

LAWS OF MALAYSIA

Act A126

COURTS OF JUDICATURE (AMENDMENT) ACT, 1972

Date of Royal Assent ... 19th June, 1972

Date of publication in *Gazette* ... 22nd June, 1972

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Act A126

COURTS OF JUDICATURE (AMENDMENT) ACT, 1972

An Act to amend the Courts of Judicature Act, 1964.

[1st November, 1972.]

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 Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Courts of Judicature (Amendment) Act, 1972, and shall come into force on the 1st day of November, 1972. Short title.

2. The Courts of Judicature Act, 1964 (hereinafter referred to as the principal Act) is hereby amended by substituting the following for the definition of "Registrar"— Amendment of s. 3. Act 7/64.

" 'Registrar' means the Chief Registrar and any Registrar, Deputy Registrar, Senior Assistant Registrar or Assistant Registrar appointed under section 10;".

3. The principal Act is hereby amended by substituting the following for section 5— Amendment of s. 5.

"Amendment of laws.

5. (1) The written laws in force in Malaysia on Malaysia Day are hereby amended by the substitution wherever the expression 'Court of Appeal' or 'Supreme Court' occurs therein—

(a) of 'Federal Court' for 'Court of Appeal'; and

(b) of—

(i) 'Federal Court and the High Court';

(ii) 'Federal Court'; or

(iii) 'High Court',

for 'Supreme Court' as the context may require.

(2) This section shall be deemed to have come into force on Malaysia Day.”.

Amendment
of s. 7.

4. Section 7 of the principal Act is hereby amended—

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

“(1) All writs, summonses, warrants, orders, rules, notices and mandatory processes whatsoever, whether civil or criminal, shall be issued and shall be expressed to be issued by the Lord President or the Chief Justice, as the case may be, in the name of the Yang di-Pertuan Agong and shall be signed by the Registrar and sealed or stamped with the seal or stamp of the Court issuing or making the same.”;

(b) by inserting the words “writs,” after the word “All” at the beginning of subsection (2).

Amendment
of s. 10.

5. Section 10 of the principal Act is hereby amended—

(a) by substituting the following for subsections (1) and (2)—

“(1) Subject to subsection (4), the Chief Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the Federal Court and the Registrars, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Courts shall be appointed by the Yang di-Pertuan Agong with the concurrence in respect of the Federal Court of the Lord President and in respect of any High Court of the Chief Justice thereof.

(2) Subject to any directions that the Lord President may issue, the Registrars, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court may exercise the powers and perform the duties of the Chief Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars respectively of the Federal Court.”;

(b) by adding the following new subsection at the end—

“(4) The Presidents of the Sessions Court in West Malaysia and the First Class Magistrates in East Malaysia the local limits of whose jurisdiction extend to the towns in which registries of the High Court are situate shall be ex officio Assistant Registrars of the High Court for all purposes.”.

6. Section 11 (1) of the principal Act is hereby amended by substituting the words "Any Registrar and any person appointed by the Lord President to be a Commissioner for Oaths" for the words "The Registrars, Deputy and Assistant Registrars and such persons as are appointed by the Lord President to be Commissioners for Oaths".

Amendment
of s. 11.

7. Section 12 (2) of the principal Act is hereby amended by substituting the words "orders, rules, warrants, notices, commands and other processes" for the words "rules, orders, warrants, commands and process".

Amendment
of s. 12.

8. Section 14 of the principal Act is hereby repealed.

Repeal of
s. 14.

9. The principal Act is hereby amended by inserting the following new section in place of repealed section 14—

New s. 14.

"Protection
of Judges
and other
judicial
officers.

14. (1) No Judge or other person acting judicially shall be liable to be sued in any civil court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, nor shall any order for costs be made against him, provided that he at the time in good faith believed himself to have jurisdiction to do or order the act complained of.

(2) No officer of any court or other person bound to execute the lawful warrants or orders of any Judge or other person acting judicially shall be liable to be sued in any civil court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.

(3) No sheriff, bailiff or other officer of the court charged with the duty of executing any judgment, order or warrant of distress, or of attaching any property before judgment, shall be liable to be sued in any civil court in respect of any property seized by him, or in respect of damage caused to any property in effecting or attempting to effect the seizure, unless it shall appear that he knowingly acted in excess of the authority conferred upon him by the writ, warrant or order in question, and he shall not be deemed to have acted knowingly in excess of his

authority merely by reason of knowing of the existence of a dispute as to the ownership of the property so seized.”.

Amendment
of s. 16.

10. Section 16 of the principal Act is hereby amended by substituting a semi-colon and the word “and” for the fullstop at the end of paragraph (o) and by adding the following new paragraph thereafter—

“(p) for any purpose for which rules of court may be made under any written law.”.

