

PINDAAN-PINDAAN YANG DICADANGKAN KEPADA  
RANGUNDAANG-UNDANGPERLEMBAGAAN(PINDAAN)1993

Rang Undang-Undang adalah dipinda dengan menggantikan fasal 2 dengan fasal yang berikut:

Pindaan  
Perkara 32

2. Fasal (1) Perkara 32 Perlembagaan Persekutuan adalah dipinda dengan memasukkan selepas perkataan.

'mahkamah. perkataan kecuali dalam mahkamah Khas yang ditubuhkan di bawah Bahagian XV".

2. Rang Undans-Undang adalah dipinda dengan memasukkan selepas fasal 2, fasal yang berikut:

'Perkara  
baru 55A.

2A. Perlembagaan Persekutuan adalah dipinda dengan memasukkan, selepas Perkara 35, Perkara yang berikut:

"Yang di-Pertuan Agong hendaklah terhenti menjalankan fungsi-fungsi Yang di-Pertuan Agong jika dipertuduh atas suatu kesalahan.

55A. (1) Jika Yang di-Pertuan Agong dipertuduh atas suatu kesalahan di bawah mana-mana undang-undang dalam Mahkamah Khas yang ditubuhkan di bawah Bahagian XV dia hendaklah terhenti menjalankan fungsi-fungsi Yang di-Pertuan Agong.

(2) Tempoh Yang di-Pertuan Agong terhenti, di bawah Fasal (1), menjalankan fungsi-fungsi Yang di-Pertuan Agong hendaklah disifatkan menjadi sebahagian daripada temooh jawatan Yang di-Pertuan Agong yang diperurukkan ~~di~~ Fasal (5) Parkara 32.

5. Fasal 3 Rang Undang-Undang adalah dipinda, dalam subperenggan (a) dan (b)(iii), dengan menggantikan perkatacn Fasal (6) perkara 181 dengan perkataan Fasal (1) Perkara 182.

4. Rang Undang-Undang adalah dipinda dengan menggantikan fasal 7 dengan fasal yang berikut:

Pindaan  
perkara 131.

7. Fasal (2) Perkara 181 Perlembagaan Persekutuan adalah dipinda dengan memasukkan, selepas perkataan "peribadinya' perkataan kecuali dalam Mahkamah Khc yang ditubuhkan di bawah Bahagian XV".

5, Rang Undang-Undang adalah dipinda dengan memasukkan, selepas fasal fasal yang berikut:

Bahagian  
baruXV.

7A. Perlembagaan Persekutuan adalah dipinda dengan memasukkan, selepas Bahagian XIV, Bahagian yang berikut;

BAHAGIAN XV  
PROSIDING TERHADAP  
YANG DI-PERTUAN AGQNG  
DAN RAJA-RAJA

Mahkamah Khas. 182. (1) Maka hendaklah ada suatu mahkamah yang hendaklah dikenali sebagai Mahkamah Khas dan hendaklah terdiri daripada Ketua Hakim Negara Mahkamah Agung/ yang hendaklah menjadi Penserusi, Hakim-Hakim Besar Mahkanah Tinggi, dan dua orang lain yang memegang atau pernah memegang jawatan sebagai hakim Mahkamah Agung atau Mahkanah Tinggi yang dilantik oleh Majlis Raja-Raja,

C2) Apa-apa prosiding oleh atau terhadap Yang di-Pertuan Agung atau Raja sesuatu Negeri atas sifat peribadinya hendaklah dibawa dalam Mahkamah Khas yang ditubuhkan di bawah Fasal (1).

(3) Mahkamah Khas hendaklah mempunyai bidang Kuasa eksklusif untuk membicarakan segala kesalahan yang dilakukan di Persekutuan oleh Yang di-Pertuan Agong atau Raja sesuatu Negeri dan segala kes **sivil** oleh atau terhadap Yang di-Pertuan Agong atau Raja sesuatu Negeri walau di mana pun kuasa tindakan berbangkit.

(4) Mahkamah Khas hendaklah mempunyai bidang kuasa dan kuasa-kuasa yang sama seperti yang terletak pada mahkamah-mahkamah bawahan, Mahkamah Tinggi dan Mahkamah Agung melalui Perlembagaan ini atau mana-mana undang-undang persekutuan dan hendaklah mempunyai pejabat pendatarannya di Kuala Lumpur.

