



LAWS OF MALAYSIA

REPRINT

Act 506

CARE CENTRES ACT 1993

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LAWS OF MALAYSIA

Act 506

CARE CENTRES ACT 1993

An Act to provide for the registration, control, and inspection of care centres and for matters connected therewith.

[*Peninsular Malaysia-1 June 1994, P.U. (B) 250/1994*]

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

PART I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Care Centres Act 1993 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint; and the Minister may appoint different dates for different parts of Malaysia.

Interpretation

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

“authorized officer” means a social welfare officer or an officer appointed under section 12;

“care” includes protection, supervision, rehabilitation and training;

“care centre” means a residential care centre and a day care centre within the meaning of the Act;

“day care centre” means, subject to section 3, any premises at which four or more persons are received for care for a continuous period exceeding three hours between the hours of sunrise and

sunset in a day, and for at least three days in a week, whether for reward or otherwise; but in the case of premises operated or managed by a natural person, a person who is a relative of that person shall not be reckoned in determining the number of persons received at the premises for the purposes of this definition;

“Director General” means the Director General of Social Welfare, Malaysia;

“operator”, in relation to a registered care centre, means the person on whose application it was registered;

“register” means the register of residential care centres or the register of day care centres, as the case may be, required to be kept under section 8;

“registered care centre” means a care centre registered under section 6;

“relative” means a legal guardian of the person concerned, or a person who, whether by consanguinity, affinity, or legal adoption, is to the person concerned, or stands in relation to the person concerned as, a parent, child, brother, sister, grandparent, grandchild, uncle, aunt, nephew, or niece;

“resident”, in relation to a residential care centre, means a person who has been received for care as a resident at the residential care centre;

“residential care centre” means, subject to section 3, any premises at which four or more persons are received for care as residents therein, whether for reward or otherwise; but in the case of premises operated or managed by a natural person, a person who is a relative of that person shall not be reckoned in determining the number of persons received at the premises for the purposes of this definition.

Exempted premises, etc.

3. This Act shall not apply to—

- (a) any government hospital, or any private hospital licensed under the *Private Hospitals Act 1971 [Act 43];

*NOTE—The Private Hospital Act 1971 [Act 43] has been repealed by the Private Healthcare Facilities and Services Act 1998 [Act 586].

- (b) any institution or premises subject to control under, and lawfully established, registered, operated, or managed in accordance with, the *Education Act 1961 [Act 43 of 1961];
- (c) any child care centre registered under the Child Care Centre Act 1984 [Act 308];
- (d) any institution or premises for the treatment, rehabilitation, or aftercare of drug dependants, lawfully established or operated under the Drug Dependants (Treatment and Rehabilitation) Act 1983 [Act 283];
- (e) any institution or premises operated or managed by the Federal Government or a State Government; or
- (f) any institution or premises used by the Federal Government or a State Government for the temporary housing or care of persons on the occurrence of any event which gives rise to an emergency, or in the interests of public safety.

PART II

REGISTRATION OF CARE CENTRES

Care centres to be registered

4. Every care centre shall be registered under this Act.

Prohibition of unregistered care centres

5. (1) Subject to subsection (3), no person shall operate or take part in the management of a care centre that is not registered under this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both, and in the case of a continuing offence, shall, in addition, be liable to a daily fine not exceeding one thousand ringgit for every day during which the offence continues.

(3) If a care centre is in operation immediately before the date of the coming into force of this Act, it shall not be an offence

*NOTE—The Education Act 1961 [Act 43/1961] has since been repealed by the Education Act 1996 [Act 550].

under this section for any person to operate or to take part in the management of the care centre—

- (a) during a period of six months from that date; and
- (b) if application for registration of the care centre is made within the period mentioned in paragraph (a), during a further period after the end of that period until the expiry of a period of thirty days from the date the applicant is notified of a decision to refuse to register the care centre; and
- (c) if the applicant appeals to the Minister under section 22 within the said period of thirty days, during a further period after the end of that period until the date the applicant is notified of a decision to dismiss the appeal.

Registration

6. (1) An application for the registration of a care centre shall be made to the Director General in the prescribed form.

(2) The Director General may register or may refuse to register any care centre.

(3) For the purpose of considering an application for the registration of a care centre, the Director General may—

- (a) enter and inspect the premises of the care centre to ensure that it complies with all requirements of law and of any authority relating to the structure of the building and fire safety, and that it is adequately and suitably equipped and maintained; and
- (b) require the applicant to furnish him with such information and particulars as are required for him to determine the application.

(4) Without prejudice to the generality of his powers under subsection (2), the Director General may refuse to register any care centre if any requirement of the law relating to the operation of the care centre or relating to its premises has not been complied with.

