



# **LAWS OF MALAYSIA**

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**Act 537**

**PRISON ACT 1995**

*As at 1 March 2016*

**PRISON ACT 1995**

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**LAWS OF MALAYSIA****Act 537****PRISON ACT 1995**

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**LAWS OF MALAYSIA****Act 537****PRISON ACT 1995**

An Act to consolidate and amend the laws relating to prisons, prisoners and related matters.

*[18 January 1996, P.U. (B) 24/1996]*

**BE IT ENACTED** by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

**PART I****PRELIMINARY****Short title**

1. This Act may be cited as the Prison Act 1995.

**Interpretation**

2. (1) In this Act, unless the context otherwise requires—

“prisoner” means a person, whether convicted or not, under confinement in a prison and in relation to a convicted prisoner, includes a prisoner released on parole;

“young prisoner” means a prisoner who is below twenty one years of age;

“prescribed restricted diet” means a scale of diet as may be prescribed from time to time for the purposes of section 50;

“prescribed” means prescribed by or under this Act and where the authority is not specified, by the Minister;

“registered dentist” means a dentist registered under the Dental Act 1971 [*Act 51*];

“Visiting Justice” means a member of the Board of Visiting Justices appointed under section 64;

“mental hospital” means a hospital established for the reception and detention of mentally disordered persons under section 30 of the Mental Disorders Ordinance 1952 [*Ord. 31 of 1952*], and includes an approved hospital gazetted under the Mental Health Ordinance 1961 [*Sarawak Ord. 16 of 1961*] and an asylum under the Lunatics Ordinance 1961 [*Sabah Cap. 74*];

“sentence of imprisonment” means a sentence whether served in confinement in a prison or served on parole, and includes an original sentence passed by a court as well as a sentence awarded by way of commutation;

“Committee” means the Prison Officers’ Reward Fund Committee established under section 62;

“minor prison offence” and “aggravated prison offence” mean an offence committed by a prisoner against prison discipline and so specified in regulations made under this Act;

\*“Commissioner” means the Commissioner of Prison appointed under subsection 10(2);

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\*NOTE—All references to the Director General of Prison and Deputy Director General of Prison in any written law or in any instrument, deed, title, document, bond, agreement and working arrangement subsisting immediately before the date of the coming into operation of this Prison Act (Amendment) 2008 [*Act A1332*], shall, on the date of the coming into operation of Act A1332, be construed as references to the Commissioner General of Prison and Commissioner of Prison respectively—see section 4 of Act A1332 and P.U. (B) 260/2008.

\*“Commissioner General” means the Commissioner General of Prison appointed under subsection 10(1);

“Fund” means the Prison Officers’ Reward Fund established under section 60;

“court” means a court established by or under Part IX of the Federal Constitution and shall include—

- (a) Syariah Courts;
- (b) Native Courts; and
- (c) Military Courts;

“Minister” means the Minister charged with the responsibility for prisons;

“prison officer” means a uniformed staff of the prison department from and including the rank of Commissioner General of Prison down to and including a Warder;

“Medical Officer” and “Dental Officer” mean the Medical Officer or Dental Officer, as the case may be, appointed under section 14;

“police officer” has the meaning assigned thereto under the Police Act 1967 [*Act 344*];

“Junior Prison Officer” means a prison officer of any rank from and including a Prison Sub Inspector down to and including a Warder;

“Officer in Charge” means a prison officer not below the rank of Assistant Commissioner of Prison who is in charge of a prison;

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\* *NOTE*—All references to the Director General of Prison and Deputy Director General of Prison in any written law or in any instrument, deed, title, document, bond, agreement and working arrangement subsisting immediately before the date of the coming into operation of this Prison Act (Amendment) 2008 [*Act A1332*], shall, on the date of the coming into operation of Act A1332, be construed as references to the Commissioner General of Prison and Commissioner of Prison respectively—*see* section 4 of Act A1332 and P.U. (B) 260/2008.

“Registrar” includes the Chief Registrar, Deputy Registrar, Senior Assistant Registrar, Assistant Registrar, and the Registrar of the Subordinate Courts, as the case may require;

“registered medical practitioner” means a medical practitioner provisionally registered under section 12 or fully registered under section 14 of the Medical Act 1971 [Act 50], as the case may be;

“State Prison Director” means a prison officer at a particular State not below the rank of Assistant Commissioner of Prison;

“prison” means any house, building, enclosure or place, or any part thereof, declared to be a prison under section 3 and shall include the grounds and buildings within the prison enclosure and also the airing grounds or other grounds or buildings belonging or attached thereto and used by prisoners;

“Commissioner General’s Standing Orders” means the Standing Orders issued from time to time by the Commissioner General;

“competent authority” means any person or authority vested with the power to commit a person to prison under any written law;

“weapon” means any staves, arms, ammunition, and includes any instrument as may be determined by the Commissioner General;

“arm” has the meaning assigned thereto under the Arms Act 1960 [Act 206];

“Commission” means the Public Services Commission established under Article 139 of the Federal Constitution;

“place of work” means a place where prisoners are required by the Commissioner General to work for purposes of rehabilitation of prisoners, such work being performed under the supervision of prison officers;

“Deputy Commissioner General of Prison” means the Deputy Commissioner General of Prison appointed under subsection 10(2).

(2) For the purpose of the definition of “young prisoner” in subsection (1), it shall include a prisoner who—

- (a) is not a young prisoner as defined under the Ordinances repealed by this Act;
- (b) is below twenty one years of age; and
- (c) is serving a term of imprisonment passed before the coming into force of this Act.

## PART II

### CONSTITUTION AND ADMINISTRATION

#### **Power to declare prisons**

3. The Minister may, by notification in the *Gazette*, declare any house, building, enclosure or place, or any part thereof, to be a prison for the purposes of this Act for the imprisonment or detention of persons lawfully in custody and may in like manner declare that any such prison shall cease to be a prison for the purposes of this Act.

#### **Existing buildings declared prisons**

4. Subject to any declaration made under this Act, the buildings which at the commencement of this Act are in use as prisons shall be deemed to be prisons within the meaning of this Act.

#### **Description of prison in writs, etc.**

5. In any writ, warrant, or other legal instrument in which it may be necessary to describe a particular prison, any description designating a prison by reference to the name of the place or town where it is situated, or other definite description, shall be valid and sufficient for all purposes.

**Appropriation of prisons to categories of prisoners**

6. (1) The Commissioner General may, from time to time, by order—

(a) appropriate certain prisons—

(i) for effecting the separation of different categories of prisoners;

(ii) for the training of different categories of prisoners;

or

(iii) for any other reason.

(b) limit the categories of prisoners in certain prisons.

(2) A prisoner of the category for which a prison is to be designated may be lawfully conveyed to and imprisoned in that prison despite the warrant or order for the imprisonment of that prisoner shall have been issued by a court not having its ordinary jurisdiction in the place where the prison is situated.

**Appointment of lock-ups at police stations and court houses as places of detention**

7. (1) It shall be lawful for the Minister, by notification in the *Gazette*, to appoint lock-ups at such police stations and court houses as may be specified in the notification to be places for the confinement of persons, remanded or sentenced to such terms of imprisonment, not exceeding one month, as may be specified in each case.

(1A) In addition, it shall be lawful for the Minister, by notification in the *Gazette*, to appoint lock-ups at such police stations and court houses as may be specified in the notification to be places for the confinement of persons remanded under the Prevention of Crime Act 1959 [Act 297] and the Prevention of Terrorism Act 2015 [Act 769].

(2) A lock-up appointed as a place of confinement under subsection (1)—

- (a) shall not be deemed to be a prison for the purposes of this Act, or of the Registration of Criminals and Undesirable Persons Act 1969 [Act 7] and regulations made under this Act shall not apply thereto;
- (b) shall be deemed to be a prison for the purposes of Chapter XXVII of the Criminal Procedure Code [Act 593] or of the Debtors Act 1957 [Act 256].

### **Temporary prisons**

**8.** (1) Whenever it appears to the Commissioner General—

- (a) that the number of prisoners in a prison is greater than can be reasonably kept in the prison and that it is not convenient to transfer the excess number to another prison; or
- (b) that by reason of an outbreak within a prison of a disease or for any other reason which renders it necessary to provide for the temporary shelter and safe custody of any prisoner,

he may, with the approval of the Minister, direct in writing for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

(2) A temporary prison under subsection (1) shall be a prison for the purposes of this Act.

(3) Any prisoner removed to a temporary prison under subsection (1) shall, when the reason for the removal has ceased, be returned to the prison from where he was removed if his term of imprisonment has not expired.

(4) The direction or order made or given by the Commissioner General under subsection (1) shall be for a period not exceeding three months.

