



LAWS OF MALAYSIA

Act A1459

**PREVENTION OF CRIME (AMENDMENT AND
EXTENSION) ACT 2014**

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Act A1459

PREVENTION OF CRIME (AMENDMENT AND EXTENSION) ACT 2014

An Act to amend and extend the Prevention of Crime Act 1959.

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ENACTED by the Parliament of Malaysia as follows:

Short title

1. This Act may be cited as the Prevention of Crime (Amendment and Extension) Act 2014.

Amendment of long title

2. The Prevention of Crime Act 1959 [*Act 297*], which is referred to as the “principal Act” in this Act, is amended in the long title by substituting for the words “in Peninsular” the word “throughout”.

New preamble

3. The principal Act is amended by inserting before section 1 the following preamble:

“WHEREAS action has been taken and further action is threatened by a substantial body of persons both inside and outside Malaysia to cause, or to cause a substantial number of citizens to fear, organized violence against persons or property;

AND WHEREAS Parliament considers it necessary to stop such action;

NOW, THEREFORE, pursuant to Article 149 of the Federal Constitution IT IS **ENACTED** by the Parliament of Malaysia as follows:".

Amendment of section 1

4. Subsection 1(2) of the principal Act is amended by substituting for the words "to Peninsular Malaysia only" the words "throughout Malaysia".

Amendment of section 2

5. Subsection 2(1) of the principal Act is amended—

(a) by inserting before the definition of "district, mukim, town or village" the following definition:

‘ “Board” means the Prevention of Crime Board established under section 7B;’; and

(b) by deleting the definition of "Peninsular Malaysia".

Amendment of section 4

6. Section 4 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the words "Assistant Superintendent" the word "Inspector"; and

(ii) by substituting for the word "fourteen" the words "twenty-one";

(b) in paragraph (2)(a), by substituting for the words "twenty-eight" the words "thirty-eight"; and

- (c) by inserting after subsection (2) the following subsection:

“(3) Except as provided in subsection 9(5), the provisions of section 28A of the Criminal Procedure Code shall apply to any person remanded under section 4.”.

Deletion of section 5

7. The principal Act is amended by deleting section 5.

Amendment of section 6

8. Section 6 of the principal Act is amended by deleting the words “or 5”.

Amendment of section 7

9. Section 7 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1);

(b) in the renumbered subsection (1)—

(i) by deleting the words “or 5”;

(ii) by substituting for the word “Magistrate” wherever it appears the words “Sessions Court Judge”; and

(iii) in paragraph (b), by substituting for the words “forty-two” wherever they appear the words “fifty-nine”; and

(c) by inserting after the renumbered subsection (1) the following subsections:

“(2) If a person is released under paragraph 7(1)(b), an electronic monitoring device shall be attached on the person in accordance with subsections (3) and (4).

(3) If the police officer intends to release the person under paragraph (1)(b) and attach an electronic monitoring device on the person upon his release, he shall submit a report to the Public Prosecutor before the application under paragraph (1)(b) is made.

(4) Upon receipt of the report under subsection (3), the Public Prosecutor may apply to the Sessions Court Judge for the person to be attached with an electronic monitoring device in accordance with section 7A for the period of his release as allowed under paragraph (1)(b).”.

New section 7A

10. The principal Act is amended by inserting after section 7 the following section:

“Special procedures relating to electronic monitoring device

7A. (1) Upon application by the Public Prosecutor under section 7, the Sessions Court Judge shall order the person to be attached with an electronic monitoring device for a period as the Sessions Court Judge may determine but which shall not exceed the period of his release as allowed under paragraph 7(1)(b).

(2) The Sessions Court Judge shall explain the operation of the electronic monitoring device and the terms and conditions of the electronic monitoring device to the person.

(3) The person shall sign a form as specified in the Third Schedule and deposit the form with the Sessions Court Judge.

(4) The person shall be attached with an electronic monitoring device by a police officer.

(5) The person shall comply with all the terms and conditions of the electronic monitoring device and shall report to the nearest police station at such time as specified in the form.

(6) Any person who fails to comply with the terms and conditions under subsection (5) shall be guilty of an offence and liable to imprisonment for a term not exceeding three years.

(7) Any person who tampers with, or destroys, the electronic monitoring device shall be guilty of an offence and liable to imprisonment for a term not exceeding three years and such person shall be liable to pay for any damage to the electronic monitoring device arising from his action.

(8) Upon expiry of the period referred to in subsection (1), the person shall report to the nearest police station for removal of the electronic monitoring device.”.

New section 7B

11. The principal Act is amended by inserting before section 8 the following section:

“Prevention of Crime Board

7B. (1) There shall be established a Prevention of Crime Board which shall consist of the following members to be appointed by the Yang di-Pertuan Agong:

- (a) a Chairman, who shall be or have been, or be qualified to be, a judge of the Federal Court, the Court of Appeal or a High Court; and
- (b) four other members.