Amendment
of s. 17.

11. Section 17 (2) of the principal Act is hereby amended—

(a) by substituting the words “two advocates practising in the States of Malaya” for the words “two advocates and solicitors” in paragraph (e);

(b) by substituting the words “one advocate practising in the Borneo States” for the words “one advocate and solicitor” in paragraph (f).

Amendment
of s. 17A.

12. The principal Act is hereby amended by substituting the following for section 17A—

“Council of
Judges.

17A. (1) The Lord President may convene a Council of all the Judges as and when he deems it necessary but so that there shall be at least one meeting in each year.

(2) The Chief Justice may, with the approval of the Lord President, convene a Council of Judges of the High Court as and when he deems it necessary.”.

New s. 24A.

13. The principal Act is hereby amended by inserting the following new section after section 24—

“Reference
under order
of court.

24A. (1) The High Court may also refer any question arising in any cause or matter, other than a criminal proceeding by the Public Prosecutor, for inquiry or report to any special referee. The report of a special referee may be adopted wholly or partially by the High Court and enforced as a decree, judgment or order to the same effect.

(2) In any cause or matter other than a criminal proceeding by the Public Prosecutor—

(a) if all the parties interested who are not under disability consent;

COURTS OF JUDICATURE (AMENDMENT)

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(b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the High Court, conveniently be conducted by the Court through its ordinary officers; or

(c) if the question in dispute consists wholly or in part of matters of account,

the High Court may at any time order the whole cause or matter or any question or issue of fact arising therein to be tried before a special referee or arbitrator respectively agreed on by the parties or before an officer of the Court.

(3) (a) In all cases of reference to a special referee or arbitrator under an order of the High Court in any cause or matter, the special referee or arbitrator shall be deemed to be an officer of the Court and shall have such authority and shall conduct the reference in such manner as is prescribed by rules of court, and subject thereto as the High Court may direct.

(b) The report or award of any special referee or arbitrator on any such reference shall, unless set aside by the High Court, be equivalent to the decree, judgment or order of the Court.

(c) The remuneration to be paid to any special referee or arbitrator to whom any matter is referred under order of the High Court shall be determined by the Court.

12/50. (4) The High Court shall, as to references under order of the Court, have all the powers which are by the Arbitration Ordinance, 1950, conferred on the High Court as to references by consent out of court. *Stop.*

14. Section 67 of the principal Act is hereby amended by renumbering it as "67. (1)" and by adding the following subsection thereafter—

Amendment
of s. 67.

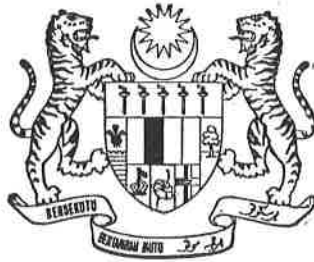
"(2) The Federal Court shall have all the powers conferred by section 24A on the High Court under the provisions relating to references under order of the High Court."

Amendment
of 1st
Schedule.

15. The First Schedule to the principal Act is hereby amended by deleting sub-paragraphs (a) to (e) of paragraph 9 and inserting after the word "except" the words "property which is exempt from seizure and sale under any written law".

Repeal.
F.M. 43/48.
F.M. 12/50.

16. Section 107 of the Courts Ordinance, 1948, to the extent that provision for matters contained therein is made by section 9 of this Act, and sections 14 to 18 of the Arbitration Ordinance, 1950, are hereby repealed.



Tarikh Persetujuan di-Raja
1911 Jan 1975
UNDANG² MALAYSIA
Tarikh di-terbitkan dalam Warta
1911 Jan 1975

Akta A126

AKTA MAHKAMAH KEADILAN (PINDAAN), 1972



Tarikh Persetujuan di-Raja ... 19hb Jun, 1972

Tarikh di-terbitkan dalam *Warta* 22hb Jun, 1972

AKTA 150

AKTA PERSEKUTUAN PERDAGANGAN 1972

UNDANG² MALAYSIA

Akta A126

AKTA MAHKAMAH KEADILAN (PINDAAN), 1972

Suatu Akta bagi meminda Akta Mahkamah Keadilan, 1964.

[1hb November, 1972.]

MAKA INI-LAH DI-PERBUAT UNDANG² oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Ra'ayat yang bersidang dalam Parli-men, dan dengan kuasa daripada-nya, seperti berikut;

1. Akta ini boleh-lah di-namakan Akta Mahkamah Keadilan (Pindaan), 1972, dan hendak-lah mula berkuatkuasa pada 1 haribulan November, 1972.

Tajok ringkas.

