in the notice under subsection (2) for the making of objections to or representations in respect of the draft social inclusion policy may be extended once by the Commission by not more than four weeks on the applications of any person.

## **18. Powers of the Commission**

- (1) In furtherance of the objectives of this Act, the Commission shall have the following powers:
  - (a) To conduct such inquiries as the Commission considers necessary;
  - (b) To conduct such surveys as are necessary in each Parliamentary constituency to identify marginalised or vulnerable individuals or communities and their needs;
  - (c) To establish intervention units to oversee and implement

plans of action at each Parliamentary constituency;

- (d) To take all necessary steps to ensure the involvement of Members of Parliament in the development and implementation of plans of action action;
- (e) To pay from the Fund such funds as are considered necessary for the implementation of plans of action by the Commission;

(2) The Commission shall, for the purposes of an inquiry under this Act, have the power-

- (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine;
- (b) to require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorised in that behalf by the Commission an oath or affirmation to every such witness;
- (c) to summon any person residing in Malaysia to attend any meeting of the Commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;
- (d) to admit notwithstanding any of the provisions of the Evidence Act 1950 [*Act 56*], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings; and

- (e) to admit or exclude the public from such inquiry or any part thereof.
- (3) Notwithstanding paragraph (2)(c), where a person summoned is a person under detention under any other written law, such summons shall be issued in accordance with the laws applicable in relation to the place of detention.

## **PART V GENERAL**

### **19. Power to employ**

The Commission may employ and pay agents and technical advisers, including advocates and solicitors, bankers, consultants and other persons, to transact any business or to do any act required to be transacted or done in the performance of its functions, or the exercise of its powers or for the better carrying into effect the purposes of this Act.

### **20. Power to make disciplinary regulations.**

- (1) The Commission may make such regulations as it thinks necessary or expedient to provide for the discipline of the officers and servants of the Commission.
- (2) Where any disciplinary regulations are made under this section, the Commission shall cause notice of the effect of those regulations to be given in such manner as it thinks necessary for bringing it to the notice of all officers and servants of the Commission who are affected by those regulations and those regulations shall, notwithstanding sections 19 and 20 of the Interpretation Acts 1948 and 1967 [*Act 388*], have effect as soon as the notice has been given without publication in the *Gazette*.