

- 14 Old age means the age of 50 years and above: Syariah Criminal Procedure (Federal Territories) Act 1997 s 125(5) Explanation; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 125(5) Explanation; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 129(5) Explanation; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 125(5) Explanation.
- 15 Syariah Criminal Procedure (Federal Territories) Act 1997 s 125(5); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 125(5); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 129(5); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 125(5).
- 16 Syariah Criminal Procedure (Federal Territories) Act 1997 s 125(4); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 125(4); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 129(4); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 125(4). As to imprisonment see **[400.551]**.
- 17 Syariah Criminal Procedure (Federal Territories) Act 1997 s 126(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 126(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 130(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 126(1). As to appeals see **[400.560]**-**[400.562]**.
- 18 Syariah Criminal Procedure (Federal Territories) Act 1997 s 126(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 126(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 130(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 126(2).

[400.554] Sentences imposed on youthful offenders When a youthful offender is convicted before any court¹ of an offence² punishable by fine³ or imprisonment⁴, the court will instead of awarding any term of imprisonment in default of payment of the fine or passing a sentence of imprisonment:

- (1) order the offender to be discharged after due admonition if the court thinks fit⁵; or
- (2) order the offender to be delivered to his parent or guardian or nearest adult relative or to such other person, as the court will designate, on the parent, guardian, relative or other person executing a bond⁶ with a surety (as the court may require) that he will be responsible for the good behaviour of the offender for any period not exceeding 12 months⁷.

If the court does not require a bond to be entered into, it may make an order requiring the offender to be of good behaviour for any period not exceeding two years and containing any directions to the offender in the nature of conditions⁸ which it thinks fit to give⁹.

In addition to or instead of punishing the offender, the court may inflict on his parent or guardian a fine not exceeding RM200 if after summary inquiry, it is satisfied that the parent or guardian has, by neglecting to take proper care or otherwise, conduced to the misconduct of the offender¹⁰. However, no parent or guardian may be fined without his having had an opportunity of being heard and, if he desires it, of adducing evidence in his defence¹¹.

- 1 As to Syariah courts see [400.024] and following.
- 2 For the meaning of 'offence' see [400.519] note 1.
- 3 See [400.552].
- 4 See [400.551].
- 5 Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 128(1)(a); Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 128(1)(a); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 132(1)(a); Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 128(1)(a).
- 6 As to the execution of bonds see [400.506].
- 7 Syariah Criminal Procedure (Federal Territories) Act 1997 s 128(1)(b); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 128(1)(b); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 132(1)(b); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 128(1)(b).
- 8 As to these conditions see the Syariah Criminal Procedure (Federal Territories) Act 1997 s 130(a)-(c); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 130(a)-(c); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 134(a)-(c); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 130(a)-(c).
- 9 Syariah Criminal Procedure (Federal Territories) Act 1997 s 128(1)(b); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 128(1)(b); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 132(1)(b); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 128(1)(b).
- 10 Syariah Criminal Procedure (Federal Territories) Act 1997 s 128(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 128(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 132(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 128(2).
- 11 Syariah Criminal Procedure (Federal Territories) Act 1997 s 128(2) proviso; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 128(2) proviso; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 132(2) proviso; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 128(2) proviso.

[400.555] Sentences imposed on first offenders In relation to a first offender, if it appears to the court¹ that having regard to the character, antecedents, age, health or mental condition of the offender, the trivial nature of the offence² was committed, it is expedient that the offender be released on probation of good conduct, it may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond³ with sureties and during such period as it may direct, to appear and receive judgment if and when called upon and in the meantime to be of good behaviour⁴.

If the court having power to deal with the offender in respect of his original offence is satisfied that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his apprehension⁵. The offender when so apprehended must, if not forthwith brought before the court having power to sentence him, be brought before a

judge⁶, and the judge may either remand him by warrant until the time at which he is required by his bond to appear for judgment or until the sitting of the court having power to deal with his original offence, or may admit him to bail⁷ with a sufficient surety conditioned on his appearing for judgment⁸. The offender, when so remanded, may be committed to prison and the warrant of remand will order that he be brought before the court before which he was bound to appear for judgment or to answer as to his conduct since his release⁹.

