

LAW OF MALAYSIA

ACT A704

CONSTITUTION (AMENDMENT) ACT 1988

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Act A704

CONSTITUTION (AMENDMENT) ACT 1988

An Act to amend the Federal Constitution.

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BE IT ENACTED by the Duli Yang Maha Mulia 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:

1. This Act may be cited as the Constitution (Amendment) Act 1988.

Short title.

2. Article 5 of the Federal Constitution is amended-

Amendment of Article 5.

(a) by substituting for the full stop at the end of the proviso to Clause (4) a colon; and

(b) by inserting, immediately after that proviso, the following additional provisos:

"Provided further that in its application to a person, other than a citizen, who is arrested or detained under the law relating to immigration, this Clause shall be read as if there were substituted for the words "without unreasonable delay, and in any case within twenty-four hours (excluding the time of any necessary journey)" the words "within fourteen days":

And provided further that in the case of an arrest for an offense which is triable by a Syariah court, references in this Clause to a magistrate shall be construed as including references to a judge of a Syariah court."

Amendment of Article 83. 3. Article 83 of the Federal Constitution is amended by inserting, immediately after Clause (7), the following new Clause(8):

"(8) Nothing in this Article shall prevent the making of a grant of land in a State to the Federation, on such terms and conditions as may be agreed between the Federal Government and the Government of the State, without a requirement by the Federal Government under this Article."

Deletion of Article 8. 4. The Federal Constitution is amended by deleting Article 84.

Substitution of Article 5. The Federal Constitution is amended by substituting for Article 85 the following:

"Grant to Federation of land reserved for fed. purposes. 85. (1) Where any land in a State is reserved for any federal purposes, the Federal Government may require the State Government, and it shall then be the duty of that Government, to cause to be made to the Federation a grant of the land in perpetuity without restrictions as to the use of the land, but subject to the payment of a premium to be determined in accordance with Clause(2) and to the payment annually of an appropriate quit rent.

(2) The premium referred to in Clause (1) shall be equal to the market value of the land reduced by-

- (a) the market value of any improvements made (otherwise than at the expense of the State) while the land was in use for federal purposes; and
- (b) the amount, if any, paid by the Federation, or paid before Merdeka Day by the Government of the Federation of Malaya, in respect of the cost of

acquisition of any interest in
the land by the State Government.

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(3) Without prejudice to Clause (1), where any land in a State is reserved for any federal purpose, the Federal Government may offer to release the land to the State on condition that the State pays to the Federation the market value and the amount mentioned in paragraphs (a) and (b) of Clause (2); and if the State Government accepts the offer the reservation shall cease.

(4) Except as provided by this Article, land in a State which is reserved for federal purposes shall not cease to be reserved, and all land so reserved shall be controlled and managed by or on behalf of the Federal Government, and the Federal Government may grant any right of occupation, control or management, or a tenancy or lease, of the whole or any part of such land, to any person-

(a) for the use of the land by such person for any duration for the federal purpose for which it is reserved, or for any purpose ancillary or incidental thereto;
or

(b) where the Federal Government is unable for any reason to use the land for the time being for the federal purpose for which it is reserved, for its use by such person for any purpose other than a federal purpose, for such duration and on such terms and conditions as the Federal Government may determine.

(5) In this Article the reference to and in a State reserved for federal purpose includes-

- (a) any land which was reserved before Merdeka Day in accordance with the provisions of any law then in force in the State for any purpose which has become a federal purpose after Merdeka Day;
- (b) any land reserved for any federal purpose after Merdeka Day in accordance with the provisions of any law for the time being in force in a State;
- (c) any State land referred to in the repealed Clause (4) of Article 166; and
- (d) any land in a State reserved for federal purposes by virtue of Clause (7) of Article 83."

Substitution of Article 86. 6. The Federal Constitution is amended by substituting for Article 86 the following:

"Disposi-
tion of
land
vested in
the Fed.

86. (1) Where any interest in land is vested in Federation, or in a public authority, for any purpose, the Federation or the public authority may dispose of that interest or any smaller interest in the land to any person as it deems fit.

(2) Where any interest in land in a State is disposed of by or to the Federation or any public authority in pursuance of this Article or of Article 85, it shall be the duty of the Government of that State to register the transaction accordingly."

7. Article 118A of the Federal Constitution is amended- Amendment
of Article 118A.
- (a) by inserting, immediately after the words "House of Representatives", the words "or the Legislative Assembly"; and
 - (b) by inserting, immediately after the words "Article 54 or 55", the words "or by the corresponding provision of the Constitution of any State, as the case may be,".
8. Article 121 of the Federal Constitution is amended- Amendment
of Article
121.
- (a) by substituting for the words "Subject to Clause (2) the judicial power of the Federation shall be vested in" at the beginning of Clause (1) the words "There shall be";
 - (b) by substituting for the words "and in such inferior courts as may be provided by federal law" at the end of Clause (1) the words "and such inferior courts as may be provided by federal law; and the High Courts and inferior courts shall have such jurisdiction and powers as may be conferred by or under federal law";
 - (c) by inserting, immediately after Clause (1), the following new Clause (1A):
 - "(1A) The courts referred to in Clause (1) shall have no jurisdiction in respect of any matter within the jurisdiction of the Syariah courts.";
 - (d) by substituting for the words "The following jurisdiction shall be vested in" at the beginning of Clause (2) words "There shall be"; and
 - (e) by inserting, immediately after the words "Kuala Lumpur", in Clause (2), the words "and the Supreme Court shall have the following jurisdiction,".

**Amendment
of Article
142.**

9. Article 142 of the Federal Constitution is amended by inserting, immediately after the word "chairman in Clause (2A), the words "or deputy chairman".

**Amendment
of Article
145.**

10. Article 145 of the Federal Constitution is amended by inserting, immediately after Clause (3), the following new Clause (3A):

"(3A) Federal law may confer on the Attorney General power to determine the courts in which or the venue at which any proceedings which he has power under Clause (3) to institute shall be instituted or to which such proceedings shall be transferred."

**Deletion
of Article
158.**

11. The Federal Constitution is amended by deleting Article 158.

**Amendment
of the
Ninth
Schedule.**

12. The Ninth Schedule to the Federal Constitution is amended-

(a) by deleting item 24 of the Federal List (list 1);

(b) by deleting paragraph (c) of item 4 of the State List (List II);

(c) by inserting, immediately after item 12 of the State List (List II), the following new item 12A:

"12A. Libraries, museums, ancient and historical monuments and records and archaeological sites and remains, other than those declared to be federal by or under federal law.";

(d) by deleting item 17 of the Supplement to the State List for States of Sabah and Sarawak (List IIA); and

(e) by inserting, immediately after item 9A of the Concurrent List (List III), the following new items 9B and 9C:

"9B. Culture and sports.

9C. Housing and provision for housing accommodations; improvements trusts."