

UNDANG-UNDANG MALAYSIA

AKTA A585

AKTA PERLEMBAGAAN (PINDAAN) (NO. 2) 1984

[Akta ini pada asalnya telah dibuat dan dicetak dalam versi Bahasa Inggeris sahaja]

LAWS OF MALAYSIA

ACT A585

CONSTITUTION (AMENDMENT) (NO. 2) ACT 1984

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ACT A585
CONSTITUTION (AMENDMENT) (NO. 2) ACT 1984

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ACT A585
CONSTITUTION (AMENDMENT) (NO. 2) ACT 1984

Long Title & Preamble

AN Act to amend the Federal Constitution to provision for the establishment of the Federal Territory of Labuan and for matters connected therewith including the alteration of the boundaries of the State of Sabah, and to make other amendments to the Federal Constitution. 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:

Section 1. Short title and commencement

- (1) This Act may be cited as the Constitution (Amendment) (No. 2) Act 1984.
- (2) Part I and Part II shall come into force on the 16th April 1984. (3) Part III shall come into force on the date following the date of the publication of this Act in the Gazette, except where otherwise provided in that Part.

PART I - THE FEDERAL TERRITORY OF LABUAN

Section 2. Alteration of boundaries of the State of Sabah

- (1) The boundaries of the State of Sabah are hereby, altered by the exclusion of the Federal Territory of Labuan as described hereunder.
- (2) The Federal Territory of Labuan shall consist of the area bounded by boundary lines joining the points whose co-ordinates are –

U05 ° 26.'5 T115 ° 15.'8	U05° 09.'9 T115 ° 05.'1
U05 ° 25.'5 T115° 17.'3	U05° 2.'1 T115° 04.'1
U05 ° 22.'0 T115° 20.'0	U05 ° 13.'9 T115° 04.'1
U05° 12.'8 T115° 20.'0	U05° 15.'5 T115° 04.'5
U05° 11.'9 T115° 15.'3	U05° 22.'5 T115° 08.'9
U05° 08.'6	U05° 25.'3

T115° 10.'1	T115° 11.'7
U05° 08.'2	U05° 26.'0
T115° 08.'6	T115° 12.'4
U05° 08.'8	U05° 26.'5
T115° 06.'3	T115° 13.'9

and as shown in a map identified by Reference No. DPNM. 10.22 (56) -

- (a) prepared by the Director of National Mapping, Malaysia;
- (b) dated and certified as a true and correct map of the area by the Director of National Mapping, Malaysia, and the Director of Lands and Surveys, Sabah; and
- (c) filed in the office of the Director of National Mapping, Malaysia.

(3) The boundaries and the area of the Federal Territory of Labuan as shown in the map referred to in subsection (2) shall be conclusive evidence of the boundaries and the area of the Federal Territory of Labuan.

Section 3. Exclusion of Federal Territory of Labuan From Sabah and relinquishment of powers, etc. by Sabah

The area referred to in section 2 shall cease to form part of the State of Sabah and the State of Sabah shall relinquish and cease to exercise any sovereignty over such area and all powers and jurisdiction of the Yang Dipertua Negeri and the Legislative Assembly of the State of Sabah in or in respect of such area shall come to an end.

Section 4. Jurisdiction over Federal Territory of Labuan

The Federation shall exercise sovereignty over the Federal Territory of Labuan and all powers and jurisdiction in or in respect of the Federal Territory of Labuan shall be vested in the Federation.

Section 5. Vesting of lands within the Federal Territory of Labuan

(1) The entire property in and control of all lands within the area referred to in section 2 which immediately before the coming into force of this Act were vested in the State of Sabah or any person or public authority on its behalf, and all minerals and rock material within or upon any land within the said area the rights to which have not been specifically disposed of shall, upon the commencement of this Act without any transfer or conveyance, be vested solely in the Federation and may be disposed of or dealt with in accordance with the Sabah Land Ordinance [Sabah Cap. 68], the Sabah Mining

Ordinance 1960 [Sabah Ord. 20/60] and the Sabah Forest Enactment 1968 [Sabah En. 2/68].

(2) All estates and interests in any land, mining rights and forest rights within the area referred to in section 2 which were held by any person from the State of Sabah immediately before the coming into force of this Act shall continue to be held from the Government of the Federation on the same terms and conditions as they were held from the State of Sabah.

