



# UNDANG-UNDANG MALAYSIA

**Akta A1384**

**AKTA SEWA BELI (PINDAAN) 2010**

Tarikh Perkenan Diraja ... .. 8 September 2010

Tarikh penyiaran dalam *Warta* ... .. 30 September 2010

**Hakcipta Pencetak (H)**

**PERCETAKAN NASIONAL MALAYSIA BERHAD**

Semua Hak Terpelihara. Tiada mana-mana bahagian jua daripada penerbitan ini boleh diterbitkan semula atau disimpan di dalam bentuk yang boleh diperolehi semula atau disiarkan dalam sebarang bentuk dengan apa jua cara elektronik, mekanikal, fotokopi, rakaman dan/atau sebaliknya tanpa mendapat izin daripada **Percetakan Nasional Malaysia Berhad (Pencetak kepada Kerajaan Malaysia yang dilantik)**.

## UNDANG-UNDANG MALAYSIA

### Akta A1384

#### AKTA SEWA BELI (PINDAAN) 2010

Suatu Akta untuk meminda Akta Sewa Beli 1967.

[ ]

**DIPERBUAT** oleh Parlimen Malaysia seperti yang berikut:

#### **Tajuk ringkas dan permulaan kuat kuasa**

1. (1) Akta ini bolehlah dinamakan Akta Sewa Beli (Pindaan) 2010.

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

#### **Pindaan tajuk panjang**

2. Akta Sewa Beli 1967 [*Akta 212*], yang disebut “Akta ibu” dalam Akta ini, dipinda dengan menggantikan tajuk panjang dengan tajuk panjang yang berikut:

“An Act to regulate the form and contents of hire-purchase agreements, the rights and duties of parties to such agreements and to make provisions for other matters connected therewith and incidental thereto.”.

**Pindaan seksyen 4A****3. Seksyen 4A Akta ibu dipinda—**

- (a) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(1A) A hire-purchase agreement shall be in the national language or English language.”;

- (b) dalam subseksyen (2), dengan menggantikan perkataan “subsection (1)” dengan perkataan “subsections (1) and (1A)”; dan

- (c) dalam subseksyen (3), dengan menggantikan perkataan “subsection (1)” dengan perkataan “subsections (1) and (1A)”.

**Pindaan seksyen 4B****4. Seksyen 4B Akta ibu dipinda—**

- (a) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(2A) No owner shall deliver or cause to be delivered to any dealer, agent or person acting on behalf of the owner a hire-purchase agreement or any other form or document relating to a hire-purchase agreement which has not been duly completed.”;

- (b) dalam subseksyen (3)—

(i) dengan menggantikan perkataan “does not comply with” dengan perkataan “contravenes”; dan

(ii) dengan menggantikan perkataan “(1) and (2)” dengan perkataan “(1), (2) and (2A)”; dan

- (c) dalam subseksyen (4)—

(i) dengan memotong perkataan “or” yang terdapat di hujung perenggan (a);

(ii) dalam perenggan (b), dengan menggantikan koma dengan perkataan “; or”; dan

(iii) dengan memasukkan selepas perenggan (b) perenggan yang berikut:

“(c) delivers or causes to be delivered a hire-purchase agreement in contravention of subsection (2A),”.

### **Seksyen baru 4E, 4F dan 4G**

5. Akta ibu dipinda dengan memasukkan selepas seksyen 4D seksyen yang berikut:

#### **“Motor vehicle registration certificate**

**4E.** (1) Where the goods comprised in a hire-purchase agreement is a motor vehicle, a hirer may make a request in writing to an owner to keep the registration certificate of the motor vehicle.

(2) The owner shall, upon the request of the hirer under subsection (1), furnish the registration certificate of the motor vehicle to the hirer.

(3) For the purpose of subsection (1), registration certificate includes registration book.

(4) An owner who contravenes subsection (1) shall be guilty of an offence under this Act.

#### **Altered or modified motor vehicle**

**4F.** (1) A hire-purchase agreement shall not be entered into where the goods comprised in the hire-purchase agreement is a motor vehicle which has been altered or modified in its construction and structure.

