



LAWS OF THE STATE OF PENANG

REPRINT

CONSTITUTION OF THE STATE OF PENANG

Incorporating all amendments up to 1 January 2008

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THE CONSENT OF THE YANG DI-PERTUA NEGERI
PURSUANT TO ARTICLE 36A OF THE
CONSTITUTION OF THE STATE OF PENANG

CONSTITUTION OF THE STATE OF PENANG

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CONSTITUTION OF THE STATE OF PENANG

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LAWS OF THE STATE OF PENANG

CONSTITUTION OF THE STATE OF PENANG

PART I

THE STATE GOVERNMENT

Chapter 1 – The Yang di-Pertua Negeri

Yang di-Pertua Negeri of the State

1. (1) There shall be a Yang di-Pertua Negeri of the State, who shall be appointed by the Yang di-Pertuan Agong acting in his discretion but after consultation with the Chief Minister.

(2) The Yang di-Pertua Negeri shall be appointed for a term of four years but may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong and may be removed from office by the Yang di-Pertuan Agong in pursuance of an address by the Legislative Assembly supported by the votes of not less than two-thirds of the total number of its members.

(3) The Legislature may by law make provision for enabling the Yang di-Pertuan Agong, acting in his discretion but after consultation with the Chief Minister, to appoint a person to exercise the functions of the Yang di-Pertua Negeri during any period during which the Yang di-Pertua Negeri is unable to do so himself owing to illness, absence or any other cause; but no person shall be so appointed unless he would be qualified to be appointed Yang di-Pertua Negeri.

(4) A person appointed under Clause (3) may take the place of the Yang di-Pertua Negeri as a member of the Conference of Rulers during any period during which under that Clause he may exercise the functions of the Yang di-Pertua Negeri.

Qualifications and disabilities of Yang di-Pertua Negeri

2. (1) A person who is not a citizen or is a citizen by naturalization or by registration under *Article 17 of the Federal Constitution shall not be appointed Yang di-Pertua Negeri.

(2) The Yang di-Pertua Negeri shall not hold any office of profit and shall not actively engage in any commercial enterprise.

Civil List of Yang di-Pertua Negeri

3. The Legislature shall by law provide a Civil List of the Yang di-Pertua Negeri, which shall be charged on the Consolidated Fund and shall not be diminished during his continuance in office.

Oath of office of Yang di-Pertua Negeri

4. (1) The Yang di-Pertua Negeri shall before exercising his functions take and subscribe in the presence of the Chief Judge or of a judge of the High Court an oath or affirmation in the form set out in the First Schedule.

(2) Any law made under Clause (3) of Article 1 shall make provision corresponding (with the necessary modifications) to Clause (1).

*Chapter 2 – Religion of Islam***Religion of Islam**

5. (1) Islam is the religion of the State; but other religions may be practised in peace and harmony in any part of the State.

(2) The Yang di-Pertuan Agong shall be the Head of the religion of Islam in the State.

*NOTE—This Article has been deleted *vide* Constitution (Amendment) Act 1962 [Act 14/1962] w.e.f. 1 July 1963.

(3) The Legislature shall by law make provision for regulating Islamic religious affairs and for constituting a Council to advise the Yang di-Pertua Agong in matters relating to the religion of Islam.

Chapter 3 – The Executive

Executive authority

6. The executive authority of the State shall be vested in the Yang di-Pertua Negeri but executive functions may by law be conferred on other persons.

Appointment of State Secretary, Legal Adviser and Financial Officer

6A. (1) There shall be constituted the offices of State Secretary, State Legal Adviser and State Financial Officer; and the appointments thereto shall be made by the appropriate Service Commission from amongst members of any of the relevant public services.

(2) (a) The State Secretary shall be the principal officer in charge of the administrative affairs of the State.

(b) The State Legal Adviser shall advise on legal matters referred to him by the Yang di-Pertua Negeri or the State Government.

(c) The State Financial Officer shall be the principal officer in charge of the financial affairs of the State.

(3) Every such official shall have the right to take part in the proceedings of the Executive Council and may be appointed to any committee thereof, but shall not have any vote in the Executive Council or any such committee.

(4) Before any such official first attends a meeting of the Executive Council, he shall take and subscribe in the presence of the Chief Minister the oath of secrecy set out in the First Schedule.

(5) The persons holding the office of the State Secretary, the State Legal Adviser and State Financial Officer respectively immediately before the coming into operation of Clause (1) shall continue to hold that office in like manner as if he had been appointed under that Clause.

The Executive Council

7. (1) The Yang di-Pertua Negeri shall appoint an Executive Council to advise him in the exercise of his functions.

