



# 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.

[ ]

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**

**1.** This Act may be cited as the Prison Act 1995 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint. Short title and commencement.

**2.** (1) In this Act, unless the context otherwise requires- Interpretation.

"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;

"Committee" means the Prison Officers' Reward Fund Committee established under section 62;

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

"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;

"Director General" and "Deputy Director General" mean the Director General of Prison and the Deputy Director General of Prison appointed under section 10;

"Director General's Standing Orders" means the Standing Orders issued from time to time by the Director General of Prison;

"Fund" means the Prison Officers' Reward Fund established under section 60;

"Junior Prison Officer" means a prison officer of any rank from and including a Prison Sub-Inspector 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;

"mental hospital" means a hospital established for the reception and detention of mentally disordered persons under section 30 of the Mental Disorders Ordinance 1952, and includes an approved hospital gazetted under the Mental Health Ordinance 1961 and an asylum under the Lunatics Ordinance 1961;

*FM. Ord.  
31/1952.*

*Sarawak  
Ord.  
16/1961.  
Sabah  
Cap. 74.*

"Minister" means the Minister charged with the responsibility for prisons;

"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;

"Officer-in-Charge" means a prison officer not below the rank of Prison Inspector who is in charge of a prison;

"place of work" means a place where prisoners are required by the Director General to work for purposes of rehabilitation of prisoners, such work being performed under the suspension of prison officers;

"police officer" has the meaning assigned thereto under the Police Act 1967;

*Act 344.*

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

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

"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;

"prison officer" means a uniformed staff of the prison department from and including the rank of Director General of Prison down to and including a Warder;

"prisoner" means a person, whether convicted or not, under confinement in a prison;

"registered dentist" means a dentist registered under the Dental Act 1971;

*Act 51.*

"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;

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

"sentence of imprisonment" means a sentence involving confinement in a prison, and includes an original sentence passed by a court as well as a sentence awarded by way of commutation;

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

"weapon" means any staves, arms, ammunition, and includes any instrument as may be determined by the Director General;

"young prisoner" means a prisoner who is below twenty-one years of age.

(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.



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.

Description of prison in write, etc.

6. (1) The Director General may, from time to time, by order-

Appropriation of prisons to categories of prisoners.

(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.

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.

Appointment of lock-ups at police stations and court houses is places of detention.

(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 or of the Debtors Act 1957.

*P.M.S.  
Cap. 6.  
Act 256.*

Temporary  
prisons.

**8. (1) Whenever it appears to the Director 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 Director 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.

**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 Director General.

Adminis-  
tration of  
prisons.

(2) The Director 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**

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

Appoint-  
ment of  
officers.

(2) There shall be appointed a Deputy Director General, who shall be a prison officer, and such number of prison officers as may be necessary for carrying out the provisions of this Act.

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

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

Absence or  
incapacity of  
Director  
General.

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

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

Director  
General's  
Standing  
Orders.

Duties of  
Director  
General.

**13. (1) The Director 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; 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.

(2) Subject to the orders of the Director 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 Director 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 Director 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 Director 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 Director General by the Commission pursuant to Article 144(6) of the Federal Constitution.

**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.

Medical Officer and Dental Officer for 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.

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

Duties of Medical Officer and Dental Officer.

**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.

Terms and conditions of appointment.

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

Duties of prison officers.

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

Weapons, accoutrements, etc.

Service in Malaysia or on board any 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.

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 Director General's Standing Orders.

Prison officers deemed public servants. *F.M.S. Cap. 45.*

**21.** The Director 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.

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 the outside 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.

**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.

Prison officers to have powers of police officers.

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

Assistance of the police in times of emergency.

(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 Director General or any other prison officer specially authorised for that purpose.

**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.

Prison officers not to be members of trade unions.

(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, and shall be exempt from the provisions of the Societies Act 1966.

*Act 262,*

*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, shall be deemed to be an association established under subsection (1) until the association is dissolved.

*F.M. Ord,*  
*8111952.*

#### 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 Director 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 actualiy 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.

**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. Delivery of persons arrested on warrant.

(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 (hat court at its next sitting in order that the person may be dealt with according to law.

**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. Delivery of persons on remand.

(2) The Officer-in-Charge shall-

(a) detain and cause to be delivered to the court or competem authority; or

(h) 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 Director General to order production in certain cases.

**31.** (1) The Director 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 Director General may, by order in writing, direct, and whilst in that custody shall be deemed to be in lawful custody.

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

(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.

**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 Director General, be transferred to any other prison, there to undergo his sentence. Transfer of prisoners under sentence of death.

**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. Orders relating to transferred prisoners.

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

(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 authorised by law.

Mentally  
disordered  
prisoner.

**36.** (1) Where a prisoner undergoing a sentence of imprisonment or sentenced to death appears to the Director General on the certification of the Medical Officer to be mentally disordered, the Director 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 Director 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 Director General.

