



# LAWS OF MALAYSIA

## Act A1422

### **CRIMINAL PROCEDURE CODE (AMENDMENT) ACT 2010 (AMENDMENT) ACT 2012**

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**LAWS OF MALAYSIA**

**Act A1422**

**CRIMINAL PROCEDURE CODE (AMENDMENT)  
ACT 2010 (AMENDMENT) ACT 2012**

An Act to amend the Criminal Procedure Code (Amendment) Act 2010.

[ ]

**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 (Amendment) Act 2012.

(2) This Act comes into operation on the same date the Criminal Procedure Code (Amendment) Act 2010 [Act A1378] comes into operation.

**Amendment of section 2**

2. The Criminal Procedure Code (Amendment) Act 2010, which is referred to as the “principal Act” in this Act, is amended in section 2 as follows:

(a) in section 172A—

(i) by substituting for subsection (1) the following subsection:

“(1) An accused who is charged with an offence and claims to be tried shall, by an advocate representing him, participate in a pre-trial conference with the prosecution before the commencement of the case management.”; and

- (ii) in subsections (3), (4) and (5), by substituting for the words “Public Prosecutor” and “prosecutor” wherever they may appear the word “prosecution”;

(b) by substituting for section 172B the following section:

**“Case management**

**172B.** (1) A Magistrate, Sessions Court Judge or Judge of the High Court, as the case may be, shall commence a case management process within sixty days from the date of the accused being charged and claims to be tried.

(2) At the case management, the Magistrate, Sessions Court Judge or Judge shall—

- (i) take into consideration all matters that have been considered and agreed to by the accused and his advocate and the prosecution during the pre-trial conference; and where a plea bargaining has been agreed between the accused and his advocate and the prosecution during the pre-trial conference, the Magistrate or the Sessions Court Judge or the Judge trying the case shall decide on the voluntariness of the accused in the plea bargaining according to the provisions of section 172C;
- (ii) where no pre-trial conference has been held on the ground that the accused is unrepresented, discuss with the accused and the prosecution any matter which would have been considered under section 172A;
- (iii) assist an accused who is unrepresented to appoint an advocate to represent the accused;
- (iv) determine the duration of the trial;
- (v) subject to subsection (3), fix a date for the commencement of the trial;
- (vi) subject to the consent of the accused and his advocate, and the prosecution, admit any exhibits; and

(vii) give directions on any other matter as will promote a fair and expeditious trial.

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

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

(5) Notwithstanding subsections (1) and (4), a failure for the case management or the trial to commence according to the time period specified in the subsections shall not—

(a) render the charge or prosecution against the accused as defective or invalid; or

(b) be considered as a ground for appeal, review or revision.

(6) 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 prosecution under subsection 172A(5) shall be admissible in evidence at the trial of the accused.”;

(c) in subsection 172c(1), by inserting after the words “charged with an offence” the words “and claims to be tried”;

(d) in section 172D—

(i) by substituting for subparagraph (1)(c)(ii) the following subparagraph:

“(ii) subject to subsections (2) and (3), sentence the accused to not more than half of the maximum punishment of imprisonment provided under the law for the offence for which the accused has been convicted.”; and

(ii) by substituting for subsection (3) the following subsection:

“(3) Subparagraph (1)(c)(ii) shall not apply where—

(a) in the case of a serious offence, the accused has a previous conviction for a related or same offence; or

(b) where the offence for which the accused is charged with falls within the following:

(i) an offence for which the punishment provided under the law is fine only;

(ii) an offence for which the punishment provided under the law is imprisonment for natural life;

(iii) any sexual related offence;

(iv) any offence committed against a child who is below twelve years of age; or

(v) any other offence as may be specified by the Public Prosecutor by order published in the *Gazette*.”; and

(iii) by inserting after subsection (3) the following subsection:

“(4) For the purpose of paragraph (3)(a), “serious offence” means an offence where the maximum term of imprisonment that can

be imposed is not less than ten years, and includes any attempt or abetment to commit such offence.”; and

(e) by inserting after section 172F the following section:

**“Subparagraph 172D(1)(c)(ii) to be applicable to accused who pleads guilty**

**172G.** Where an accused pleads guilty at any time before the commencement of his trial, the Court shall sentence the accused in accordance with subparagraph 172D(1)(c)(ii).”.

**Amendment of section 3**

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

**“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, upon the request of the victim of the offence or the victim’s family, call upon the victim or a member of the victim’s family to make a statement on the impact of the offence on the victim or his family; and where the victim or a member of the victim’s family is for any reason unable to attend the proceedings after being called by the Court, the Court may at its discretion admit a written statement of the victim or a member of the victim’s family.”.

**Amendment of section 5**

4. The principal Act is amended by substituting for section 5 the following section:

**'New section 183A**

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

**"Victim's impact statement**

**183A.** (1) Before the Court passes sentence according to law under section 183, the Court shall, upon the request of the victim of the offence or the victim's family, call upon the victim or a member of the victim's family to make a statement on the impact of the offence on the victim or his family.

(2) Where the victim or a member of the victim's family is for any reason unable to attend the proceedings after being called by the Court under subsection (1), the Court may at its discretion admit a written statement of the victim or a member of the victim's family.".

**Amendment of section 7**

5. Section 7 of the principal Act is amended in paragraph 402A(3)(a) by inserting after the words "has given a" the word "written".

**Amendment of section 9**

6. Section 9 of the principal Act is amended in section 407A—

- (a) in subsection (1), by deleting the words "after the case management";
- (b) in subsection (3), by deleting the words "with the consent of the accused"; and

(c) by inserting after subsection (3) the following subsection:

“(4) Where the Court makes an order for the disposal of the articles under subsection (3), the Court may allow the accused to take photographs of the articles.”.

### **Amendment of section 11**

7. Section 11 of the principal Act is amended by substituting for paragraph (a) the following paragraph:

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

“(1) The Court before which an accused is convicted of an offence—

(a) in its discretion, may 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; or

(b) where—

(i) the prosecution of the convicted accused involves evidence obtained pursuant to a request made under the Mutual Assistance in Criminal Matters Act 2002 [*Act 621*]; or

(ii) the accused has obtained pecuniary gain,

upon the application of the Public Prosecutor, shall make an order for the payment by the convicted accused of the cost of his prosecution or any part thereof, the sum of which is to be fixed by the Court as may be agreed by the Public Prosecutor.”.’.