2. Akta Mahkamah Keadilan, 1964 (kemudian daripada ini di-sebut Akta ibu) ada-lah dengan ini di-pinda dengan menggantikan ta'arif "Registrar" dengan yang berikut—

Pindaan bagi s. 3. Akta 7/64.

"Registrar" means the Chief Registrar and any Registrar, Deputy Registrar, Senior Assistant Registrar or Assistant Registrar appointed under section 10;".

3. Akta ibu ada-lah dengan ini di-pinda dengan menggantikan sekshen 5 dengan yang berikut—

Pindaan bagi s. 5.

"Amend-
ment of
laws.

5. (1) The written laws in force in Malaysia on Malaysia Day are hereby amended by the substitution wherever the expression 'Court of Appeal' or 'Supreme Court' occurs therein—

(a) of 'Federal Court' for 'Court of Appeal';
and

(b) of—

(i) 'Federal Court and the High Court';

(ii) 'Federal Court'; or

(iii) 'High Court',

for 'Supreme Court' as the context may require.

(2) This section shall be deemed to have come into force on Malaysia Day.”.

Pindaan
bagi s. 7.

4. Sekshen 7 Akta ibu ada-lah dengan ini di-pinda—

(a) dengan menggantikan sekshen-kechil (1) dengan yang berikut—

“(1) All writs, summonses, warrants, orders, rules, notices and mandatory processes whatsoever, whether civil or criminal, shall be issued and shall be expressed to be issued by the Lord President or the Chief Justice, as the case may be, in the name of the Yang di-Pertuan Agong and shall be signed by the Registrar and sealed or stamped with the seal or stamp of the Court issuing or making the same.”;

(b) dengan memasukkan perkataan “writs,” sa-lepas perkataan “All” di-permulaan sekshen-kechil (2).

Pindaan
bagi s. 10.

5. Sekshen 10 Akta ibu ada-lah dengan ini di-pinda—

(a) dengan menggantikan sekshen-kechil (1) dan (2) dengan yang berikut—

“(1) Subject to subsection (4), the Chief Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the Federal Court and the Registrars, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Courts shall be appointed by the Yang di-Pertuan Agong with the concurrence in respect of the Federal Court of the Lord President and in respect of any High Court of the Chief Justice thereof.

(2) Subject to any directions that the Lord President may issue, the Registrars, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court may exercise the powers and perform the duties of the Chief Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars respectively of the Federal Court.”;

(b) dengan menambah sekshen-kechil baharu yang berikut sa-lepas sahaja sekshen-kechil (3)—

“(4) The Presidents of the Sessions Court in West Malaysia and the First Class Magistrates in East Malaysia the local limits of whose

jurisdiction extend to the towns in which registries of the High Court are situate shall be ex officio Assistant Registrars of the High Court for all purposes.”.

6. Sekshen 11 (1) Akta ibu ada-lah dengan ini di-pinda dengan menggantikan perkataan² “The Registrars, Deputy and Assistant Registrars and such persons as are appointed by the Lord President to be Commissioners for Oaths” dengan perkataan² “Any Registrar and any person appointed by the Lord President to be a Commissioner for Oaths”.

Pindaan
bagi s. 11.

7. Sekshen 12 (2) Akta ibu ada-lah dengan ini di-pinda dengan menggantikan perkataan² “rules, orders, warrants, commands and process” dengan perkataan² “orders, rules, warrants, notices, commands and other processes”.

Pindaan
bagi s. 12.

8. Sekshen 14 Akta ibu ada-lah dengan ini di-mansokhkan.

Peman-
sokhan s. 14.

9. Akta ibu ada-lah dengan ini di-pinda dengan memasokkan sekshen baharu yang berikut sa-bagai ganti sekshen 14 yang telah di-mansokhkan itu—

Sekshen
baharu 14.

“Protection of Judges and other judicial officers.” 14. (1) No judge or other person acting judicially shall be liable to be sued in any civil court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, nor shall any order for costs be made against him, provided that he at the time in good faith believed himself to have jurisdiction to do or order the act complained of.

(2) No officer of any court or other person bound to execute the lawful warrants or orders of any Judge or other person acting judicially shall be liable to be sued in any civil court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.

(3) No sheriff, bailiff or other officer of the court charged with the duty of executing any judgment, order or warrant of distress, or of attaching any property before judgment, shall be liable to be sued in any civil court in respect of any property

seized by him, or in respect of damage caused to any property in effecting or attempting to effect the seizure, unless it shall appear that he knowingly acted in excess of the authority conferred upon him by the writ, warrant or order in question, and he shall not be deemed to have acted knowingly in excess of his authority merely by reason of knowing of the existence of a dispute as to the ownership of the property so seized.”.

Pindaan
bagi s. 16.

