



UNDANG-UNDANG MALAYSIA

Akta A324

**AKTA KANUN ACARA JENAYAH (PINDAAN
DAN PERLUASAN), 1976**

Tarikh Persetujuan Diraja ... 8hb Januari, 1976

Tarikh diterbitkan dalam *Warta* ... 9hb Januari, 1976

UNDANG-UNDANG MALAYSIA

Akta A324

AKTA KANUN ACARA JENAYAH (PINDAAN DAN PERLUASAN), 1976

Suatu Akta bagi meminda Kanun Acara Jenayah (N.M.B. Bab 6) dan bagi memperluaskan Kanun itu sebagaimana dipinda ke Negeri-negeri Melaka, Pulau Pinang, Sabah dan Sarawak.

[10 Januari 1976]

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 Kanun Acara Jenayah (Pindaan dan Perluasan), 1976.

Tajuk
ringkas
dan
pemakaian.

(2) Akta ini hendaklah dipakai bagi semua penyiasatan, siasatan, perbicaraan, kes dan lain-lain pembicaraan yang belum selesai pada tarikh berjalan kuatkuasanya Akta ini mengikut cara yang sama seperti ianya dipakai bagi penyiasatan, siasatan, perbicaraan, kes dan lain-lain pembicaraan yang dimulakan selepas berjalan kuatkuasanya Akta ini.

2. (1) Kanun Acara Jenayah bagi Negeri-negeri Melayu Bersekutu yang dahulu (kemudian daripada ini disebut sebagai Kanun itu) adalah dengan ini dipinda mengikut cara dan setakat yang dinyatakan dalam Jadual.

Pindaan dan
perluasan
bagi
N.M.B.
Bab 6.

(2) Kanun itu, sebagaimana dipinda sedemikian, adalah dengan ini diperluaskan untuk berkuatkuasa di seluruh Malaysia.

3. Bab XXI Kanun itu (yang menurut seksyen 4 Ordinan Kanun Acara Jenayah (Pindaan), 1957, telah berhenti berkuatkuasa pada 1hb Januari, 1958) dan semua rujukan dalam Bab XXIII kepada pengapit hakim (iaitu Bab yang menurut seksyen 7 Ordinan tersebut ditafsirkan dari tarikh itu seolah-olah rujukan-rujukan itu telah dipotong) adalah dengan ini dihidupkan bagi maksud kuatkuasa Kanun itu di Sabah dan Sarawak menurut seksyen 2 (2) Akta ini dan hendaklah mempunyai kuatkuasa hanya dalam Negeri-negeri itu sahaja.

Menghidup-
kan Bab
XXI dan
setengah-
setengah
peruntukan
Bab XXIII.
69/57.

Pemansuhan. 4. Undang-undang yang berikut adalah dengan ini dimansuhkan—

- N.S. Bab 21. (a) Kanun Acara Jenayah bagi Negeri-negeri Selat yang dahulu;
- Sabah 4/59. (b) Kanun Acara Jenayah Sabah;
- Swk. (c) Kanun Acara Jenayah Sarawak; dan
- Bab 58. (d) seksyen-seksyen 25 (2), 26 (2), 27 (2), 28 (2), 29 (2)
- Akta 56. dan 30 (2) Akta Keterangan, 1950.

JADUAL

(Seksyen 2 (1))

PINDAAN KEPADA KANUN ACARA JENAYAH
(N.M.B. Bab 6)

Seksyen/ peruntukan	Pindaan
2 (i)	1. Gantikan takrif "advocate" dengan— <p>"advocate" has the meaning assigned by section 3 of the Interpretation Act, 1967;";</p>
	2. Masukkan takrif baru yang berikut selepas sahaja takrif "Court": <p>"diplomatic officer" means an Ambassador, High Commissioner, Minister, Charge d'Affaires, Deputy High Commissioner, Secretary and Attache of a Diplomatic Mission of Malaysia, including a High Commission within the meaning of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1959;";</p>
	3. Dalam takrif "Court" potong "in Malaya";
	4. Potong takrif bagi "Minister"; dan
	5. Gantikan perkataan "seven" yang terdapat dalam takrif "youthful offender" dengan perkataan "ten".
5	Gantikan "the Republic of Singapore" dengan "England".
56	Potong dan gantikan dengan— <p>"Magistrate may issue warrant authorizing search for evidence of offence."</p> <p>56. If a Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that anything upon, by or in respect of which an offence has been committed, or any evidence or thing which is necessary to the conduct of an investigation into any offence, may be found in any place, he may, by warrant, authorize the person to whom it is directed to enter;</p>

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with such assistance as may be required, and search the place for any such evidence or thing, and, if anything searched for is found, to seize it and bring it before the Magistrate issuing the warrant, or some other Magistrate, to be dealt with in accordance with law."

