

Cops may have broken law in rejecting Bersih venue notice
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By Clara Chooi

KUALA LUMPUR, April 26 — The police may have violated provisions in the Peaceful Assembly Act 2011, which just came into force on Monday, by rejecting outright Bersih's notification for this Saturday's sit-in at the historic Dataran Merdeka in the capital city.

Putrajaya has approved the sit-in but both Kuala Lumpur City Hall (DBKL) and the police have rejected the April 28 rally, saying it posed a safety threat. The authorities have proposed Stadium Merdeka or other nearby stadiums but the electoral reform movement is insisting on Dataran Merdeka.

File photo of barriers at Dataran Merdeka put up by City Hall after it evicted Occupy Dataran activists from the place on April 24, 2012. — Picture by Choo Choy May

According to section 14 of the Act, the police must respond to Bersih's notification within five days of receipt and following this, the assembly "shall" proceed. The new law does not expressly allow the police to reject the notification but says they can impose conditions and restrictions on the rally organisers, including on matters pertaining to the rally venue, time, date and others.

The police can only use its powers to arrest or disperse the rally if its organisers or participants violate these specific conditions, the Act says.

When this was pointed out to Datuk Ambiga Sreenivasan, the Bersih co-chair agreed that the police may have violated the law when it rejected the entire event outright on Monday, the day the Act had come into force.

"Yes, I agree... I do not think they have been specifically following the Act so they may have gone against the law. However, they could still use other provisions to catch us," she told The Malaysian Insider when contacted yesterday.

The former Bar Council chairman also expressed suspicion in the sudden speed with which the just-passed law had come into force, just five days before Bersih's planned assembly this Saturday.

"To be fair, it should have come into force much earlier. Why all of a sudden it was rushed?" she asked.

Deputy Minister in the Prime Minister's Department Datuk V.K. Liew confirmed with The Malaysian Insider yesterday that the Act, often referred to as PAA2011, officially come into force on Monday.

Screenshot of section 11 of the Act. — Picture courtesy of Lawnet

It was passed by both Houses of Parliament last December, granted royal assent on January 30 and gazetted into law on February 9.

But, said Liew, the “designated places of assembly” under the Act have yet to be specified by the ministry and gazetted.

This, he said, means that although Dataran Merdeka is not yet considered as a venue that is not a gazetted “designated place of assembly”, any party intending to organise a gathering at the location must apply for permission from the City Hall.

“It is under DBKL’s purview and jurisdiction. As the owner, DBKL will have to decide. It is just like — it is my house, I will decide if you can use my compound.

“We have to be reasonable and respect the decision of the owner.

“It is therefore the right of the owner to allow or refuse anyone from using the property,” he told The Malaysian Insider in a text message.

According to the PAA2011, police permits are no longer necessary to hold an assembly but organisers must submit a notification to the district police at least 10 days before the event is held.

The police must then inform the owner of the assembly venue within 24 hours and the latter must record its objections or concerns to the police within 48 hours of receipt.

These objections or concerns, the Act says, must be taken into consideration when the police, under section 15, list their conditions down to the rally organisers for the said event.

But should the list of police conditions be violated, section 15 outlines a maximum RM10,000 fine as punishment, while sections 20 and 21 allows the police to, without warrant, arrest any organiser or participant, and issue any order to disperse the event.

Section 11 of the Act also states that the rally organiser “shall obtain the consent of the owner or occupier of the place of assembly for it to be used for the purpose of the assembly”.

The Act does not, however, outline any punitive action should section 11 be violated.

DBKL has prohibited Bersih from using Dataran Merdeka this Saturday. KL Mayor Tan Sri Ahmad Fuad Ismail threatened yesterday to “forcefully bar” Bersih 3.0 participants from the venue should they insist on using it for the rally.

“If there is chaos, blame Bersih,” he said.

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