

A BILL

*i n t i t u l e d*

An Act to amend the Security Offences (Special Measures) Act 2012.

[ ]

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

**Short title and commencement**

**1.** (1) This Act may be cited as the Security Offences (Special Measures) (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 5**

**2.** The Security Offences (Special Measures) Act 2012 [*Act 747*], which is referred to as the “principal Act” in this Act, is amended in paragraph 5(1)(*b*) in the English language text by substituting for the word “persons” the word “person”.

**Amendment of section 6**

**3.** Subsection 6(1) of the principal Act is amended by inserting after the words “police officer” the words “or any other person”.

**Amendment of section 13**

4. Subsection 13(2) of the principal Act is amended by inserting after the words “[Act 574]” the words “and the Special Measures Against Terrorism in Foreign Countries Act 2015 [Act ...]”.

**Amendment of section 14**

5. Section 14 of the principal Act is amended by inserting after subsection (2) the following subsections:

“(2A) The court shall notify the prosecution of its decision to protect the identity of the witness within seven days of the inquiry.

(2B) Within seven days of the decision, the prosecution may appeal against a refusal by the court to protect the identity of the witness.”.

**New sections 18A and 18B**

6. The principal Act is amended by inserting after section 18 the following sections:

**“Statement by accused**

**18A.** Any statement by an accused whether orally or in writing to any person at any time shall be admissible in evidence.

**Communications during marriage**

**18B.** (1) A person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married.

(2) Such person shall be permitted to disclose any such communication notwithstanding that the person who made it does not consent.”.

**Substitution of section 20**

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

**“Documents or things seized or howsoever obtained**

**20.** All documents or things seized or howsoever obtained whether before or after a person has been charged for a security offence and the contents of the documents or things shall be admissible as evidence.”.

**Substitution of section 22**

8. The principal Act is amended by substituting for section 22 the following section:

**“Lists of documents and things**

**22.** Any list of documents and things seized or howsoever obtained whether before or after a person has been charged for a security offence shall be admissible as evidence in court to prove the existence of the documents and things seized or obtained, as the case may be, that were not produced in court due to the nature of the documents and things.”.

**Substitution of section 24**

9. The principal Act is amended by substituting for section 24 the following section:

**“Admissibility of intercepted communication and monitoring, tracking or surveillance information**

**24.** (1) Where a person is charged for a security offence, any information obtained through an interception of communication under section 6 whether before or after such person is charged shall, subject to subsection (2), be admissible at his trial in evidence.

(2) The information obtained through an interception of communication under section 6 shall only be admissible where tendered under a certificate by the Public Prosecutor stating that the information so obtained had been authorized by the Public Prosecutor.

(3) A certificate by the Public Prosecutor issued under subsection (2) together with any document or thing that may be exhibited or annexed to the certificate shall be conclusive evidence that the interception of communication had been so authorized, and such certificate shall be admissible in evidence without proof of signature of the Public Prosecutor.

(4) No person or police officer shall be under any duty, obligation or liability or be in any manner compelled to disclose in any proceedings the procedure, method, manner or the means or devices used with regard to—

(a) anything done under section 6; and

(b) any matter relating to the monitoring, tracking or surveillance of any person.

(5) The information obtained through an intercepted communication under section 6 may be in narrative or verbatim form whether in the original language or as a translation into the national language or the English language.”.

### **Amendment of First Schedule**

**10.** The First Schedule to the principal Act is amended by inserting after the item “Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 [*Act 670*]” and the particulars related to it the following item:

“Special Measures Against Terrorism in Foreign Countries Act 2015 [*Act ...*]”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Security Offences (Special Measures) Act 2012 (“Act 747”).

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.
3. *Clauses 4* and *10* seek to amend section 13 of Act 747 and the First Schedule respectively to allow their provisions to be applicable to the Special Measures Against Terrorism in Foreign Countries Act 2015.
4. *Clause 5* seeks to amend section 14 of Act 747 to clarify the duty of the court to notify the prosecution of its decision on the prosecution’s application to protect the identity of the witness within seven days of the inquiry. The *clause* also provides for appeal by the prosecution where the court refuses the application.
5. *Clause 6* seeks to introduce new sections 18A and 18B into Act 747. Section 18A provides that in security offence cases, statements of an accused made at any time are admissible in evidence. Section 18B provides that a spouse shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married.
6. *Clauses 7* and *8* seek to substitute sections 20 and 22 of Act 747 respectively to provide for the admissibility of documents or things seized or howsoever obtained whether before or after a person has been charged for a security offence and the admissibility of the search list of such documents and things.
7. *Clause 9* seeks to substitute section 24 of Act 747 to expand the provision on admissibility of intercepted communication and monitoring, tracking and surveillance information.
8. Other amendments not specifically mentioned in this Statement are minor or consequential in nature.

*FINANCIAL IMPLICATIONS*

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

[PN(U2)2974]