Conditions to be imposed

7. The Director General, when registering a care centre, may impose such conditions as he thinks fit and proper, including conditions—

- (a) limiting the number of persons who may be received at the care centre at any time;
- (b) to ensure that any person employed at the care centre, whether in its management or otherwise, is a fit and proper person, whether as regards age or otherwise, to be employed at the care centre;
- (c) to ensure that the care centre will be adequately staffed by a sufficient number of persons with suitable qualifications or experience;
- (d) to ensure that the services for the care, control, custody, treatment, and training of the residents or the persons received for care at the care centre are well provided;
- (e) to ensure that adequate and balanced diets and sufficient rest and recreation are provided at the care centre;
- (f) to ensure that the care centre will be adequately and suitably equipped and maintained, particularly in the interests of health;
- (g) to ensure that adequate arrangements will be made for suitable and proper medical treatment, physiotherapy, psychotherapy, occupational therapy, or any other treatment, within a reasonable time, in respect of any ailment suffered by the residents or persons received for care at the care centre;
- (h) to ensure compliance at the care centre with any requirement of law or of any authority relating to the structure of the building, fire precautions, health, sanitation, and safety;
- (i) requiring the payment of such sum of money as may be determined by the Director General as a security deposit to ensure the compliance by the operator with the provisions of the Act, the regulations made under section 24, and the conditions imposed under this section, and for the protection and in the interests of the residents and persons received for care at the care centre.

Register of care centres

8. (1) The Director General shall cause to be kept, in such form as he may specify,—

(a) a register of residential care centres; and

(b) a register of day care centres,

registered under this Act containing, in respect of each centre—

(i) the name and address of the operator of the care centre;

(ii) the name and address of the care centre; and

(iii) such other particulars as the Director General thinks necessary.

(2) A copy of or an extract from an entry in the register purporting to be certified under the hand of the Director General shall, until the contrary is proved, be admitted in evidence as proof of the facts stated therein as at the date of the certificate.

Inspection of register

9. Any person may, on application in writing to the Director General and on payment of the prescribed fee, inspect the register during office hours.

Certificate of registration

10. (1) After a care centre is registered, the Director General shall, on payment of the prescribed fee, issue a certificate of registration in the prescribed form in respect of the care centre, and the certificate shall specify the name and address of the operator of the care centre, the name and address of the care centre, and the conditions imposed under section 7.

(2) The certificate of registration shall be issued to the operator of the care centre and shall not be transferable.

(3) The registration of a care centre and the certificate of registration issued in respect thereof shall be valid for twelve calendar months.

(4) A certificate of registration issued in respect of a care centre shall be kept available for inspection by an authorized officer, who may demand its production at the care centre concerned at any time.

Cancellation of registration

11. The Director General may cancel the registration of a care centre—

- (a) if there has been any contravention of, or non-compliance with, any regulation made under section 24 or any condition imposed under section 7;
- (b) if the operator of the care centre has been convicted of any offence under this Act or any offence involving fraud or moral turpitude;
- (c) if it appears to him that the care centre has ceased to be operated as such, or to exist, or to be under the control of its operator; or
- (d) if its operator applies for cancellation of the registration.

PART III

OFFICERS AND THEIR POWERS

Appointment of officers

12. The Minister may, by notification in the *Gazette*, appoint such number of officers as he considers necessary for the purposes of this Act.

Powers of Director General and authorized officers

13. (1) The Director General and any authorized officer may at any time enter and inspect any premises used as or for a registered care centre in order to ascertain whether—

- (a) the health and well-being of the residents and persons received for care at the registered care centre are satisfactorily taken care of;
- (b) proper registers, records, and accounts are maintained;
- (c) adequate and suitable equipment is provided;

- (d) the premises are well maintained as regards their structural condition and as regards hygiene and sanitation;
- (e) adequate precautions are taken against fire and other occurrences that are likely to endanger the lives or health of the residents and persons received for care at the registered care centre;
- (f) the regulations made under section 24 and the conditions imposed under section 7 have been, and are being, complied with;
- (g) generally, the registered care centre is being operated and managed satisfactorily.

(2) In the course of an inspection under this section the Director General or any authorized officer may—

- (a) put questions concerning the management of the registered care centre to its operator or any person in charge or taking part in the management of, or employed in, the registered care centre, and all such persons shall be legally bound to answer such questions truthfully to the best of their ability; and
- (b) require any such person to produce to him any records required to be kept under this Act or any records relating to the registered care centre, and may seize them and take copies of them.

Power of Director General to give written directions

14. (1) The Director General may, in respect of any registered care centre, give such directions in writing, consistent with this Act, the regulations made under section 24, and the conditions imposed under section 7, as he thinks necessary to ensure that—

- (a) it is operated and managed satisfactorily;
- (b) the welfare of its residents or persons received for care is promoted in a proper manner;
- (c) adequate apparatus and equipment necessary to safeguard against fire are provided therein; and
- (d) the regulations made under section 24 and the conditions imposed under section 7 are complied with.

(2) A direction under subsection (1)—

- (a) shall be served on the operator of the care centre; and
- (b) shall specify a period of time, which shall not be less than thirty days from the date of service of the direction, within which the direction shall be complied with.

(3) If an appeal is made to the Minister under section 22 against a direction under subsection (1) within thirty days from the date of service of the direction, the effect of the direction is stayed, and if the Minister confirms the direction, the direction shall be complied with within such period as may be specified by the Minister.

