

Rang Undang-Undang berikut yang akan dikemukakan kepada Dewan Undangan adalah diterbitkan untuk makluman umum.



NEGERI SABAH

RANG UNDANG-UNDANG

bernama

Suatu Enakmen untuk meminda Perlembagaan Negeri Sabah.

DIPERBUAT UNDANG-UNDANG oleh Badan Perundangan Negeri Sabah seperti berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Enakmen ini bolehlah dinamakan Enakmen Perlembagaan Negeri Sabah (Pindaan) 2023.

(2) Enakmen ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Yang di-Pertua Negeri melalui pemberitahuan dalam *Warta*.

LAB 4 TAHUN 2023

Pindaan Perkara 6

2. Perlembagaan Negeri Sabah, yang disebut “Perlembagaan” dalam Enakmen ini, dipinda dalam Perkara 6 dengan memotong Fasal (7).

Pindaan Perkara 17

3. Perkara 17 Perlembagaan dipinda dengan memotong Fasal (5).

Perkara baharu 17A

4. Perlembagaan dipinda dengan memasukkan selepas Perkara 17 Perkara yang berikut:

“Pertukaran parti politik anggota, dsb.

17A. (1) Tertakluk kepada peruntukan Perkara ini, seseorang ahli Dewan Undangan hendaklah terhenti menjadi ahli Dewan Undangan dan kerusinya hendaklah menjadi kosong sebaik sahaja suatu tarikh kekosongan luar jangka dipastikan oleh Speaker di bawah Fasal (3) jika —

(a) setelah dipilih ke Dewan Undangan sebagai anggota suatu parti politik —

(i) dia melepaskan keanggotaan parti politik itu; atau

(ii) dia tidak lagi menjadi anggota parti politik itu; atau

(b) setelah dipilih ke Dewan Undangan bukan sebagai anggota suatu parti politik, dia menyertai suatu parti politik sebagai anggota.

(2) Seseorang ahli Dewan Undangan tidak terhenti menjadi ahli

Dewan Undangan menurut Perkara ini hanya disebabkan oleh —

- (a) pembubaran atau pembatalan pendaftaran parti politikanya;
- (b) pelepasan keanggotaannya daripada parti politikanya apabila dipilih sebagai Speaker; atau
- (c) pemecatannya daripada keanggotaan dalam parti politikanya.

(3) Bilamana Speaker menerima suatu notis bertulis daripada mana-mana ahli Dewan Undangan mengenai berlakunya kekosongan luar jangka dalam kalangan ahli Dewan Undangan di bawah Perkara ini, Speaker hendaklah memastikan bahawa berlakunya kekosongan luar jangka itu dan memberitahu Suruhanjaya Pilihan Raya sewajarnya dalam tempoh dua puluh satu hari dari tarikh dia menerima notis bertulis itu.

(4) Bagi maksud mengadakan pilihan raya di bawah Fasal (5) Perkara 21, kekosongan luar jangka itu hendaklah diisi dalam tempoh enam puluh hari dari tarikh Suruhanjaya Pilihan Raya menerima pemberitahuan itu daripada Speaker.”.

Pindaan Perkara 46

5. Perkara 46 Perlembagaan dipinda dalam Fasal (1) —

- (a) dengan memasukkan selepas takrif “Kabinet” takrif yang berikut:

‘ “kekosongan luar jangka” ertinya kekosongan yang berlaku di dalam Dewan Undangan selain oleh sebab pembubaran Dewan Undangan itu;’;

(b) dengan memasukkan selepas takrif “Parlimen” takrif yang berikut:

‘ “parti politik” ertinya —

(a) mana-mana pertubuhan yang menurut mana-mana tujuan atau kaedahnya, tidak kira sama ada tujuan atau kaedah itu merupakan tujuan atau kaedah utamanya, atau semata-mata merupakan tujuan atau kaedah yang menjadi tambahan kepada tujuan atau tujuan-tujuan utamanya atau kepada kaedah atau kaedah-kaedah utamanya, mengadakan peruntukan bagi pertubuhan itu menyertai, melalui calon-calonnya, dalam pemilihan ke Dewan Undangan; atau

(b) mana-mana pertubuhan yang, walau apa pun apa-apa jua yang terkandung dalam tujuan-tujuan atau kaedah-kaedahnya, menjalankan apa-apa aktiviti atau meneruskan apa-apa tujuan yang melibatkan penyertaannya, melalui calonnya, dalam pemilihan ke Dewan Undangan,

dan termasuklah gabungan pertubuhan sedemikian yang telah didaftarkan di bawah mana-mana undang-undang persekutuan;’; dan

(c) dengan menggantikan takrif “Persekutuan” dengan takrif yang berikut:

‘ “Persekutuan” ertinya Persekutuan yang pada mulanya ditubuhkan di bawah Perjanjian Persekutuan Tanah Melayu 1957 dan selanjutnya menurut Perjanjian yang dimuktamadkan pada sembilan hari bulan Julai, tahun seribu sembilan ratus enam puluh tiga antara United Kingdom of Great Britain and Northern Ireland,

Persekutuan Tanah Melayu, Borneo Utara, Sarawak dan Singapura, Persekutuan yang dikenali sebagai Malaysia dengan Koloni Borneo Utara dan Sarawak, dan Negeri Singapura bersekutu dengan Negeri-Negeri sedia ada dalam Persekutuan Tanah Melayu sebagai Negeri Sabah, Sarawak dan Singapura mengikut surat cara perlembagaan yang dilampirkan padanya tetapi di bawah dan menurut Perjanjian berhubung dengan pemisahan Singapura daripada Malaysia sebagai sebuah Negara yang merdeka dan berdaulat bertarikh tujuh hari bulan Ogos, tahun seribu sembilan ratus enam puluh lima, Singapura telah tidak lagi menjadi sebuah negeri dalam Malaysia;’.

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Perlembagaan Negeri Sabah (“Perlembagaan”).

2. *Fasal 1* Rang Undang-Undang ini memperuntukkan tajuk ringkas dan tarikh permulaan kuat kuasa Enakmen yang dicadangkan.
3. *Fasal 2* Rang Undang-Undang ini bertujuan untuk memotong Fasal (7) Perkara 6 memandangkan peruntukan ini tidak lagi relevan dalam keadaan semasa.
4. *Fasal 3* Rang Undang-Undang ini bertujuan untuk memotong Fasal (5) Perkara 17. Pemotongan ini akan membolehkan mana-mana ahli Dewan Undangan yang melepaskan keahliannya untuk bertanding semula dalam pilihan raya pada bila-bila masa selepas dia melepaskan keahliannya dalam Dewan Undangan dan dengan demikian kehilangan kelayakan untuk menjadi ahli Dewan Undangan bagi tempoh lima tahun tidak lagi terpakai.
5. *Fasal 4* Rang Undang-Undang ini bertujuan untuk memasukkan Perkara baharu 17A ke dalam Perlembagaan untuk memperuntukkan bahawa seseorang ahli Dewan Undangan hendaklah berhenti menjadi ahli Dewan Undangan dan kerusinya hendaklah menjadi kosong sebaik sahaja suatu tarikh kekosongan luar jangka dipastikan oleh Speaker di bawah Fasal (3) Perkara baharu 17A jika setelah dipilih ke Dewan Undangan sebagai anggota suatu parti politik, dia melepaskan keanggotaan

atau berhenti menjadi anggota parti politik itu. Perkara yang sama juga terpakai bagi calon bebas yang, setelah dipilih ke Dewan Undangan, menyertai suatu parti politik. Perkataan “anggota suatu parti politik” yang disebut dalam Perkara baharu 17A hendaklah termasuk ahli Dewan Undangan yang bukan anggota mana-mana parti politik yang membentuk suatu gabungan parti politik tetapi ialah anggota gabungan itu.

MISALAN

Anggota Parti A yang merupakan ahli Dewan Undangan tidak berhenti menjadi ahli Dewan Undangan jika Parti A, yang merupakan anggota suatu gabungan parti politik, meninggalkan gabungan itu sama ada atau tidak Parti A menyertai gabungan parti politik lain atau membentuk suatu gabungan parti politik yang baharu.

Perkara baharu 17A juga memperuntukkan keadaan apabila seseorang ahli Dewan Undangan tidak berhenti menjadi ahli Dewan Undangan.

MISALAN

- (a) Parti A bergabung dengan Parti B untuk menjadi Parti C yang dengan penggabungan itu kedua-dua Parti A dan Parti B sama ada dibubarkan atau pendaftaran parti politik mereka dibatalkan. Anggota Parti A dan Parti B tidak berhenti menjadi ahli Dewan Undangan.
- (b) Parti A dibubarkan atau pendaftaran parti politiknya dibatalkan dan anggota Parti A menjadi anggota Parti B, maka anggota Parti A tidak berhenti menjadi ahli Dewan Undangan.
- (c) Anggota Parti A yang dipecat daripada parti itu, sama ada atau tidak dia menyertai parti politik lain atau membentuk suatu parti politik baharu, tidak berhenti menjadi ahli Dewan Undangan.

Kekosongan luar jangka di Dewan Undangan hendaklah dipastikan oleh Speaker apabila menerima notis bertulis daripada mana-mana ahli Dewan Undangan mengenai berlakunya kekosongan itu dan dia hendaklah memberitahu Suruhanjaya Pilihan Raya tentang kekosongan itu dalam tempoh dua puluh satu hari dari tarikh dia menerima notis bertulis itu. Bagi maksud Fasal (5) Perkara 21 Perlembagaan, Suruhanjaya Pilihan Raya hendaklah menjalankan suatu pilihan raya dalam tempoh

enam puluh hari dari tarikh Suruhanjaya Pilihan Raya menerima pemberitahuan itu daripada Speaker.

