

D.R. 4/2015

RANG UNDANG-UNDANG

b e r n a m a

Suatu Akta untuk meminda Kanun Keseksaan.

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DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Kanun Keseksaan (Pindaan) 2015.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta*.

Seksyen baru 130^{FA} dan 130^{FB}

2. Kanun Keseksaan [*Akta 574*], yang disebut “Kanun” dalam Akta ini, dipinda dengan memasukkan selepas seksyen 130^F seksyen yang berikut:

“Receiving training and instruction from terrorist groups and persons committing terrorist acts

130^{FA}. Whoever receives training or instruction, or agrees or arranges to receive training or instruction—

(a) in the making or use of any explosive or other lethal device;

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(b) in carrying out a terrorist act; or

(c) in the practice of military exercises or movements,

from a member of a terrorist group or a person engaging in, or preparing to engage in, the commission of a terrorist act shall be punished with imprisonment for a term which may extend to thirty years, and shall also be liable to fine.

Attendance at place used for terrorist training

130FB. (1) Whoever attends at any place, within or outside Malaysia—

(a) knowing or having reason to believe that instruction or training is being provided there wholly or partly for the purposes connected with the commission or preparation of a terrorist act; or

(b) where he could not reasonably have failed to understand that instruction or training was being provided there wholly or partly for such purposes,

shall be punished with imprisonment for a term which may extend to ten years, or with fine.

(2) For the purposes of this section, it shall be irrelevant—

(a) whether the person concerned receives the instruction or training himself; and

(b) whether the instruction or training is provided for purposes connected with one or more particular terrorist act.

(3) References in this section to instruction or training being provided include references to instruction or training being made available.”.

Pindaan seksyen 130J

3. Subseksyen 130J(2) Kanun dipinda—

- (a) dengan memotong perkataan “or” di akhir perenggan (e);
- (b) dengan menggantikan noktah di akhir perenggan (f) dengan koma bernoktah; dan
- (c) dengan memasukkan selepas perenggan (f) perenggan yang berikut:
 - “(g) accumulating, stockpiling or otherwise keeping firearms, explosives, ammunition, poisons or weapons to further the activities of a terrorist group;
 - (h) arranging, managing or assisting in arranging or managing the transportation of persons to further the activities of a terrorist group;
 - (i) travelling to, entering or remaining in any foreign country to further the activities of a terrorist group or to commit a terrorist act;
 - (j) encouraging or inducing any person to leave Malaysia to further the activities of a terrorist group or to commit a terrorist act; or
 - (k) using social media or any other means to—
 - (i) advocate for or to promote a terrorist group, support for a terrorist group or the commission of a terrorist act; or
 - (ii) further or facilitate the activities of a terrorist group.”.

Seksyen baru 130JA hingga 130JD

4. Kanun dipinda dengan memasukkan selepas seksyen 130J seksyen yang berikut:

“Travelling to, through or from Malaysia for the commission of terrorist acts in foreign country

130JA. Whoever, whether or not a citizen or permanent resident of Malaysia, travels to, through or from Malaysia with intent to travel to a foreign country or any part of that foreign country, whether directly or through any other country or territory, for the purpose of the commission or the preparation for the commission of a terrorist act in a foreign country shall be punished with imprisonment for a term which may extend to thirty years, and shall also be liable to fine.

Possession, etc. of items associated with terrorist groups or terrorist acts

130JB. (1) Whoever—

(a) has possession, custody or control of; or

(b) provides, displays, distributes or sells,

any item associated with any terrorist group or the commission of a terrorist act shall be punished with imprisonment for a term not exceeding seven years, or with fine, and shall also be liable to forfeiture of any such item.