(2) The Executive Council shall be appointed as follows, that is to say—

(a) the Yang di-Pertua Negeri shall first appoint as Chief Minister to preside over the Executive Council a member of the Legislative Assembly who in his judgment is likely to command the confidence of a majority of the members of the Assembly; and

(b) he shall on the advice of the Chief Minister appoint not more than ten nor less than four other members from among the members of the Legislative Assembly,

but if an appointment is made while the Legislative Assembly is dissolved a person who was a member of the last Legislative Assembly may be appointed but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.

(3) The Executive Council shall be collectively responsible to the Legislative Assembly.

(4) If the Chief Minister ceases to command the confidence of the majority of the members of the Legislative Assembly, then, unless at his request the Yang di-Pertua Negeri dissolves the Legislative Assembly, the Chief Minister shall tender the resignation of the Executive Council.

(5) Whenever a vacancy arises in the office of Chief Minister then, unless the vacancy arises while the Legislative Assembly is dissolved, the other members of the Executive Council shall cease to hold office.

(6) Subject to Clauses (4) and (5), a member of the Executive Council other than the Chief Minister shall hold office at the Yang di-Pertua Negeri's pleasure, but may at any time resign his office.

(7) Before a member of the Executive Council exercises the functions of his office he shall take and subscribe in the presence of the Yang di-Pertua Negeri the oath of office and allegiance and the oath of secrecy set out in the First Schedule.

(8) Notwithstanding anything in this Article, a person who is a citizen by naturalization or by registration under Article 17 of the Federal Constitution shall not be appointed Chief Minister.

(9) The Chief Minister shall not hold any office of profit and shall not actively engage in any commercial enterprise.

(10) A member of the Executive Council shall not engage in any trade, business or profession connected with any subject or department for which he is responsible and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Executive Council relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

(11) The Legislature shall by law make provision for the remuneration of the members of the Executive Council.

Political Secretary

7A. (1) The Chief Minister may appoint any person he may deem fit to be a Political Secretary.

(2) A person appointed as a Political Secretary by virtue of this Article—

(a) may resign his office at any time;

(b) subject to paragraph (a) shall continue in office until such time as his appointment is determined by the Chief Minister.

(3) Before a Political Secretary exercises the function of his office he shall take and subscribe in the presence of the Chief Minister the oath of secrecy set out in the First Schedule.

(4) The duties and functions of a Political Secretary and his remuneration shall be determined by the Executive Council.

Yang di-Pertua Negeri to act on advice

8. (1) In the exercise of his functions under this Constitution or any law or as a member of the Conference of Rulers the Yang di-Pertua Negeri shall act in accordance with the advice of the Executive Council or of a member thereof acting under the general authority of the Council, except as otherwise provided by the Federal Constitution or this Constitution; but shall be entitled, at his request, to any information concerning the Government of the State which is available to the Executive Council.

(1A) In the exercise of his functions under this Constitution or any law or as a member of the Conference of Rulers, where the Yang di-Pertua Negeri is to act in accordance with advice or on advice, the Yang di-Pertua Negeri shall accept and act in accordance with such advice.

(2) The Yang di-Pertua Negeri may act in his discretion in the performance of the following functions, that is to say—

(a) the appointment of a Chief Minister; and

(b) the withholding of consent to a request for the dissolution of the Legislative Assembly.

(3) State law may make provision for requiring the Yang di-Pertua Negeri to act after consultation with or on the recommendation of any person or body of persons other than the Executive Council in the exercise of any of his functions other than—

(a) functions exercisable in his discretion; and

(b) functions with respect to the exercise of which provision is made in the Federal Constitution.

*Chapter 4 – Capacity as respects property,
contracts and suits*

Capacity of State as respects property, contracts and suits

9. (1) The State has power to acquire, hold and dispose of property of any kind and to make contracts.

(2) The State may sue and be sued.

PART II

THE LEGISLATURE

Constitution of Legislature

10. The Legislature shall consist of the Yang di-Pertua Negeri and one House, namely the Legislative Assembly.

Composition of Legislative Assembly

11. The Legislative Assembly shall consist of forty members elected in accordance with the provisions of the Federal Constitution.

Qualifications of members

12. Every citizen of or over the age of twenty-one years who is resident in the State is qualified to be a member of the Legislative Assembly, unless he is disqualified for being a member by the Federal Constitution or this Constitution or by any such law as is mentioned in Article 13.

Disqualification for membership of Legislative Assembly

13. (1) Subject to the provisions of this Article, a person is disqualified for being a member of the Legislative Assembly if—

(a) he is and has been found or declared to be of unsound mind;

- (b) he is an undischarged bankrupt;
- (c) he holds an office of profit;
- (d) having been nominated for election to either House of Parliament or to the Legislative Assembly, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required;
- (e) he has been convicted of an offence by a court of law in the Federation and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand ringgit and has not received a free pardon;
- (f) he is disqualified under any law relating to offences in connection with elections to either House of Parliament or to the Legislative Assembly by being convicted of such an offence or having in proceedings relating to such an election been proved guilty of an act constituting such an offence; or
- (g) he has voluntarily acquired citizenship of, or exercised rights of citizenship in, any country outside the Federation or has made a declaration of allegiance to any country outside the Federation.

