

## **UNDANG-UNDANG TUBUH KERJAAN NEGERI SARAWAK**

- (3B). Where any question arises regarding the disqualification of the Speaker under clause (3A) or Deputy Speaker under clause (4) (b), the decision of the Dewan Undangan Negeri shall be taken and shall be final.
- (4) (a) During any vacancy in the office of Speaker or during any absence of the Speaker or any period during which the Speaker is unable for any reason to exercise his functions, the Deputy Speaker or, if the Deputy Speaker is also absent or unable to exercise his functions or if his office is also vacant, such other member of the Dewan as may be determined by Standing Orders of the Dewan, shall act as Speaker.
- (b) Any person who is appointed to be a Deputy Speaker under clause (1) (b), shall not be disqualified from engaging in any trade, business or profession but shall not preside over any sitting of the Dewan when it is deliberating on a matter which is likely to affect his personal or pecuniary interest.
- (5) The Legislature shall by law provide for the remuneration of the Speaker or Deputy Speaker, and the remuneration so provided shall be a charge on and paid out of the Consolidated Fund, and shall not be diminished as respects any holder of the office of Speaker or Deputy Speaker after his appointment.

### **Qualification of members**

16. Every citizen of or over the age of twenty-one years who is resident in the State is qualified to be elected as an elected member of the Dewan Undangan Negeri, unless he is disqualified for being such member by the Federal Constitution or this Constitution or by any such law as is mentioned in Article 17.

### **Provision against double membership**

16A. A person shall not at the same time be a member of the Dewan Undangan Negeri for more than one constituency.

### **Disqualification for membership**

17.(1) Subject to the provisions of this Article, a person is disqualified for being elected member of the Dewan Undangan Negeri if:

- (a) He is and has been found or declared to be of unsound mind;
- (b) he is an undischarged bankrupt;
- (c) He holds an office of profit other than that of a Native Chief;
- (d) Having been nominated for election to either House of Parliament or to the Dewan Undangan Negeri or having acted as election agent to a person so nominated he has failed to lodge any return of election expense required by law within the time and in the manner so required;
- (e) He has been convicted of an offence by a Court of law in any part of the Federation and sentence to imprisonment for a term of not less than one year or to fine of not less than two thousand ringgit and has not received a free pardon in respect thereof;
- (f) He is disqualified under any law relating to offences in connection with elections to either House of Parliament or to the Dewan Undangan Negeri by reason of having been convicted of

such an offence, or having in proceeding as relating to such an election been proved guilty of an act constituting such an offence; or

(g) He has voluntarily acquired citizenship of, or exercised rights of citizenship in, any country outside the Federation or has made a declaration of allegiance to any country outside the Federation.

(2) *(Repealed)*

(3) The disqualification of a person under paragraph (d) or paragraph (e) of clause (1) may be removed by the Yang di-Pertua Negeri and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in paragraph (d) of that clause was required to be lodged, or, as the case may be, the date on which the person convicted as mentioned in paragraph (e) of that clause was released from custody, or the date on which the fine mentioned in that paragraph was imposed; and a person shall not be disqualified under paragraph (g) of clause (1) by reason only of anything done by him before he became a citizen.

(4) Notwithstanding anything contained in the foregoing provisions of this Article, where a member of the Dewan Undangan Negeri becomes disqualified from continuing to be a member thereof pursuant to paragraph (e) of clause (1), or under a law as is referred to in paragraph (f) of clause (1)-

(a) The disqualification shall take effect upon the expiry of fourteen days from the date on which he was-

- (i) Convicted and sentenced as specified in the aforesaid paragraph (e); or
    - (ii) Convicted of an offence or proved guilty of an act under a law as is referred to in the aforesaid paragraph (f); or
  - (b) If within the period of fourteen days specified in paragraph (a) an appeal or any other court proceeding is brought in respect of such conviction or sentence, or in respect of being so convicted or proved guilty, as the case may be, the disqualification shall take effect upon the expiry of fourteen days from the date on which such appeal or other court proceeding is disposed of by the court; or
  - (c) If within the period specified in paragraph (a) or the period after the disposal of the appeal or other a petition for a pardon, such disqualification shall take effect immediately upon the petition being disposed of.
- (5) Clause (4) shall not apply for the purpose of nomination or election of any person to the Dewan Undangan Negeri, for which purpose the disqualification shall take effect immediately upon the occurrence of the event referred to in paragraph (e) or (f), as the case may be, of clause (1).
- (6) A person who resigns his membership of the Dewan Undangan Negeri of this State or the Legislative Assembly or any other State, shall, for a period of five years beginning with the date on which his resignation takes effect, be disqualified from being a member of the Dewan

Undanguan Negeri of this State.