83 Gantikan "superior police officer" dengan "police officer not below the rank of Inspector".

84 hingga 87 termasuk Potong dan gantikan dengan—

"Forcible dispersal of unlawful assemblies.
46/58.

84. If any unlawful assembly is commanded to disperse under section 83 or under section 5 of the Public Order (Preservation) Ordinance, 1958, and does not disperse, or if, without having been commanded to disperse, it conducts itself in such a manner as to show a determination not to disperse, any police officer, any member of the armed forces or any other person acting in aid of a police officer or member of the armed forces may do all things necessary for dispersing the persons so continuing assembled and for apprehending them or any of them, and, if any person makes resistance, may use such force as is reasonably necessary for overcoming resistance and shall not be liable in any criminal or civil proceedings for having by the use of such force caused harm or death to any person or damage to any property."

88 Potong dan gantikan dengan—

"Protection against prosecution.

88. (1) No prosecution against any Magistrate, police officer or member of the armed forces for any act purporting to be done under this Chapter shall be instituted in any Court except with the sanction in writing of the Public Prosecutor personally or, in Sabah or Sarawak, of the Director of Public Prosecutions.

(2) Where a prosecution is sanctioned as aforesaid for an act purporting to be done under this Chapter, no Magistrate, police officer, member of the armed forces or person acting in aid of a police officer or member of the armed forces shall, if the Court is satisfied that the act was done in good faith or, if it was done by a member of the armed forces, that it was done in obedience to an order which under naval,

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military or air force law he was bound to obey, he deemed to have thereby committed an offence."

113 ... Potong dan gantikan dengan—

"Admission
of statements
in evidence.

113. (1) Where any person is charged with any offence any statement, whether the statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of a police investigation or not and whether or not wholly or partly in answer to questions, by that person to or in the hearing of any police officer of or above the rank of Inspector and whether or not interpreted to him by another police officer or other person shall be admissible in evidence at his trial and, if the person charged tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit:

Provided that---

(a) no such statement shall be admissible or used as aforesaid—

(i) if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge proceeding from a person in authority and sufficient in the opinion of the court to give the person charged grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceeding against him; or

(ii) in the case of a statement made by the person after his arrest, unless the court is satisfied that a caution was administered to him in the following words or words to the like effect:

"It is my duty to warn you that you are not obliged

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to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence"; and

(b) a statement made by any person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of no such caution having been administered if it has been administered as soon as possible.

(2) Notwithstanding anything to the contrary contained in any written law a person accused of an offence to which subsection (1) applies shall not be bound to answer any questions relating to the case after any such caution as aforesaid has been administered to him."

114 ... Potong seksyen-kecil (i) dan nota bidai dan potong angka "(ii)" di permulaan seksyen-kecil (ii).

117 ... Tambah yang berikut di hujung seksyen-kecil (ii) selepas perkataan-perkataan "having such jurisdiction"—

"or, if the case is triable only by the High Court, before himself or another Magistrate having jurisdiction with a view to committal for trial by the High Court".

124 ... Potong seksyen-kecil (i) dan gantikan dengan—

"(i) The offence of having escaped from custody may be inquired into or tried by a Court within the local limits of whose jurisdiction the alleged escape occurred or a Court within the local limits of whose jurisdiction the person charged with escaping was apprehended after the alleged escape."

127 ... Potong dan gantikan dengan—

"When doubt arises High Court to decide.

127. Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this Chapter be inquired into or tried the High Court may—

(a) of its own motion; or

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(b) if a Court subordinate to the High Court refers the question to the High Court for directions; or

(c) upon application made by the Public Prosecutor or the person charged.

decide by which Court the offence shall be inquired into or tried:

Provided that before the decision is taken by the High Court the Public Prosecutor and the person charged shall be entitled to be heard.”.

127A dan
127B

Masukkan selepas sahaja seksyen 127, seksyen-seksyen baru yang berikut—

“Liability for
offences
committed
out of
Malaysia.

127A. (1) Any 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,

may be dealt with as if it had been committed at any place within Malaysia:

Provided—

(i) that notwithstanding anything in any of the preceding sections of this Chapter no charge as to any such offence shall be inquired into in Malaysia unless a diplomatic officer, if there is one, in the territory in which the offence is alleged to have been committed certifies that, in his opinion, the charge ought to be inquired into in Malaysia; and,

where there is no diplomatic officer, the sanction of the Public Prosecutor shall be required:

(ii) that any proceedings taken against any person under this section which

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would be a bar to subsequent proceedings against that person for the same offence if the offence had been committed in Malaysia shall be a bar to further proceedings against him under any written law relating to extradition or the surrender of fugitive criminals in force in Malaysia in respect of the same offence in any territory beyond the limits of West Malaysia.