(2) Every member of the Board shall, unless he sooner resigns, hold office for a period not exceeding two years and is eligible for re-appointment for not more than one term.

(3) Every member of the Board may, at any time resign his office, by giving notice in writing to the Yang di-Pertuan Agong.

(4) Subject to this Act, the Board shall determine its own procedure.

(5) Every member of the Board shall be deemed to be a public servant within the meaning of the Penal Code [Act 574].”.

Amendment of section 9**12. Section 9 of the principal Act is amended—**

- (a) by substituting for the word “Minister” wherever it appears the word “Board”;
- (b) in subsection (3)—
 - (i) in paragraph (a), by substituting for the words “whether oral or in writing” the words “in any form”;
 - (ii) in paragraph (d)—
 - (A) by inserting after the words “public interest” the words “or to protect a witness, or his family or associates”; and
 - (B) in the proviso—
 - (aa) by inserting after the words “public interest” the words “or the need to protect a witness, or his family or associates”; and
 - (bb) by substituting for the full stop at the end of the proviso a semicolon; and
 - (iii) by inserting after paragraph (d) the following paragraph:
 - “(e) give any direction as may be necessary.”;
- (c) in subsection (4), by substituting for the word “one” the word “two”; and
- (d) by inserting after subsection (4) the following subsections:
 - “(5) Neither the person who is the subject of the inquiry nor a witness at an inquiry shall be represented by an advocate and solicitor at the inquiry except when his own evidence is being taken and recorded by the Inquiry Officer.

(6) The Public Prosecutor or a Deputy Public Prosecutor may appear at an inquiry to assist the Inquiry Officer.”.

New section 9A

13. The principal Act is amended by inserting after section 9 the following section:

“Access by Inquiry Officer to detainees or prisoners

9A. (1) Notwithstanding any other written law, an Inquiry Officer conducting an inquiry under this Act shall be allowed to have access to any person whom he has reason to believe to be connected to or has any evidence of any offence who is—

- (a) being detained under any other written law; or
- (b) under confinement in prison, whether convicted or not.

(2) Nothing in this section shall authorize the attendance of the subject of the inquiry or his advocate and solicitor or representative, if any, at the place of detention or prison.”.

Amendment of section 10

14. Section 10 of the principal Act is amended—

- (a) by substituting for subsection (1) the following subsection:

“(1) If the Inquiry Officer is satisfied that there are no sufficient grounds for believing that the person who was the subject of the inquiry is a member of any of the registrable categories, he shall report his finding, together with his reasons for it, to the Board, and shall forward a copy of his finding to the officer having custody of the person, who shall forthwith serve a copy of the finding of the Inquiry Officer on that person.”;

(b) in subsection (2), by substituting for the word “Minister” the word “Board”; and

(c) by inserting after subsection (2) the following subsections:

“(3) Whenever the Board, after considering the finding of the Inquiry Officer submitted under subsection (1), is satisfied with respect to any person that—

(a) there are no sufficient grounds for believing that the person is a member of any of the registrable categories, the Board shall forthwith direct any person having the custody of that person, within twenty-four hours of the receipt of the direction, to produce the person before a Sessions Court Judge, who shall thereupon discharge the order of remand made under section 4 and, if there are no other grounds on which the person is lawfully detained, shall order his immediate release;

(b) based on the Inquiry Officer’s finding there are sufficient grounds for believing that the person is a member of any of the registrable categories, the Board shall proceed in accordance with Parts III, IV and IVA of this Act.

(4) If the Board makes a decision under paragraph (3)(b), it shall forward a copy of its decision to the officer having custody of the person, who shall forthwith serve a copy of the decision of the Board on that person.”.

Amendment of section 11

15. Section 11 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “the Minister” the word “Board”;

(b) in subsection (1)—

(i) by inserting after the words “subsection 10(2)” the words “or decision under paragraph 10(3)(b)”;

- (ii) by inserting after the words “copy of the finding” the words “or decision”;
- (iii) by substituting for the word “Minister” the word “Board”; and
- (iv) by inserting after the words “review the finding” the words “or decision”; and

(c) in subsection (2)—

- (i) by substituting for the word “Minister” wherever it appears the word “Board”;
- (ii) in paragraph (a), by inserting after the words “subsection 10(2)” the words “or decision under paragraph 10(3)(b)”;
- (iii) in paragraph (b), by inserting after the word “finding” the words “or decision”; and

(iv) in the proviso—

- (A) by inserting after the word “finding” the words “or decision”;
- (B) by substituting for the words “his decision” the words “its decision”;
- (C) by substituting for the word “Magistrate” the words “Sessions Court Judge”; and
- (D) by substituting for the words “his order” the words “the order”.