(5) Despite subsection (4), the duration of any direction or order made under subsection (1) may, with the approval of the Minister, be extended for further periods not exceeding three months at any one time and such extensions shall not in any event exceed a total period of nine months.

### **Administration of prisons**

**9.** (1) Subject to the provisions of the Federal Constitution relating to the jurisdiction, power and functions of the Commission and the orders of the Minister made under this Act, the general charge and administration of prisons and the control and direction of prison officers throughout Malaysia shall be vested in the Commissioner General.

(2) The Commissioner General may from time to time make such transfers and direct the employment and distribution of prison officers as he may think fit.

## PART III

### OFFICERS

#### **Appointment of officers**

**10.** (1) The Yang di-Pertuan Agong may appoint a Commissioner General of Prison for Malaysia.

(2) There shall be appointed such number of Deputy Commissioners General of Prison, Commissioners of Prison, Deputy Commissioners of Prison, Senior Assistant Commissioners of Prison and Assistant Commissioners of Prison, from amongst prison officers, and such number of prison officers as may be necessary for the carrying out of the provisions of this Act.

(3) The ranks of Senior Prison Officers and Junior Prison Officers are as set out in the First Schedule.

### **Absence or incapacity of Commissioner General**

**11.** (1) In the absence or incapacity of the Commissioner General, the powers and duties of the Commissioner General under this Act or any regulations made thereunder may be exercised and performed by the Deputy Commissioner General of Prison authorized in writing by the Commissioner General.

(2) In the absence or incapacity of the Deputy Commissioners General of Prison, the powers and duties of the Commissioner General shall be exercised and performed by the prison officer next senior in the prison department.

### **Commissioner General's Standing Orders**

**12.** The Commissioner General may make and issue orders, to be called Commissioner General's Standing Orders not inconsistent with this Act or of any regulations made under the Act.

### **Duties of the Commissioner General, State Prison Director and Officer in Charge**

- 13.** (1) The Commissioner General shall—
- (a) periodically visit and inspect, or cause to be visited and inspected, all prisons in Malaysia;
  - (b) supervise and control all matters in connection with any prison, the administration of which is vested in him; and
  - (c) be responsible to the Minister for—
    - (i) the conduct and treatment of the prison officers and prisoners under his control;
    - (ii) the due observance by prison officers and prisoners of the provisions of this Act and of all other written laws relating to prisons or prisoners; and
    - (iii) the transferred prisoners as provided in Part IVB.

(1A) Subject to the orders of the Commissioner General, the State Prison Director shall in respect of the State under his charge—

(a) supervise and control Officer in Charge, prison officer training centre, parole and community service; and

(b) be responsible to the Commissioner General for—

(i) the due observance by prison officers and prisoners of this Act and of all other written laws relating to prison, prison officer training centre, parole and community service;

(ii) the supervision of any matters relating to the Board of Visiting Justices;

(iii) the management of matters relating to pardon of prisoners; and

(iv) the transfer of prisoners as provided in Part IVB.

(2) Subject to the orders of the Commissioner General, the Officer in Charge shall—

(a) supervise and control all matters in connection with any prison, the administration of which is vested in him; and

(b) be responsible to the Commissioner General for—

(i) the conduct and treatment of the prison officers and prisoners under his control; and

(ii) the due observance by prison officers and prisoners of the provisions of this Act and of all other written laws relating to prisons or prisoners.

(3) The Commissioner General may, in writing, delegate the exercise of any of his powers or the performance of any of his duties under this Act to any prison officer—

- (a) subject to such conditions or restrictions as the Commissioner General may think fit; and
- (b) save in matters relating to transfer of prison officers, the making and issuance of Standing Orders, and any functions delegated to the Commissioner General by the Commission pursuant to Clause (6) of Article 144 of the Federal Constitution.

### **Medical Officer and Dental Officer for prisons**

**14.** (1) The Minister charged with the responsibility for health services shall, whenever the circumstances permit, appoint from the staff of the Ministry of Health a Medical Officer and a Dental Officer for each of the prisons.

(2) If the circumstances do not permit an appointment under subsection (1), the Minister charged with the responsibility for health services may appoint any registered medical practitioner or any registered dentist to be the Medical Officer or Dental Officer of any particular prison.

(3) The Officer in Charge shall arrange with the Ministry of Health or the local department of health for the performance of the duties of a Medical Officer or Dental Officer by another person where the Medical Officer or Dental Officer is unable to perform his duties owing—

- (a) to illness;
- (b) to temporary absence; or
- (c) for any other reason.

### **Duties of Medical Officer and Dental Officer**

**15.** A Medical Officer and a Dental Officer appointed under section 14 shall be under the control and supervision of the Commissioner General whilst in prison and shall perform such duties as may be prescribed.

**Terms and conditions of appointment**

**16.** A prison officer appointed under this Act shall be subject to the terms and conditions of service applicable to him on his date of appointment.

**Duties of prison officers**

**17.** A prison officer shall perform such duties as may be prescribed.

**Weapons, accoutrements, etc.**

**18.** A prison officer shall be provided with such weapons, equipment, uniform and other accoutrements as may be prescribed by the Commissioner General as necessary for the efficient performance of his duties.

**Service in Malaysia or on board vessel, aircraft, etc.**

**19.** A prison officer shall be bound to serve in any part of Malaysia or on board any vessel, aircraft, train or any other vehicle in which prisoners are being transported.

**Service outside Malaysia**

**19A.** The Minister may require any prison officer to serve outside Malaysia.

**Observance of written laws and lawful orders**

**20.** A prison officer shall conform strictly to all laws and regulations relating to prisons and prisoners, and shall obey all lawful orders of his superior officers whether given verbally or in writing or issued in the form of Commissioner General's Standing Orders.

**Prison officers deemed public servants**

**21.** The Commissioner General, Medical Officers, Dental Officers and prison officers appointed under this Act or any regulations made under the Act shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

**Use of weapons**

**22.** (1) Subject to subsection (2), a prison officer may use weapons against a prisoner—

- (a) escaping or attempting to escape and where the prison officer has reasonable grounds to believe that he cannot otherwise prevent the escape or attempt to escape;
- (b) engaged in—
  - (i) a combined outbreak; or
  - (ii) an attempt to force or break open any door, gate or enclosure wall of the prison; or
- (c) using violence on a person and where the prison officer has reasonable grounds to believe that the person is in danger of life or limb, or that other grievous hurt is likely to be caused to the person.

(2) A prison officer shall give a warning to a prisoner that he is about to fire on him before using arms in the circumstances mentioned in subsection (1).

(3) No prison officer shall, in the presence of his superior officer, use arms against a prisoner in the case of an outbreak or attempt to escape except under the orders of the superior officer:

Provided that the prison officer may use arms in circumstances where it is not reasonably practicable to obtain the order of the superior officer and that such circumstances are furnished to the superior officer.

(4) The use of weapons under this section shall be, as far as possible, to disable and not to kill.

(5) A police officer whilst in the capacity of an escort guard or of a guard in or about a prison or lock-up for the purpose of ensuring the safe custody of a prisoner shall be subject to the provisions of this section.

### **Prison officers to have powers of police officers**

**23.** Subject to any express provision to the contrary, a prison officer while acting as such shall have by virtue of his office all the powers, authority, protection and privileges of a police officer.

### **Assistance of the police in times of emergency**

**24.** (1) The Commissioner General may, in an emergency or in the interest of public safety, request the assistance of the Royal Malaysia Police.

(2) Police officers deployed under subsection (1) shall be headed by a senior police officer and all such police officers shall be under the control and supervision of the Commissioner General or any other prison officer specially authorized for that purpose.

### **Prison officers not to be members of trade unions**

**25.** (1) For the purpose of enabling prison officers to consider and bring to the notice of the Government all matters affecting their welfare or efficiency, including pay, pensions and conditions of service, other than questions of discipline and promotion affecting individuals, there may be established an association which shall operate and be administered in accordance with regulations made by the Minister.

(2) An association established under subsection (1) shall be entirely independent of and be unassociated with any body of persons

outside the prison department and shall be deemed not to be a trade union within the meaning of the Trade Unions Act 1959 [Act 262], and shall be exempt from the provisions of the Societies Act 1966 [Act 335].

(3) Subject to subsections (1) and (2), no prison officer shall become a member of any trade union or of any association having for its objects or as one of its objects the control or influencing of the pay, pensions or conditions of service of prison officers.

(4) A prison officer who contravenes subsection (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

(5) Any question as to whether a body is a trade union or an association to which this section applies shall be determined by the Minister.

(6) An association established prior to the coming into force of this Act under section 27A of the Prisons Ordinance 1952 [*F.M. Ord. 81 of 1952*], shall be deemed to be an association established under subsection (1) until the association is dissolved.