(2) In this section—

“item” includes publications, visual recordings, flags, banners, emblems, insignia and any other thing displaying symbols associated with a terrorist group, terrorist act or ideology of a terrorist group;

“publications” includes all written, pictorial or printed matter, and everything of a nature similar to written or printed

matter, whether or not containing any visible representation, or by its form, shape or in any other manner capable of suggesting words or ideas, or an audio recording and every copy, translation and reproduction or substantial translation or reproduction in part or in whole thereof.

Offence to build, etc. conveyance for use in terrorist acts

130Jc. Whoever—

- (a) builds or agrees to build or causes to be built any conveyance with intent or knowledge or having reasonable grounds to believe that the conveyance will be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act;
- (b) issues or delivers any commission for any conveyance with intent or knowledge or having reasonable grounds to believe that the conveyance will be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act;
- (c) equips any conveyance with intent or knowledge or having reasonable grounds to believe that the conveyance will be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act; or
- (d) dispatches or causes or allows to be dispatched any conveyance with intent or knowledge or having reasonable grounds to believe that the conveyance will be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act,

shall be punished with imprisonment for a term not exceeding thirty years, or with fine, and shall also be liable to forfeiture of any such conveyance.

Preparation of terrorist acts

130JD. (1) Whoever, with the intention of committing a terrorist act or assisting another to commit a terrorist act, engages in any conduct in preparation for giving effect to such intention shall be punished with imprisonment for a term not exceeding seven years, and shall also be liable to fine.

(2) For the purposes of subsection (1), it shall be irrelevant whether the intention and preparation relate to one or more particular terrorist act.”.

Seksyen baru 130TA

5. Kanun dipinda dengan memasukkan selepas seksyen 130T seksyen yang berikut:

“Non-application of Offenders Compulsory Attendance Act 1954 and sections 173A, 293 and 294 of the Criminal Procedure Code

130TA. The Offenders Compulsory Attendance Act 1954 [Act 461] and sections 173A, 293 and 294 of the Criminal Procedure Code shall not apply to an offence under this Chapter.”.

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Kanun Keseksaan (“Akta 574”).

2. *Fasal 1* mengandungi tajuk ringkas dan peruntukan bagi permulaan kuat kuasa Akta yang dicadangkan.

3. *Fasal 2* bertujuan untuk memasukkan seksyen baru 130FA dan 130FB ke dalam Akta 574. Seksyen 130FA mengadakan peruntukan bagi kesalahan menerima latihan dan tunjuk ajar daripada kumpulan pengganas dan orang yang melakukan perbuatan keganasan. Seksyen 130FB menjadikan kehadiran di sesuatu tempat yang digunakan bagi latihan keganasan suatu kesalahan.

4. *Fasal 3* bertujuan untuk meminda subseksyen 130J(2) Akta 574 untuk meluaskan kategori “support” yang dilarang oleh seksyen itu.

5. *Fasal 4* bertujuan untuk memasukkan seksyen baru 130JA, 130JB, 130JC dan 130JD ke dalam Akta 574. Seksyen 130JA mengadakan peruntukan bagi kesalahan membuat perjalanan ke, menerusi atau dari Malaysia untuk melakukan perbuatan keganasan di sesuatu negara asing atau mana-mana bahagian sesuatu negara asing. Seksyen 130JB memperuntukkan bahawa menjadi suatu kesalahan bagi seseorang mempunyai dalam milikan, jagaan atau kawalannya apa-apa barang yang dikaitkan dengan mana-mana kumpulan pegganas atau pelakuan sesuatu perbuatan keganasan. Kesalahan itu juga merangkumi perbuatan mengadakan, mempamerkan, mengagihkan atau menjual barang itu. Seksyen 130JC memperkatakan kesalahan membina, melengkapkan atau menghantar mana-mana kenderaan, atau mengeluarkan atau menghantarserahkan apa-apa tempahan bagi mana-mana kenderaan, dengan niat atau pengetahuan atau dengan mempunyai alasan yang munasabah untuk mempercayai bahawa kenderaan itu akan digunakan dalam atau oleh suatu kumpulan pegganas untuk memajukan aktiviti sesuatu kumpulan pegganas atau untuk melakukan sesuatu perbuatan keganasan. Seksyen 130JD menjadikannya suatu kesalahan bagi mana-mana orang melibatkan diri dalam apa-apa kelakuan sebagai persediaan bagi melakukan sesuatu perbuatan keganasan atau untuk membantu seseorang yang lain untuk melakukan sesuatu perbuatan keganasan.