10. Sekshen 16 Akta ibu ada-lah dengan ini di-pinda dengan menggantikan nokhtah di-akhir perenggan (o) dengan koma bernokhtah dan perkataan “and” dan menambah sa-lepas-nya perenggan baharu yang berikut—

“(p) for any purpose for which rules of court may be made under any written law.”.

Pindaan
bagi s. 17.

11. Sekshen 17 (2) Akta ibu ada-lah dengan ini di-pinda—

(a) dengan menggantikan perkataan² “two advocates and solicitors” yang terdapat dalam perenggan (e) dengan perkataan² “two advocates practising in the States of Malaya”;

(b) dengan menggantikan perkataan² “one advocate and solicitor” dalam perenggan (f) dengan perkataan² “one advocate practising in the Borneo States”.

Pindaan
bagi s. 17A.

12. Akta ibu ada-lah dengan ini di-pinda dengan menggantikan sekshen 17A dengan yang berikut—

“Council of Judges. 17A. (1) The Lord President may convene a Council of all the Judges as and when he deems it necessary but so that there shall be at least one meeting in each year.

(2) The Chief Justice may, with the approval of the Lord President, convene a Council of Judges of the High Court as and when he deems it necessary.”.

Sekshen
baharu 24A.

13. Akta ibu ada-lah dengan ini di-pinda dengan memasokkan sekshen baharu yang berikut sa-lepas sekshen 24—

“Reference under order of court. 24A. (1) The High Court may also refer any question arising in any cause or matter, other than a criminal proceeding by the Public Prosecutor, for inquiry or report to any special referee. The report of a special referee may be adopted

wholly or partially by the High Court and enforced as a decree, judgment or order to the same effect.

(2) In any cause or matter other than a criminal proceeding by the Public Prosecutor—

(a) if all the parties interested who are not under disability consent;

(b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the High Court, conveniently be conducted by the Court through its ordinary officers; or

(c) if the question in dispute consists wholly or in part of matters of account,

the High Court may at any time order the whole cause or matter or any question or issue of fact arising therein to be tried before a special referee or arbitrator respectively agreed on by the parties or before an officer of the Court.

(3) (a) In all cases of reference to a special referee or arbitrator under an order of the High Court in any cause or matter, the special referee or arbitrator shall be deemed to be an officer of the Court and shall have such authority and shall conduct the reference in such manner as is prescribed by rules of court, and subject thereto as the High Court may direct.

(b) The report or award of any special referee or arbitrator on any such reference shall, unless set aside by the High Court, be equivalent to the decree, judgment or order of the Court.

(c) The remuneration to be paid to any special referee or arbitrator to whom any matter is referred under order of the High Court shall be determined by the Court.

(4) The High Court shall, as to references under order of the Court, have all the powers which are by the Arbitration Ordinance, 1950, conferred on the High Court as to references by consent out of court.”

Pindaan
bagi s. 67.

14. Seksyen 67 Akta ibu ada-lah dengan ini di-pinda dengan menomborkan sa-mula seksyen itu sa-bagai "67. (1)" dan menambah seksyen-kecil berikut sa-lepas-nya—

"(2) The Federal Court shall have all the powers conferred by section 24A on the High Court under the provisions relating to references under order of the High Court."

Pindaan
bagi Jadual
Pertama.

15. Jadual Pertama kepada Akta ibu ada-lah dengan ini di-pinda dengan memotong perenggan-kecil (a) hingga (e) perenggan 9 dan memasukkan perkataan² "property which is exempt from seizure and sale under any written law" sa-lepas perkataan "except".

Peman-
sokhan.
P.T.M.
43/48.
P.T.M.
12/50.

16. Seksyen 107 Ordinan Mahkamah, 1948, sa-takat mana peruntukan bagi perkara² yang terkandung dalam-nya di-buat dalam seksyen 9 Akta ini, dan seksyen 14 hingga 18 Ordinan Timbangtara, 1950, ada-lah dengan ini di-mansokh-

(3) (a) In all cases of reference to a special referee or arbitrator under an order of the High Court in any cause or matter, the special referee or arbitrator shall be deemed to be an officer of the Court and shall have such authority and shall conduct the reference in such manner as is prescribed by rules of court and subject thereto as the High Court may direct.

(b) The report or award of any special referee or arbitrator on any such reference shall, unless set aside by the High Court, be equivalent to the decree, judgment or order of the Court.

(c) The remuneration to be paid to any special referee or arbitrator to whom any matter is referred under order of the High Court shall be determined by the Court.

(4) The High Court shall, as to references under order of the Court, have all the powers which are

KUALA LUMPUR
DI Cetak OLEH PENCETAK KERAJAAN DAN DI-TERBITKAN DENGAN PERINTAH PADA
22hb JUN, 1972

Harga: 50 sen