#### PART IV

#### CUSTODY AND REMOVAL OF PRISONERS

##### **Custody**

- 26.** (1) A prisoner—
- (a) confined in a prison shall be deemed to be in the lawful custody of the Officer in Charge of the prison;
  - (b) shall be subject to prison discipline and to all written laws relating to prisons or prisoners and to the Commissioner General's Standing Orders during the period of his imprisonment, whether or not he is within the precincts of a prison; and
  - (c) while in the custody or under the control of a prison officer—

- (i) when being taken to or from a prison;
- (ii) whenever he is working outside a prison; or
- (iii) is otherwise beyond the limits of the prison,

shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

(2) Where a prisoner has escaped from lawful custody, the period during which he is at large shall not be reckoned as part of the sentence he was undergoing at the time of his escape.

### **Delivery of persons arrested on warrant**

**27.** (1) A person arrested under a warrant or an order of a court having civil or criminal jurisdiction shall be brought before the court by which the warrant or order was issued.

(2) If the court under subsection (1) is not then sitting, the person shall be delivered to an Officer in Charge for intermediate custody.

(3) The Officer in Charge shall cause the person to be brought before that court at its next sitting in order that the person may be dealt with according to law.

### **Delivery of persons on remand**

**28.** (1) A person charged with a crime or offence, and remanded to a prison by a court or competent authority shall be delivered to the Officer in Charge of the prison together with a warrant of remand.

(2) The Officer in Charge shall—

- (a) detain and cause to be delivered to the court or competent authority; or
- (b) discharge,

the person delivered under subsection (1) according to the terms of the warrant.

**Officer in Charge to detain persons committed**

**29.** An Officer in Charge shall keep and detain a person duly committed to his custody by a court or competent authority according to the terms of the warrant or order by which the person has been committed or until the person is discharged by due course of law.

**Production before the court**

**30.** (1) Whenever the presence of a prisoner is required in a court having civil or criminal jurisdiction, the court may issue an order in the prescribed form addressed to the Officer in Charge requiring for the production of that prisoner at the time and place to be named in the order.

(2) Upon receipt of the order, the Officer in Charge shall cause the prisoner named in the order to be brought up as directed and shall provide for his safe custody during his absence from prison.

(3) In the event of an adjournment of the matter in which the presence of the prisoner is required, the court may, by endorsement on the order, require the prisoner to be again brought up at the time and place named in the order.

(4) An order issued from the Federal Court, Court of Appeal or the High Court may be signed by the Registrar of the Court, and if issued by any other court shall be signed by the Sessions Court Judge, Magistrate, Registrar or such other presiding officer, as the case may be.

**Power of Commissioner General to order production in certain cases**

**31.** (1) The Commissioner General—

- (a) may, being satisfied that there are reasonable grounds requiring the presence of a prisoner at any place in Malaysia; or
- (b) shall, where the presence of a prisoner is required for the purpose of any public inquiry,

by order in writing, direct that the prisoner be taken to that place.

(2) A prisoner taken from a prison under subsection (1) shall, whilst outside that prison, be kept in such custody as the Commissioner General may, by order in writing, direct, and whilst in that custody shall be deemed to be in lawful custody.

### **Removal and transfer of prisoners**

**32.** (1) The Commissioner General may, by order in writing, remove or transfer all or any prisoners confined in a prison to any other prison.

(2) No prisoner removed under subsection (1) while in the custody of a prison officer shall be deemed to have escaped although he may be taken into different jurisdictions or to different places of confinement.

(3) For purposes of this section, it shall not be necessary in the order to identify a prisoner by name, but it shall be sufficient to describe the prisoner by reference to his nationality or sentence or by some other like general description.

### **Transfer of prisoners under sentence of death**

**33.** A prisoner under sentence of death which the Yang di-Pertuan Agong, Ruler or Yang di-Pertua Negeri has ordered to be carried out may, by order of the Commissioner General, be transferred to any other prison, there to undergo his sentence.

**Orders relating to transferred prisoners**

**34.** An order relating to the sentence of a prisoner transferred under section 32 or 33 shall have effect as if the order were directed to the Officer in Charge of the prison to which the prisoner is conveyed.

**Evidence**

**35.** (1) An order or a warrant made or issued by the Minister or the Commissioner General pursuant to this Act shall—

(a) be received in evidence in all courts without further proof; and

(b) be evidence of the facts therein stated.

(2) An act done pursuant to an order or a warrant made or issued under subsection (1) shall be deemed to have been authorized by law.

**Mentally disordered prisoner**

**36.** (1) Where a prisoner undergoing a sentence of imprisonment or sentenced to death appears to the Commissioner General on the certification of the Medical Officer to be mentally disordered, the Commissioner General shall, by order in writing, direct that the prisoner be removed to, kept and treated at a mental hospital or other fit place of safe custody in Malaysia and there to be kept and treated as the Commissioner General directs.

(2) An order issued under subsection (1) shall be an authority for the reception of the prisoner and for his detention in the mental hospital or other fit place in Malaysia until removed or discharged as hereinafter provided.

(3) Where a prisoner detained in a mental hospital under subsection (1) is, in the opinion of the medical officer of the mental hospital, no longer mentally disordered, the medical officer shall report accordingly to the Commissioner General.

(4) Upon receipt of the report, the Commissioner General shall, by order in writing—

- (a) direct the return of the prisoner to the prison from where he was removed or to any other prison if his term of imprisonment has not expired; or
- (b) direct the prisoner to be discharged if his term of imprisonment has expired.

(5) Where a prisoner detained under subsection (1) is, in the opinion of the medical officer of the mental hospital, still mentally disordered and the term of imprisonment to which the prisoner has been sentenced has expired—

- (a) in the case of \*Peninsular Malaysia, section 46 of the \*\*Mental Disorders Ordinance 1952 shall apply to the prisoner as if he was detained in accordance with a certificate given under section 42 of the Ordinance;
- (b) in the case of the Federal Territory of Labuan, as the need may arise, such provisions of the Mental Ordinance 1952 as may be extended to the Federal Territory of Labuan by the Yang di-Pertuan Agong, shall apply;
- (c) in the case of Sabah, subsections 70(4) to (14) of the Prisons Ordinance 1956 [*Sabah Ord. 7 of 1956*] shall apply; and
- (d) the case of Sarawak, subsections 34(4) to (14) of the Prisons Ordinance [*Sarawak Cap. 24*] shall apply.

(6) The time occupied in effecting any removal under this section and the period during which the prisoner is detained in a mental hospital shall be reckoned as part of the term of imprisonment.

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\*NOTE—All references to “West Malaysia” shall be construed as reference to “Peninsular Malaysia”—see the Interpretation (Amendment) Act 1997 [*Act A996*], subsection 5(2).

\*\*NOTE—The Mental Disorders Ordinance 1952 has been repealed by Mental Health Act 2001 [*Act 615*]—see section 93 of Act 615 w.e.f 15 June 2010.

### **Illness of prisoner**

**37.** (1) In case of serious illness of a prisoner confined in a prison in which there are inadequate facilities for the treatment of that prisoner, the Officer in Charge, or in his absence, the next senior prison officer on duty may, on the certificate of a Medical Officer, make an order for the removal of the prisoner to a government hospital.

(2) Where a Medical Officer is not available to issue a certificate for the purposes of subsection (1), the Officer in Charge, or in his absence, the next senior prison officer on duty, may make an order for the removal of the prisoner to a government hospital, without a certificate of a Medical Officer.

(3) Where in the opinion of a medical officer of a government hospital it is necessary for a prisoner removed to the government hospital under subsection (1) or (2) to be admitted and remain in the government hospital, the medical officer of the government hospital shall transmit a certificate stating that fact to the Officer in Charge of the prison from where such prisoner was removed—

- (a) upon the admission of such prisoner into the government hospital; and
- (b) upon the discharge of such prisoner from the government hospital.

### **Return to prison**

**38.** (1) Where a prisoner removed to a hospital under section 37 is, in the opinion of the medical officer of the hospital, no longer necessary for the prisoner to remain at the hospital, the medical officer shall transmit a certificate stating that fact to the Officer in Charge of the prison from where the prisoner was removed.

(2) On receipt of the certificate referred to in subsection (1), the Officer in Charge shall cause the prisoner to be brought back to the prison, if he is still liable to be confined in the prison.

**Liability for escape**

**39.** If a prisoner shall escape during the time he is in a hospital, no prison officer shall be liable for the escape unless the prisoner has been specifically placed in the custody of the prison officer.

**Duty to assist in preventing escape**

**40.** (1) It shall be the duty of the medical officers of the hospital to which a prisoner has been removed under section 37 to lend all assistance in order to ensure that the necessary precautions for preventing the escape of the prisoner under treatment in the hospital have been taken.