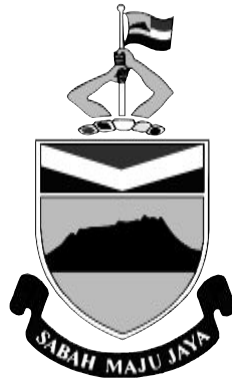
MISALAN

- (a) Pada 2 Februari 2022, Speaker Dewan Undangan telah menerima suatu notis bertulis daripada A, seorang ahli Dewan Undangan, memaklumkan bahawa B, seorang ahli Dewan Undangan yang lain, telah melepaskan keanggotaan daripada parti politiknya pada 1 Januari 2022. Kemudian daripada itu, Speaker mesti memastikan sama ada terdapat kekosongan luar jangka dan memberitahu Suruhanjaya Pilihan Raya mengenai kekosongan luar jangka itu dalam tempoh dua puluh satu hari dari 2 Februari 2022, iaitu pada atau sebelum 23 Februari 2022.
- (b) Pada 20 Februari 2022, Suruhanjaya Pilihan Raya telah menerima suatu pemberitahuan bertulis daripada Speaker Dewan Undangan memaklumkan bahawa terdapat kekosongan luar jangka seorang ahli Dewan Undangan. Oleh itu, Suruhanjaya Pilihan Raya hendaklah mengadakan pilihan raya untuk mengisi kekosongan luar jangka itu dalam tempoh enam puluh hari dari 20 Februari 2022, iaitu pada atau sebelum 21 April 2022.
6. *Fasal 5* Rang Undang-Undang ini bertujuan untuk meminda Fasal (1) Perkara 46 Perlembagaan untuk memasukkan takrif “kekosongan luar jangka” dan “parti politik” dan untuk meminda takrif “Persekutuan” supaya selaras dengan takrif “Persekutuan” dalam Perlembagaan Persekutuan.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan Negeri dalam apa-apa perbelanjaan wang tambahan.

The following Bill, about to be introduced into the Legislative Assembly, is published for general information.



STATE OF SABAH

A BILL

intituled

An Enactment to amend the Constitution of the State of Sabah.

ENACTED by the Legislature of the State of Sabah as follows:

Short title and commencement

1. (1) This Enactment may be cited as the Constitution of the State of Sabah (Amendment) Enactment 2023.

(2) This Enactment comes into operation on a date to be appointed by the Yang di-Pertua Negeri by notification in the *Gazette*.

LAB 4 OF 2023

Amendment of Article 6

2. The Constitution of the State of Sabah, which is referred to as “the Constitution” in this Enactment, is amended in Article 6 by deleting Clause (7).

Amendment of Article 17

3. Article 17 of the Constitution is amended by deleting Clause (5).

New Article 17A

4. The Constitution is amended by inserting after Article 17 the following Article:

“Change of a member’s political party, *etc.*”

17A. (1) Subject to the provisions of this Article, a member of the Legislative Assembly shall cease to be a member of the Legislative Assembly and his seat shall become vacant immediately on a date a casual vacancy is established by the Speaker under Clause (3) if —

- (a) having been elected to the Legislative Assembly as a member of a political party —
 - (i) he resigns as a member of the political party; or
 - (ii) he ceases to be a member of the political party; or
- (b) having been elected to the Legislative Assembly otherwise than as a member of a political party, he joins a political party as a member.

(2) A member of the Legislative Assembly shall not cease to be a member of the Legislative Assembly pursuant to this Article only by reason of —

- (a) the dissolution or cancellation of the registration of his political party;
- (b) his resignation from the membership of his political party upon election as a Speaker; or
- (c) the expulsion of his membership of his political party.

(3) Whenever the Speaker receives a written notice from any member of the Legislative Assembly on the occurrence of a casual vacancy among the members of the Legislative Assembly under this Article, the Speaker shall establish that there is such a casual vacancy and notify the Election Commission accordingly within twenty one days from the date he received the written notice.

(4) For the purposes of holding an election under Clause (5) of Article 21, such casual vacancy shall be filled within sixty days from the date the Election Commission receives the notification from the Speaker.”.