(2) The disqualification of a person under paragraph (d) or paragraph (e) of Clause (1) may be removed by the Yang di-Pertua Negeri and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in the said paragraph (d) was required to be lodged or, as the case may be, the date on which the person convicted as mentioned in the said paragraph (e) was released from custody or the date on which the fine mentioned in the said paragraph (e) was imposed; and a person shall not be disqualified under paragraph (g) of Clause (1) by reason only of anything done by him before he became a citizen.

(3) Notwithstanding anything contained in the foregoing provisions of this Article, where a member of the Legislative Assembly becomes disqualified from continuing to be a member

thereof pursuant to paragraph (e) of Clause (1), or under any law mentioned in paragraph (f) of Clause (1)—

- (a) the disqualification shall take effect upon the expiry of fourteen days from the date on which he was—
 - (i) convicted and sentenced as specified in aforesaid paragraph (e); or
 - (ii) convicted of an offence or proved guilty of an act under any law mentioned in aforesaid paragraph (f); or
- (b) if within the period of fourteen days specified in paragraph (a) an appeal or any other court proceedings is brought in respect of such conviction or sentence, or in respect of being so convicted or proved guilty, as the case may be, the disqualification shall take effect upon the expiry of fourteen days from the date on which such appeal or other court proceedings is disposed of by the court; or
- (c) if within the period specified in paragraph (a) or the period after the disposal of the appeal or other court proceedings specified in paragraph (b) there is filed a petition for a pardon, such disqualification shall take effect immediately upon the petition being disposed of.

(4) Clause (3) shall not apply for the purpose of nomination or election of any person to the Legislative Assembly, for which purpose the disqualification shall take effect immediately upon the occurrence of the event referred to in paragraph (e) or (f), as the case may be, of Clause (1).

(5) A person who resigns his membership of the Legislative Assembly of this State or any other State shall, for a period of five years beginning with the date on which his resignation takes effect, be disqualified from being a member of the Legislative Assembly of this State.

Provision against double membership

14. A person shall not at the same time be a member of the Legislative Assembly for more than one constituency.

Effect of disqualification, and prohibition of nomination without consent

15. (1) If a member of the Legislative Assembly becomes disqualified for membership of the Assembly his seat shall become vacant.

(2) If a person disqualified for being a member of the Legislative Assembly is elected to the Assembly, or if an election is contrary to Article 14, the election shall be void.

(3) (*Deleted by En. No. 12/1964*).

(4) A person cannot be validly nominated for election to the Legislative Assembly without his consent.

Resignation of members

16. A member of the Legislative Assembly may resign his membership by writing under his hand addressed to the Speaker.

Absence of a member

17. If a member of the Legislative Assembly is without the leave of the Assembly absent from every sitting thereof for a period of six months the Assembly may declare his seat vacant.

Decision as to disqualification

18. (1) If any question arises whether a member of the Legislative Assembly has become disqualified for membership, the decision of the Assembly shall be taken and shall be final:

Provided that this Article shall not be taken to prevent the practice of the Assembly postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for removal of the disqualification).

(2) Where a member of the Legislative Assembly becomes disqualified under paragraph (e) of Clause (1) of Article 13, or under any law mentioned in paragraph (f) of Clause (1) of Article 13, the foregoing Clause (1) shall not apply, and he shall cease to be a member of the Legislative Assembly, and his seat shall become vacant, immediately upon his disqualification taking effect in accordance with Clause (3) of Article 13.

Summoning, prorogation and dissolution of Legislative Assembly

19. (1) The Yang di-Pertua Negeri shall from time to time summon the Legislative Assembly and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Yang di-Pertua Negeri may prorogue or dissolve the Legislative Assembly.

(3) The Legislative Assembly unless sooner dissolved shall continue for five years from the date of its first sitting and shall then stand dissolved.

(4) Wherever the Legislative Assembly is dissolved a general election shall be held within sixty days from the date of the dissolution and the new Legislative Assembly shall be summoned to meet on a date not later than one hundred and twenty days from that date.

(5) A casual vacancy shall be filled within sixty days from the date on which it is established by the Election Commission that there is a vacancy, and an election shall be held accordingly:

Provided that if a casual vacancy is established on a date within two years of the date the Legislative Assembly shall, in accordance with Clause (3), stand dissolved, such casual vacancy shall not be filled unless the Speaker notifies the Election Commission in writing that the numerical strength of the party that constitutes a majority of all the members of the Legislative Assembly is being affected by such vacancy, in which event such vacancy shall be filled within sixty days from the date of the receipt of that notification.