(2) It shall be lawful for the medical officers in subsection (1) to take such measures for preventing the escape of the prisoner as shall be necessary:

Provided that no measures for preventing the escape of a prisoner shall be taken which, in the opinion of the medical officers, is likely to be prejudicial to the health of the prisoner.

**Special custody in hospital**

**41.** Where from the gravity of the offence for which a prisoner may be in custody or for any other reason, the Officer in Charge considers it desirable to take special measures for the security of a prisoner while under treatment in a hospital, the Officer in Charge may, in the event of there being no prison officer available, place the prisoner into the charge of two or more fit and proper persons, one of whom shall be with the prisoner at all times—

- (a) who shall be vested with full power and authority to do all things necessary to prevent the prisoner from escaping; and
- (b) who shall be answerable for the safe custody of the prisoner—

- (i) until such time as the prisoner is handed over to a prison officer on his discharge from the hospital; or
- (ii) until such time as the term of imprisonment of the prisoner expires,

whichever may first occur.

### **Removal vessel**

**42.** (1) Where it is necessary for the purposes of this Part to remove any prisoner out of Malaysia by sea or by air, he shall be removed in a vessel or aircraft to be appointed for the purpose by the Commissioner General.

(2) The time occupied in effecting any removal shall be reckoned as part of the term of imprisonment.

### **Release of prisoners on licence**

**43.** (1) Subject to any regulations made by the Minister, the Commissioner General may, at any time if he thinks fit, release on licence and on such conditions as may be specified in the licence, a prisoner serving any term of imprisonment.

(2) The Commissioner General may, at any time—

- (a) modify or cancel the conditions referred to in subsection (1); or
- (b) by order, recall to prison a prisoner released on licence under subsection (1) but without prejudice to the power of the Commissioner General to release the prisoner on licence again.

(3) Where a prisoner is recalled under paragraph (2)(b), his licence shall cease to have effect and he shall, if at large, be deemed to be unlawfully at large and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(4) A prisoner who fails to comply with any condition of the licence issued to him under subsection (1) shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to a term of imprisonment not exceeding two years or to both.

### **Remission of sentence**

**44.** (1) With a view to encouraging good conduct and industry and to facilitate reformative treatment, a prisoner sentenced to imprisonment of more than one month, shall be entitled to be granted a remission of his sentence.

(2) All or any part of the remission for which a prisoner may be entitled may, on commission of an offence under section 50 or an offence relating to parole, be cancelled by the Commissioner General:

Provided that in no case shall any forfeiture exceed the amount of remission earned at the time of commission of the offence.

(3) The Commissioner General may restore to a prisoner all or any part of a remission which the prisoner has forfeited during his sentence.

(4) A prisoner who is awarded a remission of part of his sentence shall be discharged upon the expiration of so much of his sentence as shall remain after deducting from it such part.

### **Discharge of prisoners**

**45.** (1) An Officer in Charge, or in his absence, the next senior prison officer on duty, shall be responsible for the due discharge of a prisoner immediately upon his becoming entitled to release, whether by—

- (a) the expiration of his term of sentence;
- (b) payment of fine;

- (c) pardon;
- (d) commutation; or
- (e) remission of sentence.

(2) Subject to the approval of the Commissioner General and at the expense of the Government, a prisoner duly discharged from prison in accordance with this section may be returned to the place where the prisoner ordinarily resides.

### **Saving powers of the High Court**

**46.** Nothing in this Act shall be held to lessen or affect the powers of the Judges of the High Court to direct persons confined in any prison to be brought before the Court under the provisions of Chapter XXXVI of the Criminal Procedure Code.

#### \*PART IV<sub>A</sub>

#### PAROLE

### **Interpretation for purposes of Part IV<sub>A</sub>**

**46A.** For the purposes of this Part, unless the context otherwise requires—

- (a) “parole district” means the parole district as the Minister may determine;
- (b) “Parole Board” means the Parole Board established under section 46B;
- (c) “parolee” means a prisoner who is released on a Parole Order;

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\* *NOTE*—A prisoner who is serving a sentence of imprisonment on the date of the coming into operation of Prison (Amendment) Act 2008 [*Act A1332*] shall be eligible to be considered for parole—*see* section 14 of Act A1332 and P.U. (B) 260/2008.

- (d) “parole” means the release of a prisoner to serve any part of his sentence of imprisonment outside prison pursuant to a Parole Order;
- (e) “parole officer” means any prison officer not below the rank of Prison Inspector assigned to perform such duties prescribed under this Part;
- (f) “Chairman of the Parole Board” means the Chairman of the Parole Board appointed under paragraph 46B(2)(a); and
- (g) “Parole Order” means a release on parole order made by a Parole Board.

### **Establishment of Parole Board**

**46B.** (1) There shall be established such number of Parole Boards to exercise all powers, discharge all duties and perform all functions as may be provided under this Act.

(2) A Parole Board shall consist of the following members who shall be appointed by the Yang di-Pertuan Agong:

- (a) a Chairman, from amongst members of the Judicial and Legal Service;
- (b) a senior prison officer;
- (c) a senior police officer;
- (d) a senior welfare officer; and
- (e) three members of the public.

(3) Every member shall hold office for a period of three years and is eligible for reappointment.

(4) The appointment of any member of a Parole Board may be revoked by the Yang di-Pertuan Agong at any time without assigning any reason for it.

(5) A member of a Parole Board may at any time resign his office by a written notice addressed to the Yang di-Pertuan Agong.

(6) A Parole Board shall have its sittings as and when necessary at such time and place to be decided by the Chairman of the Parole Board.

(7) The quorum of a sitting of a Parole Board shall be five members including the Chairman of the Parole Board.

(8) Every member present at a sitting of a Parole Board shall be entitled to one vote and any decision by a Parole Board shall be determined by a majority of votes.

(9) In the event of an equality of votes, the Chairman of the Parole Board shall have a casting vote, in addition to his deliberative vote.

(10) Subject to this Act and any directions of the Minister a Parole Board may regulate its own procedure.

### **Powers of Parole Board**

**46c.** (1) With a view to encouraging good conduct and industry and to facilitate reformative treatment of a prisoner, a Parole Board shall have the following powers:

- (a) to make a decision whether to release on parole a prisoner who applies for parole;
- (b) to suspend or revoke a Parole Order;
- (c) to add or vary any conditions of a Parole Order;
- (d) to hold an inquiry on any matters related to parole;

- (e) to examine any prisoner for the purposes of soliciting additional information related to a parole application or for any other reason that the Parole Board deems fit; and
- (f) to exercise and perform such other functions and duties as the Minister may determine.

(2) A Parole Board may establish a secretariat as it deems necessary or expedient to assist it in the performance of its functions and duties and the exercise of its powers under this Act.

### **Parolee subject to this Part**

**46D.** Notwithstanding section 29, a Parole Order may be issued to any prisoner eligible for parole who has been committed to the custody of an Officer in Charge under that section and where such Parole Order is issued, such prisoner shall be subject to and dealt with under this Part.

### **Eligibility for parole**

**46E.** (1) A prisoner who is serving a sentence of imprisonment for any offence prescribed in the Fourth Schedule shall not be eligible for parole.

(2) The Minister may by order published in the *Gazette* amend the Fourth Schedule.

(3) Subject to subsections (4), (5) and (6), a prisoner shall only be eligible to be considered for parole—

- (a) if he is sentenced to a minimum of one year imprisonment for any offence other than the offences prescribed in the Fourth Schedule;
- (b) subject to subsection (7), after he has served at least half of his term of imprisonment without taking into account

the remission of sentence granted to him under section 44;  
and

- (c) after he has undergone a rehabilitation programme approved by the Commissioner General while serving his sentence of imprisonment.

(4) Where there is a charge for any offence, other than an offence prescribed in the Fourth Schedule, pending in any court against any prisoner, such prisoner shall be eligible to be considered for parole only after the final decision of such pending charge has been made.

(5) Where there is an appeal relating to any offence, other than an offence prescribed in the Fourth Schedule, pending in any court in respect of any prisoner, such prisoner shall be eligible to be considered for parole only after the final decision of such pending appeal has been made.

(6) Where a prisoner has the right to a pardon relating to any offence, other than an offence prescribed in the Fourth Schedule, such prisoner shall be eligible to be considered for parole—

- (a) only after his case has first been brought before a Pardons Board, unless he is discharged upon pardon, reprieve or respite by the Yang di-Pertuan Agong or Ruler or Yang di-Pertua Negeri of a State, as the case may be; or
- (b) subject to subsection (7), only after he has served at least half of his term of imprisonment without taking into account the remission of sentence granted to him under section 44,

whichever is the later.