(2) A hire-purchase agreement that contravenes subsection (1) shall be void.

**Declaration on second-hand motor vehicle**

**4G.** (1) Where goods to be comprised in a hire-purchase agreement is a second-hand motor vehicle, the person who intends to enter into the hire-purchase agreement in respect of such second-hand motor vehicle shall declare in writing any defects of the second-hand motor vehicle in accordance with the inspection report by the relevant authority determined by the Controller.

(2) For the purpose of subsection (1), “defect” includes defect to the mechanical or operational system, construction, structure and build-up and fitting of the motor vehicle.

(3) Any person who contravenes this section shall be guilty of an offence under this Act.”.

**Pindaan seksyen 5**

**6.** Seksyen 5 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan menggantikan perkataan “fourteen” dengan perkataan “twenty-one”;
- (b) dengan memotong subseksyen (1A);
- (c) dalam subseksyen (2), dengan menggantikan perkataan “fourteen” dengan perkataan “twenty-one”; dan
- (d) dengan memasukkan selepas subseksyen (3) subseksyen yang berikut:

“(4) Any person who contravenes this section shall be guilty of an offence under this Act.”.

**Pindaan seksyen 16**

**7.** Seksyen 16 Akta ibu dipinda—

- (a) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

“(1) Subject to this section, an owner shall not exercise any power of taking possession of goods comprised in a hire-purchase agreement arising out of any breach of the agreement relating to the payment of instalments unless the payment of instalments amounts

to not more than seventy-five percent of the total cash price of the goods comprised in the hire-purchase agreement and there had been two successive defaults of payment by the hirer and he has served on the hirer a notice, in writing, in the form set out in the Fourth Schedule and the period fixed by the notice has expired, which shall not be less than twenty-one days after the service of the notice.”;

(b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(1A) Notwithstanding subsection (1), if the payment of instalments made amounts to more than seventy-five percent of the total cash price of the goods comprised in a hire-purchase agreement and there had been two successive defaults of payment by the hirer, an owner shall not exercise any power of taking possession of the goods comprised in the hire-purchase agreement arising out of any breach of the agreement relating to the payment of instalments unless he has obtained an order of the court to that effect.

(1B) Where an owner has obtained an order of the court under subsection (1A) and he has served on the hirer a notice, in writing, in the form set out in the Fourth Schedule and the period fixed by the notice has expired, which shall not be less than twenty-one days after the service of the notice, the owner may exercise the power of taking possession of goods referred to in subsection (1A).”; dan

(c) dengan menomborkan semula subseksyen (1A) yang sedia ada sebagai subseksyen (1C).

### **Seksyen baru 17A dan 17B**

8. Akta ibu dipinda dengan memasukkan selepas seksyen 17 seksyen yang berikut:

#### **“Permits for repossession**

**17A.** (1) No person shall undertake repossession of goods comprised in a hire-purchase agreement without a written permit issued by the Controller.

(2) Any person who contravenes subsection (1) shall be guilty of an offence under this Act.

### **Offence to appoint non-permit holder**

**17B.** (1) An owner shall appoint as his agent to undertake the repossession of goods comprised in a hire-purchase agreement a person who is a permit holder under subsection 17A(1).

(2) An owner who contravenes subsection (1) shall be guilty of an offence under this Act.”.

### **Seksyen baru 30A**

**9.** Akta ibu dipinda dengan memasukkan selepas seksyen 30 seksyen yang berikut:

#### **“Booking fee**

**30A.** (1) No owner, dealer, agent or person acting on behalf of the owner shall collect or accept a booking fee from an intending hirer before the receipt of the duly completed form set out in Part II of the Second Schedule by the hirer.

(2) The booking fee referred to in subsection (1) shall not exceed one percent of the cash price of the goods comprised in a hire-purchase agreement.

(3) Notwithstanding anything under this Act, the booking fee shall form part of the deposit under section 31.

(4) An owner, dealer, agent or person acting on behalf of the owner shall refund ninety percent of the booking fee to the intending hirer upon the withdrawal of the booking of the goods comprised in a hire-purchase agreement.

(5) Any person who contravenes this section shall be guilty of an offence under this Act.”.