Section 6. Continuation of Existing laws etc.

(1) All written laws, including those specified in sections 5 and 8, other than the Constitution of the, State of Sabah, existing and in force in the area referred to in section 2 immediately before the coming into force of this Act shall continue to have effect in the Federal Territory of Labuan until repealed, amended or replaced by laws passed by Parliament.

(2) Where by any such laws as is referred to in subsection (1) any power or function is vested in the Yang Dipertua Negeri of the State of Sabah or in any authority of the State, that power or function may in relation to the Federal Territory of Labuan be exercised or performed by the Yang di-Pertuan Agong or the Minister responsible for the relevant subject or such other person or authority as the Yang di-Pertuan Agong may by order direct: Provided that the Yang di-Pertuan Agong may with the concurrence of the State Authority by order direct that any such power or function may be exercised or performed on behalf of the Government of the Federation by the authority of the State in which it was vested immediately before the coming into force of this Act; and while that direction remains in force, the authority of the State shall, in regard to the exercise or performance of that power or function, be deemed to be an authority of the Government of the Federation.

(3) The Yang di-Pertuan Agong may, whenever it appears to him necessary or expedient so to do whether for the purpose of removing difficulties or in consequence of the passing of this Act, by order make such modifications to any provision in any such written law as is referred to in subsection (1) as he may think fit.

Section 7. Extention of legislation having effect in West Malaysia

Upon the commencement of this Act, any federal law having effect only in West Malaysia or any part thereof may, by order of the Yang di-Pertuan Agong, be extended to the Federal Territory of Labuan with or without modifications and any such order may provide for the repeal of any written law in its application to the Federal Territory of Labuan.

Section 8. Continuation of local government and customs provisions

Upon the commencement of this Act -

(a) the municipality of Labuan, in so far as local government is concerned, shall continue to function as such municipality under the provisions of the Sabah Local Government Ordinance 1961 [Sabah Ord. 11/61];

(b) the Federal Territory of Labuan shall continue to be governed by Part XVIII of and be subject to the Customs Act 1967 [Act 235].

Section 9. Succession to rights, liabilities and obligations

(1) All rights, liabilities and obligations which immediately before the commencement of this Act were those of the Government of the State of Sabah in respect of the area referred to in section 2, shall on the commencement of this Act devolve upon the Federation, except as provided in subsection (2) or unless otherwise agreed to between the Federal Government and the Government of the State.

(2) For the purpose of section 4 of the Petroleum Development Act 1974 [Act 144], the State of Sabah shall be construed as including the Federal Territory of Labuan and the reference to the State of Sabah in any agreement made before or after the commencement of this Act pursuant to the said section 4 shall be construed accordingly.

(3) Where any moneys required to be paid pursuant to any such liability or obligation as is referred to in subsection (1) were immediately before the commencement of this Act charged on the Consolidated Fund of the State of Sabah, then, to the extent to which the liability or obligation devolves upon the Federation on the commencement of this Act, the moneys required for the payment thereof shall be a charge on the Consolidated Fund of the Federation, but to the extent to which the liability or obligation continues to be the responsibility of the State of Sabah it shall remain charged on the Consolidated Fund of that State.

(4) The Attorney General shall on the application of any party interested in any legal proceedings, other than proceedings between the Federation and the State of Sabah, certify whether any right, liability or obligation is by virtue of this section a right, liability or obligation of the Federation or of the State; and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and the State as between themselves.

Section 10. Succession to civil proceedings

(1) In any legal proceedings relating to civil matters pending on the commencement of this Act, there shall be made such substitution of one party for another as may be necessary to take account of any transfer on that day

of jurisdiction or executive authority or of any transfer under this Act of rights, liabilities or obligations.

(2) Any appeal brought on or after the commencement of this Act against a decision given in any legal proceedings before that day may be brought by or against the party who should, by virtue of subsection (1), have been the appellant or respondent if the proceedings had continued after that day, but if it is not so brought, subsection (1) shall apply to it as it applies to proceedings pending on that day.

(3) Subsection (2) shall apply with the necessary modifications to proceedings for leave to appeal as it applies to an appeal.

(4) The Attorney General shall, on the application of a party to any proceedings, certify whether any, and if so what, substitution of one party for another is to be made by virtue of subsections (1) to (3) in those proceedings or for the purpose of any appeal arising out of them; and any such certificate shall, for purposes of the proceedings or any such appeal, be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and the State as between themselves.