- 1 As to Syariah courts see [400.024] and following.
- 2 For the meaning of 'offence' see [400.519] note 1.
- 3 As to the execution of bonds see [400.506].
- 4 Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 129(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 129(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 133(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 129(1).
- 5 Syariah Criminal Procedure (Federal Territories) Act 1997 s 129(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 129(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 133(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 129(2).
- 6 As to Syariah court judges see [400.038]-[400.046].
- 7 See [400.506].
- 8 Syariah Criminal Procedure (Federal Territories) Act 1997 s 129(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 129(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 133(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 129(3).
- 9 Syariah Criminal Procedure (Federal Territories) Act 1997 s 129(4); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 129(4); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 133(4); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 129(4).

(15) SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES

CONTENTS

PARA

- [400.556] Power to suspend or remit sentences
[400.557] Power to commute punishment

[400.556] Power to suspend or remit sentences When any person has been sentenced for an offence¹, the Yang di-Pertuan Agong (in Selangor for example it is the Sultan) on the advice of the *Mufti*²

may at any time, without conditions, or with such conditions which the person sentenced accepts, suspend or remit the whole or any part of the sentence³. Upon an application being made for the suspension or remission of a sentence, the Yang di-Pertuan Agong may require the convicting judge⁴ to state his opinion as to whether the application should be granted or refused⁵.

If any condition on which a sentence has been suspended or remitted is, in the opinion of the Yang di-Pertuan Agong, not fulfilled, the Yang di-Pertuan Agong may cancel the suspension or remission; whereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer or religious enforcement officer⁶ without warrant and remanded by a judge to undergo the unexpired portion of the sentence⁷.

- 1 For the meaning of 'offence' see [400.519] note 1.
- 2 As to the *Mufti* see [400.070].
- 3 Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 132(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 132(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 136(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 132(1).
- 4 As to Syariah court judges see [400.038]-[400.046].
- 5 Syariah Criminal Procedure (Federal Territories) Act 1997 s 132(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 132(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 136(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 132(2).
- 6 As to the appointment of religious enforcement officers see [400.051].
- 7 Syariah Criminal Procedure (Federal Territories) Act 1997 s 132(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 132(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 136(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 132(3).

[400.557] Power to commute punishment The Yang di-Pertuan Agong (in Selangor for example it is the Sultan) on the advice of the *Mufti*¹ may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it, namely, whipping²; imprisonment³; or fine⁴.

- 1 As to the *Mufti* see [400.070].
- 2 As to whipping see [400.553].
- 3 As to imprisonment see [400.551].
- 4 Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 133(a)-(c); Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 133(a)-(c); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 137(a)-(c); Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 133(a)-(c). As to fines see [400.552].

(16) PREVIOUS ACQUITTALS OR CONVICTIONS

CONTENTS

PARA

[400.558] Person once convicted or acquitted tried again for same offence

[400.559] Plea of previous acquittal or conviction

[400.558] Person once convicted or acquitted tried again for same offence A person who has been tried by a court¹ of competent jurisdiction for an offence² and convicted or acquitted of the offence will not, while the conviction or acquittal remains in force, be liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made³ or for which he might have been convicted⁴. A person acquitted or convicted of any offence may afterwards be tried for any distinct offence for which a separate charge might have been made against him on the former trial⁵.

A person convicted of any offence constituted by any act causing consequences which, together with that act, constituted a different offence from that of which he was convicted, may be afterwards tried for the last-mentioned offence, if the consequences had not happened or were not known to the court to have happened at the time when he was convicted⁶.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding the acquittal or conviction, be subsequently charged with and tried for any other offence constituted by the same acts which he may have committed, if the court by which he was first tried was not competent to try the offence with which he is subsequently charged⁷.

