

A BILL

*i n t i t u l e d*

An Act to amend the Criminal Procedure Code and the Criminal Procedure Code (Amendment) (No. 2) Act 2012.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

CHAPTER I

PRELIMINARY

**Short title and commencement**

**1.** (1) This Act may be cited as the Criminal Procedure Code (Amendment) Act 2013.

(2) Chapter III of this Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

## CHAPTER II

## AMENDMENTS TO THE CRIMINAL PROCEDURE CODE

**Amendment of section 2**

2. The Criminal Procedure Code [*Act 593*], which is referred to as the “Code” in this Act, is amended in section 2 by inserting after subsection (4) the following subsection:

“(5) Notwithstanding the definition of “seizable offence” in subsection (1), an offence under the Penal Code is a seizable offence if it is expressly provided in any other written law that the offence is a seizable offence.”.

**Amendment of section 13**

3. Section 13 of the Code is amended by substituting for paragraph (1)(a) the following paragraph:

“(a) of the commission of or the intention of any other person to commit any offence punishable under the Penal Code or any other written law; or”.

**Amendment of section 98**

4. Section 98 of the Code is amended by inserting after subsection (5) the following subsection:

“(6) The Public Prosecutor may appear in any application made under this section.”.

**Amendment of section 117**

5. Section 117 of the Code is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) The Public Prosecutor may appear in any application made under this section.”; and

(b) by inserting after subsection (2) the following subsection:

“(2A) Notwithstanding subsection (2), the Magistrate shall—

(a) authorize the detention of an accused person in custody for fourteen days if the accused person is being investigated for an offence involving an organized criminal group; or

(b) if the offence being investigated is punishable with imprisonment for not less than one year and not more than ten years and involving two or more accused persons, the detention shall be for seven days on the first application and shall be for seven days on the second application.”.

#### **Amendment of section 173A**

6. Section 173A of the Code is amended by inserting after subsection (7) the following subsection:

“(8) This section is not applicable in a case where there is a minimum penalty provided for the offence for which the offender is being charged with.”.

#### **New sections 265A, 265B and 265C**

7. The Code is amended by inserting after section 265 the following sections:

##### **“Special provisions relating to protected witness**

**265A.** (1) Notwithstanding section 264, this section shall apply where the safety of the prosecution witness is likely to be endangered if the identity of the witness is disclosed.

(2) The Public Prosecutor may issue a witness identity protection certificate specifying that the safety of the prosecution witness is likely to be endangered and the witness wishes to give evidence in such manner that he would not be seen or heard by both the accused and his counsel.

(3) Notwithstanding the provisions of the Evidence Act 1950 upon the issuance of the certificate by the Public Prosecutor the court shall take the evidence of the witness *in camera* and the Court may be assisted by the Public Prosecutor.

(4) The Court in taking the evidence *in camera* shall cause all the notes of evidence relating to the identity of the witness be concealed from the view of the accused and his counsel.

(5) The taking of the evidence shall be given in such a manner that the witness would not be visible to the accused and his counsel and further if the witness fears that his voice may be recognized, his evidence shall be given in such manner that he would not be heard by the accused and his counsel.

(6) Such evidence shall be given to the accused and his counsel provided that the Court shall cause the evidence leading to the identity of the witness to be concealed.

(7) The Court shall disallow any question by the accused or his counsel to any other witness that would lead to the identification of the witness who has given his evidence under this section.

(8) Where a witness gives evidence in accordance with this section, he shall for the purposes of this Code and the Evidence Act 1950 be deemed to be giving evidence in the presence of the Court, the accused and his counsel.

(9) The Court shall seal all records that may lead to the identification of the witness who has given evidence under this section.

**Identification by witness where evidence is taken *in camera***

**265B.** If in the course of taking evidence under section 265A the accused or any other person is required to be identified by the witness who gives evidence in the manner provided in that section, such identification may be made by the witness through an interpreter or other officer of the Court.

**Protection of identity of witness**

**265c.** (1) Notwithstanding any written law to the contrary, any report through any means on a protected witness shall not reveal or contain—

- (a) the name;
- (b) the address;
- (c) the picture of the protected witness or any other person, place or thing which may lead to the identification of the protected witness; or
- (d) any evidence or any other thing likely to lead to the identification of the protected witness.

(2) Any person who prepares a report in contravention of subsection (1) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years and also to a fine not exceeding ten thousand ringgit.”.

**Amendment of section 282**

**8.** Section 282 of the Code is amended—

- (a) in paragraph (d), by substituting for the full stop at the end of the paragraph a semi-colon; and
- (b) by inserting after paragraph (d) the following paragraph:
  - “(e) when a person is convicted at one trial of any two or more offences, the Court shall not order the sentences to run concurrently.”.

**Amendment of section 294**

9. Section 294 of the Code is amended by inserting after subsection (5) the following subsection:

“(6) This section is not applicable in a case where there is a minimum penalty provided for the offence for which the offender is being charged with.”.

**New section 386A**

10. The Code is amended by inserting under Chapter XXXVIII the following new section:

**“When person shall not be released on bail**

**386A.** (1) Notwithstanding section 388, bail shall not be granted—

- (a) to a member of an organized criminal group who has been accused of a serious offence;
- (b) to a member of an organized criminal group who has been accused of a non-serious offence, upon issuance of a certificate by the Public Prosecutor.

(2) Any person to whom this section applies shall be tried within a reasonable time.”.

**New section 399B**

11. The Code is amended by inserting after section 399A the following section:

**“Evidence or report by an expert on matters relating to organized criminal group**

**399B.** (1) Notwithstanding any other written law, where evidence or report is given by an expert on the activities, structure, ritual, ceremonies, hand sign, insignia or characteristic of an organized criminal group or any other matters relating to an organized criminal group, the Court shall admit the evidence as conclusive proof of the facts.