6. *Fasal 5* bertujuan untuk memasukkan seksyen baru 130TA ke dalam Akta 574. Seksyen 130TA memperuntukkan bahawa Akta Kehadiran Wajib Pesalah-Pesalah 1954 dan seksyen 173A, 293 dan 294 Kanun Tatacara Jenayah tidak terpakai bagi kesalahan di bawah Bab VIA.

IMPLIKASI KEWANGAN

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

[PN(U2)2972]

A BILL

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An Act to amend the Penal Code.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Penal Code (Amendment) Act 2015.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

New sections 130_{FA} and 130_{FB}

2. The Penal Code [Act 574], which is referred to as the "Code" in this Act, is amended by inserting after section 130_F the following sections:

"Receiving training and instruction from terrorist groups and persons committing terrorist acts

130_{FA}. Whoever receives training or instruction, or agrees or arranges to receive training or instruction—

(a) in the making or use of any explosive or other lethal device;

(b) in carrying out a terrorist act; or

(c) in the practice of military exercises or movements,

from a member of a terrorist group or a person engaging in, or preparing to engage in, the commission of a terrorist act shall be punished with imprisonment for a term which may extend to thirty years, and shall also be liable to fine.

Attendance at place used for terrorist training

130FB. (1) Whoever attends at any place, within or outside Malaysia—

(a) knowing or having reason to believe that instruction or training is being provided there wholly or partly for the purposes connected with the commission or preparation of a terrorist act; or

(b) where he could not reasonably have failed to understand that instruction or training was being provided there wholly or partly for such purposes,

shall be punished with imprisonment for a term which may extend to ten years, or with fine.

(2) For the purposes of this section, it shall be irrelevant—

(a) whether the person concerned receives the instruction or training himself; and

(b) whether the instruction or training is provided for purposes connected with one or more particular terrorist act.

(3) References in this section to instruction or training being provided include references to instruction or training being made available.”.

Amendment of section 130j

3. Subsection 130j(2) of the Code is amended—

(a) by deleting the word “or” at the end of paragraph (e);

- (b) by substituting for the full stop at the end of paragraph (f) a semicolon; and
- (c) by inserting after paragraph (f) the following paragraphs:
 - “(g) accumulating, stockpiling or otherwise keeping firearms, explosives, ammunition, poisons or weapons to further the activities of a terrorist group;
 - (h) arranging, managing or assisting in arranging or managing the transportation of persons to further the activities of a terrorist group;
 - (i) travelling to, entering or remaining in any foreign country to further the activities of a terrorist group or to commit a terrorist act;
 - (j) encouraging or inducing any person to leave Malaysia to further the activities of a terrorist group or to commit a terrorist act; or
 - (k) using social media or any other means to—
 - (i) advocate for or to promote a terrorist group, support for a terrorist group or the commission of a terrorist act; or
 - (ii) further or facilitate the activities of a terrorist group.”.

New sections 130JA to 130JD

4. The Code is amended by inserting after section 130j the following sections:

“Travelling to, through or from Malaysia for the commission of terrorist acts in foreign country

130JA. Whoever, whether or not a citizen or permanent resident of Malaysia, travels to, through or from Malaysia with intent to travel to a foreign country or any part of that foreign country, whether directly or through any other

country or territory, for the purpose of the commission or the preparation for the commission of a terrorist act in a foreign country shall be punished with imprisonment for a term which may extend to thirty years, and shall also be liable to fine.