- (7) (a) Any person who has voluntarily given an under taking to the Speaker in writing that he will not resign his membership from the political party for which he belonged to which he belonged when he is elected to the Dewan Undanguan Negeri, shall if he resigns from the political party after being elected, be disqualified in the interest of public intergrity and morality from continuing to be a member of the Dewan Undanguan Negeri with effect from the date he resigned from the political party.

(b) For the avoidance of any doubt, it is hereby declared that this clause shall not be taken as imposing restrictions on any person from becoming a member of any political party, permanently or otherwise.

#### **Tenure of seats of members**

18. (1) Every elected member of the Dewan Undanguan Negeri shall vacate his seat in the Dewan on a dissolution of the Dewan.

(2) An elected member shall also vacate his seat in the Dewan if-

- (a) He ceases to be qualified for election as such a member of the Dewan
- (b) He resign his seat by writing under his hand addressed to the Speaker
- (c) He is absent without the leave of the Speaker from every sitting of the Dewan for three consecutive meetings;

(d) *(Repealed)*

(e) *(Repealed)*

(3) For the purpose of paragraph (c) of clause (2) “meeting” means any sitting or sitting of the Dewan commencing when the Dewan first meets after being summoned at any time and terminating when the Dewan is adjourned *sine die* or at the conclusion of a Session.

(4) *(Repealed)*

#### **Decision as to disqualification**

19. (1) If any question arises whether the Speaker or a member of the Dewan Undangan Negeri has ceased to be qualified for appointment or election as such, the decision of the Dewan shall be taken and shall be final:

\* Provided that this Article shall not be taken to prevent the practice of the Dewan postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

(2) Where a member of the Dewan Undangan Negeri becomes disqualified under paragraph (e) of clause (1) of Article 17, or under a law as is referred to in paragraph (f) of clause (1) of Article 17, the foregoing clause (1) shall not apply, and he shall cease to be a member of the Dewan Undangan Negeri, and his seat shall become vacant, immediately upon his disqualification taking effect in accordance with

clause ( 4 ) of Article 17.

### **Penalty for unqualified person sitting or voting in Dewan Undangan Negeri**

20. Any person who sits or votes in the Dewan Undangan Negeri, knowing or having or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty not exceeding two hundred ringgit for each day on which he so sits or votes, which penalty shall be recoverable as a civil debt in High Court at the suit of the State Attorney - General.

### **Summoning, prorogation and dissolution of Dewan Undangan Negeri**

21. (1) The Yang di-Pertua Negeri may from time to time summon the Dewan Undangan Negeri, and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Yang di-Pertua Negeri may prorogue or dissolve the Dewan Undangan Negeri.

(3) The Dewan Undangan Negeri shall, unless sooner dissolved, continue for five years from the date of its first sitting and shall then stand dissolved.

(3A) Notwithstanding the provisions of clause (3) of Article 21 of the Constitution, the Dewan Undangan Negeri existing at the date of commencement of the Federal Constitution (Amendment) Act. 1968 **[Act No. 27/68]**, shall not be subject to the prescribed period of five years for it to stand dissolved but shall stand dissolved on the date on which the Federal Parliament is next dissolved or next stands dissolved

after the date of commencement of the Act.

(4) Whenever the Dewan Undangan Negeri is dissolved, a general election shall be held within sixty days from the date of the dissolution and the new Dewan Undangan Negeri shall be summoned to meet on a date not later than one hundred and twenty days from that date.

(5) Whenever the seat of an elected member has become vacant for any reason other than a dissolution, the vacancy shall, within sixty days from the date on which it is established by the Election Commission that there is a vacancy, be filled by election in accordance with the provisions of this Constitution:

\*Provided that if a casual vacancy is established on a date within two years of the date the Dewan Undangan Negeri shall, in accordance with clause (3), stand dissolved, such casual vacancy shall not be filled unless the Speaker notifies the Election Commission in writing that the numerical strength of the party that constitutes a majority of all the members of the Dewan Undangan Negeri is being affected by such vacancy in which event such vacancy shall be filled within sixty days from the date of the receipt of that notification.