- (2) If evidence is proved that the accused—
- (a) is involved in any of the activities, ritual or ceremonies of an organized criminal group;
  - (b) is part of, or within the structure of an organized criminal group;
  - (c) exhibits any hand sign, insignia or characteristics of an organized criminal group; or
  - (d) can be linked to any other matters relating to an organized criminal group,

the Court shall presume that the accused is a member of an organized criminal group.”.

#### **Amendment of section 407**

**12.** Section 407 of the Code is amended by inserting subsection (2), the following subsection:

“(2A) Where an offence is proved against an accused but the property referred to in subsection (1) has been disposed of, or cannot be traced, the Court shall order the accused to pay as a penalty a sum of which is equivalent to, in the opinion of the Court, the value of the property, and any such penalty shall be recoverable as a fine.”.

#### **Amendment of section 414**

**13.** Section 414 of the Code is amended—

- (a) in subsection (1), by substituting for the words “Chief Police Officer” the words “Officer in charge of a Police District”; and
- (b) in subsection (2), by substituting for the words “Government of the State in which that property was seized” the words “Federal Government”.

**Substitution of section 415**

**14.** The Code is amended by substituting for section 415 the following section:

**“Procedure where property is perishable or of small value**

**415.** (1) Any property detained in police custody on the order of a Magistrate made under subsection 413(3) or seized by a police officer under Chapter XLI<sup>A</sup> may be sold by public auction or in such manner as may be practicable if—

- (a) it is subject to speedy decay or deterioration;
- (b) it cannot be maintained without difficulty, or it is not practicable to maintain;
- (c) in the opinion of the police officer that the value of such property is of less than ten thousand ringgit; or
- (d) its custody involves unreasonable expense and inconvenience.

(2) The proceeds of the sale shall be held by the police officer holding the sale, after deducting the cost and expenses of the maintenance and sale of the property.”.

**New Chapter XLI<sup>A</sup>**

**15.** The Code is amended by inserting after Chapter XLI the following Chapter:

“CHAPTER XLI<sup>A</sup>

PROVISIONS RELATING TO ORGANIZED CRIME

**Application of this Chapter**

**416A.** (1) The provisions and procedures provided under this Chapter shall be in addition to and not in derogation of other provisions under the Code.

(2) In any proceedings under this Chapter the provisions of this Chapter shall be construed and interpreted so as to give effect to the purposes of this Chapter without regard to ambiguities, or infirmities of language, or other defects



or deficiencies therein, or to objections which are trivial in nature or which do not affect the merits or substance of the issues before the Court.

### **Interpretation**

**416B.** For the purpose of this Chapter—

(a) “dealing” includes—

- (i) a purchase, sale, loan, charge, mortgage, lien, pledge, caveat, transfer, delivery, assignment, subrogation, transmission, gift, donation, trust, settlement, deposit, withdrawal, transfer between accounts, extension of credit;
- (ii) any purchase or sale of any securities, monetary instrument or other instrument whatsoever by whatever means effected;
- (iii) any agency or grant of power of attorney; and
- (iv) any other disposition or dealing in whatever form, or of whatever description or nature, howsoever styled, which results in any right, interest, title or privilege, whether present or future or whether vested or contingent, in the whole or part of any property being conferred on any person;

(b) “illegal property” means any property, whether within or outside Malaysia—

- (i) which is the subject matter of any offence, or being used in the commission of any offence by any member of an organized criminal group;
- (ii) which is wholly or partly derived or obtained from the commission of any offence or any activity which is of such a nature, or occurs in such circumstances that it may be reasonably believed that it may result in or lead to the commission of any offence, by any member of an organized criminal group;

- (iii) which is the income, earnings or asset wholly or partly derived or obtained from or by means of any property referred to in paragraph (ii);
  - (iv) which is wholly or partly derived or obtained from or by means of any property referred to in paragraph (ii) or (iii);
  - (v) which is wholly or partly traceable or attributable to any property referred to in paragraph (ii), (iii) or (iv), or to any income, earnings or assets of any such property;
  - (vi) which is or was used to assist or facilitate the commission of any offence by any member of an organized criminal group; or
  - (vii) which, due to any circumstance such as, but not limited to, its nature, value, location or place of discovery, or the time, manner or place of its acquisition, or the person from whom it was acquired, or its proximity to other property referred to in the foregoing subparagraphs, can be reasonably believed to be property falling within the scope of any of the foregoing subparagraphs;
- (c) “police officer” means a police officer of the rank of Inspector or above;
- (d) “property” means any movable or immovable property, and includes—
- (i) any right, interest, title, claim, chose in action, power, privilege, whether present or future and whether vested or contingent, in relation to any property, or which is otherwise of value;
  - (ii) any conveyance executed for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of immovable property whereof the person executing the conveyance is proprietor or possessed or wherein he is entitled to a contingent right, either for his whole interest or for any less interest;

- (iii) any monetary instrument;
  - (iv) any other instrument or securities;
  - (v) any business; and
  - (vi) any other tangible or intangible property;
- (e) “purchaser in good faith for valuable consideration” means any transferee, assignee, chargee, mortgagee, pledgee, holder of a lien, or lessee, of any property where the transfer, assignment, charge, mortgage, pledge, lien, or lease was obtained by him for adequate valuable consideration in money or money’s worth, without notice—
- (i) that the property is illegal property; or
  - (ii) of any circumstances from which, if reasonable inquiries had been made, it might have been discovered that the property is illegal property.

### **Seizure of property relating to organized crime**

**416c.** Where a police officer reasonably suspects that any property is illegal property, such property shall be liable to seizure.

### **Seizure of movable property**

**416d.** (1) Whenever any movable property is seized under section 416c, the police officer effecting the seizure shall as soon as practicable serve a notice in writing of such seizure and the grounds thereof on the owner of such property, if such owner and his whereabouts are known.