Possession, etc. of items associated with terrorist groups or terrorist acts

130JB. (1) Whoever—

- (a) has possession, custody or control of; or
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any item associated with any terrorist group or the commission of a terrorist act shall be punished with imprisonment for a term not exceeding seven years, or with fine, and shall also be liable to forfeiture of any such item.

(2) In this section—

“item” includes publications, visual recordings, flags, banners, emblems, insignia and any other thing displaying symbols associated with a terrorist group, terrorist act or ideology of a terrorist group;

“publications” includes all written, pictorial or printed matter, and everything of a nature similar to written or printed matter, whether or not containing any visible representation, or by its form, shape or in any other manner capable of suggesting words or ideas, or an audio recording and every copy, translation and reproduction or substantial translation or reproduction in part or in whole thereof.

Offence to build, etc. conveyance for use in terrorist acts

130Jc. Whoever—

- (a) builds or agrees to build or causes to be built any conveyance with intent or knowledge or having reasonable grounds to believe that the conveyance will

be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act;

- (b) issues or delivers any commission for any conveyance with intent or knowledge or having reasonable grounds to believe that the conveyance will be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act;
- (c) equips any conveyance with intent or knowledge or having reasonable grounds to believe that the conveyance will be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act; or
- (d) dispatches or causes or allows to be dispatched any conveyance with intent or knowledge or having reasonable grounds to believe that the conveyance will be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act,

shall be punished with imprisonment for a term not exceeding thirty years, or with fine, and shall also be liable to forfeiture of any such conveyance.

Preparation of terrorist acts

130JD. (1) Whoever, with the intention of committing a terrorist act or assisting another to commit a terrorist act, engages in any conduct in preparation for giving effect to such intention shall be punished with imprisonment for a term not exceeding seven years, and shall also be liable to fine.

(2) For the purposes of subsection (1), it shall be irrelevant whether the intention and preparation relate to one or more particular terrorist act.”.

New section 130TA

5. The Code is amended by inserting after section 130T the following section:

“Non-application of Offenders Compulsory Attendance Act 1954 and sections 173A, 293 and 294 of the Criminal Procedure Code

130TA. The Offenders Compulsory Attendance Act 1954 [Act 461] and sections 173A, 293 and 294 of the Criminal Procedure Code shall not apply to an offence under this Chapter.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Penal Code (“Act 574”).

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.

3. *Clause 2* seeks to introduce new sections 130FA and 130FB into Act 574. Section 130FA provides for the offence of receiving training and instruction from terrorist groups and persons committing terrorist acts. Section 130FB criminalises attendance at a place used for terrorist training.

4. *Clause 3* seeks to amend subsection 130J(2) of Act 574 to extend the categories of “support” that are prohibited by that section.

5. *Clause 4* seeks to introduce new sections 130JA, 130JB, 130JC and 130JD into Act 574. Section 130JA provides for the offence of travelling to, through or from Malaysia for the commission of terrorist acts in a foreign country or any part of a foreign country. Section 130JB provides that it is an offence for a person to have in his possession, custody or control any item associated with any terrorist group or the commission of a terrorist act. The offence also covers the act of providing, displaying, distributing or selling those items. Section 130JC deals with the offence of building, equipping or dispatching any conveyance, or issuing or delivering any commission for any conveyance, with intent or knowledge or having reasonable grounds to believe that the conveyance will be employed in or by a terrorist group to further the activities of a terrorist group or to commit a terrorist act. Section 130JD makes it an offence for any person to engage in any conduct in preparation for the commission of a terrorist act or to assist another person to commit a terrorist act.

6. *Clause 5* seeks to introduce a new section 130TA into Act 574. Section 130TA provides that the Offenders Compulsory Attendance Act 1954 and sections 173A, 293 and 294 of the Criminal Procedure Code shall not apply to an offence under Chapter VIA.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

[PN(U2)2972]