



LAWS OF MALAYSIA

Act A1485

SEDITION (AMENDMENT) ACT 2015

Date of Royal Assent	28 May 2015
Date of publication in the <i>Gazette</i>	4 June 2015

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Act A1485

SEDITION (AMENDMENT) ACT 2015

An Act to amend the Sedition Act 1948.

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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 Sedition (Amendment) Act 2015.

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

Amendment of section 2

2. The Sedition Act 1948 [*Act 15*], which is referred to as the “principal Act” in this Act, is amended in section 2 by inserting before the definition of “Government” the following definition:

‘ “by electronic means”, in relation to a publication, means—

- (a) broadcasted so as to be available for reception by members of the public or of a section of the public; or
- (b) communicated through network services to members of the public or of a section of the public;’.

Amendment of section 3**3. Section 3 of the principal Act is amended—**

(a) in subsection (1)—

- (i) in paragraph (a), by deleting the words “or against any Government”;
- (ii) by deleting paragraph (c);
- (iii) in paragraph (e)—
 - (A) by substituting for the words “and hostility” the words “, hostility or hatred”; and
 - (B) by deleting the word “or” at the end of the paragraph; and
- (iv) by inserting after paragraph (e) the following paragraph:

“(ea) to promote feelings of ill will, hostility or hatred between persons or groups of persons on the ground of religion; or”;

(b) in subsection (2)—

- (i) in paragraph (b), by deleting the words “or in the administration of justice”; and
- (ii) by substituting for subparagraph (c)(ii) the following subparagraph:

“(ii) to point out, with a view to their removal, any matters producing or having a tendency to produce feelings of ill will, hostility or hatred—

 - (A) between different races or classes of the population of Malaysia; or
 - (B) between persons or groups of persons on the ground of religion,”; and

- (c) by substituting for subsection (3) the following subsection:

“(3) For the purpose of proving the commission of any offence against this Act, the intention of the person charged at the time he did or attempted to do or made any preparation to do or conspired with any person to do any act or uttered any seditious words or printed, published or caused to be published, sold, offered for sale, distributed, reproduced or propagated any publication or did any other thing shall be deemed to be irrelevant if in fact the act had, or would, if done, have had, or the words, publication or thing had a seditious tendency.”.

Amendment of section 4

4. Section 4 of the principal Act is amended—

- (a) in subsection (1)—

- (i) in paragraph (c), by inserting after the word “publishes” the words “or causes to be published”;
- (ii) in paragraph (d), by substituting for the word “imports” the word “propagates”; and
- (iii) by substituting for the words “for a first offence to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both, and, for a subsequent offence, to imprisonment for a term not exceeding five years” the words “to imprisonment for a term of not less than three years but not exceeding seven years”; and

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

“(1A) Any person who—

- (a) does or attempts to do, or makes any preparation to do, or conspires with

any person to do, any act which has or which would, if done, have a seditious tendency;

- (b) utters any seditious words;
- (c) prints, publishes or causes to be published, sells, offers for sale, distributes or reproduces any seditious publication; or
- (d) propagates any seditious publication,

and by such act causes bodily injury or damage to property shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three years but not exceeding twenty years.”.

New section 5A

5. The principal Act is amended by inserting after section 5 the following section:

“Power of court to prevent person from leaving Malaysia

5A. (1) When a person is charged with an offence under section 4 and released on bail, the court shall, on the application of the Public Prosecutor—

- (a) order the person to surrender his travel documents within such period specified in the order until all proceedings in relation to the charge against the person have been concluded; or
- (b) in cases where the person has no travel documents and he is a citizen or permanent resident, order the Director General of Immigration not to issue any travel document to the person until all proceedings in relation to the charge against the person have been concluded.

(2) Any person who fails to comply with an order made under paragraph (1)(a), shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five

thousand ringgit or to imprisonment for a term not exceeding three years or to both, and his bail shall be revoked by the court.

(3) For the purpose of this section—

(a) “Director General of Immigration” means the Director General of Immigration appointed under section 3 of the Immigration Act 1959/63 [*Act 155*]; and

(b) “travel document” means a passport or any form of valid document of identity issued by any government for the purpose of travel across international boundaries.”.

Substitution of section 6

6. The principal Act is amended by substituting for section 6 the following section:

“Evidence

6. No person shall be convicted of any offence under paragraph 4(1)(c) or 4(1A)(c) if the person proves that the publication in respect of which he is charged was printed, published or caused to be published, sold, offered for sale, distributed or reproduced without his authority, consent and knowledge and without any want of due care or caution on his part, or that he did not know and had no reasonable ground to believe that the publication had a seditious tendency.”.

New section 6A

7. The principal Act is amended by inserting after section 6 the following section:

“Non-application of sections 173A, 293 and 294 of the Criminal Procedure Code

6A. Sections 173A, 293 and 294 of the Criminal Procedure Code [*Act 593*] shall not apply in respect of offences under subsection 4(1A).”.

Amendment of section 10**8. Section 10 of the principal Act is amended—**

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

“(1) Where on the application of the Public Prosecutor it is shown to the satisfaction of a Sessions Court Judge that the making or circulation of a seditious publication—

- (a) is or if commenced or continued would likely lead to bodily injury or damage to property;
- (b) appears to be promoting feelings of ill will, hostility or hatred between different races or classes of the population of Malaysia; or
- (c) appears to be promoting feelings of ill will, hostility or hatred between persons or groups of persons on the ground of religion,

the Sessions Court Judge shall make an order (“prohibition order”) prohibiting the making or circulation of that seditious publication (“prohibited publication”).”;

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

“(1A) The prohibition order under subsection (1) shall—

- (a) require every person having any copy of the prohibited publication in his possession, power, or control to deliver forthwith every such copy into the custody of the police; or
- (b) in the case of a prohibited publication by electronic means—
 - (i) require the person making or circulating the prohibited publication to remove or cause to be removed wholly or partly the prohibited publication; and

- (ii) prohibit the person making or circulating the prohibited publication from accessing any electronic device.”;

(c) by substituting for subsection (4) the following subsection:

“(4) Any person who contravenes a prohibition order made under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both and, in the case of a continuing offence, to a fine of three thousand ringgit for each day during which the offence continues after conviction and in default of the payment of the fine, be liable to imprisonment for a term not exceeding one year.”;

(d) by substituting for subsection (5) the following subsection:

“(5) Every person who knowingly have in his possession, power or control a prohibited publication shall—

- (a) forthwith deliver every such prohibited publication into the custody of the police; and
- (b) in the case of a prohibited publication by electronic means, remove or cause to be removed wholly or partly the prohibited publication,

and if he fails to do so, he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both and, in the case of a continuing offence, to a fine of three thousand ringgit for each day during which the offence continues after conviction and in default of the payment of the fine, be liable to imprisonment for a term not exceeding one year.”; and

(e) by deleting subsection (9).

New section 10A

9. The principal Act is amended by inserting after section 10 the following section:

“Special power to issue order regarding seditious publication by electronic means

10A. Where on the application of the Public Prosecutor it is shown to the satisfaction of a Sessions Court Judge that the making or circulation of a seditious publication by electronic means by a person who cannot be identified—

- (a) is or if commenced or continued would likely lead to bodily injury or damage to property;
- (b) appears to be promoting feelings of ill will, hostility or hatred between different races or classes of the population of Malaysia; or
- (c) appears to be promoting feelings of ill will, hostility or hatred between persons or groups of persons on the ground of religion,

the Sessions Court Judge shall make an order directing an officer authorized under the Communications and Multimedia Act 1998 [Act 588] to prevent access to such publication.”.