

A BILL

i n t i t u l e d

An Act to amend the Criminal Procedure Code.

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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 Criminal Procedure Code (Amendment) Act 2010.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

New Chapter XVIII A

2. The Criminal Procedure Code [*Act 593*], which is referred to as the “Code” in this Act, is amended by inserting after Chapter XVIII in Part VI the following Chapter:

“CHAPTER XVIII A

PRE-TRIAL PROCESSES

Pre-trial conference

172A. (1) An accused who is charged with an offence shall, by an advocate representing him, participate in a pre-trial conference with the Public Prosecutor before the commencement of the case management.

(2) A pre-trial conference shall commence within thirty days from the date the accused was charged in court or any reasonable time before the commencement of the case management.

(3) A pre-trial conference may be conducted by any means and at any venue as may be agreed upon by the advocate representing the accused and the Public Prosecutor.

(4) During the pre-trial conference, an advocate representing an accused may discuss with the Public Prosecutor the following matters relating to the case:

- (a) identifying the factual and legal issues;
- (b) narrowing the issues of contention;
- (c) clarifying each party's position;
- (d) ensuring the compliance with section 51A;
- (e) discussing the nature of the case for the prosecution and defence, including any alibi defence that the accused may rely on;
- (f) discussing any plea bargaining, and reaching any possible agreement thereto; and
- (g) any other matters as may be agreed upon by the advocate representing the accused and the Public Prosecutor that may lead to the expeditious disposal of the case.

(5) All matters agreed upon in the pre-trial conference by the advocate and the prosecutor shall be reduced into writing and signed by the accused, the advocate and the Public Prosecutor.

Case management

172b. (1) The Court shall commence a case management process within sixty days from the date of the accused being charged.

(2) At the case management, the Court shall—

- (a) take into consideration all matters that have been considered and agreed to by the accused and his

advocate and the Public Prosecutor during the pre-trial conference;

- (b) where no pre-trial conference has been held on the ground that the accused is unrepresented, discuss with the accused and the Public Prosecutor any matter which would have been considered under section 172A;
- (c) assist an accused who is unrepresented to appoint an advocate to represent the accused;
- (d) determine the duration of the trial;
- (e) subject to subsection (3), fix a date for the commencement of the trial; and
- (f) give directions on any other matter as will promote a fair and expeditious trial.

(2) A subsequent case management, if necessary, may be held not less than two weeks before the commencement of the trial.

(3) The trial shall commence not later than ninety days from the date of the accused being charged.

(4) Notwithstanding the provisions of the Evidence Act 1950, all matters that have been reduced into writing and duly signed by the accused, his advocate and the Public Prosecutor under subsection 172A(5) shall be admissible in evidence at the trial of the accused.

Plea bargaining

172c. (1) An accused charged with an offence may make an application for plea bargaining in the Court in which the offence is to be tried.

(2) The application under subsection (1) shall be in Form 28A of the Second Schedule and shall contain—

- (a) a brief description of the offence that the accused is charged with;

- (b) a declaration by the accused stating that the application is voluntarily made by him after understanding the nature and extent of the punishment provided under the law for the offence that the accused is charged with; and
- (c) information as to whether the plea bargaining applied for is in respect of the sentence or the charge for the offence that the accused is charged with.

(3) Upon receiving an application made under subsection (1), the Court shall issue a notice in writing to the Public Prosecutor and to the accused to appear before the Court on a date fixed for the hearing of the application.

(4) When the Public Prosecutor and the accused appear on the date fixed for the hearing of the application under subsection (3), the Court shall examine the accused *in camera*—

- (a) where the accused is unrepresented, in the absence of the Public Prosecutor; or
- (b) where the accused is represented by an advocate, in the presence of his advocate and the Public Prosecutor,

as to whether the accused has made the application voluntarily.

(5) Upon the Court being satisfied that the accused has made the application voluntarily, the Public Prosecutor and the accused shall proceed to mutually agree upon a satisfactory disposition of the case.

(6) If the Court is of the opinion that the application is made involuntarily by the accused, the Court shall dismiss the application and the case shall proceed before another Court in accordance with the provisions of the Code.

(7) Where a satisfactory disposition of the case has been agreed upon by the accused and the Public Prosecutor, the satisfactory disposition shall be put into writing and signed by the accused, his advocate if the accused is represented, and the Public Prosecutor, and the Court shall give effect to the satisfactory disposition as agreed upon by the accused and the Public Prosecutor.

