

D.R. 14/2007

RANG UNDANG-UNDANG

b e r n a m a

Suatu Akta untuk meminda Akta Kanun Tatacara Jenayah (Pindaan) 2006.

DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Kanun Tatacara Jenayah (Pindaan) (Pindaan) 2007.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri di bawah subseksyen 1(2) Akta Kanun Tatacara Jenayah (Pindaan) 2006 [*Akta A1274*].

Pindaan seksyen 2

2. Akta Kanun Tatacara Jenayah (Pindaan) 2006, yang disebut "Akta ibu" dalam Akta ini, dipinda dalam perenggan 2(*b*), dalam teks bahasa Inggeris, dalam takrif, dengan menggantikan perkataan "youth offender" dengan perkataan "youthful offender".

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Pindaan seksyen 4

3. Akta ibu dipinda dengan menggantikan seksyen 4 dengan seksyen yang berikut:

"4. Paragraph 13(1)(a) of the Code is amended by inserting after the words "369," the words "372, 372A, 372B, 376, 376B, 377C, 377CA, 377E,".

Pindaan seksyen 5

4. Akta ibu dipinda dengan menggantikan seksyen 5 dengan seksyen yang berikut:

"5. The Code is amended by inserting after section 20 the following section:

"Procedure on search of a person

20A. (1) Any search of a person shall comply with the procedure on body search as specified in the Fourth Schedule of this Code.

(2) Notwithstanding any written law, the provisions of the Fourth Schedule shall apply to any search of a person conducted by any officer of any enforcement agency conferred with the power of arrest or search of a person under any law.

(3) The Minister charged with the responsibility for internal security and public order may amend the Fourth Schedule by order published in the *Gazette*." "

Pindaan seksyen 7

5. Akta ibu dipinda dengan menggantikan seksyen 7 dengan seksyen yang berikut:

"7. The Code is amended by inserting after section 28 the following section:

"Rights of person arrested

28A. (1) A person arrested without a warrant shall be informed as soon as may be of the grounds of his arrest by the police officer making the arrest.

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(2) A police officer shall, before commencing any form of questioning or recording of any statement from the person arrested, inform the person that he may —

- (a) communicate or attempt to communicate, with a relative or friend to inform of his whereabouts; and
- (b) communicate or attempt to communicate and consult with a legal practitioner of his choice.

(3) Where the person arrested wishes to communicate or attempt to communicate with the persons referred to in paragraphs (2) (a) and (b), the police officer shall, as soon as may be, allow the arrested person to do so.

(4) Where the person arrested has requested for a legal practitioner to be consulted, the police officer shall allow a reasonable time —

- (a) for the legal practitioner to be present to meet the person arrested at his place of detention; and
- (b) for the consultation to take place.

(5) The consultation under subsection (4) shall be within the sight of a police officer and in circumstances, in so far as practicable, where their communication will not be overheard.

(6) The police officer shall defer any questioning or recording of any statement from the person arrested for a reasonable time until the communication or attempted communication under paragraph 2(b) or the consultation under subsection (4) has been made.

(7) The police officer shall provide reasonable facilities for the communication and consultation under this section and all such facilities provided shall be free of charge.

(8) The requirements under subsections (2), (3), (4), (5), (6) and (7) shall not apply where the police officer reasonably believes that—

- (a) compliance with any of the requirements is likely to result in-
 - (i) an accomplice of the person arrested taking steps to avoid apprehension; or

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(ii) the concealment, fabrication or destruction of evidence or the intimidation of a witness; or

(b) having regard to the safety of other persons the questioning or recording of any statement is so urgent that it should not be delayed.

(9) Subsection (8) shall only apply upon authorization by a police officer not below the rank of Deputy Superintendent of Police.

(10) The police officer giving the authorization under subsection (9) shall record the grounds of belief of the police officer that the conditions specified under subsection (8) will arise and such record shall be made as soon as practicable.

(11) The investigating officer shall comply with the requirements under subsections (2), (3), (4), (5), (6) and (7) as soon as possible after the conditions specified under subsection (8) have ceased to apply where the person arrested is still under detention under this section or under section 117." "

Pindaan seksyen 10

6. Akta ini dipinda dengan menggantikan seksyen 10 dengan seksyen yang berikut:

"10. Section 107 of the Code is amended by inserting after subsection (2) the following subsections:

"(3) (a) Notwithstanding subsection (1), information given by a person relating to the commission of an offence to a police officer, who at the time of receiving the information is not in a police station, shall be deemed to be received at a police station.

(b) A police officer receiving such information under paragraph (a) where practicable shall record or cause to be recorded the name and address of the informant, the date and time of the receipt of such information, and shall convey such information to an officer in charge of a police station or any police officer whose duty is to receive such information.

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(c) Such information shall be reduced to writing and entered in a book in accordance with subsections (1) and (2) and shall subsequently be signed by the person who gave the information.

