D.R. 28/2008

RANG UNDANG-UNDANG

b e r n a m a

Suatu Akta untuk meminda Kanun Tatacara Jenayah.

[ ]

DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas

1. Akta ini bolehlah dinamakan Akta Kanun Tatacara Jenayah (Pindaan) 2008.

Bab baru XXVA

2. Kanun Tatacara Jenayah [*Akta 593*] dipinda dengan memasukkan selepas Bab XXV Bab yang berikut:

"CHAPTER XXVA

RECORDING OF PROCEEDINGS BY MECHANICAL MEANS

Application of this Chapter

272C. Notwithstanding the provisions contained in Chapter XXV or any other provisions of this Code, or the provisions of any other written law, dealing with the mode of taking and recording of evidence, any mechanical means may be employed

for the recording of any proceedings before the Special Court, the Federal Court, the Court of Appeal, the High Court, the Sessions Court, the Magistrate Court and the Court for Children and where mechanical means are employed the provisions of this Chapter shall apply.

Interpretation for the purposes of this Chapter

272D. (1) In this Chapter—

(a) "electronic record" means any digitally, electronically, magnetically or mechanically produced records stored in any equipment, device, apparatus or medium or any other form of storage such as disc, tape, film, sound track, and includes a replication of such recording to a separate storage equipment, device, apparatus or medium or any other form of storage;

(b) "mechanical means" includes any equipment, device, apparatus or medium operated digitally, electronically, magnetically or mechanically; and

(c) "proceedings" includes any trial, inquiry, appeal or revision, or any part of it, any application, judgment, decision, ruling, direction, address, submission and any other matter done or said by or before a Court, including matters relating to procedure.

(2) A reference to a Judge in this Chapter shall be a reference to a Judge of the Special Court, the Federal Court, the Court of Appeal, the High Court or the Sessions Court, as the case may be.

Proceedings may be recorded by mechanical means or combination of mechanical means and other modes

272E. (1) A Judge or Magistrate shall have the discretion to direct that any proceedings before any Court be recorded, in whole or in part, by any mechanical means or a combination of any mechanical means.

(2) Where any Judge or Magistrate directs that any proceedings be recorded by any mechanical means, the Judge or Magistrate shall satisfy himself as to the efficiency and functional capability

of such mechanical means and that the mechanical means used for recording is in good working order for the purpose of ensuring that the electronic record of such proceedings is clear and accurate.

(3) Notwithstanding that any proceedings are being recorded by any mechanical means, a Judge or Magistrate may—

(a) employ any other mode of taking and recording of evidence; and

(b) at any time, direct that such recording be discontinued and that the recording of such proceedings be continued by any other mechanical means or any other mode of taking and recording of evidence.

(4) Where a Judge or Magistrate makes a ruling that any evidence adduced is inadmissible or irrelevant and shall not form part of the record of proceedings, he may direct that the electronic record of such evidence be erased or otherwise omitted from the record of proceedings.

Electronic record to be transcribed

272F. (1) Where any proceedings before any Judge or Magistrate are recorded by any mechanical means, the Judge or Magistrate shall cause the electronic record of such proceedings to be transcribed by any person authorized in writing by the Judge or Magistrate.

(2) Where any person authorized to transcribe under subsection (1) is not a public servant, such person shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*] while discharging his duties as such transcriber.

(3) Upon the production of the transcript by any person authorized under subsection (1), the Judge or Magistrate shall ascertain the accuracy and reliability of such transcript and where the Judge or Magistrate makes a ruling that any evidence recorded is inadmissible or irrelevant and shall not form part of the record of proceedings, he may direct that the electronic record of such evidence be excluded from the record of proceedings.

(4) The transcript shall be authenticated by the signature of the Judge or Magistrate.

Safe custody of electronic record and transcript

272G. (1) The Judge or Magistrate shall cause any electronic record of any proceedings before the Judge or Magistrate and the authenticated copy of the transcript of such electronic record to be kept in safe custody.

(2) The electronic record shall not be erased, destroyed or otherwise disposed of—

(a) within the time allowed by law for instituting any appeal or revision in relation to the proceedings in question; or

(b) where an appeal or revision in relation to the proceedings in question is instituted, until that appeal or revision is finally determined or otherwise terminated.

(3) Upon compliance with subsection (2), the provisions of the National Archives Act 2003 [*Act 629*] shall apply for the destruction and disposal of the electronic record and transcript.

Transcript of statement, evidence or deposition of person or witness

272H. (1) Where it is required by law that any statement, evidence or deposition of any person or witness is to be read over to and signed by such person or witness, or that any statement, evidence or deposition is to be reduced to or taken down in writing and signed, or there is any other procedure to the like effect, it shall be sufficient for all purposes if such statement, evidence or deposition is recorded and transcribed in accordance with this Chapter.

(2) Notwithstanding that any statement, evidence or deposition has been recorded and transcribed under subsection (1), the transcript of such statement, evidence or deposition may be read over to and signed by the person or witness making such statement, evidence or deposition in accordance with section 269.

Transcript to form part of record or notes of proceedings or evidence

272I. A reference in any law to the record or notes of proceedings or evidence shall include a reference to the authenticated copy of any transcript of any electronic record and such transcript shall form part of the record or notes of proceedings or evidence.

Electronic filing, lodgement, submission and transmission of document

272J. Where any document relating to any proceedings is required to be filed, lodged with, submitted or transmitted to the Court, such filing, lodgement, submission or transmission may be done electronically as may be determined by the Court.

Issuance of Practice Direction

272K. The Chief Justice may, where necessary, issue Practice Direction relating to the use of mechanical means and any matter related to it.".

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Kanun Tatacara Jenayah [*Akta 593*] untuk memasukkan Bab baru XXVA.

2. Bab baru XXVA bertujuan untuk membolehkan Mahkamah untuk merekodkan prosiding dengan menggunakan apa-apa kelengkapan, peranti, alat atau perantaraan yang dikendalikan secara digital, elektronik, magnetik atau mekanikal selain melalui nota tulisan dengan tangan sebagaimana yang diperuntukkan dalam Bab XXV.

3. Bab baru XXVA mengandungi sembilan seksyen baru daripada seksyen 272C hingga seksyen 272K. Bab baru XXVA antara lain bertujuan untuk memperuntukkan bahawa rekod elektronik apa-apa prosiding hendaklah ditranskripsikan dan salinan sah transkrip hendaklah menjadi sebahagian daripada rekod atau nota prosiding atau keterangan.

4. Seksyen baru 272J bertujuan untuk membenarkan pemfailan, penyerah-simpanan, pengemukaan dan penghantaran dokumen secara elektronik berhubung dengan mana-mana prosiding di hadapan mana-mana Mahkamah.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini akan melibatkan Kerajaan dalam perbelanjaan wang tambahan yang amaunnya belum dapat ditentukan sekarang ini.

[PN(U^2)2631]