(8) In the event that no satisfactory disposition has been agreed upon by the accused and the Public Prosecutor under this section, the Court shall record such observation and the case shall proceed before another Court in accordance with the provisions of the Code.

(9) In working out a satisfactory disposition of the case under subsection (5), it is the duty of the Court to ensure that the plea bargaining process is completed voluntarily by the parties participating in the plea bargaining process.

Disposal of the case

172d. (1) Where a satisfactory disposition of the case has been agreed upon by the accused and the Public Prosecutor under section 172c, the Court shall, in accordance with law, dispose of the case in the following manner:

- (a) make any order under section 426; and
- (b) where the satisfactory disposition is in relation to a plea bargaining of the charge, find the accused guilty on the charge agreed upon in the satisfactory disposition and sentence the accused accordingly; or
- (c) where the satisfactory disposition is in relation to a plea bargaining of the sentence, find the accused guilty on the charge and—
 - (i) deal with the accused under section 293 or 294; or
 - (ii) subject to subsection (2), sentence the accused to not more than half of the maximum punishment under the law for the offence for which the accused has been convicted.

(2) Where there is a minimum term of imprisonment provided under the law for the offence, no accused shall be sentenced to a lesser term of imprisonment than that of the minimum term.

(3) Notwithstanding section 283, where any fine has been imposed under this section and there is a default of payment

of the fine, the Court shall direct that the offender shall be imposed a sentence of imprisonment for a term of not less than six months.

Finality of the judgment

172E. When an accused has pleaded guilty and has been convicted by the Court under section 172D, there shall be no appeal except to the extent and legality of the sentence.

Statements of, or facts stated by, accused not to be used for any other purpose

172E. Notwithstanding anything contained in any law, the statements of or facts stated by an accused in an application for a plea bargaining under section 172C shall not be used for any other purpose except for the making of such application.”.

Amendment of section 173

3. Section 173 of the Code is amended by inserting in subparagraph (m)(ii) the following proviso:

“Provided that before the Court passes sentence, the Court shall call upon the victim of the offence or a member of the victim’s family, if any, to make a statement on the impact of the offence committed against the victim or his family.”.

Amendment of section 176

4. Subsection 176(2) of the Code is amended—

(a) by inserting after paragraph (n) the following paragraph:

“(na) any satisfactory disposition of the case agreed upon by the accused and the Public Prosecutor under section 172c;” and

(b) in paragraph (r), by inserting after the words “evidence of character,” the words “the victim’s or a member of his family’s impact statement, if any.”.

New section 183A

5. The Code is amended by inserting after section 183 the following section:

“Victim’s or a member of his family’s impact statement

183A. Before the Court passes sentence according to law under section 183, the Court shall call upon the victim of the offence or a member of the victim’s family, if any, to make a statement on the impact of the offence committed against the victim or his family.”.

New section 254A

6. The Code is amended by inserting after section 254 the following section:

“Reinstatement of trial after discharge

254A. (1) Subject to subsection (2), where an accused has been given a discharge by the Court and he is recharged for the same offence, his trial shall be reinstated and be continued as if there had been no such order given.

(2) Subsection (1) shall only apply where witnesses have been called to give evidence at the trial before the order for a discharge has been given by the Court.”.

Amendment of section 402A

7. The Code is amended by substituting for section 402A the following section:

“Alibi

402A. (1) The Court shall, at the time the accused is being charged, inform the accused as to his right to put forward a defence of alibi.

(2) Where the accused seeks to put forward a defence of alibi, he shall put forward a notice of his alibi during the case management process.

(3) Notwithstanding subsection (2), where the accused has not put forward a notice of his alibi during the case management process, he may adduce evidence in support of an alibi at any time during the trial subject to the following conditions:

- (a) the accused has given a notice of the alibi to the Public Prosecutor; and
- (b) the Public Prosecutor is given a reasonable time to investigate the alibi before such evidence can be adduced.

(4) The notice required under this section shall include particulars of the place where the accused claims to have been at the time of the commission of the offence with which he is charged, together with the names and addresses of any witnesses whom he intends to call for the purpose of establishing his alibi.”.

