



The
POWERS AND DUTIES
of the
JUSTICES OF THE PEACE
in the
STATE OF PENANG

PUBLISHED BY AUTHORITY

JUSTICES OF THE PEACE

Their Powers and Duties

Justices of the Peace in the States derive their powers from statute law. They are appointed under section 98 of the Subordinate Courts Act, 1972 by the State Authority, by warrant under his hand. The State Authority may, by like warrant, revoke the appointment of any Justice of the Peace. A Justice of the Peace will be required to take the Oath of Allegiance and the Judicial Oath in the form prescribed in the Promissory Oaths Ordinance. (S.S. Cap. 77)

Justices of the Peace have such powers not exceeding the powers of a Second Class Magistrate as are conferred upon them in various Ordinances.

A person adjudged bankrupt is disqualified from being appointed as a Justice of the Peace; the disqualification will be removed and cease if and when the adjudication of bankruptcy against him is annulled; or he obtains from the Court his discharge, with a certificate to the effect that his bankruptcy was caused by misfortune, without any misconduct on his part. See the provisions of section 36 of the Bankruptcy Ordinance.

(No. 20/59).

If a person is adjudged bankrupt whilst holding the office of Justice of the Peace, his office shall thereupon become vacant under section 37 of the Bankruptcy Ordinance.

The powers and duties conferred by law on Justices of the Peace are set out hereunder.

Criminal Procedure Code (Cap. 21)

Section 19.

Every person is bound to assist a Police Magistrate, Justice of the Peace or police officer reasonably demanding his aid—

Public, when to assist Police Magistrates, Justices of the Peace and police.

- (a) in the taking of any other person whom such Police Magistrate, Justice of the Peace or police officer is authorised to arrest;
- (b) in the prevention of a breach of the peace or of any injury attempted to be committed to any railway, tramway, dock, wharf, canal, telegraph or public property;
- (c) in the suppression of a riot or an affray.

Section 25.

Whenever a search for anything is or is about to be lawfully made in any house or place in respect of any offence all persons found therein may be lawfully detained until the search is completed, and they may, if the thing sought is in its nature capable of being concealed on the person, be searched for it by or in the presence of a Police Magistrate or Justice of the Peace or a police officer not under the rank of Inspector.

Search of person in place searched under warrant.

Section 38.

When any offence is committed in the presence of a Police Magistrate or Justice of the Peace within the local limits of his jurisdiction, he may himself arrest or authorise any person to arrest the offender, and may thereupon, subject to the provisions herein as to bail commit the offender to custody.

Offence committed in Police Magistrate's presence.

Betting Ordinance (No. 47 of 1953)

Search
warrant
against
premises.

12. (1) A Magistrate or Justice of the Peace or Senior Police Officer on being satisfied, upon written information on oath, and after any inquiry which he may think necessary, that there is good reason to believe that any place is kept or used as a common betting-house or is a club used by a bookmaker for the business of receiving or negotiating bets, may by warrant under his hand authorize any person therein named, or any police officer with such assistance and by force as is necessary by night or by day to enter or go to such place and to search the same and all persons found therein and to seize all books, documents, telegrams, writings, circulars, cards or other articles used as a subject or means of betting or wagering, or in connection therewith and all moneys and securities for money which are found in such place or on any such persons, and also to detain all such persons until they and the said place have been searched.

(2) If any of the things or circumstances which are by this Ordinance made presumptive evidence of guilt are found in such place, or on any person therein, every person therein shall be arrested and taken before a Magistrate to be dealt with according to law.

(3) All books, documents, telegrams, writings, circulars, cards or other articles used as a subject or means of betting or wagering, or in connection therewith, and all moneys or securities for money found in a common betting-house, or on any persons found therein, or escaping therefrom, which the Magistrate is of opinion were used or intended to be used for betting or wagering, shall be declared by him to be forfeited to the Government, and shall be dealt with accordingly.

Search
warrant
against
persons.

13. A Magistrate or Justice of the Peace or Senior Police Officer on being satisfied upon information on oath and after any enquiry which he may think necessary that there is good reason to believe that any books, documents, telegrams, writings, circulars, cards or other articles used as a subject or means of betting or wagering or in connection therewith, are likely to be found on any person may by warrant under his hand order any police officer to arrest and search such person, or may by warrant under his hand order any person therein named to arrest such person, and to take him forthwith before any Magistrate or Justice of the Peace or Senior Police Officer who shall thereupon cause such person to be searched in his presence and if any such thing is found upon his person he shall be taken before a Magistrate to be dealt with according to law.

Magistrate,
Justice of
the Peace or
Senior Police
Officer may
search.