(5) Sehingga Parlimen, melalui undang-undang, membuat peruntukan khas yang berlawanan berkenaan dengan prosedur tertentu

pendengaran prosiding secara tertutup) dalam kas-kes **sivil** atau jenayah dan undang-undang yang mengawalselia keterangan dan pembuktian dalam prosiding **sivil** dan jenayah, maka amalan dan prosedur yang terpakai dalam mana-mana prosiding dalam mana-mana mahkamah bawahan mana-mana Mahkamah Tinggi dan Mahkanah Agung hendaklah terpakai dalam mana-mana prosiding dalam Mahkamah Khas.

(6) Prosiding dalam Mahkamah Khas hendaklah diputuskan mengikut pendapat **majoriti** anggota dan keputusannya adalah muktamad dan konklusif dan tidak boleh dicabar atau dipertikaikan dalam mana-mana mahkamah atas apa-apa alasan.

(7) Yang di-Pertuan Agong boleh, atas nasihat Ketua Hakim Negara, membuat apa-apa kaedah yang difikirkannya perlu atau Suaimanfaat untuk membuat peruntukan bagi

penghapusan apa-apa kesulitan atau anomali jua pun dalam mana-mana undang-undang bertulis atau dalam pelaksanaan apa-apa fungsi perjalanan apa-apa kuasa, apa-apa kewajipan, atau penunaian apa-apa perbuatan, di bawah mana mana undang-undang bertulis, yang mungkin disebabkan oleh Perkara ni

itu boleh membuat apa-apa pengubahsuaian, adaptasi perubahan, pertukaran atau pindaan pun kepada mana-mana undang-undang bertulis.

Tiada tindakan boleh dimulakan terhadap Yang di-Pertuan Agong atau Raja kecuali dengan keizinan Peguam Negara sendiri.

183. Tiada tindakan, sivil atau jenayah, boleh dimulakan terhadap Yang di-Pertuan Agong atau Raja sesuatu Negeri berkenaan dengan apa jua yang dilakukan atau ditinggalkan daripada dilakukan olehnya atas sifat peribadi kecuali dengan keizinan Peguam Negara sendiri.".

5. Fasal 8 Rang Undang-Undang adalah dipinda dengan memasukkan, selepas perkataan mahkamah perkataan atau dalam Mahkamah Khas.

7. Rang Undang-Undang adalah dipinda dengan memasukkan, selepas fasal 8 fasal yang berikut:

'Pindaan Jadual 9, Jadual Kelapan kepada Perlembagaan Persekutuan ,Kelapan. adalah dipinda dengan memasukkan, selepas Seksyen 1, Peruntukan yang berikut:

'Prosiding terhadap Raja

1A. (1) Jika Raja dipertuduh atas sesuatu kesalahan di bawah mana-mana undang-undang dalam Mahkamah Khas yang ditubuhkan di bawah Bahagian Xy Perlembagaan Persekutuan, dia hendaklah" terhenti menjalankan fungsi-fungsi Raja Negeri ini.

(2) Dalam tempoh Raja terhenti, di bawah subseksyen (1), menjalankan fungsi-fungsi Raja Negeri ini, seorang Pemangku Raja atau suatu Jemaah Pemangku Raja

mengikut mana-mana yang berkenaan, hendaklah dilantik mengikut Perlembagaan Negeri ini untuk menjalankan fungsi-, fungsi Raja Negeri ini.

(3) Jika Raja disabitkan atas suatu kesalahan dalam Mahkamah Khas dan dijatuhi hukuman pemenjaraan selama tempoh lebih daripada satu hari dia hendaklah terhenti menjadi Raja Negeri ini melainkan jika dia menerima pengampunan," .

PROPOSED AMENDMENTS TO CONSTITUTION (AMENDMENT) BILL 1993

1. The Bill is amended by substituting for clause 2 the following clause:

Amenament of 2. Clause (1) of Article 32 of the Federal Constitution is amended by inserting, after the word "court" the words "except in the Special Court established under Part XV.