The dismissal of a complaint⁸, or the discharge⁹ of the accused, is not an acquittal for the purposes of the above provisions¹⁰.

1 As to Syariah courts see [400.024] and following.

2 For the meaning of 'offence' see [400.519] note 1.

3 Ie under the Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 91; the Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 91; the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 91; the Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 91.

4 Ie under the Syariah Criminal Procedure (Federal Territories) Act 1997 s 92; the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 92; the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 92; the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 92; Syariah Criminal Procedure (Federal Territories) Act 1997 s 134(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 134(1); Syariah Criminal Procedure (Negeri

Sembilan) Enactment 2003 s 138(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 134(1).

- 5 Ie under the Syariah Criminal Procedure (Federal Territories) Act 1997 s 90(1); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 90(1); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 90(1); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 90(1); Syariah Criminal Procedure (Federal Territories) Act 1997 s 134(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 134(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 138(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 134(2).
- 6 Syariah Criminal Procedure (Federal Territories) Act 1997 s 134(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 134(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 138(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 134(3).
- 7 Syariah Criminal Procedure (Federal Territories) Act 1997 s 134(4); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 134(4); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 138(4); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 134(4).
- 8 As to complaints see [400.497].
- 9 As to discharge see [400.528].
- 10 Syariah Criminal Procedure (Federal Territories) Act 1997 s 134(5); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 134(5); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 138(5); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 134(5).

[400.559] Plea of previous acquittal or conviction The plea of a previous acquittal or conviction may be pleaded either orally or in writing to the effect that the accused is not liable to be tried¹. The plea may be pleaded together with any other plea, but the issue raised by the plea must be tried and disposed of before the issues raised by the other pleas are tried².

- 1 Ie by virtue of the Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 134; the Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 134; the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 138; the Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 134 (see [250.558]); Syariah Criminal Procedure (Federal Territories) Act 1997 s 135(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 135(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 139(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 135(1).
- 2 Syariah Criminal Procedure (Federal Territories) Act 1997 s 135(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 135(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 139(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 135(2).

(17) APPEALS AND REVISION

CONTENTS

PARA

- [400.560] Right of appeal
 [400.561] Procedure for appeal to the Syariah High Court
 [400.562] Appeal to the Syariah Appeal Court
 [400.563] Revision

[400.560] Right of appeal When a person is dissatisfied with the judgment, sentence or order pronounced by a judge¹, he has a right to appeal to a higher court. An accused person who has pleaded guilty and has been convicted based on the plea has no right to appeal except with regard to the extent or legality of the sentence². Where the accused person has been acquitted, there will also be no appeal except with the sanction in writing of the Chief Syariah Prosecutor³.

Other than in the case of a sentence of whipping⁴ (the execution of which will be stayed pending appeal), an appeal will not operate as a stay of execution, but the court⁵ appealed from or the Syariah High Court⁶ may stay execution on any judgment, order, conviction or sentence pending appeal, on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in the judgment, order, conviction or sentence as to the court appealed from or the Syariah High Court may seem reasonable⁷.

- 1 As to Syariah court judges see **[400.038]-[400.046]**.
- 2 Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 136; Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 136; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 140; Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 136.
- 3 Syariah Criminal Procedure (Federal Territories) Act 1997 s 137; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 137; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 141; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 137. As to the appointment of the Chief Syariah Prosecutor see **[400.047]**.
- 4 As to whipping see **[400.553]**.
- 5 As to Syariah courts see **[400.024]** and following.
- 6 As to appeal to the Syariah High Court see **[400.561]**.
- 7 Syariah Criminal Procedure (Federal Territories) Act 1997 s 141; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 141; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 145; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 141. See also the Syariah Criminal Procedure (Federal Territories) Act 1997 s 160; the Syariah Criminal Procedure (State of

Malacca) Enactment 2002 s 160; the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 164; the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 160.

