



MALAYSIA

Warta Kerajaan
SERI PADUKA BAGINDA
DI-TERBITKAN DENGAN KUASA

HIS MAJESTY'S GOVERNMENT GAZETTE
PUBLISHED BY AUTHORITY.

Jil. :15
No. 16

12hb Ogos, 1971

TAMBAHAN No. 44
PERUNDANGAN (A)

P.U. (A) 261.

MALAYSIA ACT

IN exercise of the powers conferred by section 74 of the Malaysia Act, 26/63.
the Yang di-Pertuan Agong hereby makes the following order:

1. This order may be cited as the **Evidence Ordinance (Extension) Order, 1971**, and shall come into force on the 1st day of November, 1971. Citation and commencement.

2. (1) The Evidence Ordinance, 1950, shall have effect with the modifications set out in the Schedule. Modification and extension of F.M. 11/50.
(2) The said Ordinance as so modified is hereby extended to the States of Sabah and Sarawak.

3. (1) The Evidence Ordinance of Sabah is hereby repealed. Repeal of Sabah Cap. 43 and Swk. Cap. 54.
(2) The Evidence Ordinance of Sarawak is hereby repealed except for section 92 and sections 170 to 180.

SCHEDULE

(Article 2 (1))

<i>Section</i>	<i>Modification</i>
Long title ...	For "the Federation" substitute "Malaysia".
2 ...	Omit "other than Courts Martial and Muslim Religious Courts".
3 ...	1. Omit the definition of "British Commonwealth of Nations". 2. Substitute the following for the definition of "Court": " 'court' means a court established by or under Part IX of the Constitution and includes— (a) a Judge; (b) a President of a Sessions Court; (c) a Magistrate; and (d) except an arbitrator, every person legally authorised to take evidence;".

<i>Section</i>	<i>Modification</i>
6, 10	For "King" substitute "Yang di-Pertuan Agong".
17	Add the following subsection at the end: " (3) Subsection (2) shall have no application in Sarawak."
23, 32 (Illustration (c)), 66, 126 (1), (2), 128	For "advocate or solicitor" and "solicitor" substitute "advocate".
25-30	Insert "(1)" immediately after the section number and add the following as a subsection (2) in each case: " (2) This section shall have no application in Sarawak."
36	For "Government" substitute "the Government of Malaysia or of any State thereof".
37	Substitute the following: "Relevancy of statement as to fact of public nature contained in certain legislation or notifications. 37. When the court has to form an opinion as to the existence of any fact of a public nature any statement of it made in a recital contained in— (a) any legislation enacted by Parliament or by the legislature of any part of the Commonwealth; (b) any legislation enacted by the legislature of any State; or (c) any printed paper purporting to be— (i) the <i>Gazette</i> printed under the authority of the Government of Malaysia or of any State thereof; (ii) the <i>London Gazette</i> ; or (iii) the <i>Gazette</i> of any other part of the Commonwealth including, where any part thereof is both under a central Government and a local Government, any such local Government, is a relevant fact."
50, 105, 162 (3)	Insert " <i>F.M.S. Cap. 45, Sabah 3/59, Swk. Cap. 57</i> " as marginal reference against "Penal Code".
54	Re-number as 54 (1) and insert the following as subsection (2) before the explanations: " (2) A person charged and called as a witness shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed, or been convicted of or been charged with, any offence other than that wherewith he is then charged, or is of bad character, unless— (a) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged; (b) he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution; or (c) he has given evidence against any other person charged with the same offence."
57 (1)	Substitute the following: "57. (1) The court shall take judicial notice of the following facts: (a) all laws or regulations having the force of law now or heretofore in force or hereafter to be in force in Malaysia or any part thereof;

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- (b) all public Acts passed or hereafter to be passed by the Parliament of the United Kingdom, and all local and personal Acts directed by it to be judicially noticed;
- (c) articles of war for the armed forces or any visiting force lawfully present in Malaysia;
- (d) the course of proceedings in Parliament, in the federal legislatures that existed in Malaysia before Parliament was constituted, in the legislature of any State in Malaysia and in the Parliament of the United Kingdom;
- (dd) the accession of the Yang di-Pertuan Agong, and the accession of the Ruler of any State in Malaysia and the appointment of a Governor, including the Yang di-Pertua Negara of Sabah;
- (e) the accession and the sign manual of the Sovereign for the time being of the United Kingdom;
- (f) the seals of all the courts of Malaysia, all seals which any person is authorised to use by any law in force for the time being in Malaysia or of any part thereof, all seals of which English courts take judicial notice, and the seals of Courts of Admiralty and maritime jurisdiction and of notaries public;
- (g) the accession to office, names, titles, functions and signatures of the persons filling for the time being any public office in any part of Malaysia, if the fact of their appointment to such office is notified in the *Gazette*, or in any *State Gazette*;
- (h) the existence, title and national flag of every State or Sovereign recognized by the Yang di-Pertuan Agong;
- (i) the ordinary course of nature, natural and artificial divisions of time, the geographical divisions of the world, the meaning of Malay and English words, and public festivals, fasts and holidays notified in the *Gazette* or in any *State Gazette*;
- (j) the Commonwealth countries;
- (k) the commencement, continuance and termination of hostilities between Malaysia or any other part of the Commonwealth and any other country or body of persons;
- (l) the names of the members and officers of the court and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of all advocates and other persons authorised by law to appear or act before it;
- (m) the rule of the road on the land, sea regulations and the rules of the air;
- (n) all other matters which it is directed by any written law to notice.