2. The Bill is amended by inserting, after clause 2, the following clause:

New Article 33A. 2A. The Federal Constitution is amended by inserting, after Article 33, the following Article:

"Yang di-Pertuan Agong shall cease to exercise the functions of the Yang di-Pertuan Agong if charged with an offence.

53A, (1) Where the Yang di-Pertuan Agong is charged with an offence under any law in the Special Court established under Part XV he shall cease to exercise the functions of the Yang di-Pertuan Agong.

(2) The period during which the Yang di-Pertuan Agong ceases,

under Clause (1), to exercise functions of the Yang di-Pertuan Agong shall be deemed to be i of the term of office of the di-Pertuan Agong provided for Clause (3) of Article 32.

5. Clause 5 of the Bill is amended, in subparagraphs (a)(ii) (b)(iii), by substituting for the words "Clause (6) of Article 131 word Clause(1) of Article 182".

The Bill is amended by substituting for clause 7 the following clause

Amendment of Article 131.

7. Clause (2) of, Article 181 of the Federal Constitution is amended by inserting, after the "capacity", the words "except in the Special cou established under Part XV".

5. The Bill is amended by inserting, after clause 7, the following clause:

New Part XV,

7A. The Federal Constitution is amended by inserting after Part XIV, the following Part:

PART XV

PROCEEDINGS AGAINST  
THE YANG DI-PERTUAN AGONG  
AND THE RULERS

The Special  
Court,

182. Cl) There shall be a  
which shall be known as the Special  
Court and shall consist of the L  
President of the Supreme Court,  
shall be the Chairman, the Ch,  
Justices of the High Courts,  
two other persons who hold or h  
held office as judge of the Supr-  
Court or a High Court appointed  
the Conference of Rulers.

(2) Any proceedings by  
against the Yang di-Pertuan Agong  
or the Ruler of a State in h  
personal capacity shall be brough  
in a Special Court establish  
under Clause (1).

(5) The Special Court shall  
have exclusive jurisdiction to the  
all offences committed in te  
Federation by the Yang di-Pertuan

Agong or the Ruler of a State and all **civil** cases by or against Yang di-Pertuan Agang or the Ruler of a state notwithstanding when the cause of action arose.

..

(4) The Special Court shall have the same jurisdiction and powers as are vested in the inferior courts, the High Court and the Supreme Court by the Constitution or any federal law shall have its registry in Kuala Lumpur.

(5) Until Parliament by law makes special provision to be contrary in respect of procedure (including the hearing proceedings in camera in **civil** and **criminal** cases and the regulating evidence and proof in **civil** and **criminal** proceedings, practice and procedure application in any proceedings in any inferior court, any High Court and

Supreme Court shall cooly in ar  
proceedinss in the Special Court

(6) The procsedings in the  
Special Court shall be decided  
accordance with tha opinion of the  
najority of the members and i  
decision shall be fina l  
conclusive and shall not  
challenged or called in question  
any court on any ground.

(7) The Yang di-Pertuan Agong  
may, on the advice of the Lo  
President, make such rules as  
may deem necessary or expedient  
provide for the- removal of a  
difficulty or anomaly whatsoever  
any written law or in the carrying  
out of any function, the exercise  
of any power, the discharge of c  
duty, or the doing of any ac  
under any written law, that may  
occasioned by this Article, and  
that purpose such rules *may* nc  
any modification, adadtation

alteration, change or admendment  
whatsoever to any written law.

no action to be  
instituted  
against the Yang  
di-Pertuan Agong  
or a Ruler  
except with the  
consent of the  
Attorney  
General  
personally.

183. No action, civil  
criminal, shall be institution  
against the Yang di-Pertuan Agong  
or the Ruler of a State in resi  
of anything done or omitted to  
done by him in his persi  
capacity except with the con  
of the Attorney Gen  
personally.

•5. Clause 8 of the Bill is amended by inserting, after the word "cau  
the words \*or in the Special Court".

7. The Bill is amended by inserting, after clause 8, the following ~~cl~~

Amendment of  
Eighth  
Schedule.

9. The Eighth Schedule to the Federal Constitution  
amended by inserting, after section 1, the folio  
provisions:

"Proceedings against the Ruler

1A. (1) Where the Ruler is cha  
with an offence under any law in  
Special Court established under Part

of the Federal Constitution, he shall cease to exercise the functions of the Ruler of the State.

