

UNDANG-UNDANG MALAYSIA

Akta A328

AKTA MAHKAMAH KEHAKIMAN (PINDAAN), 1976

Tarikh Persetujuan Diraja ... 22hb Januari, 1976

Tarikh diterbitkan dalam *Warta* ... 22hb Januari, 1976

UNDANG-UNDANG MALAYSIA

Akta A328

AKTA MAHKAMAH KEHAKIMAN (PINDAAN), 1976

Suatu Akta bagi meminda Akta Mahkamah Kehakiman, 1964 dan undang-undang bertulis lain mengenai perkara-perkara yang bersampingan dengannya.

[]

MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut:

1. (1) Akta ini bolehlah dinamakan Akta Mahkamah Kehakiman (Pindaan), 1976.

Tajuk
ringkas
dan mula
berkuat-
kuasa.

(2) Tertakluk kepada seksyen-kecil (3), Akta ini hendaklah mula berkuatkuasa pada tarikh yang berikutan selepas tarikh penyarannya.

(3) Seksyen 13 Akta ini hendaklah mula berkuatkuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahu dalam *Warta*.

2. Seksyen 3 Akta Mahkamah Kehakiman, 1964 (kemudian daripada ini disebut Akta ibu) adalah dipinda—

Pindaan
bagi
seksyen 3.
Akta 91.

(a) dengan memasukkan perkataan-perkataan “and the air space above those States and the territorial waters” selepas sahaja perkataan-perkataan “territorial waters” di hujung takrif “local jurisdiction”; dan

(b) dengan memasukkan yang berikut selepas sahaja takrif “matter”—

“‘permanent resident’ means a person who has permission granted without limit of time under any federal law to reside in Malaysia, and includes a person treated as such under any written law relating to immigration;”

Pindaan bagi seksyen 22.

3. Seksyen 22 Akta ibu adalah dipinda dengan menggantikan seksyen-kecil (1) dengan yang berikut—

“(1) The High Court shall have jurisdiction to try—

(a) all offences committed—

- (i) within its local jurisdiction;
- (ii) on the high seas on board any ship or on any aircraft registered in Malaysia;
- (iii) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft;
- (iv) by any person on the high seas where the offence is piracy by the law of nations; and

F.M.S.
Cap. 45.

(b) offences under Chapter VI of the Penal Code, and under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976, or offences under any other written law the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,—

- (i) on the high seas on board any ship or on any aircraft registered in Malaysia;
- (ii) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or
- (iii) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia.”.

Pindaan bagi undang-undang bertulis lain.

4. Pindaan-pindaan dalam Jadual bersama ini hendaklah mempunyai kuatkuasa.

Pindaan bagi seksyen 50.

5. Seksyen 50 Akta ibu adalah dipinda—

(a) dengan menggantikan seksyen-kecil (1) dengan yang berikut—

“(1) The Federal Court shall have jurisdiction to hear and determine any appeal against any decision made by the High Court in the exercise of—

(a) its original criminal jurisdiction; or

(b) its appellate criminal jurisdiction in respect of an appeal from a decision of a president of a Sessions Court who is conferred with special jurisdiction under subsection (3) of Act 92. section 63 of the Subordinate Courts Act, 1948,

subject to this or any other written law regulating the terms and conditions upon which criminal appeals may be brought.”;

(b) dengan memasukkan suatu seksyen-kecil baru (2A) yang berikut selepas sahaja seksyen-kecil (2)—

“(2A) An appeal by the Public Prosecutor shall be either against acquittal or sentence provided notice of such appeal is given by, or with the consent in writing of, that officer only.”; dan

(c) dengan memotong huruf “s” di hujung perkataan “sections” dan angka “64,” di baris tiga seksyen-kecil (4).

6. Seksyen 52 Akta ibu adalah dipinda—

Pindaan
bagi
seksyen 52.

(a) dengan menggantikan perkataan-perkataan “appellant was convicted” di baris dua seksyen-kecil (1) dengan perkataan-perkataan “decision was given”; dan

(b) dengan menggantikan noktah di hujung seksyen-kecil (2) dengan noktah bertitik dan memasukkan suatu proviso seperti berikut—

“Provided that in the case of an appeal by the Public Prosecutor a copy of such record shall be furnished to him without payment of any fee.”.

7. Seksyen 55 Akta ibu adalah dipinda dengan menggantikan perkataan-perkataan “Public Prosecutor” di baris dua seksyen-kecil (2) dengan perkataan-perkataan “respondent or his advocate”.

Pindaan
bagi
seksyen 55.