(4) Upon receipt of the report, the Director 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 West Malaysia, section 46 of the Mental Disorders Ordinance 1952 shall apply to the prisoner as if he were detained in accordance with a certificate given under section 42 of the Ordinance;

*F.M. Ord.*  
*31/1952.*

(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 shall apply; and

*Sabah Ord.  
711956.*

(d) in the case of Sarawak, subsections 34(4) to (14) of the Prisons Ordinance shall apply.

*Sarawak  
Cap. 24.*

(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.

**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 may, on the certificate of a Medical Officer, make an order for the removal of the prisoner to a government hospital.

*Illness of  
prisoner.*

(2) Where, a prisoner removed under subsection (1) is, in the opinion of the medical officer of the hospital, still necessary for the prisoner to remain in the hospital, the medical officer shall, at the end of each month, transmit a certificate stating that fact to the Officer-in-Charge of the prison from where the prisoner was removed.

**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.

*Return to  
prison.*

(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.

**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 Director General. Removal vessel.

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

**43.** (1) Subject to any regulations made by the Minister, the Director 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 a concurrent or consecutive term of imprisonment of not less than four years. Release of prisoners on licence.

(2) The Director 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 Director General to release the prisoner on licence again.

(3) Where a prisoner is recalled under paragraph (b) of subsection (2), 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 a term of imprisonment 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, be cancelled by the Director 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 Director 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 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 Director 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.



**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.

Saving powers of the High Court.  
F.M.S.  
Cap. 6.

## PART V

### EMPLOYMENT AND PRISON DISCIPLINE

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

Effect of sentence of imprisonment.

- (a) to be imprisoned; 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 Director 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.

**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.

Scheme for prisoners to engage in employment.

(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 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 (b) to (f) of subsection (1) shall be for such period as may be prescribed.

(3) Where an Officer-in-Charge finds a prisoner after due inquiry to be guilty of an aggravated prison offence, 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.

**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. Register of punishments.

**52.** No prisoner shall be punished until he has had an opportunity- Prisoner may make his defence.

- (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 unauthorised 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.

**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 - Payment of money forbidden.

- (a) entry into;
- (b) commitment to;
- (c) continuance in; 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.

**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, accoutremems, and other effect of every kind belonging to the Government. Delivery of uniform, etc. on leaving.

(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.

**58.** (1) A person who smuggles or attempts to smuggle a prohibited article into a prison shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both. Smuggling of prohibited articles into prison.

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

**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. General penalty.

## PART VII

### 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. Prison Officers' Reward Fund.

(2) The Fund shall consist of -

- (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 monies-
  - (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; and
- (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.

Adminis-  
tration 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 Director 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 monies 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 VIII

### GENERAL

**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 Article 132(2) of the Federal Constitution.

Prison officers subject to disciplinary regulations.

(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).

**64.** The Menteri Besar or Chief Minister in a State or the Minister in charge of the Federal Territory, as the case may be, shall for each year appoint a Board for that State or Federal Territory to be called the Board of Visiting Justice of which all Magistrates of that State or Federal Territory shall be *ex-officio* members.

Appointment 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;
- (c) 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,

Duties of Visiting Justices.

for the purpose of ascertaining, so far as possible, whether the provisions of this Act and any regulations made under the Act and the Director 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
  - (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, categorisation, safe custody, separation, treatment and discipline of prisoners;
- (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 (h) of subsection (2);
- (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<sup>1</sup> aid associations and for the subsidising of their work and the utilising 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; 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 of Sabah and the Prison Officers' Reward Fund established under the Prisons Ordinance of Sarawak shall be wound up and all monies, property, whether moveable or immoveable and liabilities to which the various funds were entitled or subject to shall by virtue of this section become the

*F.M. Ord.  
8111952.*

*Sabah Ord.  
7/1956.*

*Sarawak  
Cap. 24.*

monies, 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.

**FIRST SCHEDULE**  
**(Subsection 10(3))**

*Senior Prison Officers*

Director General of Prison  
Deputy Director General of Prison  
Director of Prison  
Senior Superintendent of Prison  
Superintendent of Prison  
Deputy Superintendent of Prison  
Assistant Superintendent of Prison  
Prison Inspector

*Junior Prison Officers*

Prison Sub-Inspector  
Prison Sergeant Major  
Prison Sergeant  
Prison Corporal  
Warder

**SECOND SCHEDULE**  
**(Subsection 68(1))**

**REPEALS**

<i>Number of Ordinancel Rules</i>	<i>Title of Ordinancel 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

*Prison*

<i>Number of Ordinance/ Rules</i>	<i>Title of Ordinancel Rules</i>	<i>Extent of Repeal</i>
		(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	Prison Rules	Part VI

**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)