

features of the Act are:-

- (i) Protection of the legitimate right of employers and workmen and their trade unions;
- (ii) Exclusion of workmen in managerial, executive, confidential or security capacities from the scope of recognition of trade union, the majority of whose membership are not employed in any of these capacities;
- (iii) Procedure relating to submissions of claims for recognition and scope of representation of trade unions and collective bargaining;
- (iv) Non-inclusion in union's proposals for collective bargaining on matters relating to promotion, transfer, recruitment, retrenchment, dismissal, reinstatement, and allocation of duties and prohibition of strikes over any of these matters;
- (v) Emphasis on direct negotiation between employers and workmen and their trade unions to settle their differences and provision for speedy and just settlement of trade disputes by conciliation or arbitration when direct negotiation fails;
- (vi) Provision for the Minister of Labour to intervene and to refer at any stage any trade dispute to the Industrial Court for arbitration;
- (vii) Prohibition of strikes and lock-outs after a trade dispute has been referred to the Industrial Court, and on any matter covered by a collective agreement or by an award of the Industrial Court;
- (viii) Protection of pioneer industries during the initial years of their establishment against any unreasonable demands from a trade union because trade unions cannot demand better terms of employment than those stipulated under the Employment Act.

13. Employees Provident Fund Act, 1951

The Employees Provident Fund Act, 1951 provides for a compulsory contributory provident fund which is payable to employees in full on reaching the age of 55 years. All employers and employees are required to contribute to the Fund at the rates of 11% and 9% respectively of the employees' monthly wages.

Among the categories of employees precluded from compulsory contributions are:

- (i) Expatriates
- (ii) Domestic Servants - Persons who are employed to work in or connected with work in a private dwelling house including a valet, gardener, and who are paid from the private account of the employers.

However, expatriate employees, domestic servants and self employed persons can opt to contribute to the Fund.

14. Employees' Social Security Act, 1969

All industries throughout the country with five or more employees whose wages do not exceed M\$1,000 a month, are required to insure their employees under the two schemes of the Social Security Organisation, namely, the Employment Injury Insurance Scheme and the Invalidity Pension Scheme.

- (i) The Employment Injury Insurance Scheme provides employees with coverage in the event of any disablement or death due to employment injury by way of cash benefits and medical care. The contribution is borne solely by the employer and is about one and one quarter per cent of the wages of an employee.

- (ii) The Invalidity Pension Scheme provides a 24-hour coverage to employees against invalidity and death due to any cause before the age of 55 years. The total contribution is about 30 per cent of the wages of an employee and is shared by the employer and the employee equally.

15. Workmen's Compensation Act, 1952

Employers who are not required to contribute under the Social Security Act, are required to insure with a locally registered insurance company in respect of any liability which they may incur under the Workmen's Compensation Act, 1952. This Act, which covers all manual workers irrespective of their wages and non-manual workers whose earnings do not exceed M\$500 a month, prescribes the amount of compensation payable to employees or their dependants for injury or death suffered in the course of employment.

- (i) In fatal cases, the maximum compensation payable is 45 months' earnings or M\$14,400, whichever is the less.
- (ii) In permanent total disablement cases, the maximum compensation is 60 months' earnings or M\$19,200, whichever is the less.
- (iii) In permanent partial disablement cases, compensation is based on the percentage disablement sustained.
- (iv) In temporary total disablement cases, amount payable is by way of half-monthly payments of one-third of the monthly earnings or M\$135, whichever is the less.

Exchange Control Administrative Practices

The present exchange control regime is liberal and applies uniformly to transactions with all countries except South Africa and Israel, against which special restrictive rules apply. The main exchange control rules which are of direct relevance to foreign investors, are as follows:-

1. Direct and portfolio investment

No permission is required from the Controller of Foreign Exchange (hereinafter referred to as "the Controller") for a non-resident to undertake direct or portfolio investment in Malaysia.

2. Remittance abroad

Payments to countries outside Malaysia may be made in any foreign currency other than the currencies of South Africa and Israel. Payments within Malaysia must be made in ringgit, the Malaysian unit of currency.

All payments to non-residents for any purpose, including repatriation of capital and profits, are freely permitted, subject only to the completion of a simple statistical form for remittances of more than M\$10,000 each or its equivalent in foreign currency. The authorised banks are authorised to approve such payments, irrespective of amount. The authorised banks are required to refer to the Controller for approval only payments made for the purpose of investing in securities or immovable property abroad and for extending credit to, or placement of deposits with non-residents, whenever such transactions are financed by any credit facility in Malaysia. The use of domestic borrowing to finance investments abroad is generally not encouraged.