New sections 402B and 402C

8. The Code is amended by inserting after section 402A the following sections:

“Proof by written statement

402B. (1) In any criminal proceedings, a written statement by any person shall, with the consent of the parties to the proceedings and subject to the conditions contained in subsection (2), be admissible as evidence to the like extent as oral evidence to the like effect by that person.

(2) A statement may be tendered in evidence under subsection (1) if—

- (a) the statement purports to be signed by the person who made it;
- (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief; and
- (c) a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other

parties to the proceedings not later than fourteen days before the commencement of the trial unless the parties otherwise agree.

(3) Notwithstanding paragraph (2)(c), a party proposing to tender a statement in evidence under subsection (1) may not serve the statement to any other parties to the proceedings where the parties to the proceedings agree before or during the proceedings that the statement shall be so tendered.

(4) If a statement proposed to be tendered in evidence under subsection (1)—

(a) is made by a person who cannot read, the statement shall be read and explained to him before he signs it and the statement shall be accompanied by a statutory declaration made under the Statutory Declarations Act 1960 [*Act 13*] by the person who so read the statement to the effect that it was so read and explained; or

(b) refers to any other document or object as an exhibit, the copy served on any other party to the proceedings under paragraph (2)(c) shall be accompanied by a copy of that document or by a photograph of the object and such information as may be necessary in order to enable the party on whom it is served to inspect the document or object, as the case may be, unless it is not expedient to do so.

(5) Notwithstanding that the written statement of a person may be admissible as evidence by virtue of this section—

(a) the party by whom or on whose behalf a copy of the statement was served may call the person making the statement to give additional evidence which may include matters which are not contained in the statement; and

(b) the maker of the statement shall attend the trial for cross-examination and re-examination, if so requested.

(6) So much of any statement as is admitted in evidence by virtue of this section shall, unless the Court otherwise directs, be read aloud at the trial and where the Court so

directs an account shall be given orally of so much of any statement as is not read aloud.

(7) Any document or object referred to as an exhibit and identified in a written statement admitted in evidence under this section shall be treated as if it was produced as an exhibit and identified in the Court by the maker of the statement.

(8) A document required by this section to be served on any person may be served—

- (a) by delivering the document to the person himself or to his advocate; or
- (b) in the case of a corporation, by delivering the document to the secretary or other like officer of the corporation at its registered or principal office or by sending the document by registered post addressed to the secretary or other like officer of the corporation at that office.

Proof by formal admission

402c. (1) Notwithstanding any other written law, and subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the Public Prosecutor or accused and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

(2) An admission under this section—

- (a) may be made before or during the proceedings and shall be in writing and signed by both parties;
- (b) if made otherwise than in the Court, shall be in writing;
- (c) if made in writing by an individual, shall be signed by the person making it and, if so made by a body

corporate, shall purport to be signed by a director or manager, or the secretary or clerk, or some other similar officer of the body corporate;

- (d) if made on behalf of an accused who is an individual, shall be made by his advocate;
- (e) if made at any stage before the trial by an accused who is an individual, shall be approved by his advocate (whether at the time it was made or subsequently) before or during the proceedings in question.

(3) An admission under this section for the purpose of any proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter (including any appeal or trial).

(4) An admission under this section may with the leave of the Court be withdrawn in the proceedings for the purpose of which it is made or any subsequent criminal proceedings relating to the same matter.”.

New section 407A

9. The Code is amended by inserting after section 407 the following section:

“Disposal of seized articles

407A. (1) Notwithstanding any other provisions, the Public Prosecutor may apply to the Court for the disposal of any articles specified in subsection (2) at any time after the case management.

(2) The following seized articles may be disposed of under this section:

- (a) dangerous drugs seized under the Dangerous Drugs Act 1952 [*Act 234*];
- (b) clandestine drug laboratories or premises;
- (c) valuable goods;

- (d) cash money;
- (e) noxious, deleterious, corrosive, explosive, dangerous, toxic, flammable, oxidising, irritant, harmful, poisonous, psychotropic and decay substances;
- (f) video compact discs, optic discs, films and other similar devices;
- (g) publication, books and other documents;
- (h) vehicles, ships and other forms of conveyance;
- (i) equipment and machineries;
- (j) timber and timber products;
- (k) rice, food and other perishable items; and
- (l) other articles as may be determined by the Public Prosecutor that may be vulnerable to theft, substitution, constraints of proper storage space, high maintenance costs or any other considerations as the Public Prosecutor deems relevant.

