

A BILL

i n t i t u l e d

An Act to amend the Prison Act 1995.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Prison (Amendment) (No. 2) Act 2014.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Prison Act 1995 [*Act 537*], which is referred to as the “principal Act” in this Act, is amended in subsection 2(1)—

(a) by inserting after the definition of “registered medical practitioner” the following definition:

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

- (b) by substituting for the full stop at the end of the definition of “place of work” a semi colon; and
- (c) by inserting after the definition of “place of work” the following definition:

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

Amendment of section 10

3. Section 10 of the principal Act is amended by substituting for subsection (2) the following subsection:

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

Amendment of section 11

4. Section 11 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “Commissioner of Prison” the words “Deputy Commissioner General of Prison”; and
- (b) in subsection (2), by substituting for the words “Commissioners of Prison” the words “Deputy Commissioners General of Prison”.

Amendment of section 13

5. Section 13 of the principal Act is amended—

- (a) by substituting for the shoulder note the following shoulder note:

“Duties of the Commissioner General, State Prison Director and Officer in Charge”;

(b) in paragraph (1)(c)—

- (i) by deleting the word “and” at the end of subparagraph (i);
- (ii) by substituting for the full stop at the end of subparagraph (ii) the words “; and”; and
- (iii) by inserting after subparagraph (ii) the following subparagraph:

“(iii) the transferred prisoners as provided in Part IVB.”; and

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

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

- (a) supervise and control Officer in Charge, prison officer training centre, parole and community service; and
- (b) be responsible to the Commissioner General for—
 - (i) the due observance by prison officers and prisoners of this Act and of all other written laws relating to prison, prison officer training centre, parole and community service;
 - (ii) the supervision of any matters relating to the Board of Visiting Justices;
 - (iii) the management of matters relating to pardon of prisoners; and
 - (iv) the transfer of prisoners as provided in Part IVB.”.

New Part IVB

6. The principal Act is amended by inserting after section 460 the following Part:

‘PART IVB**INTERNATIONAL TRANSFER OF PRISONERS****Application of this Part**

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

Interpretation

46q. For the purposes of this Part—

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

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

Commissioner General Standing Orders relating to transferred prisoners

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

Remission of sentence for transferred prisoners

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

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

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

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

Power of Parole Board relating to transferred prisoners

46T. (1) The Parole Board may—

(a) vary or amend the existing conditions of the Parole Order issued by the prescribed foreign State; or

(b) impose further conditions on the Parole Order issued by the prescribed foreign State.

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

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

Exemption of conditions for parole eligibility for transferred prisoners

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

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

Amendment of the First Schedule

7. The First Schedule to the principal Act is amended by inserting under the words “Commissioner General of Prison” the words “Deputy Commissioner General of Prison”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Prison Act 1995 (“Act 537”).

2. *Clause 1* contains the short title and the provision on commencement of the proposed Act.

3. *Clause 2* seeks to amend section 2 of Act 537 to insert the new definitions of “State Prison Director” and “Deputy Commissioner General”.

4. *Clause 3* seeks to amend section 10 of Act 537 to provide for the appointment of the Deputy Commissioner General of Prison.

5. *Clause 4* seeks to amend section 11 of Act 537 as a consequence to the amendments made to sections 2 and 10 on the exercise and performance of duties by the Deputy Commissioner General of Prison in the absence or incapacity of the Commissioner General.

6. *Clause 5* seeks to amend section 13 of Act 537 to provide for the duties of the State Prison Director.

7. *Clause 6* seeks to introduce a new Part IVB which consists of the new sections 46P, 46Q, 46R, 46S, 46T and 46U into Act 537. This new Part deals with the matters relating to prisoners that have been transferred under the International Transfer of Prisoners Act 2012 [Act 754]. The proposed new section 46P seeks to provide that this new Part shall be applicable to prisoners that have been transferred under the International Transfer of Prisoners Act 2012. The proposed new section 46Q seeks to insert the definitions of “transferred prisoner” and “prescribed foreign State”. The proposed new section 46R seeks to provide that the Commissioner General’s Standing Orders shall be consistent with the International Transfer of Prisoners Act 2012 and any regulations made under that Act. The proposed new section 46S seeks to provide for the remission of sentence for transferred prisoners. The proposed new section 46T seeks to state the power of the Parole Board relating to the transferred prisoners. The proposed new section 46U seeks to provide for the exemption of conditions for parole eligibility by the Commissioner General for transferred prisoners.

8. *Clause 7* seeks to amend the First Schedule of Act 537 to include the Deputy Commissioner General of Prison under the list of Senior Prison Officers.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)2920]