Speaker of Legislative Assembly

20. (1) The Legislative Assembly shall from time to time elect as Speaker such person as the Assembly may determine and shall transact no business when the office of the Speaker is vacant other than the election of the Speaker.

(1A) A person shall not be elected to be the Speaker unless he is a member or qualified to be a member of the Legislative Assembly.

(1B) Any person elected as Speaker who is not a member of the Legislative Assembly—

(a) shall, before he enters upon the duties of his office, take and subscribe before the Assembly an oath of office; and

(b) shall, by virtue of holding his office, be a member of the Assembly additional to the members elected to the Assembly:

Provided that paragraph (b) shall not have effect for the purposes of the provisions of Article 7 and no person shall be entitled by virtue of that paragraph to vote on any matter before the Assembly.

(2) The Speaker may at any time resign his office and shall vacate his office—

(a) when the Legislative Assembly first meets after a general election;

(b) on his ceasing to be a member of the Assembly otherwise than by reason of a dissolution thereof or, if he is a member by virtue only of paragraph (b) of Clause (1B), on his ceasing to be qualified to be a member;

(c) upon being disqualified under Clause (5); or

(d) if the Assembly at any time so resolves.

(2A) The Legislative Assembly may from time to time elect one of its members to be Deputy Speaker.

(2B) A Deputy Speaker may at any time resign his office and shall vacate his office—

(a) on his ceasing to be a member of the Legislative Assembly;
or

(b) if the House at any time so resolves.

(3) During any absence of the Speaker from a sitting of the Legislative Assembly the Deputy Speaker or if the Deputy Speaker is absent or if the post of the Deputy Speaker is vacant, such other member as may be determined by the rules of procedure of the Legislative Assembly shall act as Speaker.

(4) The Legislature shall by law provide for the remuneration of the Speaker and Deputy Speaker and the remuneration so provided for the Speaker shall be charged on the Consolidated Fund.

(5) A person who is elected to be the Speaker shall be disqualified from holding such office if after three months of his election to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it:

Provided that such disqualification shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the member does not receive any remuneration, reward, profit or benefit from it.

(6) Where any question arises regarding the disqualification of the Speaker under Clause (5), the decision of the Legislative Assembly shall be taken and shall be final.

Oath of members

21. (1) Every member of the Legislative Assembly shall before taking his seat take and subscribe before the person presiding in

the Assembly an oath in the form set out in the First Schedule, but a member may before taking that oath take part in the election of the Speaker.

(2) If a member has not taken his seat within three months from the date on which the Legislative Assembly first sits after his election or such further time as the Assembly may allow, his seat shall become vacant.

Address by Yang di-Pertua Negeri

22. The Yang di-Pertua Negeri may address the Legislative Assembly and may send messages thereto.

Right of State Secretary, Legal Adviser and Financial Officer to address Legislative Assembly

23. The State Secretary, the State Legal Adviser and State Financial Officer shall have the right to take part in the proceedings of the Legislative Assembly and may be appointed to any committee thereof, but shall not have any vote in the Legislative Assembly or any such committee.

Procedure of Legislative Assembly

24. (1) Subject to the provisions of the Federal Constitution and this Constitution, the Legislative Assembly shall regulate its own procedure.

(2) The Legislative Assembly may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled thereto shall not invalidate any proceedings.

(3) Subject to Clause (4) and Clause (3) of Article 35 the Assembly shall, if not unanimous, take its decision by a simple majority of members voting; and the person presiding shall cast his vote whenever necessary to avoid an equality of votes, but shall not vote in any other case.

(4) In regulating its procedure the Assembly may provide, as respect any decision relating to its proceedings, that it shall not be made except by a specified majority or by a specified number of votes.

(5) Members absent from the Assembly shall not be allowed to vote.

Remuneration of members

25. The Legislature shall by law make provision for the remuneration of the members of the Legislative Assembly.

Exercise of legislative power

26. (1) The power of the Legislature to make laws shall be exercised by Bills passed by the Legislative Assembly and assented to by the Yang di-Pertua Negeri.

(2) No Bill or amendment involving expenditure from the Consolidated Fund may be introduced or moved in the Legislative Assembly except by a member of the Executive Council.

(3) The Yang di-Pertua Negeri shall within thirty days after a Bill is presented to him assent to the Bill.

(3A) After assenting to a Bill the Yang di-Pertua Negeri shall cause it to be published as a law, and any such law shall be known as an Enactment.

(3B) If a Bill is not assented to by the Yang di-Pertua Negeri within the time specified in Clause (3), it shall become law at the expiration of the time specified in that Clause in the like manner as if he had assented to it.