(2) During the period when the Ruler ceases, under subsection (1), exercise the functions of the Ruler of the State, a Regent or a Council of Regency, as the case may be, shall be appointed in accordance with the Federal Constitution to exercise the functions of the Ruler of the State.

(3) Where the Ruler is convicted of an offence in the Special Court and sentenced to imprisonment for more than one day he shall cease to be the Ruler of the State unless he receives a full pardon,

commuting sentences, under  
Clause (12) of Article  
42,

(b) in Clause (6)

(i) by deleting the word "or" after  
the semi-colon at the end of  
paragraph (c);

(ii) by substituting for the full stop  
at the end of paragraph (d) a  
semi-colon; and

(iii) by inserting, after paragraph (d)  
the following paragraph:

(e> the appointment of members  
of the Special Court under  
Clause (6) of Article 181;  
or

(f) the granting of pardons,  
reprieves and respites, or

2, Clause 4 of the Bill is amended, in paragraph (a) of the proposed Clause (12) of Article 42, by substituting for the words "Chief Minister of the State" the words "Yang di-Pertuan Agong"

5. Clause 7 of the Bill is amended by substituting for paragraph (b) the following paragraph;

(b) by inserting, after Clause (2), the following clauses:

"(3) Any law which Provides for the immunity of the Ruler of a State in his personal capacity from any proceedings whatsoever in any court, or attaches sanctity to his residence, shall to that extent be void.

~~(4)~~ Notwithstanding Clause (1) of Article 52 and Clause (2) of Article 181, no court shall have jurisdiction to entertain or determine any action, **civil** or **criminal**, against the Yang di-Pertuan Agong or the Ruler of a State in respect of anything done or omitted to be done by him in his personal capacity.

(5) Any proceedings against the Yang di-Pertuan Agong or the Ruler of a State in his personal capacity shall be

(6) There shall be a court which shall be known as the Special Court and shall consist of the Lord President of the Supreme Court, who shall be the Chairman, the Chief Justices of the High Courts, and two other persons who hold or have held office as judge of the Supreme Court or a High Court appointed by the Conference of Rulers.

(7) The Special Court shall have the same jurisdiction and powers as are vested in the inferior courts, the High Court and the Supreme Court by this Constitution or any federal law and shall have its registry in Kuala Lumpur

(8) The Special Court shall have exclusive jurisdiction to try all offences committed in the Federation by the Yang di-Pertuan Agong or the Ruler of a State and all **civil** cases by or against the Yang di-Pertuan Agong or the Ruler of a State notwithstanding where the cause of action arose.

(9) **Until** Parliament by law makes special provision to the contrary in respect of procedure (including the hearing of proceedings in camera) in **civil** or criminal cases and the law regulating evidence and proof in **civil** and criminal proceedings, the practice and procedure applicable in any proceedings in any inferior court, any High Court and the

Supreme Court shall apply in any proceedings in the Special Court.

(10) The proceedings in the Special Court shall be decided in accordance with the opinion of the majority of the members and its decision shall be final and conclusive and shall not be challenged or called in question in any court on any ground.

(11) The Yang di-Pertuan Agong may, on the advice of the Lord President, make such rules as he may deem necessary or expedient to provide for the removal of any difficulty or anomaly whatsoever in any written law or in the carrying out of any function, the exercise of any power, the discharge of any duty, or the doing of any act. under any written law, that may be occasioned by this Article, and for that purpose such rules may make any modification, adaptation, alteration, change or amendment whatsoever to any written law.

4. Clause 8 of the Bill is amended by inserting, before the word "Ruler", the words "Yang di-Pertuan Agong or the"

pardon, etc., in respect of a Yang di-Pertua Negeri, his wife or his son or daughter on the Yang di-Pertuan Agong who shall act on the advice of the Pardons Board appointed for the State.

2. Paragraph 3 seeks to provide for the establishment of a Special Court which shall have exclusive jurisdiction in respect of any proceedings, civil or criminal, involving the Yang di-Pertuan Agong or the Ruler of a State. It also seeks to provide for the appointment of the members of the Court.

3. Paragraph 4 seeks to clarify that the protection afforded by clause 8 is also applicable to the Yang di-Pertuan Agong.

4. Other amendments are consequential in nature.