

Client Alert

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Anti-Fake News Act 2018 to Be Repealed

The House of Representatives has once again passed the bill to repeal the Anti-Fake News Act 2018 ("**Repeal Bill**") on 9 October 2019. Unlike its predecessor, this Repeal Bill will likely survive the Senate and become law.

Background

The controversial Anti-Fake News Act 2018 ("**AFNA**") has garnered much discussion both domestically and internationally since it was tabled on 26 March 2018. The AFNA came into force on 11 April 2018 and the first conviction under the AFNA was reported in the same month¹.

Honouring their election promise, the new Malaysian Government tabled the Repeal Bill on 8 August 2018. It was passed by the House of Representatives, but was rejected by the Senate. A year later, the Repeal Bill was tabled again and was subsequently passed by the House of Representatives. The Repeal Bill is currently pending to be tabled in the Senate.

Can the senate reject?

In essence, Article 68(2) of the Federal Constitution provides that a bill passed by the House of Representatives shall be presented for the Royal Assent notwithstanding the Senate's rejection, if the same bill has previously been passed by the House of Representatives and has been rejected by the Senate.

This means that the Senate may not have an effective power in resisting the Repeal Bill. Coupled with the royal obligation pursuant to Article 66 of the Federal Constitution, the Repeal Bill will likely materialise and turn into law.²

Practical effect

Once the Repeal Bill comes into force, it will not affect any prior order made under the AFNA. In fact, any on-going application for an order under the AFNA may be continued.

¹ <https://www.thestar.com.my/news/nation/2018/04/30/danish-national-first-to-be-sentenced-under-anti-fake-news-law/>

² <https://www.straitstimes.com/asia/se-asia/malaysia-looks-to-repeal-anti-fake-news-law-again>



Similarly, any pending investigation, prosecution or proceedings in respect of any offence under the AFNA may also be continued.

Notwithstanding the Repeal Bill, fake news may still be dealt with under existing laws such as the Penal Code, the Printing Presses and Publications Act 1984, and the Communications and Multimedia Act 1998.

There is no indication as to when the Repeal Bill will come into effect.

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