[400.561] Procedure for appeal to the Syariah High Court A person who is dissatisfied with any judgment, sentence or order pronounced by any Syariah subordinate court in a criminal case or matter to which he is a party, may appeal to the Syariah High Court against that judgment, sentence or order by lodging, within 14 days from the time that judgment, sentence or order is passed or made, with the Assistant Registrar of the Syariah subordinate court a notice of appeal in five copies addressed to the Syariah High Court¹. The notice of appeal must contain an address at which any notice or document relating to the appeal may be served upon the appellant or his *peguam Syarie*². When a notice of appeal has been lodged, the court appealed from must make a signed copy of the grounds of decision in the case and serve it upon the appellant or his *peguam Syarie* by leaving that copy at the address mentioned in the notice of appeal or by posting it by registered post addressed to the appellant at that address³.

Within ten days after the service of the grounds of decision, the appellant must lodge with the Assistant Registrar of the Syariah subordinate court at which the trial was held a petition of appeal in five copies addressed to the Syariah High Court⁴. Every petition of appeal must state shortly the substance of the judgment appealed against and must contain definite particulars of the points of law or of fact in regard to which the court appealed from is alleged to have erred⁵. With regard to an appellant who is in prison, he may give to the officer in charge of the prison, either orally or in writing and within the prescribed time⁶, notice of the appeal and the particulars required to be included in the petition of appeal⁷. The officer in charge of the prison will forward the notice and petition to the Assistant Registrar of the Syariah subordinate court at which the trial was held⁸.

If the petition of appeal is not lodged within the prescribed time, the appeal is deemed to be withdrawn⁹. However, the Syariah High Court may permit an appeal upon such terms and with such directions to the Syariah subordinate court and to the parties as it considers desirable in order that substantial justice may be done in the matter, and pursuant to it enlarge the prescribed time for lodging the notice of appeal or the petition of appeal¹⁰.

If the appellant has complied with the requirements when lodging his appeal, the court appealed from will transmit to the Syariah High Court, the Chief Syariah Prosecutor¹¹ and the appellant or his *peguam Syarie*, a signed copy of the record of the proceedings and of the grounds of the decision together with a copy of the notice and the petition of appeal (all of which constitute the appeal record)¹². On receipt of the appeal record, the Registrar of the Syariah High Court will number the appeal and enter it on the list of appeals to be heard and give notice to the parties that the appeal has been so entered¹³. When

the date on which the appeal will be heard has been fixed, the Registrar will give notice of it to the parties¹⁴.

At the hearing of the appeal, the Chief Syariah Prosecutor will appear personally or be represented by the Syariah Prosecutor¹⁵. The appellant will first be heard in support of the appeal, the respondent will be heard against it and the appellant has a right to reply¹⁶. If the appellant or his *peguam Syarie* does not appear to support the appeal, the court has the discretion to make a decision or dispose of the appeal¹⁷, except where the appellant is out of the jurisdiction or does not appear personally before the court in pursuance of a condition upon which he was admitted to bail¹⁸. If the respondent is not present, the court will adjourn the hearing of the appeal¹⁹.

In dealing with any appeal, if additional evidence is necessary, the Syariah High Court may either take the evidence itself or order the Syariah subordinate court to take the evidence²⁰. Unless the Syariah High Court otherwise directs, the accused or his *peguam Syarie* must be present when the additional evidence is taken²¹.

At the hearing of the appeal, the court may, if it considers that there does not exist sufficient grounds for interfering, dismiss the appeal, or in an appeal from an order of acquittal, reverse that order and order a retrial, or find the person guilty and pass sentence²². In an appeal from a conviction or as to sentence, the court may reverse the finding and sentence or discharge²³ the accused, or order him to be retried²⁴; or alter the finding, maintaining the sentence, or with or without altering the finding, reduce or enhance the sentence or alter the nature of the sentence²⁵. In an appeal from any other order, the court may alter or reverse that order²⁶.

An appeal against acquittal will abate on the death of the accused and every other appeal will abate on the death of the appellant²⁷.

1 Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 138(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 138(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 142(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 138(1).