(7) For the purposes of paragraphs (3)(b) and (6)(b)—

- (a) in relation to such term of imprisonment to be served concurrently, half of the term of imprisonment means half of the longest of such term of imprisonment to be served concurrently; and

- (b) in relation to such terms of imprisonment to be served consecutively, half of the term of imprisonment means half of the total of all of such terms of imprisonment to be served consecutively.

(8) Notwithstanding that a prisoner has been granted remission of sentence under section 44, the eligibility of such prisoner to be considered for parole shall not be affected.

### **Matters for Parole Board to take into account before making Parole Order**

**46F.** In deciding whether or not to release a prisoner on parole, the Parole Board—

- (a) shall examine and evaluate the parole dossiers received from a prison officer in respect of such prisoner and any other report prepared by any prison officer in relation to an application for release on parole of such prisoner; and
- (b) shall have regard to the following matters:
  - (i) the need to protect the safety of the community;
  - (ii) the need to maintain public confidence in the administration of justice;
  - (iii) the nature and circumstances of the offence to which the sentence of the prisoner relates;
  - (iv) the prisoner's criminal record;
  - (v) the risk of the prisoner re-offending if he is released on parole;
  - (vi) the likelihood of the prisoner being able to adapt to normal community life;

- (vii) the likely effect on the victim of the prisoner and the victim's family, if the prisoner is released on parole;
- (viii) in the case of a foreign prisoner, the availability of parole system or other similar system in his country; and
- (ix) such other matters as the Parole Board considers relevant.

### **Proceedings before Parole Board**

**46G.** (1) If a Parole Board considers that the appearance of a prisoner who is applying for parole is necessary, the Parole Board may serve a notice on such prisoner to appear before the Parole Board at the time and place specified in the notice.

(2) The prison officer shall make the necessary arrangements to procure the attendance of the prisoner before the Parole Board.

(3) If the prisoner is unable to appear before the Parole Board because of illness or attending any court proceedings or any other reasonable grounds, he may submit a written representation to the Parole Board.

(4) All proceedings before a Parole Board under this section shall be held in camera and no legal representation on behalf of a prisoner shall be allowed.

### **Decision of Parole Board**

**46H.** (1) Where a Parole Board makes a decision not to release a prisoner on parole, the Parole Board shall inform the decision in writing—

- (a) to the Commissioner General;
- (b) to the Officer in Charge of the prison in which the prisoner is serving his sentence of imprisonment; and

(c) to the prisoner concerned.

(2) A prisoner may reapply for parole six months after the date of the decision of a Parole Board not to release him on parole.

(3) Where a Parole Board makes a decision to release a prisoner on parole, the Parole Board shall issue a Parole Order specifying the date of release on parole and the parole district where such parolee is to serve the parole subject to such conditions as may be determined by the Parole Board.

(4) A copy of the Parole Order shall be served on—

- (a) the Commissioner General;
- (b) the Officer in Charge of the prison in which the parolee is serving his sentence of imprisonment immediately before the date of the Parole Order;
- (c) the parole officer in charge of the parole district where the parolee is to serve the parole; and
- (d) the parolee concerned.

### **Prisoner serving parole deemed to continue serving sentence**

**46i.** (1) A parolee is deemed to continue serving his sentence of imprisonment during the period of parole—

- (a) that begins on the date of release on parole specified in the Parole Order; and
- (b) that ends upon the expiration of his sentence of imprisonment taking into account so much of his sentence as shall remain after deducting from it such part of remission of sentence granted, or when the Parole Order is suspended or revoked.

(2) The period of parole prescribed in subsection (1) shall be reckoned as part of the term of imprisonment.

### **Duties of parole officer**

**46j.** (1) A parolee in respect of whom a Parole Order has been issued shall be taken by a prison officer to the place where such parolee is to serve the parole and placed into the charge of a parole officer.

(2) A parolee shall be under the custody and supervision of a parole officer throughout the parole period.

(3) Whenever a warrant or an order requiring for the production of a parolee is issued by a court, or whenever an order is issued by the Commissioner General, requiring the presence of the parolee at any place outside his parole district, for any reasonable grounds, to the satisfaction of the Commissioner General, it shall be the duty of a parole officer to cause the parolee named in the warrant or order to be brought up as directed and to provide for his safe custody.

(4) A parole officer shall cause to be maintained a register relating to the parolees in his parole district containing such details and in such form as the Minister may determine.

(5) Subject to any express provision to the contrary, a parole officer while acting as such shall have by virtue of his office all the powers, authority, protection and privileges of a police officer.

### **Duties of parolee**

**46k.** It shall be the duty of a parolee—

- (a) to report to a parole officer at such time and date as such parole officer may from time to time direct;
- (b) to reside at the place specified in the Parole Order;

- (c) to seek the permission of a parole officer if the parolee wants to visit a place outside the parole district where the parolee is serving his parole;
- (d) to enter into employment arranged or agreed by the parole officer;
- (e) to undergo any programmes for his rehabilitation as may be organized or directed by a parole officer;
- (f) to comply with the conditions of the Parole Order; and
- (g) to comply with any other conditions, instructions and directions as may be given by the Parole Board or a parole officer.

### **Change of parole district**

**46L.** (1) An application may be made by a parole officer in charge of a parolee or a parolee to the Parole Board for a change of the parole district of a parolee.

(2) A Parole Board may, upon satisfaction of the grounds of an application to change the parole district of a parolee, allow the application subject to such conditions as the Parole Board may impose and issue a notice to that effect.

(3) A copy of the notice under subsection (2) shall be served on—

- (a) the Commissioner General;
- (b) the Officer in Charge of the prison in which the parolee is serving his sentence of imprisonment immediately before the date of the Parole Order;
- (c) the parole officer in charge of the parole district of the parolee immediately before the change of the parole district of such parolee;

- (d) the parole officer in charge of the parole district where the parolee is to serve the parole pursuant to the change of parole district; and
- (e) the parolee concerned.

### **Suspension and revocation of Parole Order**

**46M.** (1) Where a parole officer finds that a parolee has failed to comply with any of the provisions of section 46κ or any condition stated in a Parole Order, the parole officer—

- (a) shall submit a report to the Parole Board through its secretariat; and
- (b) shall place the parolee into the charge of the Officer in Charge of the nearest prison.

(2) A Parole Board may suspend a Parole Order—

- (a) upon receiving a report from a parole officer that a parolee has failed to comply with any of the provisions of section 46κ or any conditions stated in a Parole Order; or
- (b) if the Parole Board has reasonable grounds to believe that the Parole Order was issued on false or misleading information.

(3) A Parole Board may serve a notice on the parolee to appear before the Parole Board for an inquiry and the parolee may make a representation to the Parole Board.

(4) A Parole Board shall examine and evaluate any report submitted by a parole officer in respect of a parolee who has failed to comply with any of the provisions of section 46κ or any condition stated in a Parole Order, and any representations made by the parolee.

(5) Notwithstanding subsection (3) and section 52, a Parole Board may revoke a Parole Order at any time, without giving the parolee the right to make any representation—

- (a) if the parolee commits any offence and is charged in any court for such offence; or
- (b) if the parolee leaves the parole district without the permission of a parole officer.

(6) If the Parole Board is satisfied that the parolee has failed to comply with any of the provisions of section 46K or any conditions stated in a Parole Order, the Parole Board may—

- (a) impose further conditions on the Parole Order;
- (b) vary the existing conditions of the Parole Order; or
- (c) revoke the Parole Order.

### **Effect of revocation of Parole Order**

**46N.** (1) Where a Parole Order is revoked, unless the prisoner to whom such Parole Order relates is deemed to be unlawfully at large under subsection (3), such prisoner shall be taken into custody by a parole officer and shall be delivered to the Officer in Charge of the nearest prison for immediate custody.

(2) The Officer in Charge shall as soon as may be practicable cause the prisoner in subsection (1) to be removed, transferred or taken to the prison where he was serving his sentence of imprisonment immediately before the issue of the Parole Order to undergo his remaining sentence.

(3) Where the Parole Order is revoked pursuant to paragraph 46M(5)(b), and if the parolee is at large, such parolee shall be deemed to be unlawfully at large and shall, on conviction, be liable to a term of imprisonment not exceeding two years.

(4) Where a parolee who has been convicted under subsection (3) is sentenced to imprisonment, such imprisonment shall commence either immediately or at the expiration of the imprisonment to which

he has been previously sentenced, as the court awarding the sentence may direct.

(5) Upon revocation of a Parole Order, all or any part of the remission for which a prisoner may be entitled may be cancelled by the Commissioner General.