(3) The Court shall make an order for the disposal of the articles specified in the application made by the Public Prosecutor under subsection (1) with the consent of the accused subject to the following procedures being complied with:

- (a) an inventory of the articles containing the description, markings and other particulars which clearly identifies the articles has been made by the officer who seized the articles, and the Magistrate or Judge having the trial jurisdiction has certified that the inventory is correct;
- (b) photographs of the articles have been taken in the presence of a Magistrate or Judge having the trial jurisdiction, and the Magistrate or Judge has certified that the photographs are true;
- (c) where possible, representative samples of the articles have been taken in the presence of a Magistrate or Judge having the trial jurisdiction, and the Magistrate or Judge has certified that the representative samples are the correct samples of the articles; and

- (d) where the articles are video compact discs, optic discs, films and other similar devices, the articles have been played for a Magistrate or Judge having the trial jurisdiction so as to ascertain the contents of the articles, and the Magistrate or Judge has certified that the contents of the articles are correct.”.

Amendment of section 413

10. Section 413 of the Code is amended by inserting after subsection (4) the following subsection:

“(5) Notwithstanding the preceding subsections, where the property is required for the investigation of a case and it is necessary for the property to be detained, the property shall be kept in a safe and proper place by the Officer in charge of a Police District where the offence was committed.”.

Amendment of section 426

11. Section 426 of the Code is amended—

- (a) by substituting for subsection (1) the following subsection:

“(1) The Court before which an accused is convicted of an offence may, in its discretion, make an order for the payment by the convicted accused of the cost of his prosecution or any part thereof as may be agreed by the Public Prosecutor.”;

- (b) by inserting after subsection (1) the following subsections:

“(1A) Without prejudice to subsection (1), the Court before which an accused is convicted of an offence shall, upon the application of the Public Prosecutor, make an order against the convicted accused for the payment by him, or where the convicted accused is a child, by his parent or guardian, of a sum to be fixed by the Court as compensation to a person who is the victim of the offence committed by the convicted accused in respect of the injury to his person or character, or loss of his income or property, as a result of the offence committed.

(1B) Where the person who is the victim of the offence is deceased, the order of compensation shall be made to a representative of the deceased person.

(1C) The Court shall, in making an order under subsection (1A), take into consideration the following factors:

- (a) the nature of the offence;
- (b) the injury sustained by the victim;
- (c) the expenses incurred by the victim;
- (d) the damage to, or loss of, property suffered by the victim;
- (e) the loss of income incurred by the victim;
- (f) the ability of the convicted accused to pay; and
- (g) any other factors which the Court deems relevant.

(1D) For the purpose of making an order under subsection (1A), the Court may hold an inquiry as it thinks fit.”; and

(c) in subsection (4), by deleting the words “crime or”.

Amendment of section 428

12. Section 428 of the Code is amended by deleting the words “or compensation”.

Amendment of section 432

13. Subsection 432(2) of the Code is amended—

- (a) by substituting for the words “RM25” the words “RM500”;
- (b) by substituting for the words “RM25 but does not exceed RM50” the words “RM500 but does not exceed RM1000”;
and
- (c) by substituting for the word “Four” the word “Six”.

Amendment of Second Schedule

14. The Second Schedule to the Code is amended by inserting after Form 28 the following Form:

“FORM 28A

[Section 172c]

APPLICATION FOR PLEA BARGAINING

To the High Court Judge/Sessions Court Judge/Magistrate,

Whereas a Charge/Charges in respect of an offence/offences has/have been preferred against me/us by the Public Prosecutor as follows:

*(A brief description of the offence/offences)
Please attach a copy of the Charge/Charges*

I (*state the full name and the Identity Card no.*), hereby apply to this Court for the said Charge/Charges to be set down for hearing for Plea Bargaining (*state whether in respect of the sentence or the charge*) and the Public Prosecutor to be informed of this application.

I solemnly declare that this application is voluntarily made after understanding the nature and extent of the punishment provided under the law for the offence/offences that I am charged with.

Dated this day of20

.....
Signature of the Accused Person

Application received by
.....
.....”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Criminal Procedure Code (“Act 593”) with the aim, among others, to overcome the backlog of cases pending in the criminal courts and to promote the expeditious disposal of criminal cases.