PART II - AMENDMENT AND APPLICATION OF CERTAIN PROVISIONS OF THE CONSTITUTION IN RESPECT OF THE FEDERAL TERRITORY OF LABUAN

Section 11. Amendment of Article 1

Article 1 of the Constitution is amended by substituting for Clause (4) the following new Clause (4): "(4) The territory of the State of Selangor shall exclude the Federal Territory of Kuala Lumpur established under the Constitution (Amendment) (No. 2) Act 1973 [Act A206] and the territory of the State of Sabah shall exclude the Federal Territory of Labuan established under the Constitution (Amendment) (No. 2) Act 1984 [Act A585], and both the said Federal Territories shall be territories of the Federation."

Section 12. Amendment of Article 42

Article 42 of the Constitution is amended -

- (a) by substituting for the word "Territory" in Clauses (1), (2) and (10) the words "Territories of Kuala Lumpur and Labuan";
- (b) by substituting for the words "the Federal Territory shall be regarded as a State" in Clause (3) the words "the Federal Territory of Kuala Lumpur or the Federal Territory of Labuan, as the case may be, shall each be regarded as a State"; and

- (c) by substituting for Clause (11) the following new Clause (11):

"(11) For the purpose of this Article, there shall be constituted a single Pardons Board for the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan and the provisions of Clauses (5), (6), (7), (8) and (9) shall apply mutatis mutandis to the Pardons Board under this Clause except that reference to "Ruler or Yang Dipertua Negeri" shall be construed as reference to the Yang di-Pertuan Agong and reference to "Chief Minister of the State" shall be construed as reference to the Minister responsible for the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan."

Section 13. Amendment of Article 45

Article 45 of the Constitution is amended by substituting for paragraph (aa) of Clause (1) the following new paragraph (aa): "(aa) two members for the Federal Territory of Kuala Lumpur and one member for the Federal Territory of Labuan shall be appointed by the Yang di-Pertuan Agong; and".

Section 14. Amendment of Article 46

Article 46 of the Constitution is amended—

- (a) by substituting for the words "seventy-six" in Clause (1) the words "seventy-seven", and
- (b) by substituting for paragraph (b) of Clause (2) the following new paragraph (b):
- "(b) eight members from the Federal Territories of Kuala Lumpur and Labuan as follows-
- (i) seven members from the Federal Territory of Kuala Lumpur;
- (ii) one member from the Federal Territory of Labuan."

Section 15. Amendment of Article 113 and provisions relating to constituencies

(1) Article 113 of the Constitution is amended by inserting immediately after the words "the State" in Clause (6) the words ", and the expression

"States of Malaya" shall include the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan".

(2) Upon the commencement of this Act, the area which constitutes the Federal Territory of Labuan shall cease to form part of a State constituency: Provided however that until the dissolution of the Legislative Assembly of the State of Sabah next following the commencement of this Act, the member of the said Assembly elected from such State constituency shall, notwithstanding the exclusion of the said area from the said constituency, continue to be a member of the said Assembly.

(3) Until the dissolution of Parliament next following the commencement of this Act, the federal constituency which includes the area which constitutes the Federal Territory of Labuan shall continue to exist and the member elected from the said constituency shall continue to be a member of Parliament.

(4) Notwithstanding anything contained in Part VIII of the Constitution, the review under Clause (2) of Article 113 of the Constitution in progress at the commencement of this Act in relation to the State of Sabah shall provide -

- (a) without prejudice to the total number of federal constituencies for the State of Sabah under Clause (2) (a) (x) of Article 46 of the Constitution, for a federal constituency for the Federal Territory of Labuan in accordance with the provisions of Clause (2) (b) (ii) of Article 46 of the Constitution, and the review may make such delimitation of federal constituencies from the State of Sabah as may be considered necessary; and
- (b) for the area of the Federal Territory of Labuan to cease to be a State constituency of the State of Sabah, and the review shall, nonetheless, provide for the same number of State constituencies as there are elected members for the Legislative Assembly of the State of Sabah under the Constitution of that State.

Section 16. Application of Articles 121 and 161B to the Federal Territory of Labuan

(1) The High Court in Borneo constituted under Clause (1) (b) of Article 121 of the Constitution shall, until such time as the Yang di-Pertuan Agong by order otherwise provides, have jurisdiction in the Federal Territory of Labuan.

