

A BILL

i n t i t u l e d

An Act to amend the Syariah Court Civil Procedure (Federal Territories) Act 1998.

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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 Syariah Court Civil Procedure (Federal Territories) (Amendment) Act 2024.

(2) This Act comes into operation on a date to be appointed by the Yang di-Pertuan Agong by notification in the *Gazette*.

Amendment of section 3

2. The Syariah Court Civil Procedure (Federal Territories) Act 1998 [*Act 585*], which is referred to as the “principal Act” in this Act, is amended in subsection 3(1)—

(a) in the English text, in the definition of “Registrar”, by substituting for the full stop at the end of the definition a semicolon; and

(b) by inserting after the definition of “Registrar” the following definition:

‘ “remote communication technology” has the meaning assigned to it in section 40A of the Administration Act.’.

Substitution of section 34

3. The principal Act is amended by substituting for section 34 the following section:

“*Wakalah*

34. (1) The appointment of a *Peguam Syarie* shall be pronounced by the person who appoints him and accepted by the *Peguam Syarie* so appointed before the *Peguam Syarie* commences any action on behalf of the person appointing him.

(2) The appointment and the acceptance of appointment under subsection (1) shall be made in Form MS 5 and shall be filed in Court.”.

Amendment of section 100

4. Section 100 of the principal Act is amended by inserting after the words “in open Court” the words “or through a remote communication technology”.

Amendment of section 109

5. Section 109 of the principal Act is amended—

(a) in the shoulder note, by inserting after the word “**prisoner**” the words “**or detained person**”;

- (b) in subsection (1), by inserting after the words “a prison” the words “or detained under any written law, who is a witness or party in a proceeding,”; and
- (c) in subsection (2), by substituting for the words “the witness in safe custody” the words “the person referred to in subsection (1)”.

Amendment of section 119

6. Section 119 of the principal Act is amended—

- (a) by renumbering the existing section as subsection (1); and
- (b) by inserting after the renumbered subsection (1) the following subsection:

“(2) The Court shall have the power to hear any cause or matter or any part thereof in camera if the Court is satisfied that it is expedient in the interests of justice, public safety, public security or propriety, or for other sufficient reason so to do.”.

Amendment of section 247

7. Subsection 247(1) of the principal Act is amended by inserting after paragraph (a) the following paragraph:

“(aa) the procedure and practice of the proceedings conducted at any place other than the Court or through remote communication technology;”.

Amendment of Third Schedule

8. The Third Schedule to the principal Act is amended—

- (a) in Form MS 3, by substituting for the word “defendant” the word “respondent”;

(b) in Form MS 5, by deleting the words
“Before me,

.....
Judge/Registrar”;

(c) in Form MS 24—

- (i) in the heading of Form MS 24, by substituting for the words “**IN PRISON**” the words “***CONFINED IN PRISON/DETAINED UNDER ANY WRITTEN LAW**”;
- (ii) in paragraph 1, by substituting for the words “a prisoner confined in the prison/place of detention” the words “*a person confined in the prison/detained under any written law”;
- (iii) in paragraph 3, by deleting the words “under section 30 of the Prisons Act 1995”; and
- (iv) by substituting for the words “Sworn (as in Form MS 26).” the words “Sworn (as in Form MS 26).

*Delete where not applicable.”; and

(d) in Form MS 25—

- (i) in the heading of Form MS 25, by substituting for the words “**IN PRISON**” the words “***CONFINED IN PRISON/DETAINED UNDER ANY WRITTEN LAW**”; and
- (ii) by substituting for the words “a prisoner in the

.....” the words “*a person confined in the/detained in the

EXPLANATORY STATEMENT

This Bill seeks to amend the Syariah Court Civil Procedure (Federal Territories) Act 1998 (“Act 585”).

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.
3. *Clause 2* seeks to amend section 3 of Act 585 to insert the new definition of “remote communication technology”.
4. *Clause 3* seeks to amend section 34 of Act 585 to facilitate the process of the appointment of *Peguam Syarie* without having to pronounce the *wakalah* before the Court or Registrar. The appointment and acceptance of the appointment may be pronounced between the parties and their *Peguam Syarie* in Form MS 5 and shall be filed in Court. With this amendment, the parties and their *Peguam Syarie* are not required to appear before the Court or the Registrar to pronounce the *wakalah*.
5. *Clause 4* seeks to amend section 100 of Act 585 to provide for the receiving of evidence through a remote communication technology.
6. *Clause 5* seeks to amend section 109 of Act 585 to enable an application to be made for an order for the production before the Court of a person detained at any place pursuant to the powers given under any written law. The existing section 109 of Act 585 only deals with an application concerning a person confined in a prison.
7. *Clause 6* seeks to amend section 119 of Act 585 to insert express provision which empowers the Court to allow any proceedings to be heard in camera.
8. *Clause 7* seeks to amend section 247 of Act 585 to empower the Syariah Court Rules Committee to make rules in relation to the procedure and practice of the proceedings conducted at any place other than the Court established under section 40 of the Administration of Islamic Law (Federal Territories) Act 1993 or proceedings conducted through remote communication technology.
9. *Clause 8* seeks to amend Forms MS 3, MS 5, MS 24 and MS 25 in the Third Schedule.

FINANCIAL IMPLICATIONS

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