8. Akta ibu adalah dipinda dengan memasukkan suatu seksyen baru 56A yang berikut selepas sahaja seksyen 56—

Seksyen
baru 56A.

“On appeal against acquittal, accused may be arrested.

56A. Where an appeal is presented against an acquittal, the Federal Court may issue a warrant directing that the accused be arrested and brought before it and may remand him to prison pending the disposal of the appeal or admit him to bail.”.

Pindaan
bagi
seksyen 57.

9. Seksyen 57 Akta ibu adalah dipinda dengan memasukkan perkataan-perkataan "and section 56A" selepas sahaja perkataan-perkataan "in subsection (3)" di baris satu seksyen-kecil (1).

Pindaan
bagi
seksyen 59.

10. Seksyen 59 Akta ibu adalah dipinda dengan meng-
gantikannya dengan yang berikut—

"Notice
and time
of hearing.

59. Where the Federal Court does not reject an appeal summarily under section 58, or where the Public Prosecutor is the appellant, the Federal Court shall cause notice of the time and place for the hearing of the appeal to be given to the parties thereto."

Peman-
suan
seksyen 64.

11. Seksyen 64 Akta ibu adalah dimansuhkan.

Pindaan
bagi
seksyen 66.

12. Seksyen 66 Akta ibu adalah dipinda—

(a) dengan memasukkan suatu koma dan perkataan-perkataan "other than a decision of a President of a Sessions Court conferred with special jurisdiction under subsection (3) of section 63 of the Subordinate Courts Act, 1948," selepas sahaja perkataan-perkataan "criminal matter" di baris dua seksyen-kecil (1); dan

(b) dengan memasukkan suatu koma dan perkataan-perkataan "other than a Court of a President conferred with special jurisdiction under subsection (3) of section 63 of the Subordinate Courts Act, 1948," selepas sahaja perkataan-perkataan "a subordinate court" di baris akhir perenggan (b) seksyen-kecil (6).

Pindaan
bagi
seksyen 74.

13. (1) Seksyen-kecil (1) seksyen 74 Akta ibu adalah dipinda—

(a) dengan memasukkan perkataan "and" selepas noktah bertitik di hujung perenggan-kecil (iii) perenggan (a);

(b) dengan menggantikan noktah bertitik dan perkataan "and" di hujung perenggan (b) dengan noktah; dan

(c) dengan memotong perenggan (c).

(2) Seksyen-kecil (2) seksyen 74 Akta ibu adalah dipinda—

(a) dengan memasukkan perkataan "and" selepas noktah bertitik di hujung perenggan (a);

i.f. en

1978

(B) 489/77

(b) dengan menggantikan koma bertitik dan perkataan "and" di hujung perenggan (b) dengan koma; dan

(c) dengan memotong perenggan (c).

(3) Seksyen 74 Akta ibu adalah dipinda dengan memasukkan suatu seksyen-kecil baru (3) yang berikut selepas sahaja seksyen-kecil (2)—

"(3) Notwithstanding subsections (1) and (2), no appeal shall lie from the Federal Court to the Yang di-Pertuan Agong—

(a) from any decision as to the effect of any provision of the Constitution including the validity of any written law relating to such provision; and

(b) from any opinion pronounced on a reference under Article 130 of the Constitution.

(4) If any question arises whether a decision given or an opinion pronounced by the Federal Court falls under paragraph (a) or (b) of subsection (3), a certificate issued by that Court, as the case may be,

(a) on a request made to the Federal Court by either party in an appeal case heard by that Court stating that a decision given by that Court falls under paragraph (a) of subsection (3); or

(b) at the instance of the Federal Court to which an opinion is referred under Article 130 of the Constitution stating that an opinion previously pronounced by that Court falls under paragraph (b) of subsection (3),

shall be final and conclusive evidence of the fact stated therein and shall not be a subject of appeal to the Yang di-Pertuan Agong."

(4) Pindaan-pindaan yang terkandung dalam seksyen ini tidaklah dipakai bagi apa-apa rayuan atau permohonan untuk merayu yang masih menunggu keputusan pada tarikh berjalan kuatkuasanya seksyen ini.

JADUAL (Seksyen 4)

1. Akta Mahkamah Rendah, 1948 adalah dipinda—

(a) dengan memasukkan yang berikut selepas takrif "Penghulu" dalam seksyen 2—

"“permanent resident” has the meaning assigned by the Courts of Judicature Act, 1964;”

Act 91.

Pindaan bagi seksyen 2 dan 60.
Akta 92.