2 Syariah Criminal Procedure (Federal Territories) Act 1997 s 138(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 138(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 142(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 138(2).

As to the *peguam Syarie* see [400.052]-[400.057].

3 Syariah Criminal Procedure (Federal Territories) Act 1997 s 138(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 138(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 142(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 138(3).

4 Syariah Criminal Procedure (Federal Territories) Act 1997 s 138(4); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 138(4); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 142(4); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 138(4).

As to when the appellant must lodge his petition of appeal if he has applied for a copy of the notes of evidence recorded at his trial, see the Syariah Criminal Procedure (Federal Territories) Act 1997 s 138(5); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 138(5); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 142(5); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 138(5)

- 5 Syariah Criminal Procedure (Federal Territories) Act 1997 s 138(6); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 138(6); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 142(6); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 138(6).
 - 6 See text to notes 1 and 4 above.
 - 7 Syariah Criminal Procedure (Federal Territories) Act 1997 s 138(7); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 138(7); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 142(7); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 138(7).
 - 8 Syariah Criminal Procedure (Federal Territories) Act 1997 s 138(8); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 138(8); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 142(8); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 138(8).
 - 9 Syariah Criminal Procedure (Federal Territories) Act 1997 s 138(9); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 138(9); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 142(9); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 138(9).
 - 10 Syariah Criminal Procedure (Federal Territories) Act 1997 s 140; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 140; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 144; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 140.
 - 11 As to the appointment of the Chief Syariah Prosecutor see [400.047].
 - 12 Syariah Criminal Procedure (Federal Territories) Act 1997 s 139; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 139; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 143; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 139.
 - 13 Syariah Criminal Procedure (Federal Territories) Act 1997 s 142(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 142(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 146(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 142(1).
 - 14 Syariah Criminal Procedure (Federal Territories) Act 1997 s 142(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 142(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 146(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 142(2).
- The hearing of the appeal may be accelerated or postponed: see the Syariah Criminal Procedure (Federal Territories) Act 1997 s 142(3); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 142(3); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 146(3); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 142(3).
- 15 Syariah Criminal Procedure (Federal Territories) Act 1997 s 182; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 182; Syariah Criminal Procedure

(Negeri Sembilan) Enactment 2003 s 186; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 182.

As to Syariah Prosecutors see [400.049].

- 16 Syariah Criminal Procedure (Federal Territories) Act 1997 s 143(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 143(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 147(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 143(1).
- 17 Syariah Criminal Procedure (Federal Territories) Act 1997 s 143(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 143(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 147(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 143(2).
- 18 Syariah Criminal Procedure (Federal Territories) Act 1997 s 143(2) proviso; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 143(2) proviso; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 147(2) proviso; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 143(2) proviso.
As to the meaning of 'bail' see [400.506] note 2.
- 19 See the Syariah Criminal Procedure (Federal Territories) Act 1997 s 144; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 144; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 148; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 144.
- 20 Syariah Criminal Procedure (Federal Territories) Act 1997 s 147(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 147(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 151(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 147(1).
When the additional evidence is taken by the Syariah subordinate court, it must certify the evidence to the Syariah High Court which will, as soon as may be, proceed to dispose of the appeal: Syariah Criminal Procedure (Federal Territories) Act 1997 s 147(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 147(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 151(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 147(2).
- 21 Syariah Criminal Procedure (Federal Territories) Act 1997 s 147(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 147(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 151(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 147(3).
- 22 Syariah Criminal Procedure (Federal Territories) Act 1997 s 146(a); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 146(a); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 150(a); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 146(a).
- 23 As to discharge see [400.528].
- 24 Syariah Criminal Procedure (Federal Territories) Act 1997 s 146(b)(i); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 146(b)(i); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 150(b)(i); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 146(b)(i).
- 25 Syariah Criminal Procedure (Federal Territories) Act 1997 s 146(b)(ii); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 146(b)(ii); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 150(b)(ii); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 146(b)(ii).