



**Resolution Adopted at the 76th Annual General Meeting of the Malaysian Bar
(Held Virtually on 19 Mar 2022)**

Resolution on Conduct, Discipline and Political Funding Laws that Cover the Cabinet, Members of Parliament, Senators, Etc

Whereas:

- (1) The Federal Constitution in Article 132(3) states as follows:

The public service shall not be taken to comprise —

(a) the office of any member of the administration in the Federation or a State; or

(b) the office of President, Speaker, Deputy President, Deputy Speaker or member of either House of Parliament or of the Legislative Assembly of a State; or

(c) the office of judge of the Federal Court, the Court of Appeal or a High Court; or

(d) the office of member of any Commission or Council established by this Constitution or any corresponding Commission or Council established by the Constitution of a State; or

(e) such diplomatic posts as the Yang di-Pertuan Agong may by order prescribe, being post which but for the order would be posts in the general public service of the Federation.

(2) This would mean that the Public Officers (Conduct and Discipline) Regulations 1993 (P.U. (A) 395/1993) and related regulations would not apply to the Cabinet. It is unclear too as to whether they apply to Members of Parliament, Senators and State Assemblypersons.

(3) The Public Officers (Conduct and Discipline) Regulations 1993 deal with sexual harassment, receipt of presents, ownership of property including disposal, futures market, borrowing and lending monies, entertainment, etc. It covers not just the particular officer but also his/her family members.

(4) Regulation 10 of the Public Officers (Conduct and Discipline) Regulations 1993 requires that all public servants must declare both movable properties (such as money in bank accounts, motor vehicles, jewellery, firearms, shares, warrants, stocks, bonds and

securities) as well as immovable properties (such as land, landed properties and, of course, business ownership or directorship).

- (5) Regulation 10(3) states: “Where, after making a declaration under subregulation (1), an officer or his spouse or child acquires any property, either directly or indirectly, or any property acquired by him or by his spouse or child is disposed of, that officer shall immediately declare such acquisition or disposal of property to his Head of Department.”
- (6) Service Circular Number 3/2002 (Pekeliling Perkhidmatan Bilangan 3 Tahun 2002) deals with Ownership and Declaration of Assets by Public Officials, which prevents a public servant from owning more than RM100,000 worth of shares in any company.
- (7) Regulation 8(1) states, amongst others: “... an officer shall not receive or give nor shall he allow his spouse or any other person to receive or give on his behalf any present, whether in a tangible form or otherwise, from or to any person, association, body, or group of persons if the receipt or giving of such present is in any way connected, either directly or indirectly, with his official duties.”
- (8) At present, it appears that the Public Officers (Conduct and Discipline) Regulations 1993 and related regulations, circulars, etc do not apply to Cabinet members, and there seem to be no similar comprehensive regulations or code of conduct that exist.
- (9) Political funding from third parties is also of concern; more so when there is no requirement of declaration and transparency. Acquisition of monies personally on behalf of a political party, is still acquisition of monies personally. If anyone wanted to “donate” to a political party, then they would directly pay the said party, which is a registered society and has official party bank accounts.
- (10) For Members of Parliament, there is currently a call to make a declaration of assets to the Malaysian Anti-Corruption Commission (“MACC”), but a one-time declaration only helps us understand how rich or poor they are when they get elected or assume office. If there were regular declarations — once every six months or immediately after they acquire or dispose of property — then the people can monitor the Cabinet and their elected representatives better, to ensure they stay clean. Currently, if one visits the MACC website, one may not see the details of the asset declaration, as it is made inaccessible after several months from the date of declaration.
- (11) It is best that the Public Officers (Conduct and Discipline) Regulations 1993, or similar Acts/regulations, also apply to members of the Administration (Prime Minister and Cabinet members), Members of Parliament, Senators, State Assemblypersons, and officers in government-linked companies, government-owned companies and government investment companies. The declaration of assets requirement should also extend to them.

Therefore, it is hereby resolved:

- (A) To enact an Act of Parliament and/or amend the Federal Constitution to extend and expand the applicability of the Public Officers (Conduct and Discipline) Regulations 1993 (P.U. (A) 395/1993) and related regulations, circulars, etc, and/or similar Acts/regulations, to all Members of the Administration (Prime Minister and Cabinet

members), Members of Parliament, Senators, State Assemblypersons, and officers in government-linked companies, government-owned companies and government investment companies;

- (B) To legislate and enhance the asset declaration requirements to mandate that declarations must be made as soon as it is practicable to do so after acquisition and/or disposal of any properties and/or assets, and further that these asset declarations shall always be made accessible and/or open to the public; and
- (C) To enact an Act of Parliament to regulate and control all forms of political funding.