

A BILL

intituled

An Act to amend the Dangerous Drugs (Special Preventive Measures) Act 1985, and to provide for matters connected therewith.

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WHEREAS action which is prejudicial to public order in Malaysia has been taken and further similar action is being threatened by a substantial body of persons both inside and outside Malaysia;

AND WHEREAS Parliament considers it necessary to stop such action;

Now, THEREFORE, pursuant to Article 149 of the Constitution, 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 Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1990. Short title.
2. Section 6 of the Dangerous Drugs (Special Preventive Measures) Act 1985, which is referred to in this Act as the "principal Act", is amended, in subsection (1), by deleting the words "from the date of such order". Amendment of section 6. Act 316.
3. (1) Section 6A of the principal Act is amended— Amendment of section 6
 - (a) by renumbering section 6A as subsection (1) of section 6A; and

(b) by inserting, after subsection (1), the following subsection:

"(2) No fresh detention order or fresh restriction order referred to in subsection (2) of section 11s shall be invalid or inoperative by reason that no fresh report has been submitted under subsection (3) of section 3 and subsection (4) of section 5 or that that detention order or restriction order was made on the same ground as the previous detention order or restriction order."

(2) Subsection (2) of section 6A of the principal Act, which has been inserted by subsection (1), shall be deemed to have been an integral part of that section as from the date of commencement of that section.

Amendment of section 11B.

4. Section 1 IB of the principal Act is amended, in subsection (2), by substituting for the words "order or to give a fresh direction as is mentioned under subsection (1)" the words "detention order under subsection (1) of section 6 or a fresh restriction order under subsection (3) of section 6 or a fresh direction under subsection (1) of section 11A".

Validation of detention orders and detentions, and indemnity.

5. (1) Where a detention order was made under subsection (1) of section 6 of the principal Act against any person during the period between the commencement of the principal Act and the commencement of this Act (hereinafter referred to as the "transitional period"), the detention order and the detention effected in pursuance thereof during the transitional period, and its continuation thereafter, if any, are hereby declared lawful and valid, and shall be deemed to be, and to have always and at all times been, lawful and valid, notwithstanding that—

- (a) the period for which it was directed by that order that such person be detained commenced from a date other than the date on which the detention order was made; or
- (b) the detention order was a fresh detention order made after the revocation of a previous detention order against such person.

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MEASURES) (AMENDMENT)

(2) No action, suit, prosecution or other legal proceeding whatsoever of any description or in any form shall be brought, instituted or maintained in any court on any ground after the commencement of this Act or, if brought or instituted before the commencement of this Act, shall continue to be maintained, for or on account of, or in respect of, anything lawfully done in relation to the detention order or the detention declared lawful and valid under subsection (1), save that the provisions of this subsection shall not apply to any such legal proceeding which had concluded and the final decision of the court in respect of which had been given before the commencement of this Act, or to any appeal in respect of such final decision.

EXPLANATORY STATEMENT

This Bill is enacted under Article 149 of the Federal Constitution to amend the Dangerous Drugs (Special Preventive Measures) Act 1985 (which is referred to in this Statement as the "Act").

2. Subsection (1) of section 6 of the Act empowers the Minister to make a detention order directing a person to be detained for a period not exceeding two years from the date of such order. *Clause 2* of the Bill seeks to amend that subsection to remove the words "from the date of such order", so as to bring it in line with other similar laws.
3. *Clause 3* seeks to introduce anew subsection (2) into section 6A of the Act. The new subsection provides that where a fresh detention order or restriction order is made after a previous detention order or restriction order is revoked, that fresh order is valid notwithstanding that no fresh report has been submitted under subsection (3) of section 3 and subsection (4) of section 5 of the Act or that that fresh order was made on the same ground as the previous order.
4. *Clause 4* of the Bill seeks to amend subsection (2) of section 11 B of the Act to make it clear that the "fresh order" referred to in that subsection is a fresh order under subsection (1) or subsection (3) of section 6 of the Act and that the "fresh direction" referred to in that subsection is a fresh direction under subsection (1) of section 11 A of the Act.
5. *Clause 5 (1)* seeks to validate any detention order made, and any detention effected in pursuance of that order, after the commencement of the Act but before the commencement of the proposed amendment where such detention order commenced from a date other than the date on which it was made or where the detention order is a fresh detention order made after the revocation of a previous detention order.

Clause 5 (2) seeks to prohibit any action, suit, prosecution or any other proceeding from being brought, instituted or maintained in respect of any detention order or detention validated under *clause 5 (1)*. This prohibition, however, does not apply to any legal proceeding where the court has given its final decision before the commencement of this Bill, or where there is an appeal in respect of such decision.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure. [PN. (U²) 1604.]

