

Constitution-amendment
SPECIAL COURT PROPOSED TO TRY ERRANT RULERS

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KUALA LUMPUR, Jan 18, (Bernama) -- The establishment of a Special Court to try the Malay Rulers for criminal and civil offences committed in their personal capacity is proposed under amendments to the Federal Constitution (Amendment) Bill 1993.

The amendments would be tabled at the committee stage in the Dewan Rakyat by the government tomorrow, Prime Minister Datuk Seri Dr Mahathir Mohamad told reporters at Parliament House here today.

Asked why the amendments were not tabled with the Bill today, he said this was only procedural because the original Bill had to be tabled before any proposed amendment could be made.

The Bill seeks to restrict the immunity from prosecution enjoyed by the Rulers, transfer the power of pardon vested in them in certain cases and enable MPs and state assemblymen to debate issues pertaining to the Rulers in the House so long as they do not call for the abolition of the constitutional monarchy in the country.

The establishment of the Special Court, its membership structure, jurisdiction, exclusive powers and proceedings and the status of its decisions are proposed under Article 181(5) to 181(11) of the Bill.

Article 181(5) states that any proceedings against the Yang di-Pertuan Agong or Ruler of a state in his personal capacity shall be brought in a Special Court established under clause 6. -- more

18/01/20-28MST

CNS8328

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Article 181(6) states that the Special Court shall consist of the Lord President, who shall be chairman, the Chief Justices of the High Courts and two other persons who hold or have held office as judge of the Supreme Court or a High Court appointed by the Conference of Rulers.

Article 181(7) stipulates that the Special Court shall have the same jurisdiction and powers as the inferior courts, the High Court and Supreme Court and have its registry in Kuala Lumpur.

Article 181(8) states that the Special Court shall have exclusive jurisdiction to try all criminal and civil offences committed by or brought against the Yang di-Pertuan Agong or Ruler of a state notwithstanding where the cause of action arose.

Article 181(9) states that the practice and procedure, including hearing in camera and the law regulating evidence and proof in civil and criminal proceedings, applicable in any proceedings in any inferior court, High Court and Supreme Court shall apply in proceedings of the Special Court.

Article 181(10) states that the decision of the Special Court shall be made in accordance with the majority of the members and the decision shall be final and conclusive and shall not be challenged or called in question in any court on any ground. -- more

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R GE 18-01 00197 EA725

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The provisions in Article 181(5) to 181(11) are strengthened by Article 181(4) which states that no court shall have jurisdiction to entertain or determine any action, civil or criminal, against the Yang di-Pertuan Agong or the Ruler of a state in respect of anything done or omitted to be done by him in his personal capacity.

The original Bill seeks to enable the Yang di-Pertuan Agong and the Ruler of a state to be brought before any court in the country for criminal and civil offences.

The amendments also seek to amend Article 42(12)(a) and (8) of the Bill and insert another provision in Article 181.

Article 42(12)(a) of the Bill states that the power of pardon vested in the Yang Dipertua Negeri, in respect of himself, his wife and children, shall be conferred on the Chief Minister who shall act on the advice of the state Pardons Board which he chairs.

With the amendments, such power is conferred on the Yang di-Pertuan Agong, who shall act on the advice of the Pardons Board appointed for the state. -- more

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Clause (8) of the Bill, which states that the Rulers cannot be brought before any court before the Bill is enforced, is slightly amended to include the words "Yang di-Pertuan Agong or" before the word "Rulers".

The additional Clause (11) to Article 181 says that the Yang di-Pertuan Agong may, on the advice of the Lord President, make such rules as he may deem necessary or expedient to provide for the removal of any difficulty or anomaly in any written law or in the carrying out of any function, the exercise of any power, the discharge of any duty, or the doing of any act, under any written law, that may be occasioned by this Article.

For that purpose, such rules may make any modification, adaptation, alteration, change or amendment whatsoever to any written law. -- Bernama

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