



LAWS OF MALAYSIA

ONLINE VERSION OF UPDATED
TEXT OF REPRINT

Act 506

CARE CENTRES ACT 1993

As at 1 December 2011

CARE CENTRES ACT 1993

Date of Royal Assent 7 July 1993

Date of publication in the *Gazette* 15 July 1993

Latest amendment made by
Act A1292 which came
into operation on 1 August 2008

PREVIOUS REPRINT

First Reprint 2002

Second Reprint 2006

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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;

“State Director” means the Director of Social Welfare of a State and includes the Director of Social Welfare of the Federal Territory of Kuala Lumpur, the Federal Territory of Labuan and the Federal Territory of Putrajaya respectively.

Exempted premises, etc.

3. This Act shall not apply to—

- (a) any government hospital, or any private hospital licensed under 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 1996 [*Act 550*];
- (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 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 sixty calendar months.

(4) A copy of the certificate of registration issued by the Director General under this section shall be exhibited in a conspicuous place in the premises specified in the certificate of registration.

(5) Where any change occurs in any of the circumstances particulars of which are specified in a certificate issued under this section, the person to whom such certificate was issued shall, within fourteen days, notify the Director General in writing accordingly, and the Director General shall issue an amended certificate in lieu of the original certificate.

(6) Upon ceasing to operate a care centre the person to whom the certificate of registration has been issued shall surrender the certificate to the Director General within one month from the date of such cessation.

Revocation of registration

11. The Director General may revoke 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 revocation of the registration.

Interpretation

11A. For the purposes of this Part, the Director General includes the State Director.

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.

Power to seal

16A. (1) Where the Director General or any authorized officer has reasonable cause to believe that any house, building, premise or other place is being used as a care centre which is not registered under the provisions of this Act, the Director General or the authorized officer may take such steps as he may deem necessary or by any means seal such care centre.

(2) The person using the house, building, premise or place as a care centre which has been sealed shall—

- (a) within twenty-one days of such seal produce to the Director General or the authorized officer the certificate of registration of the care centre; and
- (b) bear any cost incurred arising out of such action.

(3) The seal shall be removed if—

- (a) such person complies with the requirement of subsection (2); or
- (b) an order of the court is obtained against such person for him to cease using the house, building, premise or place as a care centre,

whichever is the earlier.

(4) The Director General or the authorized officer acting under this section shall not be liable for any cost arising out of such action or damages to the house, building, premise or place sealed under this section unless such damage was wilfully done.

(5) Any action taken under this section in respect of any house, building, premise or other place shall not prohibit the prosecution of any person using such house, building, premise or place as a care centre in contravention of this Act.

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;
- (f) fails to comply with an order under section 15;

- (g) fails to cause a copy of the certificate of registration to be exhibited in accordance with subsection 10(4);
- (h) fails to notify the Director General of any change that occurs in any of the circumstances particulars of which are specified in the certificate in accordance with subsection 10(5); or
- (i) fails to surrender the certificate of registration upon ceasing to operate a care centre in accordance with subsection 10(6),

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.

Institution of prosecution

21. No prosecution for an offence under this Act or any regulations made under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Compounding of offences

21A. (1) The Director General may, with the consent of the Public Prosecutor, compound any offence committed by any person against this Act or any regulations made under this Act by making a written offer, in the form as may be prescribed, to the person reasonably suspected of having committed the offence to compound the offence upon payment to the Director General of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within the time specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time as specified in the offer, or within such extended period as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) Where the offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made.

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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LAWS OF MALAYSIA**ACT 506****CARE CENTRES ACT 1993****LIST OF AMENDMENTS**

Amending law	Short Title	In force from
Act A1292	Care Centres (Amendment) Act 2007	01-08-2008

LAWS OF MALAYSIA**Act 506****CARE CENTRES ACT 1993****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
2	Act A1292	01-08-2008
3	Act A1292	01-08-2008
10	Act A1292	01-08-2008
11	Act A1292	01-08-2008
11A	Act A1292	01-08-2008
16A	Act A1292	01-08-2008
18	Act A1292	01-08-2008
21	Act A1292	01-08-2008
21A	Act A1292	01-08-2008