(4) A Bill shall become law on being assented to by the Yang di-Pertua Negeri or as provided in Clause (3B), but no law shall come into force until it has been published, without prejudice, however, to the power of the Legislature to postpone the operation of any law or to make laws with retrospective effect.

Supremacy of Constitution

27. Any Enactment passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.

PART III

FINANCIAL PROVISIONS

No taxation unless authorized by law

28. No tax or rate shall be levied by or for the purposes of the State except by or under the authority of law.

Expenditure charged on Consolidated Fund

29. (1) There shall be charged on the Consolidated Fund, in addition to any grant, remuneration or other moneys so charged by any other provision of this Constitution or by State law—

(a) all debt charges for which the State is liable; and

(b) any moneys required to satisfy any judgment, decision or award against the State by any court or tribunal.

(2) For the purposes of this Article debt charges include interest, sinking fund charges, repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

Annual financial statement

30. (1) The Yang di-Pertua Negeri shall, in respect of every financial year, cause to be laid before the Legislative Assembly a statement of the estimated receipts and expenditure of the State

for that year, and, unless the Legislature in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year.

(2) The estimates of expenditure shall show—

- (a) the total sums required to meet expenditure charged on the Consolidated Fund; and
- (b) subject to Clause (3), the sums required to meet the expenditure for other purposes proposed to be met from the Consolidated Fund.

(3) The sums to be shown under paragraph (b) of Clause (2) do not include—

- (a) sums representing the proceeds of any loan raised by the State for specific purposes and appropriated for those purposes by the law authorizing the raising of the loan;
- (b) sums representing any money or interest on money received by the State subject to a trust and to be applied in accordance with the terms of the trust;
- (c) sums representing any money held by the State which has been received or appropriated for the purpose of any trust fund established by or in accordance with law.

(4) The said statement shall also show, so far as is practicable, the assets and liabilities of the State at the end of the last completed financial year, the manner in which those assets are invested or held, and the general purposes in respect of which those liabilities are outstanding.

Supply Bills

31. The expenditure to be met from the Consolidated Fund but not charged thereon, other than expenditure to be met by such sums as are mentioned in Clause (3) of Article 30, shall be included in a Bill, to be known as a Supply Bill, providing for

the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

Supplementary and excess expenditure

32. If in respect of any financial year it is found—

- (a) that the amount appropriated by the Supply Enactment for that purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Enactment; or
- (b) that any moneys have been expended for any purpose in excess of the amount (if any) appropriated for that purpose by the Supply Enactment,

a supplementary estimate showing the sums required or spent shall be laid before the Legislative Assembly, and the purposes of any such expenditure shall be included in a Supply Bill.

Withdrawals from Consolidated Fund

33. (1) Subject to the following provisions of this Article, no moneys shall be withdrawn from the Consolidated Fund unless they are—

- (a) charged on the Consolidated Fund; or
- (b) authorized to be issued by a Supply Enactment.

(2) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by federal law.

(3) Clause (1) does not apply to any such sums as are mentioned in Clause (3) of Article 30.

(4) The Legislature may in respect of any financial year by law authorize, before the passing of the Supply Enactment, expenditure for part of the year and the issue from the Consolidated Fund of any moneys required to meet that expenditure.

PART IV

GENERAL PROVISIONS

Impartial treatment of State employees

34. All persons of whatever race in the same grade of the service of the State, shall, subject to the terms and conditions of their employment, be treated impartially.

Amendment of Constitution

35. (1) Subject to the following provisions of this Article, the provisions of this Constitution may be amended by an Enactment.

(2) No amendments to this Constitution shall be made before the Legislative Assembly is constituted in accordance with Article 11, except such as the Council of State may deem necessary to remove any difficulties in the transition from the constitutional arrangements in operation immediately before Merdeka Day to those provided for by the Federal Constitution and this Constitution; but any law made in pursuance of this Clause shall, unless sooner repealed, cease to have effect at the expiration of a period of twelve months beginning on the day on which the Legislative Assembly first meets.

(3) A Bill for making an amendment to this Constitution (other than an amendment excepted from the provisions of this Clause) shall not be passed by the Legislative Assembly unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members thereof.

(3A) The following amendment is excepted from the provision of Clause (3), that is to say any amendment to the definition of the territory of the State which is made in consequence of the passing of a law altering the boundaries of the State under Article 2 of the Federal Constitution to which the State Legislative Assembly and the Conference of Rulers have consented under the said Article.

(4) An amendment made for the purpose of bringing this Constitution into accord with the provisions of the Eighth Schedule to the Federal Constitution as for the time being in force or consequential on such an Enactment as is mentioned in Article 11 is excepted from the provisions of Clause (3).