(2) The notice under subsection (1) shall not be required to be served if the seizure is made in the presence of the owner of such property or his agent, or in the case of a ship or an aircraft, in the presence of the master or pilot, as the case may be.

(3) Section 416c shall not apply to any ship of more than one hundred tons burden, or to any train or to any aircraft, belonging to any person carrying on a regular lawful passenger or freight service within Malaysia or to and from Malaysia, except where prosecution for an offence involving an organized criminal group is to be instituted, or any proceedings under this Chapter are to be taken, against the owner of such ship, train or aircraft.

### **Further provisions relating to seizure of movable property**

**416E.** (1) Where any movable property is seized under this Chapter, the seizure shall be effected by removing the movable property from the possession of the person from whom it is seized and placing it under the custody of such person or authority and at such place as the police officer who effected the seizure may determine.

(2) Where it is not practicable, or it is otherwise not desirable, to remove any property seized under subsection (1), the police officer who effected the seizure may leave it at the premises in which it is seized under the custody of such person as he may determine for the purpose.

(3) Notwithstanding subsection (1), when any movable property, including any movable property referred to in subsection (6), has been seized under this Chapter, a senior police officer superior in rank to the police officer who effected the seizure may—

- (a) temporarily return the movable property to its owner, or to the person from whose possession, custody or control it was seized, or to such person as the senior police officer may consider entitled thereto, subject to such terms and conditions as the senior police officer may impose, and, subject, in any case, to sufficient security being furnished to the satisfaction of the senior police officer that the movable property shall be surrendered to the senior police officer on demand being made by him and that the said terms and conditions, if any, shall be complied with; or

(b) return the movable property to the owner, or to the person from whose possession, custody or control it was seized, or to such person as the senior police officer may consider entitled thereto, with liberty for the person to whom the movable property is so returned to dispose of the moveable property, such return being subject to security being furnished to the satisfaction of the senior police officer in an amount not less than an amount which, in the opinion of the senior police officer, represents the open market value of such property on the date on which it is so returned subject to the condition that if the property is forfeited under this Chapter, the security shall be forfeited under subsection (4) in lieu of the property.

(4) Where any person to whom the movable property is temporarily returned under paragraph 3(a) fails to surrender the movable property on demand or comply with any term or condition imposed under that paragraph—

(a) the security furnished in respect of such movable property shall be forfeited; and

(b) that person commits an offence and shall, on conviction, be liable to a fine of not less than two times the amount of the security furnished by him or to imprisonment for a term not exceeding two years or to both, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(5) Where an order of forfeiture is made by the Court in respect of movable property returned under paragraph 3(b), such forfeiture shall be effected by forfeiting the security furnished by the person to whom the property was returned.

(6) When any movable property seized under this Chapter consists of money, shares, securities, stocks, debentures or any chose-in-action, in the possession or under the custody

or control of any person other than the person against whom the prosecution is intended to be taken, the seizure shall be affected by the police officer serving an order on such person—

- (a) prohibiting him from using, transferring, or dealing with such property; or
- (b) requiring him to surrender the property to a police officer in the manner and within the time specified in the order.

### **Special provision relating to seizure of a business**

**416f.** (1) Where a police officer reasonably suspects that any business—

- (a) is being carried on by or on behalf of any person against whom prosecution for an offence under Part VIB of the Penal Code is intended to be commenced;
- (b) is being carried on by a relative or an associate, on behalf of such person;
- (c) is a business in which such person, or a relative or associate of his has an interest which amounts to or carries a right to not less than thirty per centum of the entire business;
- (d) is a business over which such person, his relative or associate has management or effective control, either individually or together,

such police officer may do any or all of the following things:

- (aa) seize the business in the manner provided under this section;
- (bb) by an order in writing—
  - (i) direct the extent and manner in which the business may be carried on;
  - (ii) specify a public officer or officers by name or office to supervise, direct or control the business, including its accounts, or to carry on the business or such part of it as may be specified;

- (iii) direct that all or any proportion of the proceeds or profits of the business be paid to the Public Trustee and retained by him pending further directions in respect thereof by the police officer;
- (iv) prohibit any director, officer or employee from being in any manner involved in the business with effect from the date of the letter of prohibition; or
- (v) direct that the premises where the business was carried on to be closed and, if necessary or expedient, placed under guard or custody.

(2) Where the public officer in respect of whom an order intended to be made under subsection (1) is other than a police officer, such order shall not be made in relation to him except, in the case of a member of the public service, with the consent of the Secretary General of the Ministry in which the public officer is serving, and in the case of any other public officer, with the consent of the executive head of the authority, body or organization in which he is employed.

(3) Where an order is made by a police officer under paragraph (1)(*bb*), he may include in the order, or give subsequently thereto either in writing or orally, any direction of an ancillary or consequential nature, or which may be necessary, for giving effect to, or for the carrying out of, the order.

(4) An order under paragraph (1)(*bb*) may at any time be varied or revoked by the police officer and where he so varies or revokes it, he may give any direction of an ancillary or consequential nature, or which may be necessary, for giving effect to, or for the carrying out of, such variation or revocation.

(5) Save as otherwise provided in subsection (6), neither the Government nor any public officer shall, in consequence of any order under subsection (1) be responsible for the payment of any moneys, dues, debts, liabilities or charges whatsoever payable to any person in respect of the business, or in respect of any movable or immovable property owned, possessed, occupied or used, by any person in relation to the business.

(6) Where a public officer or officers are carrying on any activities of the business in pursuance of an order under subparagraph (1)(bb)(ii), they shall be responsible for the payment of the wages of such employees of the business as are engaged in performing any work in relation to those activities for the period during which such public officer or officers carry on those activities, and such wages shall be paid out of the profits derived from such activities, or, if there are no such profits or if such profits are insufficient, from the proceeds derived from such activities, or if there are no such proceeds or if such proceeds are insufficient, from the assets and properties of the business.