14. (1) A Magistrate or Justice of the Peace or Senior Police Officer may himself do what he may under sections 12 and 13 authorize a police officer to do whenever such Magistrate or Justice of the Peace or Senior Police Officer is competent to issue a warrant under the said sections, and also in any of the following cases, that is to say—

- (a) if any person has, within the preceding six months, been convicted of having kept or used as a common betting-house the place proposed to be entered;
- (b) if the place proposed to be entered is a common betting-house carried on under the guise of a club or society;

(c) if he has personal knowledge of such facts and circumstances as satisfy him that there are sufficient grounds for a search under section 12;

(d) if he receives the required information orally, and either on oath or not on oath, under such circumstances that the objects of the search would be defeated by the delay necessary for reducing the information to writings: provided that in the last case the name and address of the person giving such information is known to or ascertained by such Magistrate, Justice of the Peace or Senior Police Officer before he acts upon such information.

(2) Whoever giving such oral information makes a statement which he knows or believes to be false or does not believe to be true shall be guilty of an offence and liable to imprisonment for a term not exceeding twelve months.

Common Gaming Houses Ordinance (No. 26 of 1953)

16. (1) A Magistrate or Justice of the Peace or Senior Police Officer on being satisfied upon written information on oath and after any enquiry which he may think necessary that there is good reason to believe that place is kept or used as a common gaming house may by warrant authorise any person therein named or any police officer with such assistance and by such force as may be necessary by night or by day to enter or go to such place and to search the same and all persons found therein and to seize all instruments or appliances for gaming and all money, securities for money, and other articles reasonably supposed to have been used or intended to be used for any game or lottery which may be found in such place or on any such persons and also to detain all such persons until they and the said place shall have been searched. If any of the things or circumstances which are made by this Ordinance presumptive evidence of guilt are found in such place or on any person therein, every person found therein shall be taken before a Magistrate to be dealt with according to law.

Search
warrant
against
premises.

(2) All instruments or appliances for gaming, money, securities for money, and other articles found in a common gaming house or on any persons found therein or escaping therefrom and which the Magistrate is of opinion were used or intended to be used for any game or lottery shall be declared by him to be forfeited to the Government and shall be dealt with accordingly.

17. A Magistrate or Justice of the Peace or Senior Police Officer on being satisfied upon information on oath and after any enquiry which he may think necessary that there is good reason to believe that any instruments or appliances for gaming are likely to be found on any person may by warrant under his hand order any police officer to arrest and search such person, or may by warrant under his hand order any person therein named to arrest such person and to take him forthwith before any Magistrate or Justice of the Peace or Senior Police Officer who shall thereupon cause such person to be searched in his presence and if any such instrument or appliance is found upon his person he shall be taken before a Magistrate to be dealt with according to law.

Search
warrant
against
persons.

Entry and
search by
Magistrate or
Senior Police
Officer.

18. (1) A Magistrate or Justice of the Peace or Senior Police Officer may himself do what he may under sections 16 and 17 authorise a police officer to do whenever such Magistrate or Justice of the Peace or Senior Police Officer is competent to issue a warrant under the said sections respectively and also in any of the following cases, that is to say—

- (a) if any person has within the preceding six months been convicted of having kept or used as a common gaming house the place proposed to be entered; or
- (b) if the place proposed to be entered is occupied by a club or society and he has reason to believe that habitual gaming is carried on there; or
- (c) if he has personal knowledge of such facts and circumstances as satisfying him that there are sufficient grounds for a search under the said sections respectively; or
- (d) if he receives the required information orally and either on oath or not on oath under such circumstances that the object of a search would, in his opinion, be defeated by the delay necessary for reducing the information to writing:

Provided that in this last case the name and address of the person giving such information are known to or ascertained by such Magistrate or Justice of the Peace or Senior Police Officer before he acts upon such information.

False
information.

(2) Whoever in giving such oral information makes a statement which he knows or believes to be false or does not believe to be true shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twelve months.

Presumption
against house
and occupier.

19. If any instruments or appliances for gaming are found in any place entered under this Ordinance or upon any person found therein or if persons are seen or heard to escape therefrom on the approach or entry of a Magistrate or Justice of the Peace or Senior Police Officer or if a police officer or any person having authority under this Ordinance to enter or go to such place is unlawfully prevented from or obstructed or delayed in entering or approaching the same or any part thereof, it shall be presumed until the contrary is proved that the place is a common gaming house and that the same is so kept or used by the occupier thereof.

Prisons Ordinance (No. 81 of 1952)

Appointment
of Visiting
Justices.

67. (1) The Chief Minister in a State shall for each year appoint a Board to be called "The Board of Visiting Justices", of which all Magistrates shall be ex officio members.

