



D.R. 41/95

Naskhah Sahih—Bahasa Inggeris

RANG UNDANG-UNDANG

*bernama*

Suatu Akta untuk meminda Akta Pasport 1966.

[ ]

MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh 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 Pasport (Pindaan) 1995. Tajuk ringkas dan mula berkuatkuasa.

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

2. Akta Pasport 1966, yang disebut "Akta ibu" dalam Akta ini, adalah dipinda dalam seksyen 1A— Pindaan seksyen 1A. Akta 150.

(a) dengan memotong takrif "alien" dan "Commonwealth citizen";

(b) dengan memasukkan selepas takrif "Director General" takrif yang berikut:

' "Director General of Customs and Excise" means the Director General of Customs and Excise appointed under section 3(1) of the *Act 235*. Customs Act 1967;';

(c) dengan menggantikan takrif "immigration officer" dengan takrif yang berikut:

*Act 155* ' "immigration officer" and "senior immigration officer" have the meaning assigned to them respectively in the Immigration Act 1959-63;';

(d) dengan memasukkan selepas takrif "master" takrif yang berikut:

' "non-citizen" means a person other than a citizen;';

(e) dengan menggantikan takrif "officer of customs" dengan takrif yang berikut:

*Act 235* ' "officer of customs" and "senior officer of customs" have the meaning assigned to them respectively in the Customs Act 1967;'; dan

(f) dengan memasukkan selepas takrif "passport" takrif yang berikut:

*Act 344* ' "police officer" and "senior police officer" have the meaning assigned to them respectively in the Police Act 1967;';

Pindaan  
seksyen 2.

**3.** Subseksyen 2(1) Akta ibu adalah dipinda dengan menggantikan perkataan "an alien" dengan perkataan "a non-citizen".

Pindaan  
seksyen 6.

**4.** Subseksyen 6(3) Akta ibu adalah dipinda dengan menggantikan perkataan "one thousand dollars" dan "six months" masing-masingnya dengan perkataan "five thousand ringgit" dan "one year".

Pindaan  
seksyen 9.

**5.** Seksyen 9 Akta ibu adalah dipinda dengan menggantikan perkataan "an alien" di mana-mana jua ia terdapat dengan perkataan "a non-citizen".

Penggantian

**6.** Akta ibu adalah dipinda dengan menggantikan seksyen 10 dengan seksyen yang berikut:

"Power of  
arrest and  
investiga-  
tion

10. (1) Any immigration officer, police officer or officer of customs may arrest without warrant any person whom he reasonably believes has

committed or is attempting to commit an offence under this Act.

*F.M.S.*  
*Cap. 6*

(2) In the exercise of his powers of arrest under subsection (1), an immigration officer or an officer of customs shall be bound to comply with section 28 of the Criminal Procedure Code.

(3) Where any person has been arrested under subsection (1), he shall thereafter be dealt with as provided by the Criminal Procedure Code.

(4) A senior immigration officer, senior police officer or senior officer of customs may, in relation to any investigation in respect of a seizable offence committed under this Act, exercise the special powers in relation to police investigations given by the Criminal Procedure Code."

7. Akta ibu adalah dipinda dengan memasukkan selepas seksyen 10 seksyen yang berikut:

Seksyen baru  
10A, 10B,  
10C, 10D,  
10E, 10F dan  
10G

"Power to  
search and  
seize.

10A. (1) If it appears to a Magistrate upon written information on oath and after such enquiry as he considers necessary that there is reasonable cause to believe that—

- (a) any premises have been used or are about to be used for; or
- (b) there is in any premises evidence necessary to establish,

the commission of an offence under this Act, the Magistrate may issue a warrant authorising any immigration officer, police officer or officer of customs named therein, at any reasonable time by day or by night and with or without assistance, to enter the premises, if need be by force, and there to search for and seize, and therefrom remove, any material, instrument, machinery or other thing in respect of which an offence has or is suspected to have been committed and any material, instrument, machinery or other thing that is reasonably believed to furnish evidence of the commission of the offence.

(2) An immigration officer, police officer or officer of customs acting under subsection (1) may—

- (a) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry thereinto;
- (b) remove by force any obstruction to entry, search, seizure or removal as he is empowered to effect under subsection (1); and
- (c) detain every person found in the premises until it has been searched.

Search and seizure without warrant.

10B. If a senior immigration officer, a senior police officer or a senior officer of customs in any of the circumstances referred to in section 10A has reasonable cause to believe that by reason of delay in obtaining a search warrant under that section the investigation would be adversely affected or the material, instrument, machinery or other thing sought may be removed or the evidence sought may be tampered with, he may exercise in, upon and in respect of the premises all the powers referred to in section 10A in as full and ample a manner as if he were authorised to do so by a warrant issued under that section.

Power to stop and search conveyances.