**Period while parolee is at large not to be reckoned as part of sentence**

**46o.** Where a parolee is deemed to be unlawfully at large, the period during which he is at large shall not be reckoned as part of the term of the sentence of imprisonment he was undergoing at the time of his being at large.

PART IVB

INTERNATIONAL TRANSFER OF PRISONERS

**Application of this Part**

**46P.** This Part shall only be applicable to prisoners that have been transferred under the International Transfer of Prisoners Act 2012 [Act 754].

**Interpretation**

**46Q.** For the purposes of this Part—

“transferred prisoner” means the transferred prisoner under the International Transfer of Prisoners Act 2012; and

“prescribed foreign State” has the meaning assigned to it under the International Transfer of Prisoners Act 2012.

**Commissioner General Standing Orders relating to transferred prisoners**

**46R.** The Commissioner General may make and issue orders to be called Commissioner General's Standing Orders under section 12 in respect of transferred prisoners which shall not be inconsistent with the International Transfer of Prisoners Act 2012 or any regulations made under that Act.

**Remission of sentence for transferred prisoners**

**46S.** (1) In relation to a transferred prisoner to Malaysia from the prescribed foreign State—

- (a) if the transferred prisoner did not receive any remission of sentence at the prescribed foreign State, the transferred prisoner shall be entitled for remission calculated on the balance of his sentence to be served in Malaysia; or
- (b) if the transferred prisoner had received remission of sentence at the prescribed foreign State, the transferred prisoner shall not be entitled to receive any remission on the balance of his sentence to be served in Malaysia.

(2) Subject to subsection (1), section 44 of this Act and any regulations made under this Act relating to remission shall be applicable to transferred prisoners from the prescribed foreign State to Malaysia.

**Power of Parole Board relating to transferred prisoners**

**46T.** (1) The Parole Board may—

- (a) vary or amend the existing conditions of the Parole Order issued by the prescribed foreign State; or
- (b) impose further conditions on the Parole Order issued by the prescribed foreign State.

(2) A varied or amended or any further conditions imposed Parole Order under paragraph (1)(a) or (b) shall be deemed to be a Parole Order issued by the Parole Board.

(3) If a transferred prisoner who has been transferred from the prescribed foreign State fails to comply with any conditions of the Parole Order issued by the prescribed foreign State or any conditions that were varied or amended or any further conditions imposed by the Parole Board, the Parole Board may suspend or revoke the Parole Order.

**Exemption of conditions for parole eligibility for transferred prisoners**

**46U.** (1) The Commissioner General shall exempt a transferred prisoner from the prescribed foreign State and released on parole from the condition specified under paragraph 46E(3)(c).

(2) The Commissioner General may exempt a transferred prisoner from the prescribed State and yet to be released on parole, from the condition prescribed under paragraph 46E(3)(c).

PART V

EMPLOYMENT AND PRISON DISCIPLINE

**Effect of sentence of imprisonment**

**47.** (1) A sentence of imprisonment passed or to be passed upon a prisoner shall subject the prisoner during the term of his sentence—

(a) to be imprisoned, subject to his being released on parole; and

(b) to work at such labour as may be directed by the Officer in Charge and, so far as is practicable, such labour shall take place—

(i) in association;

- (ii) outside cell;
  - (iii) outside the limits of the prison as approved by the Commissioner General.
- (2) The Medical Officer may certify a prisoner as—
- (a) unfit and recommend that the prisoner be excused from labour; or
  - (b) fit only to perform light labour.
- (3) A prisoner under subsection (2) shall only be required to work on any labour prescribed as light labour.

### **Scheme for prisoners to engage in employment**

**48.** (1) For the purpose of enabling prisoners, other than the prisoners referred to in section 49, to take up gainful employment whilst they are serving their sentences, the Minister may introduce a scheme and such prisoners may upon their own election participate in the scheme.

- (2) A prisoner taking up employment under a scheme referred to in subsection (1)—
- (a) may, despite an order made by a court for the committal of the prisoner, be taken daily beyond the limits of the prison to perform work; and
  - (b) shall, at all times be deemed to be in prison and subject to all the same incidents as if he were actually in prison.

### **Segregation of prisoners**

- 49.** (1) A prisoner—
- (a) confined under civil process;

- (b) on remand charged with a crime or an offence;
- (c) committed to take his trial; or
- (d) confined for want of sureties,

shall not ordinarily be associated with prisoners serving their sentences of imprisonment or be required to labour beyond such labour as is reasonably proper for keeping his person and dress in a proper state and keeping the place in which he is confined clean.

(2) Where a prisoner under subsection (1) elects to be employed during the period he is confined, he shall receive payment for the employment at such rates as may, from time to time, be prescribed.

(3) A young prisoner shall, so far as local conditions permit, be kept apart from adults under detention.

(4) Where it appears to the Officer in Charge that it is desirable for the good order and discipline of a prison or for any other reason that a prisoner be segregated, it shall be lawful for the officer to order the segregation of the prisoner for such period as he may consider necessary.

### **Punishment of prison offences by Officer in Charge**

**50.** (1) An Officer in Charge, or in his absence, the next senior prison officer who has been authorized by the Officer in Charge, may punish a prisoner found after due inquiry to be guilty of a minor prison offence by ordering him to undergo one or more of the following punishments:

- (a) reprimand;
- (b) reduction in stage;
- (c) postponement of promotion in stage;
- (d) forfeiture of privileges;
- (e) removal from the earnings scheme;

- (f) reduction in earnings grade;
- (g) forfeiture of remission not exceeding such amount as may be prescribed;
- (h) separate confinement in a cell on the prescribed restricted diet for a term not exceeding such period as may be prescribed.

(2) The punishments referred to in paragraphs (1)(b) to (f) shall be for such period as may be prescribed.

(3) Where an Officer in Charge, or in his absence, the next senior prison officer who has been authorized by the Officer in Charge, finds a prisoner after due inquiry to be guilty of an aggravated prison offence, the Officer in Charge, or in his absence, the next senior prison officer who has been authorized by the Officer in Charge, may punish the prisoner by ordering him to undergo one or more of the punishments listed in subsection (1) or in addition to or in lieu thereof, impose corporal punishment with a rattan, not exceeding such number of strokes as may be prescribed:

Provided that any corporal punishment ordered shall be subject to confirmation by the Minister.

### **Register of punishments**

**51.** The Officer in Charge shall enter in a register to be open to the inspection of the Visiting Justices a record of the punishments imposed by him upon prisoners showing, in respect of each prisoner punished, the name of the prisoner, the nature of his offence and the extent of his punishment.

### **Prisoner may make his defence**

**52.** No prisoner shall be punished until he has had an opportunity—

- (a) of hearing the charge or complaint against him and the evidence in support thereof; and
- (b) of making his defence and calling of evidence in support thereof.

### **Prosecution for offences**

**53.** Nothing in this Act shall be construed so as to exempt any prisoner from being proceeded against for any offence by the ordinary course of law, but no prisoner shall be punished twice for the same offence.

## PART VI

### OFFENCES

### **Offences concerning prison supplies**

**54.** (1) No prison officer, Medical Officer, Dental Officer or staff employed by the prison department shall—

- (a) directly or indirectly have any pecuniary interest in the purchase of prison supplies;
- (b) receive or have any pecuniary dealings with prisoners or their friends with regard to any discounts, gifts or other consideration from contractors for, or sellers of, prison supplies;
- (c) sell or supply any article to or for the use of a prisoner or a prison;
- (d) receive directly or indirectly—
  - (i) any benefit or advantage from the sale or supply of;  
or
  - (ii) any interest in any contract or agreement for the sale or supply of,

any article to or for the use of a prisoner or a prison.

(2) No prison officer, Medical Officer, Dental Officer or staff employed by the prison department shall hold any unauthorized communication with a person for any of the purposes in subsection (1).

(3) A person who contravenes this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(4) In this section references to selling or supplying include respectively references to offering for sale and offering for supply as well as letting on hire and offering to let on hire.

### **Payment of money forbidden**

**55.** (1) No money or other consideration shall, on any pretext whatsoever, be payable, paid, given or promised, to a prison officer, Medical Officer, Dental Officer or staff employed by the prison department, by or on behalf of a prisoner, either on his—

- (a) entry into;
- (b) commitment to;
- (c) continuance in;
- (ca) release on parole from; or
- (d) discharge from,

a prison.

(2) A prison officer, Medical Officer, Dental Officer or staff employed by the prison department, receiving or demanding from or on behalf of a prisoner—

- (a) any money or other consideration;
- (b) the promising of money or other consideration;
- (c) the undertaking of any service in consideration of receiving or the promising of money or other consideration,

for any of the purposes mentioned in subsection (1) shall be guilty of an offence and shall be liable, on conviction, to a fine of ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

#### **Delivery of uniform, etc., on leaving**

**56.** (1) A person, upon ceasing to be a prison officer, shall immediately deliver up to the Officer in Charge of the prison in which he is serving at the time of ceasing to be a prison officer, every article of uniform and clothing and all weapons, accoutrements, and other effect of every kind belonging to the Government.