(2) For the purposes of this section the expression "permanent resident" has the meaning assigned by the Courts of Judicature Act, 1964.

Act 91.

Power to
direct copies
to depositions
and exhibits
to be received
in evidence.

127B. Wherever any such offence as is referred to in section 127A is being inquired into or tried, the Public Prosecutor may, if he thinks fit, direct that copies of depositions made or exhibits produced before the diplomatic officer in or for the territory in which the offence is alleged to have been committed shall be received as evidence by the Court holding the inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which the depositions or exhibits relate."

138 ... Potong dan gantikan dengan—

"Procedure
in inquiries
preparatory to
commitment
exception
thereto.

138. The following procedure shall be adopted in inquiries before a Magistrate where the inquiry is held with a view to committal for trial before the High Court, and, except as otherwise provided in Chapter XLII, no person shall be tried before such Court unless he shall have been committed for trial after a preliminary inquiry under the provisions of this Chapter."

183A ... Masukkan dalam Bab XXI sebelum seksyen 184 seksyen baru yang berikut—

"Application
of this
Chapter.

183A. (1) This Chapter shall apply only to Sabah and Sarawak.

(2) Parliament may at any time by resolution passed by both Houses declare that this Chapter shall cease to apply to Sabah, or to Sarawak, or to both, and upon the passing of such resolution this Chapter shall apply accordingly."

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184 (ii) ...	Gantikan perkataan-perkataan "with the approval of the Yang di-Pertuan Agong" dengan "after consultation with the Director of Public Prosecutions".
197 ...	Potong perkataan-perkataan ". and his reasons therefor," dalam ayat pertama dan perkataan-perkataan "and reasons" dalam ayat kedua.
199A ...	<p>Masukkan selepas sahaja tajuk Bab XXII seksyen baru yang berikut:</p> <p>"Application of this Chapter. 199A. This Chapter shall apply to all the States of West Malaysia and only to those States:</p> <p>Provided that Parliament may at any time by resolution passed by both Houses declare that this Chapter shall apply to Sabah, or to Sarawak, or to both, and upon the passing of such a resolution this Chapter shall apply with effect from such date as may be specified in the resolution."</p>
235A ...	<p>Masukkan selepas sahaja di bawah tajuk Bab XXIII seksyen baru yang berikut—</p> <p>"Application of this Chapter. 235A. The provisions of this Chapter relating to jurors and juries shall apply to the States of West Malaysia, and the provisions relating to assessors shall apply to Sabah and Sarawak."</p>
244 (iii) ...	Gantikan perkataan-perkataan "at the last preceding Assizes" dengan "since the last occasion on which all the names in the ballot-box have been exhausted".
245, 247 (ii) dan 248 (a)	Gantikan perkataan "Assizes" dengan "trial".
247 (iii) ...	Potong perkataan-perkataan ". whether before or during the Assizes,".
252 ...	<p>Potong dan gantikan dengan—</p> <p>"Person committed for trial to be tried as soon as practicable. 252. Subject to the other provisions of this Code every person committed for trial shall, unless a Judge otherwise orders, be tried as soon as practicable after the record of the proceedings and the copy thereof required to be forwarded under section 147 have reached the Registrar and the Public Prosecutor respectively:</p> <p>Provided that a Judge may, for good cause to be recorded by him in writing, postpone from time to time the trial of any person committed for trial."</p>

Seksyen/
peruntukan

Pindaan

303 Masukkan di permulaan Bab XXX seksyen baru yang berikut—

"Appeals
from Sessions
Courts.

303A. Any reference in this Chapter to a Magistrate and a Magistrate's Court shall be deemed to include a reference to a President of Sessions Court, or a Sessions Court, as the case may be; and the expressions "Magistrate" and "Magistrate's Court" shall be construed accordingly."

324 Nomborkan semula sebagai "324 (1)" dan tambah seksyen-kecil yang berikut—

"(2) The provisions of section 303A shall apply for the construction of subsection (1)."

376 1. Masukkan selepas sahaja seksyen-kecil (i) seksyen-kecil baru yang berikut:

"(iA) The State Attorney-General, Sabah shall be the Director of Public Prosecutions in Sabah and the State Attorney-General, Sarawak shall be the Director of Public Prosecutions in Sarawak and shall act as Public Prosecutor in their respective States with all the powers of the Public Prosecutor under the general direction and control of the Attorney-General."; dan

2. Potong seksyen-kecil (iii) dan (iv) dan gantikan dengan—

"(iii) The Public Prosecutor or, subject to his directions (if any) the Director of Public Prosecutions in Sabah or Sarawak, as the case may be, may appoint fit and proper persons to be Deputy Public Prosecutors who shall be under the general control and direction of the Public Prosecutor and may exercise all or any of the rights and powers vested in or exercisable by the Public Prosecutor or the Director of Public Prosecutions by or under this Code or any other written law except any rights or powers expressed to be exercisable by the Public Prosecutor or the Director of Public Prosecutions personally.