(5) In this Article “amendment” includes addition and repeal.

Interpretation

36. (1) In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“Consolidated Fund” means the Consolidated Fund of the State;

“Federal Constitution” means the Constitution of the Federation;

“Legislative Assembly” means the Legislative Assembly of the State;

“the State” means the State of Penang;

“Yang di-Pertua Negeri” means the Yang di-Pertua Negeri of the State;

“Yang di-Pertua Negeri” means the Head of State in the State.

(2) Unless the context otherwise requires, any reference in this Constitution to a specified Article, Part or Schedule is a reference to that Article or Part of, or that Schedule to, this Constitution; and any reference to a specified Clause is a reference to that Clause of the Article in which the reference occurs.

(3) References in this Constitution to the Federation of Malaya Order in Council 1948, are references to that Order as in force immediately before Merdeka Day.

(4) Subject to the foregoing provisions of this Article, Article 160 of the Federal Constitution shall apply for the interpretation of this Constitution as it applies for the interpretation of the Federal Constitution, but with the modification that in the application to this Constitution of the said Article 160, Clause (1) thereof shall have effect as if it directed references to the Yang di-Pertua Negeri instead of references to the Yang di-Pertuan Agong to be substituted for references to the High Commissioner in the *Interpretation and General Clauses Ordinance 1948 [*M.U. 7 of 1948*], as applied by that Article.

Reprint of the Constitution

36A. The Commissioner of Law Revision may, with the consent of the Yang di-Pertua Negeri, authorize the printing of copies of this Constitution, including all amendments in force at the date of such authorization; and any copy of this Constitution so printed shall be deemed for all purposes to be a true and correct copy of the Constitution of the State of Penang.

Commencement

37. Subject to the provisions of Part V this Constitution shall come into operation immediately before Merdeka Day.

PART V

TRANSITIONAL PROVISIONS

First Governor of State

38. The first Governor shall be a person nominated before Merdeka Day by Her Majesty and the Conference of Rulers after consultation with the Chief Minister of the Federation, and shall be appointed by the Yang di-Pertuan Agong for a term expiring at the end of a period of two years beginning with Merdeka Day.

*NOTE—This Ordinance has been consolidated and revised *vide* Interpretation Acts 1948 and 1967 [*Act 388*] w.e.f. 19 October 1989.

Temporary continuance of Settlement Council as Council of State

39. (1) The Settlement Council of Penang established under the Federation of Malaya Order in Council 1948, shall remain in being on and after Merdeka Day and shall be known as the Council of State for Penang and shall, subject to the provisions of Clause (2), stand dissolved on the first day of January, nineteen hundred and fifty-nine.

(2) If the Election Commission advises the Governor that it is not reasonably practicable before the first day of January, nineteen hundred and fifty-nine, to hold, in accordance with the Federal Constitution, elections to the Legislative Assembly to be constituted under Part II, the Governor may, by Proclamation continue the Council of State until such date, not being later than the end of June of that year, as may be specified in the Proclamation, and the Council of State shall continue accordingly and shall stand dissolved on that date.

(3) The Governor shall appoint a Speaker of the Council of State, and subject to the provisions of any Enactment he may authorize the payment of remuneration to him.

(4) Where a casual vacancy occurs among the nominated members, the Governor may appoint a person to fill the vacancy whether or not he holds office under the Federal Government or the Government of the State.

(5) Where a casual vacancy occurs among the elected members, the vacancy shall be filled as nearly as may be in accordance with the provision of the Settlement Council of Penang (Elections) Enactment 1954.

(6) Until the dissolution of the Council of State Part II shall not apply, and the powers of the Legislature under the Federal Constitution and this Constitution, other than the powers under Article 35, shall be exercisable by the Governor with the advice and consent of the Council of State; and accordingly, in relation to the period ending with the dissolution of the Council of State, references in this Constitution, other than the references in Article 35 and this Part, to the Legislative Assembly shall be construed as references to the Council of State.

(7) Until the dissolution of the Council of State the provisions of the Federation of Malaya Order in Council 1948, set out in the first column of the Second Schedule to this Constitution shall continue in force, subject to the modifications set out in the second column of that Schedule and to the following further modifications, that is to say—

- (a) for reference to the High Commissioner there shall be substituted references to the Governor;
- (b) for references to the Settlement Executive Council there shall be substituted references to the Executive Council;
- (c) for references to the Settlement Council there shall be substituted references to the Council of State;
- (d) for references to a Settlement there shall be substituted references to the State; and
- (e) references to an office of emolument under any Government in the Federation shall not be construed as references to the office of Chief Minister or to the office of any member of the Executive Council.