(2) A prison officer who fails to comply with subsection (1) shall be guilty of an offence and shall be liable, on conviction—

- (a) to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both; and
- (b) in addition, shall be liable to pay the value of any article not delivered up, which value shall be recoverable as if it were a fine.

#### **Unlawful possession, sale or supply of articles supplied to prison officers, etc.**

**57.** (1) A person, not being a prison officer, who—

- (a) without lawful authority, purchases or receives or is found in possession of and who fails to account satisfactorily for his possession of—

- (i) an article which has been supplied to a prison officer for the execution of his duty; or
  - (ii) a medal or decoration granted to a prison officer for service or good conduct;
- (b) without lawful authority, manufactures, sells, supplies, offers to sell or supply a reasonable facsimile of—
- (i) a badge or device used to indicate that a person is a prison officer or the rank of a prison officer; or
  - (ii) a medal or decoration granted to a prison officer for service or good conduct;
- (c) unlawfully wears, uses or displays otherwise than in the course of a stage play or other theatrical performance—
- (i) a uniform of a prison officer;
  - (ii) a badge or device to indicate that he is a prison officer; or
  - (iii) a dress having the appearance of or bearing the distinctive marks of the uniform of a prison officer,

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.

- (2) A prison officer who sells or disposes of—
- (a) any article which has been supplied to him or any other prison officer for the execution of duty;
  - (b) any medal or decoration granted to a prison officer for service or good conduct,

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### **Smuggling of prohibited articles into prison**

**58.** (1) A person who smuggles or attempts to smuggle a prohibited article into or out of a prison shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding \*ten thousand ringgit or to \*imprisonment for a term not exceeding five years or to both.

(2) In this section, “prohibited article” means any drugs, money or liquor and includes any instrument or article as may be prescribed by the Commissioner General from time to time.

### **General penalty**

**59.** A person who is guilty of an offence under this Act or any regulations made under the Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding five hundred ringgit or to imprisonment for a term not exceeding six months or to both.

## **PART VII**

### **PRISON OFFICERS’ REWARD FUND**

#### **Prison Officers’ Reward Fund**

**60.** (1) There shall be established a fund to be known as the Prison Officers’ Reward Fund (hereinafter referred to as the Fund) which shall be operated as a Trust Account within the Federal Consolidated Fund.

(2) The Fund shall consist of—

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\* *NOTE*—Previously “two thousand ringgit” and “imprisonment for a term not exceeding six months—see section 18 of the Prison (Amendment) Act 2008 [*Act A1332*].

- (a) all emoluments forfeited by and all fines imposed on prison officers in any disciplinary proceedings;
- (b) all grants, donations, gifts and contributions made to or in favour of the Fund;
- (c) all other sums or property which may in any manner become payable to or vested in the Fund; and
- (d) all moneys—
  - (i) confiscated; or
  - (ii) the ownership of which is unknown and found,

in the course of a search in a prison.

### **Application of Fund**

**61.** Subject to regulations made under this Act, the Fund shall be applied for the purpose of—

- (a) rewarding prison officers for outstanding acts of initiative and resource or for skill in the performance of any departmental duty requiring tact or ability;
- (b) rewarding prison officers for any meritorious act of bravery whereby life has been saved or property has been secured from loss or destruction;
- (c) procuring comforts, convenience and other benefits, which are not chargeable to public revenue, for prison officers, former prison officers who have retired on pension, gratuity or allowance or persons who were wholly or partially dependent on deceased prison officers or former prison officers at the time of their death; and

- (d) rewarding any person whom the Committee thinks fit for outstanding acts of bravery whereby life has been saved or property has been secured from loss or destruction.

### **Administration of Fund**

**62.** (1) There shall be established a Prison Officers' Reward Fund Committee which shall have the control of the Fund.

(2) The Committee shall consist of the following members:

- (a) the Commissioner General as Chairman;
- (b) two Senior Prison Officers to be appointed by the Minister; and
- (c) two public officers to be appointed by the Minister.

(3) Subject to regulations made under this Act, the Committee shall have power to regulate its proceedings.

(4) No person shall carry on an activity to raise moneys for the Fund without the prior written consent of the Committee.

(5) Any person who contravenes subsection (4) shall be guilty of an offence.

## PART VIIA

### PRISON CADET

### **Establishment of Prison Cadet**

**62A.** A body to be known as the Prison Cadet shall be established for any area in Malaysia, as the Minister may determine, which shall consist of such number of senior Prison Cadet officers, junior Prison Cadet officers and cadets.

**Members of Prison Cadet**

**62B.** The following persons may apply to join the Prison Cadet:

- (a) any person who is not below the age of twenty one and not above the age of fifty, and not being a member of the Prison Department of Malaysia or any force established under any written law, who fulfills such criteria as the Minister may determine;
- (b) any person who is a registered student of any training or educational institution following a course of study or training on a full time or part time basis in such training or educational institution, as the Minister may determine, upon consultation with the Minister charged with the responsibility for such training or educational institution; and
- (c) any pupil of any secondary school as defined under the Education Act 1996 [Act 550], as the Minister may determine upon consultation with the Minister charged with the responsibility for education.

**PART VIII****GENERAL****Prison officers subject to disciplinary regulations**

**63.** (1) All prison officers shall be subject to regulations relating to discipline as may from time to time be made by the Yang di-Pertuan Agong under Clause (2) of Article 132 of the Federal Constitution.

(2) For the purpose of this section, any regulations which for the time being are in force shall only have force and effect to the extent they are not in conflict with any regulations referred to under subsection (1).

### Visiting Justices

\*64. (1) The Minister shall, for every two years, appoint for each State and Federal Territory a Board to be called the Board of Visiting Justices of which any senior Magistrate of each State and Federal Territory shall be an *ex officio* member.

(2) The Minister may determine payment of allowances for members of the Board of Visiting Justices.

### Duties of Visiting Justices

65. (1) A Visiting Justice may—

- (a) at any time, visit any prison in the State or Federal Territory for which he is appointed;
- (b) inspect the wards, cells, yards and other apartments and divisions of the prison;
- (d) inspect and test the quality and quantity of the prisoners' food;
- (d) hear the complaints, if any, of the prisoners;
- (e) question any prisoner or prison officer,

for the purpose of ascertaining, so far as possible, whether the provisions of this Act and any regulations made under the Act and the Commissioner General's Standing Orders are adhered to.

(2) A Visiting Justice shall—

- (a) call the attention of the Officer in Charge to any irregularity that may be observed in the—
  - (i) working of the prison; or

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\*NOTE—Notwithstanding anything to the contrary, the members of the Board of Visiting Justices who held offices before the date of coming into operation of subsection (1) of this section shall continue to hold office until the expiry of their term of appointment—see subsection 21(2) of Prison (Amendment) Act 2008 [Act A1332] and P.U. (B) 260/2008.

- (ii) treatment of any prisoner confined in the prison; and
- (b) exercise and perform such other powers and duties as may be prescribed.

(3) The Board of Visiting Justices shall appoint at least one but not more than four of its members to visit in rotation each of the prisons in the State or Federal Territory for each month of the year.

(4) A Visiting Justice shall, for the purpose of this Act, have power to summon witnesses and to administer oaths.

### **Visits by Judges, Magistrates, etc.**

**66.** (1) A Judge of the High Court, a Sessions Court Judge, and a Magistrate having jurisdiction in a place where a prison is situated may, whenever he thinks fit—

- (a) enter and examine the condition of the prison and of the prisoners in the prison;
- (b) question any prisoner or prison officer,

and enter any observations he thinks fit to make in reference to the condition of the prison and the prisoners in a Visitors' Book.

(2) A Visitors' Book shall be kept for the purpose in subsection (1) by the Officer in Charge which shall be produced to the Visiting Justices at their next visit.

### **Regulations**

**67.** (1) The Minister may publish in the *Gazette* such regulations as may be necessary or expedient for the good management and government of prisons, and for carrying out or achieving the objects and purposes of the Act.