10C. (1) Notwithstanding anything contained in any other written law, if—

- (a) any senior immigration officer, senior police officer or senior officer of customs; or
- (b) any immigration officer, police officer or officer of customs acting under the instruction of a senior immigration officer, senior police officer or senior officer of customs, as the case may be,

has reasonable suspicion that any conveyance is carrying any material, instrument, machinery or

other thing in respect of which there is or has been any contravention of this Act, he may—

- (aa) stop and examine the conveyance; and
- (bb) if on examination he has reasonable cause to believe that such conveyance is or has been used for the contravention of this Act, seize such conveyance and any material, instrument, machinery or other thing found therein.

(2) The person in control or in charge of the conveyance shall, if required to do so by such officer—

- (a) stop the conveyance and allow the officer to examine it; and
- (b) open all parts of the conveyance for examination and take all measures necessary to enable or facilitate the carrying out of such examination as the officer considers necessary.

(3) Any person who fails to comply with subsection (2) shall be guilty of an offence and shall on conviction, be liable to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Seizure of  
material,  
etc.

10D. (1) Any material, instrument, machinery or other thing that is reasonably suspected of having been used or is to be used in the commission of any offence under this Act may be seized and detained by any senior immigration officer, senior police officer or senior officer of customs.

(2) Where any seizure is made under subsection (1), the seizing officer shall immediately give notice in writing of the seizure and the grounds thereof to the owner of the material, instrument, machinery

or other thing so seized by delivering a copy of such notice to him in person or by post at his place of business or residence:

Provided that no notice shall be required to be given where the seizure or detention is made in the presence of or with the knowledge of the owner.

(3) For the purpose of this section, "owner" includes an agent or representative of the owner.

Forfeiture  
of material,  
etc. seized.

10E. (1) Any material, instrument, machinery or other thing liable to seizure or detention under this Act shall be liable to forfeiture.

(2) Where any material, instrument, machinery or other thing has been seized under this Act, a senior immigration officer, senior police officer or senior officer of customs may, at his discretion, temporarily release such material, instrument, machinery or other thing to the owner of the same on security being furnished to his satisfaction that such material, instrument, machinery or other thing shall be surrendered to him on demand or produced before a court of competent jurisdiction on demand.

(3) An order for the forfeiture or for the release of any material, instrument, machinery or other thing liable to forfeiture under this Act shall be made by the court before which the prosecution with regard thereto has been held and an order for the forfeiture of the material, instrument, machinery or other thing shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the material, instrument, machinery or other thing was the subject-matter of or was used in the commission of the offence, notwithstanding that no person may have been convicted of such offence.

(4) If there is no prosecution with regard to any material, instrument, machinery or other thing seized under this Act, such material, instrument,

machinery or other thing shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure unless before that date a claim thereto is made in the following manner:

- (a) any person asserting that he is the owner of such material, instrument, machinery or other thing and that it is not liable to forfeiture may personally or by his agent authorised in writing give written notice to the senior immigration officer, senior police officer or senior officer of customs in whose possession such material, instrument, machinery or other thing is held that he claims the same;
- (b) on receipt of such notice the senior immigration officer, senior police officer or senior officer of customs, as the case may be, shall refer the claim to the Director General or the Director General of Customs and Excise, as the case may require, who may order that such material, instrument, machinery or other thing be released or may direct such officer to refer the matter to a Magistrate or a Judge of a Sessions Court for a decision;
- (c) the Magistrate or Judge to whom the matter is referred shall issue a summons requiring the person asserting that he is the owner of the material, instrument, machinery or other thing and the person from whom it was seized to appear before him and on his appearance or default to appear, the Magistrate or Judge shall proceed to the examination of the matter and, on proof that an offence under this Act has been committed and that such material, instrument, machinery or other thing was the subject-matter of or was used in the commission of such offence, shall order the same to be forfeited and shall, in the absence of such proof, order its release.

No costs, damages, etc. on seizure.

10F. No person shall, in any proceedings before any court in respect of the seizure of any material, instrument, machinery or other thing seized or detained in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief other than an order for the return of such material, instrument, machinery or other thing or the payment of its value unless such seizure was made without reasonable or probable cause.

Power to prosecute.

10G. (1) Subject to subsection (2), every senior immigration officer, senior police officer or senior officer of customs shall have the authority to appear in court and to conduct any prosecution in respect of an offence under this Act:

Provided that in the case of a senior immigration officer or a senior officer of customs, such authority shall be subject to the approval of the Director General or the Director General of Customs and Excise, respectively.

(2) No prosecution in respect of any offence under this Act shall be instituted without the written consent of the Public Prosecutor."

Pindaan seksyen 12.

