

CNS8315

R GE 18-01 00290 E312

REPEAT aae tbe

Parliament - Bill

PROPOSED AMENDMENTS INVOLVE FIVE NEW PROVISIONS

bm

KUALA LUMPUR, Jan 18⁹³ (Bernama) ⁹³ - The Constitution Amendment Bill, tabled by Prime Minister Datuk Seri Dr Mahathir Mohamad on the first day of the special sitting of the Dewan Rakyat today seeks to insert five additional provisions and to amend two existing provisions, mainly to remove the legal immunity enjoyed by the Rulers in their personal capacity.

The provisions to be amended are Articles 32 and 181 (2) while the additional provisions to be inserted in the Constitution are Articles 38 (2) (d) 42 (12), 63 (5) 72 (5) and 181 (3).

The Bill seeks to amend the relevant provisions in the Constitution to withdraw the immunity of the Yang di-Pertuan Agong and other Rulers from any legal proceedings in their personal capacity and other consequential amendments.

In general, all the amendments and additional provisions are aimed at:

- + Limiting the immunity of the Rulers from the legal aspect.
- + Transfer of the powers of pardon from the Rulers to the Conference of Rulers and from the Yang Dipertuas Negeri to the Chief Ministers and
- + Enabling Members of Parliament and State Assemblies to discuss matters pertaining to Rulers without advocating the abolishing of the Constitutional Monarchy.

Article 32, concerning the Supreme Head of the Federation and his consort contains Clauses (1) to (4).

Article 32 (1) reads "There shall be a Supreme Head of State of the Federation to be called the Yang di-Pertuan Agong who shall take precedence over all persons in the Federation and shall not be liable to any proceedings whatsoever in any court. -- more ..

• 10 / 01 / 93 - 10 MEM

U GE 18-01 00207 ED924

aae tbe

Parliament - Bill 2 Kuala Lumpur

Article 32 (1) is to be amended by inserting, after the word "court" the words "in respect only of anything done or omitted to be done by him in exercise or purported exercise of his functions under any written law."

The amendment to clause (1) grants the Yang di-Pertuan Agong immunity from any court proceedings but only in respect of anything done or omitted to be done by him in the exercise or purported exercise of his functions under any written law.

With this amendment, the Yang di-Pertuan Agong can be taken to court for committing a criminal offence and in connection with a civil case in his personal capacity.

Article 181 is regarding +Saving for Rulers' Sovereignty+ and has clauses (1) and (2).

Clause (2) reads " No proceedings whatsoever shall be brought against the Ruler of a state in his personal capacity.+

It is to be amended by substituting for the words "in his personal capacity+ the words +in respect only of anything done or omitted to be done by him in the exercise or purported exercise of his functions under any written law." -- more

▼18/01/20-05MST

R GE 18-01 00150 E316

REPEAT aae tbe

Parliament - Bill 3 Kuala Lumpur

This is to withdraw the immunity enjoyed by a Ruler from legal proceedings in any court in his personal capacity.

This means that a Ruler is only immune from legal proceedings in respect of anything done or omitted to be done by him under any written law (official capacity).

The amendment to Article 181 (2) provides for court action to be taken against a Ruler who commits a criminal offence and in connection with a civil case in his personal capacity.

The new provision in Article 181 is clause (3) which stipulates that "any law which provides for the immunity of the Ruler of a state in his personal capacity from any proceedings whatsoever in any court or attaches sanctity to his residence, shall to that extent be void." -- more

▼18/01/20-53MST

Parliament - Bill 4 Kuala Lumpur

This clause is to render void any law which provides legal immunity to a Ruler in his personal capacity or which attaches sanctity to his residence.

The amendments will have no retrospective effect.

The Bill has a provision which reads: "For the avoidance of any doubt it is hereby declared that no proceedings whatsoever shall be brought in any court against the Ruler of a state in his personal capacity in respect of anything done or omitted to be done by him before the coming into force of this Act."

Article 38 touches on the Conference of Rulers, with Clause (2) sub-sections (a), (b) and (c) outlining its functions.

The new sub-section (d) of this clause will extend the functions of the Conference to "granting pardons, reprieves and respites or of remitting suspending or commuting sentences, under clause (12) of Article 42. -- more

18/01/20-25MST

CNS8322

U GE 18-01 00337 ED928

aac tbe

REPEAT

Parliament - Bill 5 Kuala Lumpur

Article 42 has 11 clauses concerning the powers of the Yang di-Pertuan Agong and the Rulers to pardon, the type of pardons and constitution of the Pardons Board.

By adding clause (12) to this Article, the structure and procedure of the Pardons Board will change whereby the Rulers cannot pardon themselves, their sons and daughters, royalty and those close to them and this applies to the Yang Dipertuas Negeri.

Clause (12) states: +Notwithstanding anything contained in this Constitution, where the powers mentioned in this Article --

(a) are exercisable by the Yang di-Pertua Negeri of a state and are to be exercised in respect of himself or his wife son or daughter, such powers shall be exercised by the Chief Minister of the state acting on the advice of the Pardons Board constituted for that state under this Article and which shall be presided over him.

(b) are to be exercised by the Yang di-Pertuan Agong, the Ruler of a state, or his consort, as the case may be, such powers shall be exercised by the Conference of Rulers and the following provisions shall apply:

(i) when attending any proceedings under this clause, the Yang di-Pertuan Agong shall not be accompanied by the Prime Minister and the other Rulers shall not be accompanied by their Menteri Besar.

(ii) before arriving at its decision on any matter under this clause, the Conference of Rulers shall consider any written opinion which the Attorney-General may have delivered thereon.

(c) are to be exercised by the Yang di-Pertuan Agong or the Ruler of a state in respect of his son or daughter, as the case may be, such powers shall be exercised by the Ruler of a state nominated by the Conference of the Rulers who shall act in accordance with the advice of the relevant Pardons Board constituted under this Article. -- more

CNS8332

U GE 18-01 00268 ED929

aae tbe

Parliament - Bill 6 (last) Kuala Lumpur

The Bill states that for the purpose of (b) and (c) of clause (12), the Yang di-Pertuan Agong or the Ruler of the State concerned as the case may, and the Yang di-Pertuas Negeri shall not be members of the Conference of Rulers.

Article 63 concerns the "Privileges of Parliament" and it has four clauses.

This insertion of clause (5) would enable MPs and senators to debate issues concerning the Rulers freely and openly in the Dewan Rakyat and Dewan Negara but they are prohibited from making statements that can be construed as aimed at advocating the abolishing of the Institution of Rulers.

Clause (5) reads: "Notwithstanding clause (4), no person shall be liable to any proceedings in any court in respect of anything said by him of the Yang di-Pertuan Agong or a Ruler when taking part in any proceedings of either House of Parliament or committee thereof except where he advocates the abolition of the constitutional position of the Yang di-Pertuan Agong as the Supreme Head of the Federation or the constitutional position of the Ruler of a state, as the case be may be.

Article 72 is on the "Privileges of the Legislative Assembly" in relation to the sedition and has four clauses.

With the addition of clause 5 to this Article, state assemblymen are free to debate in the House matters concerning the Rulers but they must not make statements that can be considered as calling for the abolition of the monarchy.

-- Bernama

18/01/21-02MST

11