

REVISION OF SENTENCE OF DEATH AND IMPRISONMENT FOR NATURAL LIFE (TEMPORARY JURISDICTION OF THE FEDERAL COURT) BILL 2023

ARRANGEMENT OF CLAUSES

Clause

1. Short title and commencement
2. Temporary revisionary jurisdiction of the Federal Court on death sentence
3. Application for review of death sentence
4. Temporary revisionary jurisdiction of the Federal Court on sentence of imprisonment for natural life
5. Application for review of sentence of imprisonment for natural life

A BILL

i n t i t u l e d

An Act to provide for the temporary revisionary jurisdiction of the Federal Court to review the sentence of death and imprisonment for natural life imposed on a convicted person following the abolition of the mandatory death penalty and amendment to the relating laws.

[]

ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Revision of Sentence of Death and Imprisonment for Natural Life (Temporary Jurisdiction of the Federal Court) Act 2023.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Temporary revisionary jurisdiction of the Federal Court on death sentence

2. (1) Where a sentence of death is affirmed or passed by the Federal Court under the Penal Code [*Act 574*], the Arms Act 1960 [*Act 206*], the Firearms (Increased Penalties) Act 1971 [*Act 37*], the Dangerous Drugs Act 1952 [*Act 234*] and the Kidnapping Act 1961 [*Act 365*] before the coming into operation of this Act

and notwithstanding that an application for pardon under Article 42 of the Federal Constitution has been rejected, the Federal Court shall, in addition to the powers conferred on it under any written law, have the power to review the sentence following the amendments made by the Abolition of Mandatory Death Penalty Act 2023.

(2) In exercising its powers under subsection (1), the Federal Court shall not review the conviction of any person who is sentenced to death.

(3) For the purpose of reviewing the sentence of death, the Federal Court shall call for and examine the record of proceedings, grounds of judgment and other relevant documents, if any.

(4) Upon reviewing the application, the Federal Court shall affirm or substitute the sentence of the applicant in accordance with the Penal Code [*Act 574*], the Arms Act 1960 [*Act 206*], the Firearms (Increased Penalties) Act 1971 [*Act 37*], the Dangerous Drugs Act 1952 [*Act 234*] and the Kidnapping Act 1961 [*Act 365*] as amended by the Abolition of Mandatory Death Penalty Act 2023.

Application for review of death sentence

3. (1) For the purposes of subsection 2(1), any person who is sentenced to death may make an application in writing to the Federal Court within ninety days from the date of coming into operation of this Act.

(2) Upon receiving an application under subsection (1), the Federal Court shall review the sentence of death.

(3) The Federal Court may extend the time specified under subsection (1) if it considers that there is a good reason for doing so.

(4) Any application under subsection (1) may only be made once by the person.

Temporary revisionary jurisdiction of the Federal Court on sentence of imprisonment for natural life

4. (1) Notwithstanding that an application for pardon has been determined in accordance with Article 42 of the Federal Constitution, the Federal Court shall, in addition to the powers conferred on it under any written law, have the power to review the sentence of imprisonment for natural life of any person who is serving that sentence under any written law and has exhausted all other judicial proceedings before the coming into operation of this Act.

(2) In exercising its powers under subsection (1), the Federal Court shall only review the term of the sentence of imprisonment for natural life.

(3) For the purpose of determining the term of the sentence of imprisonment for natural life, the Federal Court shall call for and examine the record of proceedings, grounds of judgment and other relevant documents, if any.

(4) Upon reviewing the application, the Federal Court shall substitute the sentence of imprisonment for natural life with imprisonment for a term of not less than thirty years but not exceeding forty years.

(5) For the purposes of this Act, “imprisonment for natural life” means imprisonment until the death of the person on whom the sentence is imposed.

Application for review of sentence of imprisonment for natural life

5. (1) For the purposes of subsection 4(1), any person who is serving a sentence of imprisonment for natural life may make an application in writing to the Federal Court within ninety days from the date of coming into operation of this Act.

(2) Upon receiving an application under subsection (1), the Federal Court shall review the sentence of imprisonment of natural life.

(3) The Federal Court may extend the time specified under subsection (1) if it considers that there is a good reason for doing so.

(4) Any application under subsection (1) may only be made once by the person.

EXPLANATORY STATEMENT

The proposed Revision of Sentence of Death and Imprisonment for Natural Life (Temporary Jurisdiction of the Federal Court) Act 2023 (“the proposed Act”) seeks to provide for the temporary revisionary jurisdiction of the Federal Court to review the sentence of death and imprisonment for natural life imposed on a convicted person pursuant to the abolition of the mandatory death penalty and amendment to the relating provisions of the Penal Code [Act 574], the Arms Act 1960 [Act 206], the Firearms (Increased Penalties) Act 1971 [Act 37], the Dangerous Drugs Act 1952 [Act 234] and the Kidnapping Act 1961 [Act 365].

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.

3. *Clause 2* seeks to provide for the temporary revisionary jurisdiction of the Federal Court to review the sentence of death imposed on a convicted person following the amendments made by the made by the Abolition of Mandatory Death Penalty Act 2023.

4. *Clause 3* seeks to provide for the manner and time limit for making an application to the Federal Court to review the death sentence imposed on a convicted person.

5. *Clause 4* seeks to provide for the temporary revisionary jurisdiction of the Federal Court to review the sentence of imprisonment for natural life imposed on a convicted person who has exhausted all other judicial proceedings under any written law. Upon reviewing the sentence of imprisonment for natural life, the Federal Court shall substitute the sentence of imprisonment for natural life.

6. *Clause 5* seeks to provide for the manner and time limit for making an application to the Federal Court to review the sentence of imprisonment for natural life imposed on a convicted person.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.