

## PEACEFUL ASSEMBLY BILL 2011 (PA2011) – Frequently Asked Questions

*The Government is currently trying to pass the Peaceful Assembly Bill 2011 (PA2011) in Parliament. PA2011 seeks to restrict and regulate the freedom of assembly guaranteed under Article 10(1)(b) of the Federal Constitution. Once the Bill is passed by the Dewan Rakyat and the Senate, and it receives the assent of the Yang Di-Pertuan Agong, it will become law and can be enforced against all Malaysians and non-citizens. Below is an explanation of some of the key provisions in PA2011.*

**Q: What does PA2011 say?**

**A:** Among other things, PA2011 says:

- “Street protests” are banned.
- Notice of an assembly must be given to the police within 30 days before the assembly date.
- The police can impose restrictions and conditions on the conduct of the assembly.
- If organisers or participants do not comply with the restrictions and conditions, the police can arrest them and disperse the assembly.
- Not complying with the restrictions and conditions is an offence. On conviction, a person can be fined up to RM10,000.
- The police have wide powers to disperse the assembly.
- In dispersing an assembly, the police can use “all reasonable force”.
- A person who fails to disperse when ordered by the police commits an offence. On conviction, the person can be fined not more than RM20,000.

**Q: What is an “assembly” under PA2011?**

**A:** Under PA2011, gatherings of the public, outdoors or indoors, are “assemblies”. It does not matter if the venue is ordinarily open to the public or if it is private venue, so long as it is for the time being open to or used by the public. For example, a public forum held at a private venue could, for the time of the forum, be considered an assembly under PA2011.

**Q: Are there exceptions in PA2011 to the requirement to notify the police of an assembly?**

**A:** At the moment, the only gatherings that do not have to be notified to the police are religious assemblies, funeral processions, wedding receptions, open houses during festivities, family gatherings, family days held by employers for the benefit of employees and their families, and general meetings of societies or associations.

**Q: What restrictions and conditions can be imposed by the police on an assembly?**

**A:** The police can change the date, time, duration and place of the assembly. The police can limit what the participants can or cannot say or do. The police can impose conditions regarding the payment of clean-up costs and any inherent environmental factor, cultural or religious sensitivity and historical significance of the place of assembly. Importantly, the police can impose any other restrictions which they deem necessary or expedient.

**Q: Does PA2011 say that certain people cannot join an assembly?**

**A:** Yes children below 15 years of age and non-citizens cannot participate in an assembly. Also, people under 21 years cannot organise assemblies.

**Q: Under PA2011, are there specific places where assemblies cannot be held?**

**A:** Yes, assemblies cannot be held at or within 50 meters of dams, reservoirs, water catchment areas, water treatment plants, electricity generating stations, petrol stations, hospitals, fire stations, airports, railways, public transport terminals, ports, canals, docks, wharves, piers, bridges marinas, places of worship, kindergartens and schools. This means for example, that you do not need to notify the police of a religious assembly (see the earlier question) but you cannot hold that assembly at a place of worship. Also, if you live within 50 meters of a kindergarten or school, you can’t hold an open house for a festival, a funeral procession or wedding reception in your house.

**Q: Does PA2011 ban street protests?**

**A:** Under PA2011, “street protests” are banned and this has been confirmed by the Government in the media. However, under PA2011, processions (i.e. a group gathering in one place and moving towards another) still seems to be permitted under the meaning of “assemblies”. Therefore, PA2011 appears to allow the police to decide what is a “street protest” and what is a “procession”. If the police say that an assembly being organised by Group A to gather at one place and move to another is a “street protest”, it will be banned. If the police say that an assembly being organised by Group B to gather at one place and move to another is a “procession”, it will not be banned and the police will allow Group B to proceed.

**Q: Does PA2011 allow the police to use tear gas, water cannons and batons on participants at an assembly?**

**A:** PA2011 does not prevent the police from using tear gas, water cannons and batons on participants at an assembly. Under PA2011, the police can use “all reasonable force” to disperse an assembly in certain circumstances, but PA2011 does not say what “all reasonable force” means.