**Pindaan seksyen 31**

**10. Seksyen 31 Akta ibu dipinda—**

- (a) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(1A) An owner shall collect the deposit upon the signing of the hire-purchase agreement.

(1B) If any owner, dealer, agent or person acting on behalf of the owner fails to deliver the goods intended for the hire-purchase agreement to the intending hirer, the owner, dealer, agent or person acting on behalf of the owner shall refund the full amount of the deposit to the intending hirer.”; dan

- (b) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(3) Any person who contravenes subsections (1A) and (1B) shall be guilty of an offence under this Act.”.

**Pindaan seksyen 36**

**11. Seksyen 36 Akta ibu dipinda—**

- (a) dengan menggantikan perkataan “three” dengan perkataan “ten”; dan
- (b) dengan menggantikan perkataan “six” dengan perkataan “twelve”.

**Pindaan seksyen 38**

**12. Seksyen 38 Akta ibu dipinda dengan menggantikan perkataan “ten” dengan perkataan “thirty”.**

**Pindaan seksyen 45**

**13. Subseksyen 45(1) Akta ibu dipinda—**

- (a) dengan memotong perkataan “or” yang terdapat di hujung perenggan (a);

(b) dalam perenggan (b), dengan menggantikan koma dengan perkataan “; or”; dan

(c) dengan memasukkan selepas perenggan (b) perenggan yang berikut:

“(c) that is not printed in black.”.

### **Penggantian seksyen 46**

**14.** Akta ibu dipinda dengan menggantikan seksyen 46 dengan seksyen yang berikut:

#### **“Penalty**

**46.** (1) Any person who is guilty of an offence under this Act or any regulations made thereunder for which no penalty is expressly provided shall, on conviction, be liable—

(a) if such person is a body corporate, to a fine not exceeding one hundred thousand ringgit, and for a second or subsequent offence, to a fine not exceeding two hundred and fifty thousand ringgit;

(b) if such person is not a body corporate, to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding three years or to both, and for a second or subsequent offence, to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) Where a person, being a director, manager or an officer concerned in the management of the body corporate or was purporting to act in such capacity, is guilty, by virtue of section 47, of an offence under this Act or any regulations made thereunder for which no penalty is expressly provided, he shall be liable to the penalty provided for under paragraph (1)(b).”.

**Pindaan seksyen 50**

**15.** Seksyen 50 Akta ibu dipinda—

(a) dalam subseksyen (1)—

(i) dalam perenggan (a)—

(A) dengan menggantikan perkataan “goods or any documents” dengan perkataan “goods, document or computerized data”; dan

(B) dengan memasukkan selepas perkataan “such document” perkataan “or computerized data”; dan

(ii) dalam perenggan (b), dengan menggantikan perkataan “goods and document” dengan perkataan “goods, document or computerized data”;

(b) dalam subseksyen (2)—

(i) dengan menggantikan perkataan “documents and goods” dengan perkataan “any goods, document or computerized data”; dan

(ii) dengan menggantikan perkataan “the documents and goods” dengan perkataan “the goods, documents or computerized data”; dan

(c) dalam subseksyen (3), dengan menggantikan perkataan “document or goods” dengan perkataan “goods, document or computerized data”.

**Seksyen baru 50A dan 50B**

**16.** Akta ibu dipinda dengan memasukkan selepas seksyen 50 seksyen yang berikut:

**“Access to computerized data**

**50A.** (1) An Assistant Controller conducting a search under this Act shall be given access to computerized data whether stored in a computer or otherwise.

- (2) For the purpose of this section, “access”—
- (a) includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of such computerized data; and
  - (b) has the same meaning assigned to it by subsections 2(2) and (5) of the Computer Crimes Act 1997 [Act 563].

### **List of things seized**

**50B.** (1) Where any goods, document or computerized data is seized under this Part, the Assistant Controller shall, as soon as practicable, prepare a list of the things seized and of the places in which they are respectively found and deliver a copy of the list signed by him to the occupier of the premises which has been searched, or to his agent or servant, at the premises.

(2) Where the premises are unoccupied, the Assistant Controller shall whenever possible post a list of the things seized conspicuously on the premises.”.