(4) A police officer shall be duty bound to receive any information in relation to any offence committed anywhere in Malaysia." "

Pindaan seksyen 14

7. Akta ibu dipinda dengan menggantikan seksyen 14 dengan seksyen yang berikut:

"14. The Code is amended by substituting for section 113 the following section:

"Admission of statements in evidence

113. (1) Except as provided in this section, no statement made by any person to a police officer in the course of a police investigation made under this Chapter shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to a police officer in the course of a police investigation under this Chapter and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of a police investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

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(5) When any person is charged with any offence in relation to-

- (a) the making; or
- (b) the contents,

of any statement made by him to a police officer in the course of a police investigation made under this Chapter, that statement may be used as evidence in the prosecution's case." "

Pindaan seksyen 27

8. Seksyen 27 Akta ibu dipinda dalam perenggan (a) dengan menggantikan subperenggan (iii) dengan subperenggan yang berikut:

"(iii) by inserting after paragraph (d) the following paragraph:

" (e) (i) to make an order requiring the offender to perform community service, not exceeding 240 hours in aggregate, of such nature and at such time and place and subject to such conditions as may be specified by the Court;

(ii) in this paragraph, "community service" means any work, service or course of instruction for the betterment of the public at large and includes, any work performed which involves payment to the prison or local authority; and

(iii) the community service under this paragraph shall be under the Minister charged with the responsibility for women, family and community.";

Pindaan seksyen 33

9. Seksyen 33 Akta ibu dipinda dengan menggantikan perenggan (e) dengan perenggan yang berikut:

"(e) in the item relating to section 225B of the Penal Code, in column 7, by substituting for the words "Fine of four

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hundred ringgit" the words "Imprisonment for twelve months, or fine of two thousand ringgit, or both"; "

Pindaan seksyen 34

10. Akta ibu dipinda dalam seksyen 34—
 - (a) dalam nota bahu, dengan menggantikan perkataan "Third" dengan perkataan "Fourth";
 - (b) dengan menggantikan perkataan "Second Schedule the following schedule" dengan perkataan "Third Schedule the following Schedule"; dan
 - (c) dengan menggantikan tajuk "THIRD " dengan tajuk "FOURTH".

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Akta Kanun Tatacara Jenayah (Pindaan) 2006 (Akta A)274).

2. *Fasal 1* Rang Undang-Undang mengandungi tajuk ringkas dan peruntukan tentang permulaan kuat kuasa Akta yang dicadangkan. Akta ini dicadangkan mula berkuat kuasa secara serentak dengan Akta A1274.
3. *Fasal 2* bertujuan untuk meminda perenggan 2(b) teks bahasa Inggeris Akta A1274 untuk menggantikan takrif "youth offender" dengan "youthful offender".
4. *Fasal 3* bertujuan untuk meminda seksyen 4 Akta A1274 untuk membetulkan seksyen yang dirujuk dalam pindaan itu.
5. *Fasal 4* bertujuan untuk meminda seksyen 5 Akta A1274. Pindaan ini bertujuan untuk menggantikan perkataan "Third Schedule" dengan perkataan "Fourth Schedule" memandangkan pemotongan Jadual Ketiga dalam Kanun Tatacara Jenayah [Akta 593] oleh Akta Kanun Tatacara Jenayah (Pindaan) 2002 [Akta A1132] belum mula berkuat kuasa.
6. *Fasal 5* bertujuan untuk meminda seksyen 7 Akta A1274 dengan menomborkan semula seksyen 28A kepada subseksyen bagi kemudahan rujukan dan juga untuk membetulkan penggunaan tanda baca.
7. *Fasal 6* bertujuan untuk menggantikan seksyen 10 Akta A1274 untuk membetulkan penggunaan tanda baca noktah bagi seluruh subseksyen 107(3) Akta 593.

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8. *Fasal 7* bertujuan untuk meminda seksyen 14 Akta A1274 untuk memasukkan perenggan 32(i) dan (j) Akta Keterangan 1950 [*Akta 56*] ke dalam subseksyen 113(4) Akta 593 memandangkan perenggan itu dengan tidak sengaja tidak dimasukkan.

9. *Fasal 8* bertujuan untuk meminda seksyen 27 Akta A1274 untuk memperkemas pengertian "community service" dalam subseksyen 293(1) Akta 593.

10. *Fasal 9* bertujuan untuk meminda perenggan 33(e) Akta A1274 untuk memasukkan perkataan "Fine of yang telah tertinggal dalam butiran yang berhubung dengan seksyen 225B dalam Jadual Pertama Akta 593 semasa penggantian denda dengan penalti baru.

11. *Fasal 10* bertujuan untuk meminda seksyen 34 Akta A1274 untuk menggantikan "Third Schedule" dengan "Fourth Schedule" sebagai pindaan berbangkit kepada *fasal 4*.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan.

[PN(U²)2586]