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.
3. *Clause 2* seeks to introduce a new Chapter XVIII^A into Part VI of Act 593. The new Chapter XVIII^A contains six new sections, namely sections 172^A, 172^B, 172^C, 172^D, 172^E and 172^F. This new Chapter deals with processes before trial which seek to shorten the trial period and to expedite the disposal of criminal trials.

The new section 172^A deals with pre-trial conference. The section enables the accused, who is represented by his advocate, and the Public Prosecutor to iron out issues before the commencement of the case management process. Under this system, the prosecution and the defence will be able to discuss the merits of their respective cases and narrow down the issues of contention or reach an agreement on plea bargaining even before the case management process is held. The pre-trial conference is conducted in the absence of judicial officers and may be conducted at any venue or by any means as may be agreed upon by the advocate and the Public Prosecutor. The pre-trial conference can be held in a less formal atmosphere with a view to formalize any outcome during the case management process. At the end of the pre-trial conference, all matters agreed upon shall be put in writing and signed by the accused, his advocate and the Public Prosecutor.

The new section 172^B seeks to enable the Court to commence a case management process for a criminal case. A case management process must be held within sixty days from the date the accused is charged. A subsequent case management process, if necessary, can take place not less than two weeks before the commencement of the trial. During the case management process, the prosecution and the defence are required, among others, to present to the Court any matter which they have considered and agreed upon during the pre-trial conference. The Court then will fix a trial date and make any directions that will promote a fair and expeditious trial. The Court shall commence the trial not later than ninety days from the date of the accused being charged. All matters agreed upon and reduced into writing as well as signed by the accused, his advocate and the Public Prosecutor under section 172^A will be admissible as evidence at the trial.

Both the pre-trial conference and criminal case management process complement the existing provisions in Act 593 with regard to the supplying of documents which the prosecution wishes to give to the accused as well as supplying to the accused facts favourable to the defence. These matters can be sorted out by the parties in the pre-trial conference or the criminal case management to ensure the smooth running of the trial if the parties cannot reach a “satisfactory disposition of the case” in the process of plea bargaining.

The new sections 172^C to 172^F deal with plea bargaining.

Section 172^C seeks to provide for the application process for plea bargaining. The Court has a duty to ensure that the accused has made the application for plea bargaining voluntarily. The Court also has a duty to ensure that the process is done voluntarily between the Public Prosecutor and the accused. Once the issue of voluntariness is settled, the accused and the Public Prosecutor

shall then proceed to mutually agree on a satisfactory disposition of the case. Where the accused and the Public Prosecutor could not come to a satisfactory disposition of the case, the case shall proceed to trial before another Court so as not to prejudice the accused.

Section 172D deals with the disposal of the case by the Court. The Court shall dispose the case by making orders under section 426 of Act 593, or where the plea bargaining is in relation to the charge, find the accused guilty of the agreed charge in the satisfactory disposition and sentence the accused accordingly, or where the plea bargaining is in relation to the sentence, find the accused guilty of the offence and sentence the accused under section 293 or 294 of Act 593 or sentence the accused to not more than half of the maximum punishment under the law for the offence. When there is a minimum term of imprisonment, the sentence should not be lower than that of the minimum term. There is thus a mechanism of inducement for the accused to plead guilty and at the same time know with greater predictability the sentencing range.

Section 172E provides that the judgment of the Court under section 172D shall be not appealable except to the extent and legality of the sentence.

Section 172F seeks to protect the accused by prohibiting any statement made or fact stated by the accused during plea bargaining to be use for any other purpose.

4. *Clauses 3 and 4* seek to amend sections 173 and 176 of Act 593 respectively, while *clause 5* seeks to introduce a new section, namely section 183A, into Act 593. The amendments seek to enable the Court to consider a statement made by the victim of an offence or a member of his family on the impact of the offence committed against the victim before the Court passes sentence. The amendments to sections 173 and 176 are in relation to trials before the lower courts while section 183A is in relation to trials before the High Court. The object of these amendments is to recognise the rights of the victims of crime. The victim impact statement provides the Court with information about the effect of the offence upon the victim or his family. The criminal justice process must be fair to both victims and offenders. By having the Courts consider victim impact statements before passing sentence, the balance between the offender and the victim in the criminal justice system (that is often offender-oriented) is restored.