### **Pindaan seksyen 51**

**17.** Subseksyen 51(1) Akta ibu dipinda—

- (a) dengan menggantikan perkataan “two” dengan perkataan “thirty”;
- (b) dengan menggantikan perkataan “six months” dengan perkataan “three years”; dan
- (c) dengan memotong subseksyen (3).

### **Pindaan seksyen 51B**

**18.** Seksyen 51B Akta ibu dipinda—

- (a) dengan menomborkan semula peruntukan yang sedia ada sebagai subseksyen (1); dan

(b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(2) An Assistant Controller investigating the commission of an offence under this Act or any regulations made thereunder may exercise all or any of the powers in relation to police investigation in seizable cases as provided for under the Criminal Procedure Code [Act 593].”.

### **Seksyen baru 51C, 51D dan 51E**

**19.** Akta ibu dipinda dengan memasukkan selepas seksyen 51B seksyen yang berikut:

#### **“Power of arrest**

**51c.** (1) An Assistant Controller may arrest without warrant any person whom he reasonably believes has committed or is attempting to commit an offence under this Act if the person refuses to furnish his name and address or furnishes an address out of Malaysia or there are reasonable grounds for believing that he has furnished a false name or address or that he is likely to abscond.

(2) An Assistant Controller making an arrest under subsection (1) shall without unnecessary delay make over the person so arrested to the nearest police officer or, in the absence of a police officer, take such person to the nearest police station, and thereafter the person shall be dealt with as provided under the law relating to criminal procedure for the time being in force as if he had been arrested by a police officer.

#### **Power to require attendance of person acquainted with case**

**51d.** (1) An Assistant Controller making an investigation under this Act or any regulations made thereunder may, by order in writing, require the attendance before himself of any person who appears to him to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If any person refuses to attend as so required, the Assistant Controller may report such refusal to a Magistrate who shall issue a warrant to secure the attendance of such person as may be required by the order made under subsection (1).

### **Examination of person acquainted with case**

**51E.** (1) An Assistant Controller making an investigation under this Act or any regulations made thereunder may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) The person examined under subsection (1) shall be legally bound to answer all questions relating to such case put to him by the Assistant Controller, but such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) The Assistant Controller examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, wherever possible, be reduced into writing and signed by the person making it or affixed with his thumbprint, as the case may be, after—

- (a) it has been read to him in the language in which he made it; and
- (b) he has been given an opportunity to make any correction he may wish.”.

**Penggantian seksyen 53**

**20.** Akta ibu dipinda dengan menggantikan seksyen 53 dengan seksyen yang berikut:

**“Admissibility of statement in evidence**

**53.** (1) Except as provided in this section, no statement made by any person to any Assistant Controller in the course of an investigation made under this Act or any regulations made thereunder shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to any Assistant Controller in the course of the investigation under this Act or any regulations made thereunder and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [*Act 56*].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to—

(a) the making; or

(b) the contents,

of any statement made by him to any Assistant Controller in the course of an investigation made under this Act or any regulations made thereunder, that statement may be used as evidence in the prosecution’s case.”.

**Penggantian seksyen 55**

**21.** (1) Akta ibu dipinda dengan menggantikan seksyen 55 dengan seksyen yang berikut:

**“Prosecution**

**55.** No prosecution for any offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.”.

(2) Pindaan dalam subseksyen (1) tidaklah menjejaskan apa-apa prosiding jenayah atau sivil yang belum selesai dalam mana-mana mahkamah.

**Penggantian seksyen 55A**

**22.** Akta ibu dipinda dengan menggantikan seksyen 55A dengan seksyen yang berikut:

**“Forfeiture of goods, etc., seized**

**55A.** (1) Any goods, document or computerized data seized in the exercise of any power conferred under this Act shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any goods, document or computerized data seized in the exercise of any power conferred 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 goods, document or computerized data 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 goods, document or computerized data were the subject matter of or were used in the commission of the offence, notwithstanding that no person may have been convicted of such offence.