Explanation: The word 'Parliament of the United Kingdom' in paragraphs (b) and (d) means—

- (i) the Parliament of the United Kingdom of Great Britain and Northern Ireland;
- (ii) the Parliament of the United Kingdom of Great Britain and Ireland;
- (iii) the Parliament of Northern Ireland;
- (iv) the Parliament of Great Britain;
- (v) the Parliament of England;
- (vi) the Parliament of Scotland;
- (vii) the Parliament of Ireland prior to the first day of January, 1801."

1. Substitute a colon for the fullstop at the end of subsection (1) and for "(2) The" at the commencement of subsection (2) substitute "Provided that the".

<i>Section</i>	<i>Modification</i>
	2. Add the following subsection at the end: “(2) This section has no application to criminal proceedings.” For “the Federation” substitute “Malaysia”.
65 (f), 74 (b), 85, 91 (Exception 2)	Insert the following new section after section 73:
73A	<p>“Admissibility of documentary evidence in civil cases, etc.</p> <p>73A. (1) Notwithstanding anything contained in this Chapter, in any civil proceedings where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied:</p> <p>(a) if the maker of the statement either—</p> <p>(i) had personal knowledge of the matters dealt with by the statement; or</p> <p>(ii) where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with thereby are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have had, personal knowledge of those matters; and</p> <p>(b) if the maker of the statement is called as a witness in the proceedings:</p> <p>Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead, or unfit by reason of his bodily or mental condition to attend as a witness, or if he is beyond the seas and it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success.</p> <p>(2) In any civil proceedings, the court may at any stage of the proceedings, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that such a statement as is mentioned in subsection (1) shall be admissible as evidence or may, without any such order having been made, admit such a statement in evidence—</p> <p>(a) notwithstanding that the maker of the statement is available but is not called as a witness; and</p> <p>(b) notwithstanding that the original document is not produced, if, in lieu thereof, there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or as the court may approve, as the case may be.</p> <p>(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated, involving a dispute as to any fact which the statement might tend to establish.</p> <p>(4) For the purposes of this section, a statement in a document shall not be deemed to have been made by a person unless the document, or the material part thereof, was written, made or produced by him with his own hand, or was signed or initialled by him, or otherwise recognised by him in writing as one for the accuracy of which he is responsible.</p>

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(5) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of the provisions of subsections (1) to (4), the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a registered medical practitioner, and, where the proceedings are with assessors, the court may in its discretion reject the statement notwithstanding that the requirements of this section are satisfied with respect thereto, if for any reason, it appears to it to be expedient in the interests of justice that the statement should be admitted.

(6) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by this Ordinance, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and, in particular, to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts.

(7) For the purpose of any rule of law or practice requiring evidence to be corroborated, or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by this Ordinance shall not be treated as corroboration of evidence given by the maker of the statement."

- 74 (a) (iii) ... For "whether of the Federation or of any State in the Federation or of any other part of the British Commonwealth of Nations" substitute "whether Federal or State or of any other part of the Commonwealth".
- 78 (1) Substitute the following:
 "(1) The following public documents may be proved as follows:
 (a) acts, orders or notifications of the Government of Malaysia or of any State thereof in any of its departments—
 (i) by the records of the departments certified by the heads of those departments respectively;
 (ii) by a Minister in the case of the Government of Malaysia, and by the Chief Minister, a State Minister (if any), the State Secretary or the Permanent Secretary to the Chief Minister in the case of a State Government; or
 (iii) by any document purporting to be printed by the authority of the Government concerned;
 (b) the proceedings of Parliament or of any of the federal legislatures that existed in Malaysia before Parliament was constituted or of the legislature of any State—
 by the minutes of the body or by the published Acts of Parliament, Ordinances, Enactments or abstracts or by copies purporting to be printed by the authority of the Government concerned;
 (c) proclamations, orders or regulations issued by the Crown in the United Kingdom or by the Privy Council or by any Minister or department of the Crown—
 by copies or extracts contained in the London Gazette or in the Gazette or in any State Gazette or purporting to be printed by Her Britannic Majesty's Printer;