(b) dengan menomborkan semula seksyen 2 sebagai seksyen-kecil (1) seksyen 2;

(c) dengan memasukkan suatu seksyen-kecil (2) kepada seksyen 2 seperti berikut—

“(2) In the case of an offence under Chapter VI of the Penal Code, any offence under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976, or any offence under any other written law, the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,—

(a) on the high seas on board any ship or on any aircraft registered in Malaysia;

(b) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or

(c) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia,

any reference in this Act to the local limits of jurisdiction of any Magistrate's Court or Sessions Court shall be deemed to include a place where the accused is found.”; dan

(d) dengan menggantikan seksyen 60 dengan yang berikut—

“Qualifications
of Presidents
of Sessions
Courts.

60. No person shall be appointed to be a President of a Sessions Court unless he is a member of the Judicial and Legal Service of the Federation:

Provided that this section shall not prevent the appointment of a person to act temporarily as a President of a Sessions Court.”;

2. Ordinan Mahkamah Rendah bagi Sabah adalah dipinda—

(a) dengan memasukkan yang berikut selepas takrif “judgment” dalam seksyen 2—

““permanent resident” means a person who has permission granted without limit of time under any federal law to reside in Malaysia, and includes a person treated as such under any written law relating to immigration;”;

(b) dengan menomborkan semula seksyen 5 sebagai seksyen-kecil (1) seksyen 5; dan

(c) dengan memasukkan suatu seksyen-kecil baru (2) kepada seksyen 5 seperti berikut—

“(2) In the case of an offence under Chapter VI of the Penal Code, any offence under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976, or any offence under any other written law, the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,—

(a) on the high seas on board any ship or on any aircraft registered in Malaysia;

Pindaan bagi
seksyen 2
dan 5.
Sabah Bab 29.

(b) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or

(c) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia,

any reference in this Ordinance to the local limits of jurisdiction of a Court of a Magistrate shall be deemed to include a place where the accused is found.”.

3. Ordinan Mahkamah Rendah bagi Sarawak adalah dipinda—

(a) dengan memasukkan yang berikut selepas takrif “judgment” dalam seksyen 2—

Pindaan bagi
seksyen 2
dan 5.
Sarawak
Bab 42.

““permanent resident” means a person who has permission granted without limit of time under any federal law to reside in Malaysia, and includes a person treated as such under any written law relating to immigration;”;

(b) dengan menomborkan semula seksyen 5 sebagai seksyen-kecil (1) seksyen 5; dan

(c) dengan memasukkan suatu seksyen-kecil baru (2) kepada seksyen 5 seperti berikut—

“(2) In the case of an offence under Chapter VI of the Penal Code, any offence under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976, or any offence under any other written law, the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,—

(a) on the high seas on board any ship or on any aircraft registered in Malaysia;

(b) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or

(c) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia,

any reference in this Ordinance to the local limits of jurisdiction of a Court of a Magistrate shall be deemed to include a place where the accused is found.”.

KUALA LUMPUR

DICETAK OLEH PEMANGKU KETUA PENGARAH PERCETAKAN DAN DITERBITKAN DENGAN PERINTAI PADA
22HB JANUARI, 1976

Harga: 50 sen

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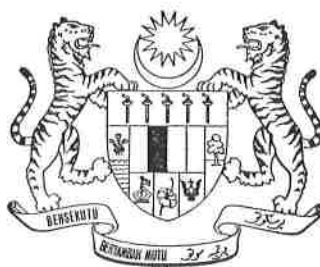
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LAWS OF MALAYSIA

Act A328

COURTS OF JUDICATURE (AMENDMENT) ACT, 1976

Date of Royal Assent ... 22nd January, 1976

Date of publication in *Gazette* ... 22nd January, 1976

3 4/10/3/76

LAWS OF MALAYSIA

Act A328

COURTS OF JUDICATURE (AMENDMENT) ACT, 1976

An Act to amend the Courts of Judicature Act, 1964 and other written laws on matters incidental thereto.

[23.1.76]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. (1) This Act may be cited as the Courts of Judicature (Amendment) Act, 1976.

Short title
and com-
mencement.

(2) Subject to subsection (3), this Act shall come into force on the date immediately following the date of its publication.

(3) Section 13 of this Act shall come into force on such date as the Minister may, by notification in the Gazette, appoint.

2. Section 3 of the Courts of Judicature Act, 1964 (hereinafter referred to as "the principal Act") is amended—

In force
1.1.78
PC(B) 489/77
Amendment
of section 3.
Act 91.