**8.** Seksyen 12 Akta ibu adalah dipinda dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

" (1) Any person who—

- (a) forges, alters or tampers with his passport or internal travel document, or any visa or endorsement thereon, or without lawful authority uses or attempts to use, or has in his possession, any passport or internal travel document which has been so forged, altered or tampered with;
- (b) impersonates or falsely represents himself to be or not to be a person to whom a passport or internal travel document has been duly issued;

- (c) with intent to obtain for himself a passport, internal travel document, or an endorsement or visa on his passport, knowingly makes any false statement or produces any document which is to his knowledge false in any particular;
- (d) without lawful authority, has in his possession any passport or internal travel document which has been obtained as a result of making any material statement which was false or misleading, or as a result of the production of false evidence;
- (e) allows any person to have possession of any passport or internal travel document issued for his use alone, intending or knowing that the passport or internal travel document may be used by any other person;
- (f) without lawful authority, has in his possession any passport or internal travel document issued for the use of some person other than himself;
- (g) wilfully assists any person to enter Malaysia contrary to this Act;
- (h) wilfully assists any person to contravene this Act; or
- (i) obstructs or hinders any immigration officer, police officer or officer of customs in the discharge of his duty under this Act,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both."

**9. Akta ibu adalah dipinda dengan memasukkan selepas seksyen 12 seksyen yang berikut:**

Seksyen baru  
12A, 12B,  
12c dan 12d.

"Offence relating to procurement of passport etc. for another person. 12A. Any person who with intent to obtain for any other person a passport, internal travel document, or an endorsement or visa on a passport, knowingly makes any false statement or produces any document which to his knowledge is false in any particular shall be guilty of an offence and

shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit and imprisonment for a term of not less than one year but not more than five years.

Making of false passport, etc.

12B. Any person who makes any false document—  
 (a) intending it to be used by himself or by any other person; or  
 (b) that is used by himself or by any other person,

as a passport for the purposes of this Act shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than fifteen thousand ringgit but not more than one hundred thousand ringgit and imprisonment for a term of not less than two years but not more than ten years and with whipping of not more than six strokes of the rotan.

Rewards.

12C. The Director General may order such reward as he thinks fit to be paid to any person for any service rendered in connection with the detection and prosecution of an offence under this Act.

Directions of Minister.

12D. The Minister may from time to time give the Director General directions of a general or specific nature not inconsistent with this Act as to the exercise of the powers and discretion conferred on the Director General by, and the duties required to be discharged by the Director General under, this Act in relation to all matters which appear to him to affect the policy of Malaysia, and the Director General shall give effect to all such directions."

## HURAIAN

Rang Undang-Undang ini bertujuan meminda Akta Pasport 1966 ("Akta").

2. *Fasal 1* memperkatakan perkara-perkara permulaan, termasuk kuasa Menteri untuk menetapkan tarikh mula berkuatkuasanya Akta ini.
3. *Fasal 2* bertujuan meminda seksyen 1A Akta dengan memotong takrif yang tertentu dan memasukkan takrif baru tertentu.
4. *Fasal 3* dan 5 bertujuan meminda masing-masingnya seksyen 2(1) dan 9 Akta dengan menggantikan perkataan "an alien" dengan perkataan "a non-citizen".
5. *Fasal 4* bertujuan meminda subseksyen 6(3) Akta untuk menaikkan penalti bagi kegagalan nakhoda sesuatu vesel untuk mematuhi perintah Ketua Pengarah di bawah subseksyen 5(1) Akta untuk mengeluarkan dari Malaysia seseorang yang memasuki Malaysia dengan cara yang berlawanan dengan Akta.
6. *Fasal 6* bertujuan menggantikan seksyen 10 Akta untuk memperjelaskan kuasa penahanan dan penyiasatan di bawah Akta.
7. *Fasal 7* bertujuan memasukkan seksyen baru 10A, 10B, 10C, 10D, 10E, 10F dan 10G untuk memperkukuh kuasa penguatkuasaan di bawah Akta.
8. *Fasal 8* bertujuan meminda subseksyen 12(1) Akta untuk memperjelaskan kesalahan-kesalahan di bawah Akta.
9. *Fasal 9* bertujuan memasukkan seksyen baru 12A, 12B, 12C dan 12D. Seksyen 12A memperkatakan kesalahan-kesalahan yang berhubungan dengan pemerolehan pasport, dokumen perjalanan dalam negeri, atau pengendorsan atau visa dalam pasport, bagi orang lain. Seksyen 12B memperkatakan kesalahan membuat dokumen palsu untuk digunakan sebagai pasport, sama ada oleh orang yang membuatnya atau oleh mana-mana orang lain. Seksyen 12C memberi Ketua Pengarah Imigresen kuasa untuk memberikan hadiah kepada orang yang memberikan bantuan berkaitan dengan pengesanan dan pendakwaan kesalahan di bawah Akta. Seksyen 12D memperuntukkan bahawa Menteri boleh memberikan arahan yang bersifat umum atau khusus yang tidak tak konsisten dengan Akta kepada Ketua Pengarah Imigresen dan Ketua Pengarah hendaklah melaksanakan segala arahan sedemikian.

#### IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U<sup>2</sup>) 1894.]