Amendment of section 12

16. Section 12 of the principal Act is amended—

(a) in paragraph (1)(b)—

- (i) by substituting for the word “Minister” the word “Board”; and

- (ii) by inserting after the words “subsection 10(2)” the words “or made or confirmed the decision under paragraph 10(3)(b)”; and

(b) in subsection (2)—

- (i) by substituting for the word “Minister” the word “Board”; and
- (ii) by substituting for the words “he shall consider” the words “it considers”.

Amendment of section 14

17. Section 14 of the principal Act is amended—

- (a) by substituting for the word “Minister” the word “Board”; and
- (b) by substituting for the words “his discretion” the words “its discretion”.

Amendment of section 15

18. Section 15 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) by substituting for the word “Minister” the word “Board”; and
 - (ii) by inserting after the words “years,” the words “if the Board is satisfied that it is necessary that control and supervision be exercised over the registered person but that it is not necessary to detain him”;
- (b) in subsection (2)—
 - (i) by substituting for the word “Minister” the word “Board”;
 - (ii) by substituting for the full stop at the end of paragraph (g) a semicolon; and

(iii) by inserting after paragraph (g) the following paragraphs:

“(h) he shall use only equipment and facilities of communication which are declared to and approved by the Chief Police Officer of any State concerned;

(i) except so far as may be otherwise provided by the order, he shall not access the internet;

(j) he shall keep the peace and be of good behaviour;

(k) he shall enter into a bond, with or without sureties as the Board may direct and in such amount as may be specified in the order, for his due compliance with the restrictions and conditions imposed on him by the order;

(l) he shall be attached with an electronic monitoring device.”;

(c) in subsection (3), by substituting for the word “Minister” the word “Board”;

(d) in subsection (4), by substituting for the word “five” the word “ten”; and

(e) by inserting after subsection (4) the following subsections:

“(5) Any person who conspires with, abets or assists any registered person to breach any conditions under this section shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding ten years and not less than two years.

(6) Sections 173A and 294 of the Criminal Procedure Code shall not apply in respect of offences under subsections (4) and (5).

(7) The punishment imposed under subsection (4) and any term of imprisonment imposed under any written law shall not be taken into consideration for the purpose of the period of supervision imposed under subsection (1) and the period of supervision shall be continued from the date of completion of the sentence of imprisonment imposed.”.

New section 15A

19. The principal Act is amended by inserting after section 15 the following section:

“Judicial review of act or decision of Board

15A. (1) There shall be no judicial review in any court of, and no court shall have or exercise any jurisdiction in respect of, any act done or finding or decision made by the Board in the exercise of its discretionary power in accordance with this Act, except in regard to any question on compliance with any procedural requirement in this Act governing such act or decision.

(2) In this Act, “judicial review” includes proceedings instituted by way of—

- (a) an application for any of the prerogative orders of *mandamus*, prohibition and *certiorari*;
- (b) an application for a declaration or an injunction; or
- (c) any other suit, action or other legal proceedings relating to or arising out of any act done or decision made by the Board in accordance with this Act.”.

Amendment of section 16

20. Subsection 16(2) of the principal Act is amended by substituting for the words “liable to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand ringgit or to both” the words “shall be liable to imprisonment for a term not exceeding fifteen years and not less than five years”.

Amendment of section 18

21. Section 18 of the principal Act is amended—

- (a) by substituting for the words “of one year” the words “not exceeding five years”; and
- (b) by substituting for the words “of one” the words “not exceeding ten”.

Amendment of section 19

22. Section 19 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) by substituting for the words “six months” the words “five years”; and
 - (ii) by substituting for the words “five hundred” the words “ten thousand”; and
- (b) in subsection (2)—
 - (i) by substituting for the word “months” the word “years”; and
 - (ii) by substituting for the words “two hundred and fifty” the words “five thousand”.

New Part IVA

23. The principal Act is amended by inserting after Part IV the following Part:

“PART IVA

DETENTION ORDERS

Detention orders

19A. (1) The Board may, after considering the report of the Inquiry Officer submitted under section 10 and the outcome of any review under section 11, direct that any registered

person be detained under a detention order for a period not exceeding two years, and may renew any such detention order for a further period not exceeding two years at a time, if it is satisfied that such detention is necessary in the interest of public order, public security or prevention of crime.

(2) The direction of the Board under subsection (1) shall be subject to review by the High Court.

(3) Every registered person detained in pursuance of a detention order shall be detained in such place (hereinafter referred to as a “place of detention”) as the Board may direct and in accordance with any instructions issued by the Board and any regulations made under section 23.