(a) by inserting immediately after the words "territorial waters" at the end of the definition of "local jurisdiction", the words "and the air space above those States and the territorial waters"; and

(b) by inserting after the definition of "matter", the following—

"permanent resident" means a person who has permission granted without limit of time under any federal law to reside in Malaysia, and includes a person treated as such under any written law relating to immigration;

(we-2
23.1.76)

Amendment
of section
22.

3. Section 22 of the principal Act is amended by substituting for subsection (1) the following—

“(1) The High Court shall have jurisdiction to try—

(a) all offences committed—

- (i) within its local jurisdiction;
- (ii) on the high seas on board any ship or on any aircraft registered in Malaysia;
- (iii) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft;
- (iv) by any person on the high seas where the offence is piracy by the law of nations; and

*F.M.S.
Cap. 45.*

(b) offences under Chapter VI of the Penal Code, and under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976, or offences under any other written law the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,—

- (i) on the high seas on board any ship or on any aircraft registered in Malaysia;
- (ii) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or
- (iii) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia.”

Amendment
of other
written law.

4. The amendments in the Schedule hereto shall have effect.

Amendment
of section
50.

5. Section 50 of the principal Act is amended—

(a) by substituting for subsection (1) the following—

“(1) The Federal Court shall have jurisdiction to hear and determine any appeal against any decision made by the High Court in the exercise of—

(a) its original criminal jurisdiction; or

COURTS OF JUDICATURE (AMENDMENT)

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(b) its appellate criminal jurisdiction in respect of an appeal from a decision of a president of a Sessions Court who is conferred with special jurisdiction under subsection (3) of section 63 of the Subordinate Courts Act, 1948,

subject to this or any other written law regulating the terms and conditions upon which criminal appeals may be brought.”; ✓

(b) by inserting a new subsection (2A) after subsection (2) as follows—

“(2A) An appeal by the Public Prosecutor shall be either against acquittal or sentence provided notice of such appeal is given by, or with the consent in writing of, that officer only.”; and

(c) by deleting the alphabet “s” at the end of the word “sections” and the figure “64,” in line three of subsection (4).

6. Section 52 of the principal Act is amended—

Amendment
of section
52.

(a) by substituting the words “decision was given” for the words “appellant was convicted” in line two of subsection (1); and

(b) by substituting a colon for the full stop at the end of subsection (2) and inserting a proviso as follows—

✓ “Provided that in the case of an appeal by the Public Prosecutor a copy of such record shall be furnished to him without payment of any fee.”.

7. Section 55 of the principal Act is amended by substituting the words “respondent or his advocate” for the words “Public Prosecutor” in line two of subsection (2).

Amendment
of section
55.

8. The principal Act is amended by inserting a new section 56A after section 56 as follows—

New section
56A.

✓ “On appeal against acquittal, accused may be arrested.

56A. Where an appeal is presented against an acquittal, the Federal Court may issue a warrant directing that the accused be arrested and brought before it and may remand him to prison pending the disposal of the appeal or admit him to bail.”.

Amendment
of section
57.

9. Section 57 of the principal Act is amended by inserting immediately after the words "in subsection (3)" in line one of subsection (1) the words "and section 56A".

Amendment
of section
59.

10. Section 59 of the principal Act is amended by substituting therefor the following—

“Notice
and time
of hearing.

59. Where the Federal Court does not reject an appeal summarily under section 58, or where the Public Prosecutor is the appellant, the Federal Court shall cause notice of the time and place for the hearing of the appeal to be given to the parties thereto.”

Repeal of
section 64.

11. Section 64 of the principal Act is repealed.

Amendment
of section
66.

12. Section 66 of the principal Act is amended—

(a) by inserting a comma and the words “other than a decision of a President of a Sessions Court conferred with special jurisdiction under subsection (3) of section 63 of the Subordinate Courts Act, 1948,” immediately after the words “criminal matter” in line two of subsection (1); and

(b) by inserting a comma and the words “other than a Court of a President conferred with special jurisdiction under subsection (3) of section 63 of the Subordinate Courts Act, 1948,” immediately after the words “a subordinate court” in the last line of paragraph (b) of subsection (6).

Amendment
of section
74.

13. (1) Subsection (1) of section 74 of the principal Act is amended—

(a) by inserting the word “and” after the semi-colon at the end of sub-paragraph (iii) of paragraph (a);

(b) by substituting a full stop for the semi-colon and the word “and” at the end of paragraph (b); and

(c) by deleting paragraph (c).