(2) A Visiting Justice may at any time visit any prison in the State for which he is appointed and may inspect the several wards, cells, yards, solitary or punishment cells and other apartments or divisions of the prison, inspect and test the quality and quantity of the prisoner's food, hear the complaints, if any, of the prisoners, and questions any prisoner or prison officer, and shall ascertain, so far as possible, whether this Ordinance, the Rules made thereunder and Prison Standing Orders are adhered

to, and shall call the attention of the Officer-in-Charge to any irregularity that may be observed in the working of the prison or in the treatment of any prisoner confined therein, and shall exercise and perform such powers and duties as may be prescribed.

(3) The Board shall appoint one or more of its members to be in rotation Visiting Justice or Justices of each of the prisons in the respective State for each month of the year, and such Visiting Justice or Justices shall hear, try and dispose of such prison offences as to which a report under section 57 has been made.

(4) Every Visiting Justice shall, for the purpose of this Ordinance, have power to summon witnesses and to administer oaths.

68. (1) Every Judge, President, Magistrate, or Justice of the Peace having jurisdiction in a place where any prison is situate may, whenever he thinks fit, enter into and examine the condition of such prison, and of the prisoners therein, and he may question any prisoner or officer, and he may enter any observations he thinks to make in reference to the condition of the prison in a Visitor's Book to be kept for that purpose by the Officer-in-Charge, which book shall be produced to the Visiting Justices at their next ensuing visit.

Visits by
Judges,
Magistrates,
etc.

(2) Any Member of Parliament may at any time visit any prison and may exercise all or any of the powers specified in sub-section (1).

(3) Any Member of the Legislative Assembly may at any time visit any prison within such State and may exercise therein all or any of the powers specified in sub-section (1).

Children and Young Persons Ordinance, 1947 (Malayan Union Ordinance No. 33 of 1947)

Section 5(1).

A police officer, or any person authorised by a Magistrate or by a Protector or by the Commissioner or a Justice of the Peace may take to a place of safety any child in respect of whom an offence under this Part of this Ordinance or any offence involving bodily injury to a child has been, or there is reason to believe has been, committed.

Detention of
child in a place
of safety.

A Court shall take cognizance of any offence punishable under the provisions of the Children and Young Persons Ordinance, 1947, upon a complaint made by a Justice of the Peace (section 32).

Complaints by
Justices of the
Peace.

Under rule 5 of the Children and Young Persons Rules, 1947 (G.N. 8528 of 22nd December, 1947), a Justice of the Peace may demand a child employed in any form of labour to be produced by an employer for inspection.

Production of
children for
inspection.

POWERS OF ATTORNEY ORDINANCE, 1949 (Federation of Malaya Ordinance No. 64 of 1949)

Section 3(1)(a).

The instrument creating a power of attorney may be executed before a Justice of the Peace. The forms of authentication are set out in the First Schedule to that Ordinance and are reproduced as Appendix "A" hereto.

Power to
authenticate
Powers of
Attorney.

Administering
of oaths under
the citizenship
rules.

THE FEDERATION OF MALAYA CONSTITUTION
(Citizenship Rules, 1960)

Under Rule 20 of the Citizenship Rules, 1960 (L.N. 310 of 1st December, 1960) oaths may be administered before a Justice of the Peace.

APPENDIX A

POWERS OF ATTORNEY ORDINANCE, 1949

First Schedule

(Section 3)

FORM I

FORM OF AUTHENTICATION IN CASE OF A POWER
OF ATTORNEY EXECUTED BY AN INDIVIDUAL

I,(Magistrate, Justice of the Peace, Collector of Land Revenue, Notary Public, Commissioner for Oaths, Bank Official or Advocate and Solicitor of the Supreme Court of the Federation of Malaya) officiating (or practising) at....., hereby certify that the ~~signature~~^{signature} ~~thumb-mark~~^{thumb-mark} of the donor above named was ~~written~~^{written} ~~affixed~~^{affixed} in my presence on this.....day of....., 19.... and is, to my own personal knowledge, (or according to information given to me by trustworthy and respectable persons, namely..... of..... and..... of....., which information I verily believe,) the true ~~signature~~^{signature} ~~thumb-mark~~^{thumb-mark} of..... who has acknowledged to me that he ~~is~~^{is not} of full age and that he has voluntarily executed this instrument.

Witness my hand.....

FORM II

FORM OF AUTHENTICATION IN CASE OF A POWER
OF ATTORNEY EXECUTED BY A COMPANY
OR CORPORATION

I,(Magistrate, Justice of the Peace, Collector of Land Revenue, Notary Public, Commissioner for Oaths, Bank Official or Advocate and Solicitor of the Supreme Court of the Federation of Malaya) officiating (or practising) at....., hereby certify that on this.....day of....., 19.... the common seal of (state name of company or corporation) was duly affixed to the above written instrument in my presence in accordance with the regulations of the said ~~Company~~^{Company} ~~Corporation~~^{Corporation}.

Witness my hand.....