Validity of detention orders

19B. No detention order shall be invalid or inoperative by reason—

(a) that the person to whom it relates—

- (i) was immediately before the making of the detention order detained in any place other than a place of detention referred to in subsection 19A(3);
- (ii) continued to be detained immediately after the making of the order in the place in which he was detained under section 3 before his removal to a place of detention referred to in subsection 19A(3); or
- (iii) was during the duration of the order on journey in police custody or any other custody to a place of detention referred to in subsection 19A(3); or

(b) that the detention order was served on him at any place other than the place of detention referred to in subsection 19A(3), or that there was any defect relating to its service upon him.

Suspension of detention orders

19c. (1) The Board may, at any time, direct that the operation of any order under section 19A be suspended subject to all or any of the restrictions and conditions which the Board is empowered by subsection 15(2) to impose by an order under section 15, and subject, if the Board so directs, to the requirement that the person against whom the order under section 19A was made shall enter into a bond as provided in subsection 15(2).

(2) Where an order under section 19A is suspended, subsection 15(4) shall have effect as if the restrictions and conditions on which the order under section 19B is suspended were restrictions and conditions imposed by an order under section 15.

(3) The Board may revoke the suspension of any detention order under section 19A if it is satisfied that the person against whom the order was made has failed to observe any restriction or condition imposed upon him or that it is necessary in the interest of public order that the suspension should be revoked, and in any such case the revocation of the suspension shall be sufficient authority to any police officer to re-arrest without warrant the person against whom the order was made, and that person shall as soon as practicable be returned to his former place of detention or, if the Board so directs, sent to another place of detention.

(4) The suspension of any order under this section shall, subject to subsection 15(4) as applied by subsection (2) and subject also to subsection 15(3), continue in force for the unexpired portion of the period of the order specified under subsection 19A(1).

Effect on term of imprisonment

19d. Where a person—

- (a) who is undergoing detention under section 19A is sentenced to any term of imprisonment under this Act or any other written law; or

- (b) has his period of detention renewed under section 19A whilst he is serving any such term of imprisonment,

the detention or extended detention shall be deemed to be undergone concurrently with that term of imprisonment, and if upon completion of any such term of imprisonment, there still remains any unexpired portion of the detention period or of the extended detention period, he shall be required to be detained for such unexpired portion thereof.

Annual report

19E. The Minister shall, not later than the first meeting of Parliament of the following year, submit an annual report to Parliament of all the activities under this Part during the year to which the report relates.

Review

19F. This Part shall be reviewed every five years and shall cease to have effect unless, upon the review, a resolution is passed by both Houses of Parliament to extend the period of operation of this Part.”.

Amendment of section 21

24. Section 21 of the principal Act is amended—

(a) in subsection (2)—

(i) by substituting for the words “one month” the words “six months”; and

(ii) by substituting for the words “two hundred and fifty” the words “two thousand”; and

(b) in paragraph (3)(a), by deleting the words “5,”.

New section 21A

25. The principal Act is amended by inserting after section 21 the following section:

“Disclosure of information

21A. Nothing in this Act or in any regulations made under this Act shall require the Board, any member of the Board, any Inquiry Officer or any public servant to disclose facts or to produce documents which he considers—

(a) to be against the public interest to disclose or produce; or

(b) would compromise the protection of a witness, or his family or associates.”.

Substitution of section 22

26. The principal Act is amended by substituting for section 22 the following section:

“Power to amend Schedules

22. The Minister may, by order published in the *Gazette*, amend the Schedules.”.

Amendment of section 23

27. Subsection 23(2) of the principal Act is amended by inserting after paragraph (b) the following paragraph:

“(ba) provide for the maintenance and management of places of detention and for the discipline and treatment of persons detained therein and different regulations may be made for different places of detention;”.

New Third Schedule

28. The principal Act is amended by inserting after the Second Schedule the following Schedule:

“THIRD SCHEDULE

[Section 7A]

FORM

ELECTRONIC MONITORING DEVICE

IN THE SESSIONS COURT AT..... IN THE STATE OF.....

1. Name:

2. Case No.:

3. Identity Card No.:

4. Address:.....
.....
.....

5. Telephone No.:

6. Family members to be contacted:
.....

7. Period to be attached with electronic monitoring device (“device”):

8. Terms and conditions—

(a) to report to the nearest police station at/for every

(b) understands that all movements will be tracked and retained as an official record;

(c) agrees to be required to report for device equipment checks if necessary;

(d) to notify the police officer if there is any change of address;

(e) to allow inspections of the device by the police officer;

(f) to report to the nearest police station for removal of the device;

(g) to return all the device equipment to the police officer;

(h) to submit to procedures required by the police officer;

- (i) to maintain the device as instructed by the police officer;
- (j) to comply with any directions of the police officer;
- (k) to comply with any other conditions as the court may determine.

9. Failure to comply with the terms and conditions is an offence under subsection 7A(6) of the Prevention of Crime Act 1959.

I hereby agree to and shall comply with the terms and conditions as stated in this Form.

.....
()”.