Amendment of Article 46

5. Article 46 of the Constitution is amended in Clause (1) —

- (a) by inserting before the definition of “citizen” the following definition:

‘ “casual vacancy” means a vacancy arising in the Legislative Assembly otherwise than by a dissolution of the Legislative Assembly;’;

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

‘ “political party” means —

(a) any society which by any of its objects or rules, regardless whether such object or rule is its principal object or rule, or constitutes merely an object or rule which is ancillary to its principal object or objects or to its principal rule or rules, makes provision for the society to participate, through its candidates, in elections to the Legislative Assembly; or

(b) any society which, notwithstanding anything contained in its objects or rules, carries on any activity or pursues any objective which involves its participation, through its candidates, in elections to the Legislative Assembly,

and includes a coalition of such societies which has been registered under any federal laws;’; and

(c) by substituting for the definition of “the Federation” the following definition:

‘ “the Federation” means the Federation that was first established under the Federation of Malaya Agreement 1957 and further pursuant to an Agreement concluded on the ninth day of July, nineteen hundred and sixty-three between the United Kingdom of Great Britain and Northern Ireland, the Federation of Malaya, North Borneo, Sarawak and Singapore, the Federation is called Malaysia with the Colonies of North Borneo and Sarawak and the State of Singapore federated with the existing States of the Federation of Malaya as the States of Sabah, Sarawak and Singapore in accordance with the constitutional instruments annexed thereto but under and by virtue of the Agreement

relating to the separation of Singapore from Malaysia as an independent and sovereign State dated seventh day of August, nineteen hundred and sixty-five, Singapore has ceased to be a state of Malaysia;’.

EXPLANATORY STATEMENT

This Bill seeks to amend the Constitution of the State of Sabah (“the Constitution”).

2. *Clause 1* of this Bill provides for the short title and the date of coming into operation of the proposed Enactment.
3. *Clause 2* of this Bill seeks to delete Clause (7) of Article 6 as this provision is no longer relevant in the current state of affairs.
4. *Clause 3* of this Bill seeks to delete Clause (5) of Article 17. This deletion will enable any member of the Legislative Assembly who resigns to seek re-election at any time after he resigns his membership as a member of the Legislative Assembly and accordingly the five years disqualification period of being a member of the Legislative Assembly is no longer applicable.
5. *Clause 4* of this Bill seeks to introduce a new Article 17A into the Constitution to provide that a member of the Legislative Assembly shall cease to be a member of the Legislative Assembly and his seat shall become vacant immediately on a date a casual vacancy is established by the Speaker under Clause (3) of the new Article 17A if having been elected to the Legislative Assembly as a member of a political party, he resigns or ceases to be a member of that political party. The same shall also apply to an independent candidate who, having been elected to the Legislative Assembly, joins a political party. The words “member of a political party” referred to in the new Article 17A shall include a member of the Legislative Assembly who is not a member of any political party that forms a coalition of political parties but is a member of that coalition.

ILLUSTRATION

A member of Party A who is a member of the Legislative Assembly shall not cease to be a member of the Legislative Assembly if Party A, which is a member of a coalition of political parties, leaves that coalition whether or not Party A joins another coalition of political parties or forms a new coalition of political parties.

The new Article 17A also provides for circumstances where a member of the Legislative Assembly shall not cease to be a member of the Legislative Assembly.

ILLUSTRATIONS

- (a) Party A merges with Party B to become Party C where by such merger both Party A and Party B are either dissolved or their political party's registrations are cancelled. The members of Party A and Party B shall not cease to be members of the Legislative Assembly.
- (b) Party A is dissolved or its political party's registration is cancelled and the members of Party A become members of Party B, then the members of Party A shall not cease to be members of the Legislative Assembly.
- (c) A member of Party A who is expelled from the party, whether or not he joins another political party or forms a new political party, shall not cease to be a member of the Legislative Assembly.

A casual vacancy of the Legislative Assembly shall be established by the Speaker upon receiving a written notice from any member of the Assembly on the occurrence of such vacancy and he shall notify the Election Commission of such vacancy within twenty one days from the date he received such written notice. For the purposes of Clause (5) of Article 21 of the Constitution, the Election Commission shall hold an election within sixty days from the date the Election Commission receives the notification from the Speaker.

ILLUSTRATIONS

- (a) On 2 February 2022, the Speaker of the Legislative Assembly received a written notice from A, a member of the Legislative Assembly, informing that B, another member of the Legislative Assembly, has resigned as a member of his political party on 1 January 2022. Thereafter, the Speaker must establish whether there is a casual vacancy and notify the Election Commission of such casual vacancy within twenty one days from 2 February 2022, that is, on or before 23 February 2022.
- (b) On 20 February 2022, the Election Commission received a written notification from the Speaker of the Legislative Assembly informing that there is a casual

vacancy of a member of the Legislative Assembly. Hence, the Election Commission shall hold an election to fill such casual vacancy within sixty days from 20 February 2022, that is, on or before 21 April 2022.

6. *Clause 5* of this Bill seeks to amend Clause (1) of Article 46 of the Constitution to introduce the definition of “casual vacancy” and “political party” and to amend the definition of “the Federation” to be consistent with the definition of “the Federation” in the Federal Constitution.

FINANCIAL IMPLICATIONS

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