(2) Notwithstanding Article 161B of the Constitution, any person entitled to practise before a court in the States of Malaya or in the State of Sabah shall be entitled to practice before the High Court in Malaya or the High Court in Borneo, or before the Federal Court, wherever sitting, in any proceeding relating to a matter which has arisen in the Federal Territory of Labuan.

Section 17. Application of Article 161 to the Federal Territory of Labuan

Clause (5) of Article 161 of the Constitution shall, in so far as it relates to the use of a native language in native courts or for any code of native law and custom, apply in the Federal Territory of Labuan in the like manner that it applies in the State of Sabah.

Section 18. Application of Article 161A to the Federal Territory of Labuan

(1) The reference in Clause (6) (b) of Article 161A of the Constitution to "Sabah" shall be construed as including a reference to the Federal Territory of Labuan.

(2) Article 89 of the Constitution shall not apply to the Federal Territory of Labuan and Article 8 of the Constitution shall not invalidate or prohibit any provisions of federal law for reservation of land for natives in the Federal Territory of Labuan or for alienation to them, or for giving them preferential treatment as regards the alienation of land in the Federal Territory of Labuan by the Federation.

Section 19. Application of Article 161E to the Federal Territory of Labuan

Notwithstanding anything contained in Article 161E of the Constitution, for the purposes of sections 66 and 71 of the Immigration Act 1959/63 [Act 155], a person who immediately before the commencement of this Act was a person belonging to the State of Sabah within the meaning of those sections and is resident in the Federal Territory of Labuan after the commencement of this Act shall continue to have the right to enter into and reside in Sabah as a person belonging to the State of Sabah.

Section 20. Consequential amendments to the Constitution

The amendments specified in the Schedule hereto relating to the Federal Territory of Labuan shall have effect.

PART III - OTHER AMENDMENTS TO THE CONSTITUTION

Section 21. Amendment of Article 54

Article 54 of the Constitution is amended -

- (a) by substituting for the words "Clauses (2) and (3)" in Clause (1) the words "Clause (3)"; and
- (b) by deleting Clause (2).

Section 22. Amendment of Article 56

Article 55 of the Constitution is amended -

- (a) by deleting the words "in the States of Malaya and ninety days in the States of Sabah and Sarawak" in Clause (4); and
- (b) by adding immediately after Clause (4) the following new Clauses (5), (6) and (7):

"(5) A Bill pending in Parliament shall not lapse by reason of the prorogation of Parliament.

(6) A Bill pending reconsideration by Parliament in pursuance of Clause (4A) of Article 66 shall not lapse by reason of the prorogation or dissolution of Parliament.

(7) A Bill pending the assent of the Yang di-Pertuan Agong under Clause (4) (a) or Clause (4A) of Article 66 shall not lapse by reason of the prorogation or dissolution of Parliament."

Section 23. Amendment of Article 86

Article 86 of the Constitution is amended by adding immediately after Clause (5) the following new Clause (6): "(6) The foregoing provisions of this Article shall not apply to any land or interest in land in the Federal Territory of Kuala Lumpur or the Federal Territory of Labuan howsoever vested in the Federation, and the Federation may dispose of such land or interest."

Section 24. Amendment of Article 89

(1) Article 89 of the Constitution is amended by adding immediately after Clause (7) the following new Clause (8): "(8) The provisions of this Article shall apply to the Federal Territory of Kuala Lumpur in the like manner that they apply to a State, save that Clause (1) in its application to the Federal Territory of Kuala Lumpur shall be modified to read that any land in the Federal Territory of Kuala Lumpur which immediately before Merdeka Day was a Malay reservation in accordance with the existing law may continue as a Malay reservation in accordance with that law until otherwise provided by an Act of Parliament passed by a majority of the total number of members of each House of Parliament and by the votes of not less than two-thirds of the members present and voting in each House."

(2) This section shall be deemed to have come into force on the 1st February 1974.

Section 25. Amendment of Article 113

Article 113 of the Constitution is amended -

(a) by substituting for Clause (2) the following new Clause (2):

"(2) (i) Subject to paragraph (ii), the Election Commission shall, from time to time, as they deem necessary, review the division of the Federation and the States into constituencies and recommend such changes therein as they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule; and the reviews of constituencies for the purpose of elections to the Legislative Assemblies shall be undertaken at the same time as the reviews of constituencies for the purpose of elections to the House of Representatives.