(7) In this section—

- (a) “wages” means the wages payable under the contract of employment between the employee and the business;
- (b) “business” means any activity carried on for the purpose of gain or profit and includes all property derived from or used in or for the purpose of carrying on such activity, and all rights and liabilities arising from such activity.

### **Seizure of immovable property**

**416G.** (1) Where any immovable property is seized under this Chapter, the seizure shall be effected—

- (a) by the issue of a notice of seizure by a police officer setting out the particulars of the immovable property which is seized insofar as such particulars are within his knowledge, and prohibiting all dealings in such immovable property;
- (b) by posting, where practicable, a copy of the notice in a conspicuous position on the immovable property; and



(c) by serving a copy of the notice on the Land Administrator or the Registrar of Titles, as the case may be, in Peninsular Malaysia, or on the Registrar of Titles or Collector of Land Revenue, as the case may be, in Sabah, or on the Registrar of Titles or Director of Lands and Surveys, as the case may be, in Sarawak, of the area in which the immovable property is situated.

(2) The Land Administrator, the Collector of Land Revenue, the Director of Lands and Surveys, or the Registrar of Titles, as the case may be, referred to in subsection (1) shall immediately thereupon endorse the terms of the notice of seizure on the document of title in respect of the immovable property in the Register at his office.

(3) Where an endorsement of a notice of seizure has been made under subsection (2), the notice shall have the effect of prohibiting all dealings in respect of the immovable property, and, accordingly, after such endorsement has been made no dealing in respect of the immovable property shall be registered, regardless whether it was effected before or after the issue of the notice or the making of such endorsement.

(4) Subsection (3) shall not apply to a dealing effected under this Chapter or by virtue of this Chapter by a public officer in his capacity as such officer, or otherwise by or on behalf of the Government of Malaysia, or the Government of a State, or a local authority or other statutory body.

### **Dealings with seized property after seizure to be void**

**416H.** (1) After seizure of any property has been effected under this Chapter, and so long as such seizure remains in force, any dealing, contract, or other thing whatsoever, effected, done, or entered into by any person or between any persons in respect of such property, except any dealing effected under this Chapter or by virtue of this Chapter by a public officer in his capacity as such officer, or otherwise by or on behalf of the Government of Malaysia, or the Government of a State, or a local authority, or other statutory body, shall be null and void, and shall not be registered or otherwise howsoever given effect to by any person or authority.

(2) Subsection (1) shall be in addition to and not in derogation of subsections 416G(3) and (4).

(3) For so long as a seizure of any property under this Chapter remains in force, no action, suit or other proceeding of a civil nature shall be instituted, or if it is pending immediately before such seizure, be maintained or continued, in any court or before any other authority in respect of the property which has been so seized, and no attachment, execution or other similar process shall be commenced, or if any such process is pending immediately before such seizure, be maintained or continued, in respect of such property on account of any claim, judgment or decree, regardless whether such claim was made, or such judgment or decree was given, before or after such seizure was effected, except at the instance of the Government of Malaysia or the Government of a State, or at the instance of a local authority or other statutory body, or except with the prior consent in writing of the Public Prosecutor.

**Validity of seizure, or sale in consequence thereof, not to be affected by certain objections**

**416i.** Where seizure of any property has been effected under this Chapter, the validity of such seizure, or of any sale or other form of disposal of such property, or of any destruction thereof in accordance with the provisions of this Chapter, in consequence of such seizure, shall not be affected by any objection thereto relating to the manner in which the seizure or sale was effected, or the place at which it was effected, or the person from whom it was effected, or the person to whom any notice of the seizure or sale was given, or omitted to be given, or any failure to conform to any procedural provision of this Chapter or of any other written law in effecting the seizure or sale.

**Release of property seized**

**416j.** (1) Where property has been seized under this Chapter, the Public Prosecutor, may at any time thereafter before it is forfeited under this Chapter release such property to such person as he determines to be lawfully entitled to the

property if he is satisfied that such property is not liable to forfeiture under this Chapter, and is not otherwise required for the purpose of any proceedings under this Chapter, or for the purpose of any prosecution under any other law, and in such event neither the Government nor any person acting on behalf of the Government, shall be liable to any proceedings by any person if the seizure thereof and the release thereof had been effected in good faith.

(2) A record in writing shall be made by the Public Prosecutor effecting any release of any property under subsection (1) in respect of such release specifying therein in detail the circumstances of, and the reason for, such release, and he shall send a copy of such record to the Inspector-General of Police within seven days of the release.

### **Forfeiture of property where there is no prosecution**

**416k.** (1) Where any property has been seized under section 416c, and—

- (a) no prosecution or conviction for an offence with regard to such property; and
- (b) no claim in writing is made by any person that he is lawfully entitled to such property and that it is not liable to forfeiture,

within three months from the date of its seizure, the property become forfeited immediately upon the expiration of the said period of three months.

(2) Where any property becomes forfeited under subsection (1), the Public Prosecutor shall apply to a Sessions Court for an order of forfeiture.

(3) Where within three months from the date of the seizure of any property under this section, a claim in writing is made thereto by any person that he is lawfully entitled to such property and that it is not liable to forfeiture, the Public Prosecutor shall within fourteen days after the expiry of the said period of three months, refer the claim to a Sessions Court for its decision.

(4) The Sessions Court to which a claim is referred under subsection (3) shall issue a summons requiring the person claiming that he is lawfully entitled to the property, and the person from whom it was seized, if he and his whereabouts are known, to appear before the court and upon such appearance or in default of such appearance, upon due service of such summons being proved, the Sessions Court shall proceed to the examination of the matter and if satisfied that no offence has been committed in respect of the property claimed and that such property was not used in the commission of any offence relating to an organized criminal group, shall order the same to be released to the person claiming the same upon proof that he is lawfully entitled thereto, and shall, in any other case, order the property to be forfeited.