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	(d) the acts of the Executive or the proceedings of the legislature of a foreign country— by journals published by their authority or commonly received in that country as such, by a copy certified under the seal of the country or sovereign or by a recognition thereof in some Act, Ordinance or Enactment of Malaysia or of any State thereof;
	(e) the proceedings of a municipal body, town board or other local authority in Malaysia— by a copy of the proceedings certified by the lawful keeper thereof, or by a printed book purporting to be published by the authority of that body;
	(f) public documents of any other class in a foreign country— by the original or by a copy certified by the lawful keeper thereof, with a certificate under the seal of a notary public or of a consular officer of Malaysia that the copy is duly certified by the officer having the lawful custody of the original and upon proof of the character of the document according to the law of the foreign country.”.
78 (2), (3) 81 ...	For “any territory in the British Commonwealth of Nations” substitute “any part of the Commonwealth”.
78 (2) ...	For “Courts of Justice in the Federation” substitute “courts in Malaysia”.
79 (1) ...	For “in the Federation or by any officer in the Colony or in the State of Brunei” substitute “in Malaysia”.
81 ...	1. For “the London <i>Gazette</i> or the <i>Gazette</i> ” substituted “the <i>Gazette</i> , a <i>State Gazette</i> or the <i>London Gazette</i> ”. 2. For “any part of any such territory” substitute “any part of the Commonwealth”. 3. For “the King’s Printer” substitute “Her Britannic Majesty’s Printer”.
83 (1) ...	For “Government” substitute “the Federal Government or the Government of any State”.
83 (2) ...	Omit.
86 ...	1. For “forming part of the British Commonwealth of Nations” substitute “being a part of the Commonwealth”. 2. Omit “His Majesty or of”.
90 ...	For “thirty years” substitute “twenty years”.
100 ...	1. For “the Settlements or either of them” substitute “the States of Malacca, Penang, Sabah and Sarawak or any of them”. 2. After “they shall” insert “, subject to any written law,”
123 ...	For “State Government” substitute “department of a State Government”.
124 ...	Substitute a colon for the fullstop at the end of the section and add the following proviso thereafter: “Provided that the court may require the head of the department of such officer to certify in writing whether or not such disclosure would be detrimental to the public interest and, if the head of the department certifies that such disclosure would not be prejudicial to the public interest, then such officer shall disclose such communications.”.
125 (Explanation)	Omit “or in or about the business of any Government farm”.
126 (Illustrations (a), (b))	For “a solicitor” substitute “an advocate”.
127 ...	Omit “and solicitors”.
130 (3) ...	For “section 6 of the Bankers’ Books Evidence Ordinance, 1949” substitute “the law of evidence relating to bankers’ books” and for the marginal note substitute— “F.M. 52/49.”.

<i>Section</i>	<i>Modification</i>
132 (1)	For "any Government in the Federation" substitute "the Government of Malaysia or of any State thereof".
133A	Insert the following after section 133: <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 25%;"> <p>"Evidence of child of tender years.</p> <p><i>F.M.S. Cap. 6</i></p> <p><i>Sabah 4/59. S. 214; Swk. Cap. 58, s. 214.</i></p> </div> <div style="width: 70%;"> <p>133A. Where, in any proceedings against any person for any offence, any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if, in the opinion of the court, he is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth; and his evidence, though not given on oath, but otherwise taken and reduced into writing in accordance with the provisions of section 269 of the Criminal Procedure Code of the Federated Malay States or the corresponding provision of the Criminal Procedure Code of Sabah or Sarawak, as the case may be, shall be deemed to be a deposition within the meaning of that section:</p> <p>Provided that, where evidence admitted by virtue of this section is given on behalf of the prosecution, the accused shall not be liable to be convicted of the offence unless that evidence is corroborated by some other material evidence in support thereof implicating him."</p> </div> </div>
149 (Illustration (a))	For "by a solicitor" substitute "by another advocate or reliable source".
150	Substitute the following: <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 25%;"> <p>"Procedure of court in case of question being asked without reasonable grounds.</p> </div> <div style="width: 70%;"> <p>150. If the court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by an advocate, report the circumstances of the case to the High Court or other authority to which the advocate is subject in the exercise of his profession."</p> </div> </div>

Made this 1st day of June, 1971.

[P.N. 3375/181.]

By Command,

TAN SRI SYED ZAHIRUDDIN BIN SYED HASSAN,
Acting Secretary to Cabinet

(To be laid before each House of Parliament pursuant to section 74 (9) of Malaysia Act.)

P.U. (A) 262.

ORDINAN KAWASAN LARANGAN DAN TEMPAT LARANGAN, 1959

PADA menjalankan kuasa² yang di-beri oleh sekshen 5 Ordinan Kawasan Larangan dan Tempat Larangan, 1959, Menteri yang bertanggungjawab atas keselamatan dalam negeri dengan ini membuat perintah yang berikut: 33/59.

1. Perintah ini boleh-lah di-namakan **Perintah (No. 3) Tempat Larangan, 1971.** Nama.

2. Tempat² yang di-nyatakan dalam Jadual bersama ini ada-lah dengan ini di-ishtiharkan menjadi tempat² larangan. Tempat Larangan.

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PUC/107/82