(ii) There shall be an interval of not less than eight years between the date of completion of one review, and the date of commencement of the next review, under this Clause.

(iii) A review under paragraph (i) shall be completed within a period of not more than two years from the date of its commencement.";

(b) by inserting immediately after Clause (3) the following new Clause (3A):

"(3A) (i) Where the number of elected members of the House of Representatives is altered in consequence of any amendment to Article 46, or the number of elected members of the Legislative Assembly of a State is altered in consequence of a law enacted by the Legislature of a State, the Election Commission shall undertake a review of the division into federal or State constituencies, as the case may be, of the area which is affected by the alteration, and such review shall be completed within a period of not more than two years from the date of the coming into force of the law making the alteration.

(ii) A review under paragraph (i) shall not affect the interval provided under paragraph (ii) of Clause (2) in respect of a review under paragraph (i) of that Clause.

(iii) The provisions of the Thirteenth Schedule shall apply to a review under this Clause, but subject to such modifications as may be considered necessary by the Election Commission."; and

- (c) by inserting immediately after Clause (8) the following new Clauses (9) and (10):

"(9) The date of the commencement of a review under Clause (2) or Clause (3A), as the case may be, shall be the date of the publication in the Gazette of the notice referred to in section 4 of the Thirteenth Schedule.

(10) The date of the completion of a review under Clause (2) or Clause (3A), as the case may be, shall be the date of the submission of the report to the Prime Minister under section 8 of the Thirteenth Schedule, and a notice of such date shall be published by the Election Commission in the Gazette."

Section 26. Amendment of Article 140

Article 140 of the Constitution is amended by inserting immediately after the words "officers of such force" in paragraph (b) of Clause (6) the words "or a committee consisting of members of the Commission and of the force".

Section 27. Amendment of the Eighth Schedule

Section 9 of the Eighth Schedule to the Constitution is amended -

- (a) by deleting the words "in the States of Malaya and ninety days in the States of Sabah and Sarawak" in subsection (4);
- (b) by deleting the words "or in the case of each of the Legislative Assembly of each of the States of Sabah and Sarawak within ninety days" in subsection (5); and
- (c) by inserting immediately after the words "it is established" in subsection (5) the words "by the Election Commission".

Section 28. Transitional provision in respect of current review

Notwithstanding anything to the contrary in the Constitution, the review under Clause (2) of Article, 113 of the Constitution which is in progress at the commencement of this Act shall be completed within a period of not more than two years from the date of the publication in the Gazette of the notice under section 4 of the Thirteenth Schedule to the Constitution in respect of that review.

SCHEDULE
(section 20)

CONSEQUENTIAL AMENDMENTS TO THE CONSTITUTION

<i>Article</i>	<i>Amendment</i>
3 ...	Substitute for the word "Territory" in Clause (5) the words "Territories of Kuala Lumpur and Labuan".
11 ...	Substitute for the word "Territory" in Clause (4) the words "Territories of Kuala Lumpur and Labuan".
97 ...	Substitute for the word "Territory" in Clause (3) the words "Territories of Kuala Lumpur and Labuan".
Ninth Schedule...	<p>(1) In the Federal List -</p> <p>(a) substitute for item 6 (e) the following:</p> <p>"(e) Government and administration of the Federal Territories of Kuala Lumpur and Labuan including Islamic law therein to the same extent as provided in item 1 in the State List and in respect of the Federal Territory of Labuan, native law and custom to the same extent as provided in item 13 of the Supplement to State List for States of Sabah and Sarawak"; and</p> <p>(b) insert after the word "List" in item 27 the words "and in the case of the Federal Territory of Labuan, the matters enumerated in items 15, 16 and 17 of the Supplement to State List for States of Sabah and Sarawak".</p> <p>(2) In the State List, substitute for the word "Territory" in items 1, 2, 3, 4 and 5 the words "Territories of Kuala Lumpur and Labuan".</p>
Thirteenth Schedule...	Substitute for the words "the Federal Territory shall be regarded as a State." in section 3A the words "the Federal Territory of Kuala Lumpur or the Federal Territory of Labuan, as the case may be, shall each be regarded as a State.".