(iv) The rights and powers vested in or exercisable by the Public Prosecutor or the Director of Public Prosecutions by subsection (iii) and sections 68 (ii), 184 (ii), 381, 385 and 386 shall be exercisable by the Public Prosecutor or the Director of Public Prosecutions personally."

Seksyen/
perubtukuan

Pindaan

402A ...

Masukkan seksyen baru yang berikut di hujung Bab XXXIX .

"Notice to be
given of
defence
of alibi

402A. (1) Where in any criminal trial the accused seeks to put forward a defence of alibi, evidence in support thereof shall not be admitted unless the accused shall have given notice in writing thereof to the Public Prosecutor at least ten days before the commencement of the trial.

(2) The notice required by subsection (1) shall include particulars of the place where the accused claims to have been at the time of the commission of the offence with which he is charged, together with the names and addresses of any witnesses whom he intends to call for the purpose of establishing his alibi."

417 ... Potong dan gantikan-

"High
Court's
power to
transfer
cases.

417. (1) Whenever it is made to appear to the High Court—

- (a) that a fair and impartial inquiry or trial cannot be had in any criminal Court subordinate thereto; or
- (b) that some question of law of unusual difficulty is likely to arise; or
- (c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same; or
- (d) that an order under this section will tend to the general convenience of the parties or witnesses; or
- (e) that such an order is expedient for the ends of justice, or is required by any provision of this Code,

it may order—

- (aa) that any offence be inquired into or tried by any Court not empowered under sections 121 to 126 but in other respects competent to inquire into or try such offence; or
- (bb) that any particular case or class of cases be transferred from a criminal Court subordinate thereto to any other such criminal Court of equal or superior jurisdiction; or

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(cc) that any particular criminal case be transferred to and tried before the High Court; or

(dd) that an accused person be committed for trial before the High Court; or

(ee) that a person committed for trial in one place be tried in another place.

(2) The High Court may make an order under subsection (1) either on the report of the lower Court, or on the application of the Public Prosecutor or the accused person, or on its own initiative.

(3) (a) When an order is made under paragraph (cc) of subsection (1) the lower Court before which the inquiry into, or the trial of, the offence against the accused person is pending shall,

(if the case is triable by the lower Court) without holding a preliminary inquiry under Chapter XVII; or

(if the case is triable by the High Court and the preliminary inquiry under Chapter XVII is in progress or has not yet commenced when the order is made) without holding or completing such preliminary inquiry,

cause the accused person to appear or be brought before the High Court on the date specified in the said order or as soon as may be practicable if no such date is specified.

(b) When the accused person appears or is brought before the High Court in accordance with paragraph (a), it shall fix a date for his trial which shall be held in accordance with the procedure under Chapter XX.

(4) The Court to which a case is transferred under this section may act on the evidence already recorded in an inquiry or a trial or partly so recorded and partly recorded by itself, or it may re-summon the witnesses and re-commence the inquiry or trial:

Provided that in any case so transferred the Public Prosecutor or the accused person may, when the Court to which the case is transferred commences its proceedings, apply that the witnesses or any of them be re-summoned and re-heard."

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418A ... Masukkan seksyen baru yang berikut dalam Bab XLII selepas sahaja seksyen 418—

"Trials
by High
Court on a
certificate
by the
Public
Prosecutor,

418A. (1) Notwithstanding the provisions of section 417, the Public Prosecutor may in any particular case triable by a criminal Court subordinate to the High Court issue a certificate requiring the Court before which the case is pending to remove it to the High Court at such place as may be specified in the certificate and to cause the accused person to appear or be produced before the said High Court.

(2) The power of the Public Prosecutor under subsection (1) shall be exercised by him personally.

(3) Upon receipt of the certificate, the Court before which the case is triable shall without holding a preliminary inquiry under Chapter XVII transmit the case to the High Court mentioned in the certificate and cause the accused person to appear or be brought before such High Court as soon as may be practicable; and thereafter the provisions of subsection (3) (b) and subsection (4) of section 417 shall apply to such case *mutatis mutandis*."

Jadual
Pertama

Ruang 7 hendaklah mempunyai kuasa dengan ubah-suaian-ubahsuaian sebagaimana yang perlu bagi membolehkan hukuman-hukuman yang disebutkan di dalamnya itu sesuai dengan hukuman-hukuman yang dipinda yang ditetapkan dalam Akta Kanun Keseksaan (Pindaan dan Perluasan), 1976.