5. *Clause 6* seeks to introduce a new section, namely section 254A, into Act 593. This new section deals with the trial of an accused who has been given a discharge and subsequently is recharged for the same offence. If witnesses have been called to give evidence in the trial before the discharge was given, the trial shall be reinstated and be continued as if there had been no discharge given to the accused. As there is no necessity to start the trial afresh, the trial period can be shortened and the disposal of the case will be expedited.

6. *Clause 7* seeks to amend section 402A of Act 593. With this amendment, if the accused seeks to put forward a defence of alibi, he is no longer required to give the Public Prosecutor a notice in writing at least ten days before the commencement of the trial. Under the proposed amendment, the accused will

be informed by the Court about the defence of alibi when he is charged. The accused is then required to put forward his defence of alibi, if any, during the case management process. The early notice to the Public Prosecutor of the defence of alibi will allow the Public Prosecutor to investigate such defence before the commencement of the trial, and thus, avoid unnecessary delays during the trial itself.

However, should the accused fail to put forward his defence of alibi during the case management process, he could still put forward the defence of alibi at any stage of the trial subject to the Public Prosecutor being notified of the alibi and given a reasonable time to investigate such a defence. This amendment gives the accused a more favourable position than the existing provision.

7. *Clause 8* seeks to introduce two new sections, namely sections 402B and 402C, into Act 593. The new section 402B seeks to facilitate the substitution of oral evidence with that of written statements. This process will enable the Public Prosecutor and the defence to tender statements in the form of evidence during examination-in-chief. This will save the Court's time in recording evidence as the statements will have effect as though the evidence were oral evidence given in open court and any exhibits tendered by virtue of this section is tendered as though tendered in the normal course of trial. The new section 402C is another time saving provision. This provision is in fact complementary to the new section 402B. It states that any party may admit to any fact of which oral evidence may be given and the admission of such fact by either party of any such fact is conclusive in those proceedings of the fact admitted. This would enable parties to agree on certain facts so that there can be a narrowing down of the issues.

8. *Clause 9* seeks to introduce a new section, namely section 407A, into Act 593. This new section makes provision for the early disposal of certain seized articles which, having regard to the nature of the articles, are dangerous, difficult, expensive and highly inconvenient to be kept in the custody of the police. If the circumstances requires for the disposal of the seized articles, the Public Prosecutor may apply to the Court for a disposal order. The Court shall make an order for the disposal subject to certain procedures being complied with. There shall be a complete and detailed inventory and photographs of the articles to be disposed. Representative samples of the articles would be taken and kept and a Magistrate or Judge having the trial jurisdiction shall issue a certificate of the correctness of the inventory, photographs and representative samples. The procedures are mandatory to be complied with so as to ascertain that the chain of evidence is maintained.

With this provision, the police will be able to reduce the risks faced by them and the public by the keeping of highly hazardous and dangerous seized articles at their storage premises. Other than that, early disposal of the seized articles would also reduce the high cost incurred in maintaining and storing the seized articles and overcome the problems of limited storage space.

9. *Clause 10* seeks to amend section 413 of Act 593. This amendment seeks to provide that any property seized shall be detained if the property is still required for investigation purposes, and the property shall be kept in a safe and proper place by the Officer in charge of a Police District where the offence was committed.

10. *Clause 11* seeks to amend section 426 of Act 593. This amendment seeks to make it mandatory for the Court, upon an application of the Public Prosecutor, to make an order for the convicted accused to pay compensation to the victim of the offence committed by the said accused. The Court shall take into consideration relevant factors when making the order for payment of compensation. The amendment also empowers the Court to hold an inquiry if it thinks fit to do so. With this amendment, reparation may be made to a victim of an offence by the person who actually had adversely affected the victim through his unlawful act.

11. *Clause 12* seeks to amend section 428 of Act 593 to clarify that compensation will be a matter to be fixed by the Court and not by rules made by the rule committee.

12. *Clause 13* seeks to amend section 432 of Act 593 to provide for a more reasonable and realistic rate of amount for which a term of imprisonment in default of payment are to be based on. This amendment also seeks to provide that in cases where the amount exceeds RM1000, the term of imprisonment in default of the payment of that amount is increased from four months to six months.

13. *Clause 14* seeks to amend the Second Schedule to Act 593 to introduce a new Form 28A which is the application form for plea bargaining. This Form is necessary in consequence of the introduction of section 172c into Act 593.

FINANCIAL IMPLICATIONS

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

[PN(U²)2677]