Temporary provisions as to composition of Executive Council

40. (1) Until the date of the first election for the Legislative Assembly constituted in accordance with Article 11 the Executive Council shall be composed of the Chief Minister, the three *ex officio* members of the Council of State and such other members of the Council of State, not being more than six, as the Governor may on the advice of the Chief Minister appoint.

(2) In relation to the period beginning with the dissolution of the Council of State and ending with the date mentioned in Clause (1) the references in Clause (1) to members of the Council of State shall be construed as references to persons who were members at the time of the dissolution.

Temporary financial provision

41. (1) Subject to Clause (3), Part III shall not come into operation until the coming into operation of Part VII of the Federal Constitution.

(2) Until the coming into operation of Part III, any moneys which under this Constitution (including Part III) are charged on the Consolidated Fund shall be charged on the revenues of the State and payment shall be made by virtue of this Clause without further authority of any law.

(3) Notwithstanding Clause (1), Article 28 shall come into operation immediately before Merdeka Day.

Transfer of officers

42. (1) Subject to the provisions of the Federal Constitution and any existing law, all persons serving as servants of the Crown in connection with the affairs of the Settlement of Penang immediately before Merdeka Day shall on that day cease to be servants of the Crown but shall continue as servants of the State to have the same powers and to exercise the same functions on Merdeka Day on the same terms and conditions as were applicable to them immediately before that day.

(2) This Article does not apply to the Resident Commissioner of Penang.

SCHEDULES

FIRST SCHEDULE

FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Office of Yang di-Pertua Negeri*

I,....., having been appointed Yang di-Pertua Negeri of the State of Penang do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Penang and to the Federation, and that I will preserve, protect and defend the Federal Constitution and the Constitution of the State of Penang.

2. *Oath of Office and Allegiance*

I,....., having been appointed to the office of, do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, that I will bear true faith and allegiance to the State of Penang and to the Federation, and that I will preserve, protect and defend the Constitution of the State of Penang.

3. *Oath as Member of the Legislative Assembly*

I,....., having been elected as a member of the Legislative Assembly of the State of Penang, do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Penang and to the Federation, and that I will preserve, protect and defend the Constitution of the State of Penang.

4. *Oath of Secrecy*

I,....., do solemnly swear (or affirm) that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as a member of the Executive Council of the State of Penang except as may be required for the due discharge of my duties as such or may be specially permitted by the Yang di-Pertua Negeri.

5. *Oath of Secrecy of the Political Secretary*

I,....., do solemnly swear (or affirm) that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as a Political Secretary except as may be required for the due discharge of my duties as such or as may be specially permitted by the Chief Minister.



***SECOND SCHEDULE**PROVISIONS OF THE FEDERATION OF MALAYA ORDER IN
COUNCIL 1948 CONTINUED IN OPERATION

<i>Provisions continued</i>	<i>Modifications</i>
Section 17 ...	—
Section 18 ...	Paragraph (a) and the proviso shall be omitted.
Section 19 ...	In subsection (1) for the word “shall” where it first appears the word “may” shall be substituted and the words “or otherwise under the Crown” shall be omitted. In subsection (2) the words “by the Resident Commissioner” shall be omitted.
Section 20 ...	—
Section 21 ...	—
Section 22 ...	In paragraph (f) for the words “Resident Commissioner” the word “Governor” shall be substituted.
Section 23 ...	In subsection (1) for the words “during Her Majesty’s pleasure” the words “during the pleasure of the Governor” shall be substituted. In subsection (3), paragraph (c) shall be omitted; in paragraphs (f) and (l) for the words “Resident Commissioner” the word “Governor” shall be substituted. Subsections (6) and (7) shall be omitted.
Section 24 ...	—
Section 26 ...	In subsection (1) for the words “Resident Commissioner” the word “Speaker” shall be substituted.
Section 27 ...	For the words “Resident Commissioner” the word “Speaker” shall be substituted.
Section 32 ...	In subsection (2) and (3) for the words “Resident Commissioner” the word “Speaker” shall be substituted.

*NOTE—These provisions were of a transitional nature and are now spent.

<i>Provisions continued</i>	<i>Modifications</i>
Section 34 ...	In subsection (1) the words from “save in cases of urgency” to “Resident Commissioner” shall be omitted. Subsection (2) shall be omitted.
Section 35 ...	The proviso shall be omitted.
Section 36 ...	In subsection (1) the words from “in Her Majesty’s name” to the end of the subsection shall be omitted. Subsection (2) shall be omitted. Subsection (4) shall be omitted.
Section 39 ...	The words “and of such Instructions as aforesaid” shall be omitted.
Section 41 ...	—
Section 42 ...	For the words “Resident Commissioner” the word “Speaker” shall be substituted.
Section 43 ...	In the proviso for the words “Resident Commissioner” where it appears in the first instance, the word “Governor” shall be substituted, and where it appears in the second instance the word “Speaker” shall be substituted.
Section 44 ...	For the words “Resident Commissioner” the words “Speaker” shall be substituted, and for the words from “oath of office” to “Third Schedule to this Order” the words “oath of office and allegiance set out in the First Schedule to the State Constitution” shall be substituted, and after those words there shall be inserted the words “and the said oath, when taken by an elected member, shall be modified by substituting for the word ‘appointed’ the word ‘elected’ ”.
Section 45 ...	For the words “Resident Commissioner” the word “Governor” shall be substituted.
Section 46 ...	In subsection (1) the words “or dissolve” shall be omitted. Subsections (2) and (3) shall be omitted.
Section 46A ...	—
Section 48 ...	—