(5) Where any property has been forfeited under this section, it shall not be a bar to any prosecution for an offence under any law being instituted in respect of such property at any time thereafter.

### **Forfeiture of property upon prosecution for an offence**

**416L.** Subject to section 416M, in any prosecution for an offence relating to an organized criminal group, the court shall make an order for the forfeiture of any property which is proved to be illegal property where the offence is not proved against the accused but the court is satisfied—

- (a) that the accused is not the true and lawful owner of such property; and
- (b) that no other person is entitled to the property as a purchaser in good faith for valuable consideration.

### ***Bona fide* third parties**

**416M.** (1) The Court making the order of forfeiture under section 416K or 416L shall cause to be published a notice in the *Gazette* calling upon any third party who claims to have interest in the property to attend before the Court on the date specified in the notice to show cause as to why the property shall not be forfeited.

(2) A third party's lack of good faith may be inferred, by the Court from the objective circumstances of the case.

(3) The Court shall return the property to the claimant when it is satisfied that—

- (a) the claimant has a legitimate legal interest in the property;
- (b) no participation, collusion or involvement with respect to the offence relating to an organized criminal group can be imputed to the claimant;
- (c) the claimant lacked knowledge and was not intentionally ignorant of the illegal use of the property, or if he had knowledge, did not freely consent to its illegal use;
- (d) the claimant did not acquire any right in the property from a person proceeded against under circumstances that give rise to a reasonable inference that any right was transferred for the purpose of avoiding the eventual subsequent forfeiture of the property; and
- (e) the claimant did all that could reasonably be expected to prevent the illegal use of the property.

### **Presumption as to illegal property**

**416n.** Where any proceedings under this Chapter are brought against any person in respect of any property seized on the ground that such property is illegal property, the Court shall presume such property seized under this Chapter to be illegal property unless the person whose property was seized proves to the contrary by admissible evidence and where he adduces any such evidence, the Public Prosecutor shall have the right to rebut the same.

### **Admissibility of documentary and other evidence obtained in the course of a seizure under this Chapter**

**416o.** Where the Public Prosecutor or a police officer has obtained any document or other evidence in the course of a seizure under this Chapter, such document or copy of

the document or other evidence, as the case may be, shall be admissible in evidence in any proceedings under this Chapter, notwithstanding anything to the contrary in any written law.”.

### **New section 425A**

**16.** The Code is amended by inserting after section 425 the following section:

#### **“Trial in absence of an accused**

**425A.** (1) Notwithstanding any other provision of this Code, if an accused person absconds during the course of his trial, the accused shall be deemed to have waived his right to be present at the trial.

(2) A Court may proceed or continue with the trial and pass a judgment in the absence of the accused.

(3) If a warrant of arrest has been issued—

(a) the Court may adjourn the trial and await the appearance of the accused or await the execution of the warrant; or

(b) if the Court is satisfied that it is no longer in the interests of justice to await the appearance of the accused or to await the execution of the warrant, the Court may, at any time, proceed or continue with the trial.

(4) If the Court proceeds or continues with the trial pursuant to subsection (2), the Court may draw an inference adverse to the accused from the fact that he has absconded.

(5) If an accused reappears at his trial, he is not entitled to have any part of the proceeding that was conducted in his absence re-opened unless the Court is satisfied that because of exceptional circumstances it is in the interests of justice to re-open the proceedings.

(6) Where an accused has absconded and the Court proceeds or continues with his trial, counsel for the accused may continue to act for the accused in the trial.”.

**Amendment of section 430**

17. Section 430 of the Code is amended—

- (a) by substituting for the words “any Court” the words “the Minister”;
- (b) by substituting for the words “such Court” the words “the Minister”; and
- (c) by substituting for the words “one hundred ringgit” the words “not less than one thousand ringgit and not more than ten thousand ringgit”.

**Amendment of First Schedule**

18. The First Schedule to the Code is amended—

- (a) by inserting, after the item relating to section 121D of the Penal Code, the following items under the respective columns:

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whetherailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
“121E	Destruction, etc. of national emblem	do.	do.	do.	do.	Imprisonment for not less than five years and not more than fifteen years”;

(b) by inserting, after the item relating to section 124 of the Penal Code, the following items under the respective columns:

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
"124B	Activity detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to twenty years
124C	Attempt to commit activity detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to fifteen years
124D	Printing, sale, etc., of documents and publication detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to fifteen years
124E	Possession of documents and publication detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to ten years
124F	Importation of document and publication detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to five years



1 <i>Penal Code Section</i>	2 <i>Offence</i>	3 <i>Whether the police may ordinarily arrest without warrant or not</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	5 <i>Whether bailable or not</i>	6 <i>Whether compoundable or not</i>	7 <i>Maximum punishment under the Penal Code</i>
124G	Posting of placards, etc.	do.	do.	do.	do.	Imprisonment which may extend to five years
124H	Dissemination of information	do.	do.	do.	do.	Imprisonment which may extend to five years
124I	Dissemination of false reports	do.	do.	do.	do.	Imprisonment which may extend to five years
124J	Receipt of document and publication detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to ten years
124K	Sabotage	do.	do.	do.	do.	Imprisonment for life
124L	Attempt to commit sabotage	do.	do.	do.	do.	Imprisonment which may extend to fifteen years
124M	Espionage	do.	do.	do.	do.	Imprisonment for life
124N	Attempt to commit espionage	do.	do.	do.	do.	Imprisonment which may extend to fifteen years”;

(c) by inserting, after the item relating to section 130K of the Penal Code the following items under the respective columns:

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
"130KA	Member of a terrorist group	do.	do.	do.	do.	Imprisonment which may extend to imprisonment for life, and fine";

(d) by inserting, after the item relating to section 130Q of the Penal Code, the following items under the respective columns:

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
"130QA	Accepting gratification to facilitate or enable terrorist act	do.	do.	do.	do.	If the act results in death, with death in any other case, imprisonment for not less than seven years but not exceeding thirty years, and fine";

(e) by inserting, after the item relating to section 130s of the Penal Code, the following items under the respective columns:

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

“CHAPTER VI B - ORGANIZED CRIME

130v	Member of an organized criminal group	May arrest without warrant	Warrant	Not Bailable	Not Compoundable	Imprisonment for not less than five years and not more than twenty years
130w	Assisting in an organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to ten years”;
130x	Harbouring a member of an organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to five years, and fine
130y	Consorting with an organized criminal group	do.	do.	do.	do.	Imprisonment for not less than five years and not more than twenty years, and fine
130z	Recruiting persons to be members of an organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to ten years, and fine

1 <i>Penal Code Section</i>	2 <i>Offence</i>	3 <i>Whether the police may ordinarily arrest without warrant or not</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	5 <i>Whether bailable or not</i>	6 <i>Whether compoundable or not</i>	7 <i>Maximum punishment under the Penal Code</i>
130ZA	Participation in an organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to ten years, and fine
130ZB	Accepting gratification to facilitate or enable organized criminal activity	do.	do.	do.	do.	If the act results in death, with death in any other case with imprisonment not less than seven years but not exceeding thirty years, and fine”;

(f) by inserting, after the item relating to section 203 of the Penal Code, the following items under the respective columns:

1 <i>Penal Code Section</i>	2 <i>Offence</i>	3 <i>Whether the police may ordinarily arrest without warrant or not</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	5 <i>Whether bailable or not</i>	6 <i>Whether compoundable or not</i>	7 <i>Maximum punishment under the Penal Code</i>
“203A	Disclosure of information	do.	do.	do.	do.	Fine not more than one million ringgit, or imprisonment which may extend to one year, or both”;

(g) in the item relating to section 324 of the Penal Code in column 7, by substituting for the word “three” the word “ten”;

(h) by inserting, after the item relating to section 326 of the Penal Code, the following items under the respective columns:

1 <i>Penal Code Section</i>	2 <i>Offence</i>	3 <i>Whether the police may ordinarily arrest without warrant or not</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	5 <i>Whetherailable or not</i>	6 <i>Whether compoundable or not</i>	7 <i>Maximum punishment under the Penal Code</i>
“326A	Causing hurt by spouse	do.	do.	do.	do.	Imprisonment for a term twice as long as the maximum term for which he would have been liable on conviction for that offence under the relevant section”;

(i) by inserting, after the item relating to section 352 of the Penal Code, the following items under the respective columns:

1 <i>Penal Code Section</i>	2 <i>Offence</i>	3 <i>Whether the police may ordinarily arrest without warrant or not</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	5 <i>Whetherailable or not</i>	6 <i>Whether compoundable or not</i>	7 <i>Maximum punishment under the Penal Code</i>
“352A	Using criminal force by spouse	do.	do.	do.	do.	Imprisonment which may extend to six months, or fine which may extend to two thousand ringgit, or both”;

- (j) by inserting, after the item relating to section 375A of the Penal Code, the following items under the respective columns:

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
"375B	Gang rape	do.	do.	do.	do.	Imprisonment for not less than ten years, and not more than thirty years";

- (k) in the item relating to subsection 376(2) of the Penal Code in column 7, by substituting for the word "five" the word "ten";
- (l) in the item relating to section 376B of the Penal Code, in column 7, by substituting for the words "not less than six years and not more than twenty years" the words "not less than ten years and not more than thirty years";
- (m) in the item relating to section 377CA of the Penal Code, in column 7, by substituting for the words "for twenty years" the words "for not less than five years and not more than thirty years";
- (n) in the item relating to section 377E of the Penal Code, in column 7, by substituting for the words "for five years" the words "for not less than three years and not more than fifteen years";

(o) by inserting, after the item relating to section 411 of the Penal Code, the following items under the respective columns:

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or summons shall ordinarily issue in the first instance</i>	<i>Whetherailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
“411A	Receiving benefit derived from criminal activities of organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to six years”;

(p) in the item relating to section 426 of the Penal Code, in column 7, by substituting for the words “three months” the words “five years”;

(q) in the item relating to section 427 of the Penal Code, in column 7, by substituting for the words “for two years” the words “for not less than one year and not more than five years”;

(r) in the item relating to section 428 of the Penal Code, in column 7, by substituting for the word “do.” the words “Imprisonment which may extend to three years, or with fine, or both”;

(s) by deleting the items relating to section 429 of the Penal Code;

(t) in the item relating to section 430 of the Penal Code, in column 7, by substituting for the word “do.” the words “Imprisonment for not less than five years and not more than thirty years”;

(u) in the item relating to section 435 of the Penal Code, in column 7, by substituting for the word “seven” the word “fourteen”; and

(v) by inserting, after the item relating to section 440 of the Penal Code, the following items under the respective columns:

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whetherailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
“440A	Vandalism	do.	do.	do.	do.	Imprisonment which may extend to three years”.

### CHAPTER III

#### AMENDMENTS TO THE CRIMINAL PROCEDURE CODE (AMENDMENT) (NO. 2) ACT 2012

#### **Substitution of section 7**

**19.** The Criminal Procedure Code (Amendment) (No. 2) Act 2012, which is referred to as the “principal Act” in this Chapter, is amended by substituting for section 7 the following section:

#### **“New section 388A**

**7.** The Code is amended by inserting after section 388 the following section:

#### **“Electronic monitoring requirement for person released on bail**

**388A.** (1) Where a Court has decided to release a person on bail under section 387 or 388, the Court may, on its own discretion, order for an electronic monitoring device to be attached to the person.