(2) In particular and without prejudice to the generality of subsection (1), regulations made under this section may provide for all or any of the following matters:

- (a) the powers and duties of persons employed in the prison department;
- (b) the inspection and management of lock-ups, the officers to be in charge of the lock-ups, and for the employment, diet and discipline of persons confined in the lock-ups;
- (c) the medical examination, measuring, photographing and taking of fingerprint impressions or other records of prisoners, including detailed personal statistics and histories, and for requiring full and truthful answers to all questions put to the prisoners with the object of obtaining such statistics and histories;
- (d) the persons, if any, to whom such measurements, photographs, fingerprint impressions or other records are to be sent or supplied;
- (e) the diets, categorization, safe custody, separation, treatment and discipline of prisoners;
- (ea) the treatment and wellbeing of a child born to a prisoner while in custody and a child of a female prisoner admitted with his mother;
- (f) the employment of prisoners, including provisions for the rate, use and apportionment of earnings of prisoners;
- (g) the scheme of gainful employment and in particular for—
  - (i) the categories of prisoners who are eligible to take up employment under the scheme;
  - (ii) the terms and conditions upon which prisoners are to be permitted to take up employment outside the limits of a prison;
  - (iii) the terms and conditions of employment;

- (iv) the manner in which wages shall be paid to the prisoners;
- (v) the proportion of and the manner in which the wages earned by prisoners under the scheme of employment may be retained by the prisoners;
- (h) the kind of labour to be exacted at the different stages of imprisonment of the prisoners and the manner and place of exacting such labour;
- (i) the disposal of the products of labour of prisoners other than the products of labour in the scheme mentioned in paragraph (2)(h);
- (j) the remission of sentences to be allowed to prisoners who duly comply with the regulations to which they are subjected, and the conditions on which such remissions are to be made;
- (k) the establishment of prisoners' aid associations and for the subsidising of their work and the utilizing of their services in connection with prisoners discharged on probation and convicted prisoners whose sentences have expired;
- (l) the supply of money, food, clothing or means of travelling to prisoners on their discharge;
- (m) the administration of the Prison Officers' Reward Fund;
- (n) the proceedings and visits of the Visiting Justices;
- (o) the classification of offences;
- (p) the procedure for the carrying out of inquiries into offences committed by prisoners and for matters related thereto;
- (pa) the management and implementation of parole;

- (*pb*) the objectives of the Prison Cadet and its administration; and
- (*q*) any matter which is required to be or which may be prescribed under this Act.

### **Repeal, saving and transitional provisions**

**68.** (1) The laws mentioned in the Second Schedule to the extent to which they are therein expressed to be repealed are repealed accordingly.

(2) Save for item 4 in the Second Schedule, all subsidiary legislation, orders, directions and notices made or given and any act lawfully done under or by virtue of the repealed Ordinances shall, in so far as such subsidiary legislation, order, direction or notice is not inconsistent with the provisions of this Act, be deemed to have been made or given under or by virtue of this Act, and shall continue to remain in force and to have effect until amended, repealed, rescinded, revoked or replaced under or by virtue of this Act.

(3) Notwithstanding subsections (1) and (2), in respect of a sentence of imprisonment passed or to be passed upon a prisoner on or after the coming into force of this Act, the laws mentioned in the Third Schedule shall apply.

(4) Notwithstanding subsection (1)—

- (*a*) any officer or person appointed to act or employed under or by virtue of the repealed Ordinances or deemed to be appointed to act or employed under or by virtue of the repealed Ordinances shall continue and be deemed to have been appointed or employed under or by virtue of this Act; and
- (*b*) any inquiry or proceeding commenced or pending under the repealed Ordinances immediately before the coming into force of this Act shall be continued or concluded under and in accordance with the repealed Ordinances.

(5) In this section, “proceeding” means any proceeding whatsoever of a civil or criminal nature and includes an application at any stage of a proceeding.

(6) On the date of coming into force of this Act, the Prison Officers’ Reward Fund established under the Prisons Ordinance 1952, the Prison Officers’ Reward Fund established under the Prisons Ordinance 1956 [*Sabah Ord. 7 of 1956*] and the Prison Officers’ Reward Fund established under the Prisons Ordinance [*Sarawak Cap. 24*] shall be wound up and all moneys, property, whether movable or immovable and liabilities to which the various funds were entitled or subject to shall by virtue of this section become the moneys, property rights and liabilities of the Prison Officers’ Reward Fund established under section 60 by operation of law without any necessity for a notice to be given to any party affected by the transfer.

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FIRST SCHEDULE

[Subsection 10(3)]

*Senior Prison Officers*

Commissioner General of Prison  
Deputy Commissioner General of Prison  
Commissioner of Prison  
Deputy Commissioner of Prison  
Senior Assistant Commissioner of Prison  
Assistant Commissioner of Prison  
Superintendent of Prison  
Deputy Superintendent of Prison  
Assistant Superintendent of Prison  
Chief Inspector of Prison  
Prison Inspector

*Junior Prison Officers*

Prison Sub Inspector  
Prison Sergeant Major  
Prison Sergeant  
Prison Corporal  
Warder

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SECOND SCHEDULE

[Subsection 68(1)]

REPEALS

<i>Number of Ordinance/ Rules</i>	<i>Title of Ordinance/ Rules</i>	<i>Extent of Repeal</i>
1. F.M. Ord. 81/1952	Prisons Ordinance	The whole
2. Sabah Ord. 7/1956	Prisons Ordinance	The whole except the following:

(1) subsections  
70(4) to (14); and

(2) subsection 81(1) in  
respect of sentences  
of imprisonment  
passed upon a  
prisoner before the  
date of coming into  
force of this Act.

3. Sarawak Cap. 24	Prisons Ordinance	The whole except subsections 34(4) to (14).
4. Sarawak G.N.S. 31/1956	Prisons Rules	Part VI

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THIRD SCHEDULE

[Subsection 68(3)]

APPLICATION OF LAWS

<i>State</i>	<i>Extent of Application</i>
1. Sabah	Part 6 of the Prisons Rules 1953 [L.N. 326/1953]
2. Sarawak	Part 6 of the Prisons Rules 1953 [L.N. 326/1953]

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FOURTH SCHEDULE

[Subsection 46E(2)]

OFFENCES NOT ELIGIBLE FOR PAROLE RELEASE

1. Penal Code	The whole of Chapter VI The whole of Chapter VI A Section 194 Paragraph 225(e)
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	Paragraph 304(a)
	Section 364
	Section 374A
	Section 376
	Section 376B
	Section 377B
	Section 377C
	Section 377E
	Section 388
	Section 460
2. Kidnapping Act 1961 [ <i>Act 365</i> ]	Section 3
3. Firearms (Increased Penalties) Act 1971 [ <i>Act 37</i> ]	Section 3 Section 3A Section 4 Section 5 Section 7
4. Dangerous Drug Act 1952 [ <i>Act 234</i> ]	Section 6B
5.* Internal Security Act 1960 [ <i>Act 82</i> ]	Section 57 Section 59

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\* *NOTE*—The Internal Security Act 1952 [*Act 234*] has since been repealed by the Security Offences (Special Measures) Act 2012 [*Act 747*]*—see* section 32 of *Act 747*.

**LAWS OF MALAYSIA****Act 537****PRISON ACT 1995**

## LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U. (A) 118/2003	Revision of Laws (Rectification of Prison Act 1995) Order 2003	25-04-2003
Act A1189	Prison (Amendment) Act 2003	Not yet in Force
Act A1332	Prison (Amendment) Act 2008	30-06-2008
Act A1460	Prison (Amendment) Act 2014	03-04-2014
Act A1474	Prison (Amendment) Act 2015	15-01-2016
Act A1486	Prison (Amendment) (No. 2) Act 2015	01-09-2015

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## LAWS OF MALAYSIA

### ACT 537

### PRISON ACT 1995

#### LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act A1332 Act A1474	30-06-2008 15-01-2016
7	Act A1460 Act A1486	03-04-2014 01-09-2015
10	Act A1332 Act A1474	30-06-2008 15-01-2016
11	Act A1332 Act A1474	30-06-2008 15-01-2016
13	Act A1474	15-01-2016
19A	Act A1332	30-06-2008
22	Act A1332	30-06-2008
37	Act A1332	30-06-2008
43	Act A1332	30-06-2008
44	Act A1332	30-06-2008
45	Act A1332	30-06-2008
Part IVA	Act A1332	30-06-2008
46A-46O	Act A1332	30-06-2008
Part IVB	Act A1474	15-01-2016
46P-46U	Act A1474	15-01-2016
47	Act A1332	30-06-2008
50	Act A1332	30-06-2008

Section	Amending authority	In force from
55	Act A1332	30-06-2008
58	Act A1332	30-06-2008
61	Act A1332	30-06-2008
Part VIIA	Act A1332	30-06-2008
62A-62B	Act A1332	30-06-2008
64	Act A1332	30-06-2008
67	Act A1332	30-06-2008
First Schedule	Act A1332 Act A1474	30-06-2008 15-01-2016
Fourth Schedule	Act A1332	30-06-2008
Throughout the Act	Act A1332	30-06-2008

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