Power to order closure of registered care centres

15. (1) If—

- (a) it appears to the Director General that there is any danger or likelihood of danger to any person in any premises of a registered care centre; or
- (b) in respect of any premises of a registered care centre, a direction under section 14 is not complied with within the period of time specified under or pursuant to paragraph (2)(b) or, as the case may be, subsection (3) of that section,

the Director General may, in writing, order that the premises shall cease to be used as or for a care centre for such period as he thinks necessary, or until further notice.

(2) An order under this section shall be served on the operator of the registered care centre and shall take effect from a date immediately following the last day of a period of thirty days from the date of service of the order or, if the operator appeals to the Minister under section 22 against the order within that period and the Minister confirms the order, from the date the decision of the Minister is notified to the operator.

(3) It shall be sufficient service of an order under this section if—

- (a) it is delivered personally to the operator of the registered care centre concerned; or
- (b) it is sent by registered post to his last known address; or
- (c) a copy thereof is posted in a conspicuous place on or in the premises to which it relates.

Power to enter and inspect suspected premises

16. (1) The Director General or any authorized officer may at any reasonable time enter and inspect any premises reasonably suspected of being used as or for a care centre that is not registered under this Act and may make such inquiries therein as he considers necessary.

(2) In the course of an inspection under this section the Director General or any authorized officer may—

- (a) put questions concerning the management of the premises to any person in charge or taking part in the management of, or employed in, the premises, and all such persons shall be legally bound to answer such questions truthfully to the best of their ability; and
- (b) require any such person to produce to him any records relating to the premises, and may seize them and take copies of them.

Right to refuse compliance in absence of proof of identity and authority

17. Any person may refuse to comply with any demand or order by the Director General or an authorized officer acting under this Act if the Director General or authorized officer refuses, on demand, to produce proof of his identity and authority.

PART IV

MISCELLANEOUS

Offences and penalties

18. Any person who—

- (a) operates or takes part in the management of a registered care centre in any premises other than the premises specified in the certificate of registration of the registered care centre;
- (b) operates or takes part in the management of a care centre which is operated in any name other than the name in which it is registered;

- (c) in or in connection with any application under this Act makes any statement or furnishes any information, whether orally or in writing, which is, or which he knows or reasonably ought to know is, false in any material particular;
- (d) obstructs the Director General or any authorized officer in the exercise of any of his powers under this Act;
- (e) refuses to produce any record upon being so required under section 13 or 16, or refuses to answer any question put to him under section 13 or 16, or gives an answer which is, or which he knows or reasonably ought to know is, false in any material particular; or
- (f) fails to comply with an order under section 15,

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

Offences by body corporate and by employees and agents

19. (1) Where any offence against any provision of this Act or any regulations made under section 24 or any condition imposed under section 7 has been committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity, or was in any manner or to any extent responsible for the management of any of the affairs of such body corporate, or was assisting in such management, shall be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person (in this subsection referred to as “the principal”) would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed by the principal’s employee in the course of his employment, or by the agent when acting on behalf of the principal,

or by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

Presumption

20. In any prosecution for any offence under this Act, if it is proved that any person did any act in connection with the organization, operation, or management of a care centre, it shall be presumed, until the contrary is proved, that that person took part in the management of the care centre.

Conduct of prosecution

21. Any prosecution in respect of any offence under this Act may be conducted by an authorized officer.

Appeal to Minister

22. Any person aggrieved by any decision or act of the Director General under this Act may, within thirty days from the date he is notified of the decision or act, appeal in writing to the Minister, whose decision shall be final.

Exemption

23. The Minister may, by order published in the *Gazette*, subject to any conditions which he thinks fit to impose, exempt any care centre, or any class, category or description of care centres, from any provision of this Act or any regulations made thereunder, if the Minister is satisfied that there are special circumstances, and that it would not be contrary to public interest, to do so.

Regulations

24. (1) The Minister may make regulations to carry out the purposes of this Act.

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

- (a) the operation, management, and supervision of registered care centres;

- (b) the duties and responsibilities of operators of registered care centres;
 - (c) the qualifications, experience, appointment, duties, responsibilities, and discipline of persons involved in the operation, management, and supervision of registered care centres;
 - (d) the health and nutritional care of residents and persons received for care at registered care centres;
 - (e) the registration of persons employed in registered care centres;
 - (f) the keeping and maintenance of registers and other records pertaining to registered care centres, and to the residents and persons received for care thereat;
 - (g) the minimum requirements to be observed by registered care centres including sanitary requirements, water supplies, requirements as to equipment, and requirements pertaining to health;
 - (h) the forms to be used and the information to be furnished for any of the purposes of this Act;
 - (i) the issuance of certificates, and the issuance of copies of certificates if the original certificates have been lost or destroyed;
 - (j) the fees to be paid under this Act; and
 - (k) any matter which is required to be or which may be prescribed under this Act.
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Act 506
CARE CENTRES ACT 1993

LIST OF AMENDMENTS

Amending law

Short title

In force from

-NIL-

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LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
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-NIL-