(2) The Court may, with due regard to the nature of the offence and the circumstances of the case as being sufficient to secure the person’s attendance at his trial, order for an electronic monitoring device to be attached to the person in lieu of the execution of a bond.



(3) The Court shall, before ordering a person to be attached with an electronic monitoring device under subsection (1), give the person and the Public Prosecutor an opportunity to be heard.

(4) The Court shall not make an order for a person to be attached with an electronic monitoring device under subsection (1) if there is a person (other than the person to be monitored) without whose co-operation it will not be practicable to secure the monitoring.

(5) Notwithstanding subsection (1), the Public Prosecutor may apply to the Court for any person to be so released on bail to be attached with an electronic monitoring device.

(6) Where the Public Prosecutor has made an application under subsection (5), the Court shall, with due regard to the nature of the offence and the circumstances of the case, order for the person to be so attached with an electronic monitoring device in lieu of the execution of a bond.

(7) Any person ordered to be attached with an electronic monitoring device under subsection (6) shall sign the Form as specified in the Fifth Schedule and deposit the Form with the Court.”.

### **Substitution of section 8**

**20.** The principal Act is amended by substituting for section 8 the following section:

“**New sections 390A, 390B and 390C**

**8.** The Code is amended by inserting after section 390 the following section:

“**Electronic monitoring requirement to be explained**

**390A.** (1) A Court shall, before making an order for compliance with an electronic monitoring requirement, explain to the person to be so ordered—

(a) the terms and conditions as stated in the Form as specified in the Fifth Schedule;

- (b) the consequences which may follow any failure by the person to comply with the electronic monitoring requirement; and
- (c) any other conditions as may be imposed by the Court which includes the payment for the maintenance of the device and the time period for the person to be monitored electronically.

(2) A Court shall revoke the bail of any person who willfully fails to comply with the electronic monitoring requirement under subsection (1).

(3) Any person who tampers with, or destroys or otherwise assists in tampering or destroying, the electronic monitoring device commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term of not less than two years and not more than ten years or to both, and such person shall be liable to pay for any damage to the electronic monitoring device arising from his action.

(4) Any person who fails to comply with any of the terms and conditions as stated in the Form as specified in the Fifth Schedule commits an offence and shall, on conviction, be liable to imprisonment of not less than two years and not more than ten years.

### **Requirement for electronic monitoring**

**390B.** (1) When a Court has made an order for any person to comply with an electronic monitoring requirement, the Court shall require the person to co-operate with the specified arrangement for monitoring to enable the person to be monitored by electronic means.

(2) For the purpose of subsection (1), “to co-operate with the specified arrangement for monitoring” includes—

- (a) submitting to procedures required by the arrangement;
- (b) wearing or otherwise using devices approved by or in accordance with the arrangement;
- (c) maintaining such devices in the specified manner;
- (d) complying with directions given by persons carrying out functions for the purposes of those arrangement.

### **Electronic monitoring devices**

**390c.** The following devices may be used for the purpose of electronic monitoring:

- (a) a device which is—
  - (i) attached to a person;
  - (ii) either directly or through a device referred to in paragraph (b) or (c), linked to a receiving centre by means of a fixed line, radio frequency, satellite or other technology;
  - (iii) either directly or through a device referred to in paragraph (b) or (c), capable of transmitting to the receiving centre information relating to—
    - (A) the particular place at which the device is located at a particular time; and
    - (B) the functioning of the device; and

- (iv) capable of detecting any tampering with the device and transmitting to the receiving centre information relating to such tampering;
- (b) a portable tracking device which is, in conjunction with a device referred to in paragraph (a)—
- (i) linked to a receiving centre by means of a fixed line, radio frequency, satellite or other technology;
  - (ii) capable of detecting the device referred to in paragraph (a) and transmitting to the receiving centre information relating to particular place at which the devices are located at a particular time;
  - (iii) capable, where the portable tracking device fails to detect the device referred to in paragraph (a), of transmitting to the receiving centre information relating to such failure; and
  - (iv) capable of transmitting to the receiving centre information relating to the functioning of the devices; or
- (c) a site monitoring device which is—
- (i) linked to a receiving centre by means of a fixed line, radio frequency, satellite or other technology;
  - (ii) in conjunction with a device referred to in paragraph (a), capable of—
    - (A) detecting the presence or absence of the device referred to in paragraph (a) in or from a particular place at a particular time; and
    - (B) transmitting to a receiving centre information relating to such presence or absence; and
  - (iii) capable of transmitting to the receiving centre information relating to the functioning of the device.”.

**New section 10**

**21.** The principal Act is amended by inserting after section 9 the following section:

**“New Fifth Schedule**

**10.** The Code is amended by inserting after the Fourth Schedule the following Schedule:

“FIFTH SCHEDULE

(Section 388A)

FORM

ELECTRONIC MONITORING DEVICE

IN THE ... COURT AT..... IN THE STATE OF.....

1. Name: .....
2. Case No.: .....
3. Identity Card No.: .....
4. Address: .....  
.....  
.....
5. Telephone No.: .....
6. Family members to be contacted: .....
7. Period to be attached with electronic monitoring device (“device”): .....
8. Terms and conditions—
  - (a) to report to the nearest police station at/for every .....
  - (b) understands that all movements will be tracked and retained as an official record;
  - (c) agrees to be required to report for device equipment checks if necessary;
  - (d) to notify the police officer if there is any change of address;
  - (e) to allow inspections of the device by the police officer;

- (f) to report to the nearest police station for removal of the device;
- (g) to return all the device equipment to the police officer;
- (h) to submit to procedures required by the police officer;
- (i) to maintain the device as instructed by the police officer;
- (j) to comply with any directions of the police officer;
- (k) to comply with any other conditions as the court may determine.

9. Failure to comply with the terms and conditions is an offence under subsection 390A(4) of the Code.

I hereby agree to and shall comply with the terms and conditions as stated in this Form.