LAWS OF THE STATE OF PENANG

CONSTITUTION OF THE STATE OF PENANG

LIST OF AMENDMENTS

Amending law	Short title	In force from
En. No. 3/1957	Constitution (Amendment) Enactment 1957	31-08-1957
En. No. 18/1958	Constitution of Penang (Amendment) Enactment 1958	01-12-1958
En. No. 7/1962	Constitution of the State of Penang (Amendment) Enactment 1962	25-10-1962
En. No. 11/1962	Constitution of the State of Penang (Amendment) (No. 2) Enactment 1962	20-12-1962
En. No. 3/1964	Constitution of the State of Penang (Amendment) Enactment 1964	01-09-1964
En. No. 12/1964	Laws of the Constitution of the State of Penang (Amendment) Enactment 1964	17-12-1964
En. No. 1/1971	Constitution of Penang (Amendment) Enactment 1971	18-11-1971
En. No. 6/1973	Constitution of the State of Penang (Amendment) Enactment 1973	03-01-1974
En. No. 3/1976	Constitution (Amendment) Enactment 1976	27-08-1976
En. No. 4/1983	Legislative Assembly Penang (Composition) Enactment 1983	16-12-1983
En. No. 2/1984	Constitution of the State of Penang (Amendment) Enactment 1984	12-06-1984; 16-12-1983
En. No. 1/1990	Constitution of the State of Penang (Amendment) Enactment 1990	09-07-1990
En. No. 2/1995	Constitution of the State of Penang (Amendment) (No. 1) Enactment 1995	01-09-1995

Amending law	Short title	In force from
En. No. 3/1995	Constitution of the State of Penang (Amendment) (No. 2) Enactment 1995	01-09-1995
En. No. 1/2000	Constitution of the State of Penang (Amendment) Enactment 2000	15-09-2000
En. No. 1/2003	Constitution of the State of Penang (Amendment) Enactment 2003	10-10-2003
En. No. 1/2005	Constitution of the State of Penang (Amendment) Enactment 2005	16-08-2007

LAWS OF THE STATE OF PENANG

CONSTITUTION OF THE STATE OF PENANG

LIST OF ARTICLES AMENDED

Article	Amending authority	In force from
4	En. No. 3/1976	27-08-1976
	En. No. 2/1995	01-09-1995
5	En. No. 3/1976	27-08-1976
	En. No. 3/1995	01-09-1995
6A	En. No. 3/1995	01-09-1995
7	En. No. 2/1995	01-09-1995
7A	En. No. 12/1964	17-12-1964
	En. No. 3/1995	01-09-1995
8	En. No. 2/1995	01-09-1995
10	En. No. 2/1995	01-09-1995
11	En. No. 4/1983	16-12-1983
	En. No. 2/1984	16-12-1983
	En. No. 1/2003	10-10-2003
13	En. No. 11/1962	20-12-1962
	En. No. 3/1976	27-08-1976
	En. No. 2/1984	12-06-1984
	En. No. 1/1990	09-07-1990
15	En. No. 12/1964	17-12-1964
18	En. No. 2/1984	12-06-1984
	En. No. 2/1995	01-09-1995
19	En. No. 1/1971	18-11-1968
	En. No. 2/1995	01-09-1995
20	En. No. 2/1984	12-06-1984
	En. No. 2/1995	01-09-1995
	En. No. 1/2000	15-09-2000
23	En. No. 3/1995	01-09-1995
26	En. No. 2/1995	01-09-1995
30	En. No. 3/1964	01-09-1964
	En. No. 3/1976	27-08-1976

Article	Amending authority	In force from
31	En. No. 3/1976	27-08-1976
32	En. No. 3/1976	27-08-1976
35	En. No. 6/1973	03-01-1974
36	En. No. 3/1976	27-08-1976
36A	En. No. 1/2003 En. No. 1/2005	10-10-2003 16-08-2007
39	En. No. 3/1957 En. No. 18/1958	30-01-1958 01-12-1958
First Schedule	En. No. 3/1976 En. No. 3/1995	27-08-1976 01-09-1995