(2) Subsection (2) of section 74 of the principal Act is amended—

(a) by inserting the word “and” after the semi-colon at the end of paragraph (a);

C. I. J. On

1.1.1978

(Pu(B)489/77)

COURTS OF JUDICATURE (AMENDMENT)

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(b) by substituting a comma for the semi-colon and the word "and" at the end of paragraph (b); and

(c) by deleting paragraph (c).

(3) Section 74 of the principal Act is amended by inserting a new subsection (3) after subsection (2) as follows—

[“(3) Notwithstanding subsections (1) and (2), no appeal shall lie from the Federal Court to the Yang di-Pertuan Agong—

(w.e.f.
1.1.78)

(a) from any decision as to the effect of any provision of the Constitution including the validity of any written law relating to such provision; and

(b) from any opinion pronounced on a reference under Article 130 of the Constitution.

(4) If any question arises whether a decision given or an opinion pronounced by the Federal Court falls under paragraph (a) or (b) of subsection (3), a certificate issued by that Court, as the case may be,

(a) on a request made to the Federal Court by either party in an appeal case heard by that Court stating that a decision given by that Court falls under paragraph (a) of subsection (3); or

(b) at the instance of the Federal Court to which an opinion is referred under Article 130 of the Constitution stating that an opinion previously pronounced by that Court falls under paragraph (b) of subsection (3),

shall be final and conclusive evidence of the fact stated therein and shall not be a subject of appeal to the Yang di-Pertuan Agong.”.]

(4) The amendments embodied in this section shall not apply to any appeal or application for appeal which is pending at the date of the coming into force of this section.

SCHEDULE

(Section 4)

1. The Subordinate Courts Act, 1948, is amended—

(a) by inserting after the definition of “Penghulu” in section 2 the following—

[“‘permanent resident’ has the meaning assigned by the Courts of Judicature Act, 1964.”]

Act 91.

Amendment of
sections 2
and 60.
Act 92.

(b) by re-numbering section 2 as subsection (1) of section 2;

(c) by inserting a new subsection (2) to section 2 as follows—

[“(2) In the case of an offence under Chapter VI of the Penal Code, any offence under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976, or any offence under any other written law, the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,—

(a) on the high seas on board any ship or on any aircraft registered in Malaysia;

(b) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or

(c) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia,

any reference in this Act to the local limits of jurisdiction of any Magistrate's Court or Sessions Court shall be deemed to include a place where the accused is found.”;] and

(d) by substituting for section 60 the following—

[“Qualifications of Presidents of Sessions Courts.

60. No person shall be appointed to be a President of a Sessions Court unless he is a member of the Judicial and Legal Service of the Federation:

Provided that this section shall not prevent the appointment of a person to act temporarily as a President of a Sessions Court.”.]

Amendment of sections 2 and 5, Sabah Cap. 29.

2. The Subordinate Courts Ordinance of Sabah is amended—

(a) by inserting after the definition of “judgment” in section 2 the following—

““permanent resident” means a person who has permission granted without limit of time under any federal law to reside in Malaysia, and includes a person treated as such under any written law relating to immigration;”;

(b) by re-numbering section 5 as subsection (1) of section 5; and

(c) by inserting a new subsection (2) to section 5 as follows—

“(2) In the case of an offence under Chapter VI of the Penal Code, any offence under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976, or any offence under any other written law, the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,—

(a) on the high seas on board any ship or on any aircraft registered in Malaysia;

(b) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or

COURTS OF JUDICATURE (AMENDMENT)

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(c) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia,

any reference in this Ordinance to the local limits of jurisdiction of a Court of a Magistrate shall be deemed to include a place where the accused is found.”

3. The Subordinate Courts Ordinance of Sarawak is amended—

Amendment
of sections 2
and 5.
Sarawak
Cap. 42.

(a) by inserting after the definition of “judgment” in section (2) the following—

““permanent resident” means a person who has permission granted without limit of time under any federal law to reside in Malaysia, and includes a person treated as such under any written law relating to immigration;”

(b) by re-numbering section 5 as subsection (1) of section 5; and

(c) by inserting a new subsection (2) to section 5 as follows—

“(2) In the case of an offence under Chapter VI of the Penal Code, any offence under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976, or any offence under any other written law, the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,—

(a) on the high seas on board any ship or on any aircraft registered in Malaysia;

(b) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or

(c) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia,

any reference in this Ordinance to the local limits of jurisdiction of a Court of a Magistrate shall be deemed to include a place where the accused is found.”

KUALA LUMPUR

DICETAK OLEH PEMANGKU KETUA PENGARAH PERCETAKAN DAN DITERBITKAN DENGAN PERINTAH PADA
22HB JANUARI, 1976

Harga: 50 sen