.....  
( )”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Criminal Procedure Code (“Act 593”) and the Criminal Procedure Code (Amendment) (No. 2) Act 2012 (“Act A1431”).

2. In line with the amendments proposed to several other laws with regard to organized crime and other consequential matters, several amendments have been proposed to the Criminal Procedure Code (“the Code”).

3. The Code is proposed to be amended by inserting a provision which provides that any offence under the Penal Code is a seizable offence if it is expressly provided under any other written law that such offence is a seizable offence.

4. Section 13 is proposed to be amended to allow the public to give information to the police about the commission or the intention of any other person to commit any offence punishable under the Penal Code or under any written law in a move to curb the rampant rise of crimes.

5. The Code is also proposed to be amended by introducing a provision empowering the Public Prosecutor to appear in any application made under section 98 of the Code.

6. Similar to the amendment proposed to section 98 of the Code, section 117 of the Code is also proposed to be amended to allow the Public Prosecutor to be present during an application to remand an accused person if the investigation cannot be completed within twenty-four hours. Section 117 of the Code is proposed to be amended further by introducing a provision empowering the Magistrate to authorize the detention of an accused person in custody for 14 days if such person is being detained for investigation in relation to organized crime.

If the offence being investigated involving two or more accused persons is punishable with imprisonment for not less than one year and not more than ten years, a provision is proposed to be introduced into section 117 authorizing the Magistrate to detain an accused person in custody for a period of seven days on the first application and seven days on the second application.

7. Section 173A of the Code is proposed to be amended by introducing a provision whereby any person charged with an offence for which a minimum penalty is imposed shall not be allowed to be discharged either conditionally or unconditionally. A similar amendment is proposed in section 294 of the Code whereby if a first-time offender is charged with an offence which carries a minimum penalty, he shall not be released on a bond of good behavior.

8. To address the issue of witnesses refusing to appear to testify for fear that his safety may be compromised if his identity is disclosed, it is proposed that the evidence of such witnesses is allowed to be taken in such a manner that they are not to be seen or heard by both the accused and his counsel. The proposed amendments also allow that the witness' voice could be distorted if the witness feels that his voice may be recognized. For that purpose sections 265A, 265B and 265C are proposed to be introduced into the Code.

9. Section 282 of the Code is proposed to be amended by introducing a provision whereby the Court shall not pronounce concurrent sentences when a person is convicted at one trial for two or more offences.

10. A new section 386A is proposed to be introduced into the Code to disallow bail from being granted to any person who is a member of an organized criminal group who is charged with a serious offence. Similarly if any person who is a member of an organized criminal group is charged with a non-serious offence, he shall not be granted bail upon the issuance of a certificate by the Public Prosecutor.

11. A new section 399B is proposed to be introduced into the Code allowing evidence or report given by an expert on the activities, structure, ritual, ceremonies, hand sign, insignia, characteristic or any other matters relating to an organized criminal group to be admitted as evidence.

12. Section 407 of the Code is proposed to be amended by introducing a provision ordering an accused person whose case has been proved to pay a penalty where a property impounded has been disposed of or cannot be traced.

13. Section 414 of the Code is proposed to be amended allowing unclaimed seized property to be sold by the Officer in charge of a Police District instead of a Chief Police Officer.

14. Section 415 of the Code is proposed to be amended to allow any property which is perishable or of small value detained in police custody on the order of a Magistrate or seized by the police under Chapter XLIA to be sold by public auction.

15. A new Chapter XLIA is proposed to be introduced into the Code with regard to seizure and forfeiture of property and its derivatives belonging to organized criminal group which were obtained in the commission of an offence or which will lead to the commission of an offence. Seizure of businesses of organized criminal group is also proposed to be introduced into this Chapter. Any property seized under this Chapter shall be presumed to be illegal property unless the person whose property has been seized is able to prove to the contrary.

The procedural provisions were adopted with modifications from the Dangerous Drugs (Forfeiture of Property) Act 1988 [*Act 340*] and the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 [*Act 613*]. A distinct feature proposed to be introduced into the Code is a presumption provision presuming that such property seized and forfeited is illegal property unless proven otherwise. Such seizure and forfeiture may be effected where there is prosecution or no prosecution for an offence. The right of a *bona fide* third party relating to the seized and forfeited property is addressed whereby a notice will be published in the *Gazette* calling upon any *bona fide* third party who claims to have an interest in the property seized to show to the Court why the property shall not be forfeited.

16. A new section 425A is proposed to be introduced into the Code to provide for the procedure in instances where an accused person absconds during his trial. Under this new proposed amendment the Court is allowed to proceed with the trial and dispose of a case in the absence of an accused person who absconds.

By this proposed amendment the accused person who absconds is deemed to have waived his right to be present during his trial and may not later apply to have the part of the trial conducted in his absence to be re-opened, unless he is able to satisfy the Court that exceptional circumstances in the interest of justice exist to do so.

17. Section 430 of the Code is proposed to be amended to increase the reward, to a person who shows unusual courage in keeping public order, from not more than one hundred ringgit to not less than one thousand ringgit and not more than ten thousand ringgit. This provision is also proposed to be amended to give the discretion to the Minister to award the reward instead of Court.

18. With the introduction of new offences into the Penal Code, the First Schedule of the Code also needs to be amended to include such new offences.



19. The provisions in the Criminal Procedure Code (Amendment) (No. 2) Act 2012 [Act A1413] in relation to Electronic Monitoring Device (EMD) are proposed to be amended to introduce a form to be signed by an accused person ordered by Court to be attached with an EMD to ensure that he is subject to the terms and conditions stated in the form, failing which an amendment is proposed to make it an offence with the punishment of not less than two years and not more than ten years imprisonment. The proposed form is similar to the form in the Security Offences (Special Measures) Act 2012 [Act 747].

*FINANCIAL IMPLICATIONS*

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)2903C/K]