(3) If there be no prosecution with regard to any goods, document or computerized data seized in the exercise of any power conferred under this Act, such goods, document or computerized data shall be taken and deemed to be forfeited



at the expiration of one calendar month from the date of service of a notice to the person from whom the goods, document or computerized data were seized indicating that there is no prosecution in respect of such goods, document or computerized data, unless a claim thereto is made before that date in the manner set out in subsections (4), (5) and (6).

(4) Any person asserting that he is the owner of the goods, document or computerized data referred to in subsection (3) and that it is not liable to forfeiture may, personally or by his agent authorized in writing, give written notice to the Assistant Controller in whose possession such goods, document or computerized data is held that he claims the goods, document or computerized data.

(5) On receipt of the notice under subsection (4), the Assistant Controller shall refer the notice to the Controller or Deputy Controller, who may, after such enquiries as may be necessary, direct that such property, document or computerized data be released or forfeited or refer the matter to a Magistrate for his decision.

(6) The Magistrate to whom the matter is referred under subsection (5) shall issue a summons requiring the person asserting that he is the owner of the goods, document or computerized data and the person from whom they were seized to appear before such Magistrate and upon their appearance or default to appear, due service of the summons being proved, the Magistrate shall proceed to the examination of the matter and on proof that an offence under this Act has been committed and that such goods, document or computerized data were the subject matter or were used in the commission of such offence shall order the same to be forfeited and shall, in the absence of such proof, order their release.

(7) Any goods, document or computerized data forfeited or deemed to be forfeited shall be delivered to the Assistant Controller and shall be disposed of in accordance with the directions of the Controller.”.

**Seksyen baru 55B dan 55C**

**23.** Akta ibu dipinda dengan memasukkan selepas seksyen 55A seksyen yang berikut:

**“No costs or damages arising from seizure to be recoverable**

**55B.** No person shall, in any proceedings before any court in respect of any goods, document or computerized data seized 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 unless such seizure was made without reasonable cause.

**Cost of holding property, etc., seized**

**55C.** Where any goods, document or computerized data seized in the exercise of any power under this Act is held in the custody of the Government pending the completion of any proceedings in respect of an offence under this Act or any regulations made thereunder, the cost of holding it in custody shall, in the event of any person being found guilty of an offence under this Act or any regulations made thereunder, be a debt due to the Government by such person and shall be recoverable accordingly.”.

**Penggantian seksyen 56**

**24.** Akta ibu dipinda dengan menggantikan seksyen 56 dengan seksyen yang berikut:

**“Compounding**

**56.** (1) The Controller or, in his absence, the Deputy Controller may, with the consent in writing of the Public Prosecutor, compound any offence which is prescribed to be a compoundable offence by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the Controller or, in

his absence the Deputy Controller, of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within such time as may be specified in his written offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the time specified in the offer or such extended time as the Controller or, in his absence the Deputy Controller, may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) Where an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any goods, document or computerized data seized in connection with the offence may be released or forfeited by the Controller or, in his absence the Deputy Controller, subject to such terms and conditions as he deems fit to impose in accordance with the conditions of the compound.”.

### **Seksyen baru 56B**

**25.** Akta ibu dipinda dengan memasukkan selepas seksyen 56A seksyen yang berikut:

#### **“Protection of informers**

**56B.** (1) Except as provided in this section, no witness in any civil or criminal proceedings shall be obliged or permitted to disclose the name or address of any informer or the substance and nature of the information received from him or to state any matter which might lead to his discovery.

(2) If any goods, document or computerized data which is in evidence or liable to inspection in any civil or criminal proceedings contains any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) If in a trial for any offence under this Act or any regulations made thereunder, the court after full inquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties to the proceedings without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.”.

### **Pindaan seksyen 57**

**26.** Seksyen 57 Akta ibu dipinda—

(a) dalam subseksyen (2), dengan menggantikan perenggan (b) dengan perenggan yang berikut:

“(b) prescribe all matters relating to the issuance of permits granted under this Act, including the procedure for application, fees, forms, conditions and duration of the permits;”;

(b) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(3) The regulations made under this section may provide for—

(a) any act or omission in contravention of the regulations to be an offence; and

(b) the imposition of penalties of a fine not exceeding thirty thousand ringgit or imprisonment for a term not exceeding three years or to both.”.