



# **LAWS OF MALAYSIA**

**Act A1521**

**CRIMINAL PROCEDURE CODE (AMENDMENT) ACT 2016**

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## Act A1521

### CRIMINAL PROCEDURE CODE (AMENDMENT) ACT 2016

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:

#### PART I

##### PRELIMINARY

#### Short title and commencement

**1.** (1) This Act may be cited as the Criminal Procedure Code (Amendment) Act 2016.

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

#### PART 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 Part, 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 written law that the offence is a seizable offence.”.

### **Amendment of section 13**

**3.** Subsection 13(1) of the Code is amended by substituting for paragraph (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 by inserting after subsection (1) the following subsection:

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

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

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

“(8) This section shall not apply—

(a) if the offender is charged with a serious offence;  
or

- (b) if the offender is charged with the commission of an act of domestic violence as defined under section 2 of the Domestic Violence Act 1994 [Act 521].”.

**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, where at any time during any trial, any of the witnesses for the prosecution refuses to have his identity disclosed and wishes to give evidence in such a manner that he would not be seen or heard by both the accused and his counsel, the Public Prosecutor may make an oral application to the Court for the procedures in this section to apply.

(2) For the purpose of satisfying itself as to the need to protect the identity of the witness, the Court shall hold an inquiry *in camera* by questioning the witnesses concerned or any other witness in the absence of the accused and his counsel.

(3) If after such inquiry the Court is satisfied as to the need to protect the identity of the witness, the evidence of such witness 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.

(4) The evidence given by the witness under subsection (3) 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.

(5) 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.