**Q: Under PA2011, do the police have to give warning before using “all reasonable force” to disperse an assembly?**

**A:** PA2011 does not say that the police must give warning to the organisers or participants to disperse before they can use all reasonable force to disperse an assembly.

**Q: When does PA2011 become law?**

**A:** PA 2011 is currently (25.11.2011) a proposed law before the Dewan Rakyat. Once passed by the Dewan Rakyat, it will go before the Dewan Negara. Once it is passed by the Dewan Negara and the Royal Assent is obtained, the Minister of Home Affairs will fix a date for PA2011 to take effect.

Read PA2011 here: <http://www.perlembagaanku.com.my/2011/11/peaceful-assembly-bill-2011/>

Consider This

Under PA2011, rallies like the Protest outside the US embassy against the Israeli raid on the Gaza Flotilla, the Bar Council’s Walk for Justice, Hindraf and Bersih 2.0 could not take place.

What Can You Do to Oppose PA2011?

1. Support the Bar Council’s initiatives to have PA2011 amended – see [http://www.malaysianbar.org.my/notices\\_for\\_members/walk\\_for\\_freedom\\_2011\\_peaceful\\_assembly\\_bill\\_cannot\\_and\\_must\\_not\\_become\\_law.html](http://www.malaysianbar.org.my/notices_for_members/walk_for_freedom_2011_peaceful_assembly_bill_cannot_and_must_not_become_law.html)
2. Write to your Member of Parliament and state your views. <http://hellomp2011.blogspot.com/2011/11/contact-your-mp-now.html>
3. Civil society is mobilising. Contact organisations like SUARAM, SABM and UndiMsia.
4. Share this information with others.

**Comparison between section 27 of the Police Act 1967 (current law on assemblies) and PA2011 (which is meant to replace section 27)**

	<b>S.27 POLICE ACT</b>	<b>PA2011</b>
<b>Definition of 'public place'</b>	The definition is found in the Interpretation Acts 1948 and 1967 which says that a "public place" includes every public highway, street, road, bridge, square, court, alley, lane, bridle way, footway, parade, wharf, jetty, quay, public garden or open space, and every theatre, place of public entertainment of any kind or other place of general resort to which admission is obtained by payment or to which the public have access.	Defined as a road, a place open to or used by the public as of right or a place for the time being open to or used by the public whether or not the place is ordinarily open to or used by the public, by the consent of the owner or occupier or on payment of money.
<b>Street protests</b>	Allowed, subject to issuance of permit.	Prohibited completely, although "processions" are allowed.
<b>Children</b>	No prohibition on participation of children under 15 years old.	Children under 15 years old prohibited from participating in an assembly, other than religious assemblies, funeral processions, assemblies related to custom and assemblies approved by the Minister.
<b>Organisers</b>	No age requirements to organise an assembly.	A person below the age of 21 years is prohibited from organising an assembly.
<b>Non-citizens</b>	No distinction between citizens and non-citizens.	Non-citizens not accorded right to peacefully assemble.
<b>Prohibited places</b>	No prohibited places, subject to issuance of permit.	Prohibition against an assembly held at any prohibited place and within 50 metres from the prohibited place.
<b>Permits (licence)</b>	Organiser of an assembly is to apply to the police for a licence. An assembly, meeting or procession which takes place without a licence is deemed to be an unlawful assembly. Organising and participating in an unlawful assembly are offences.	No requirement for a permit or licence, but an organiser shall within 30 days of the date of assembly, notify the police. Failure to notify the police is an offence.
<b>Penalty for offences</b>	Fine of between RM2,000 to RM20,000.00 and imprisonment for a term not exceeding 1 year.	Some offences provide for fine of not more than RM10,000 and others fine of not more than RM20,000. No minimum fine or jail term.
<b>Powers of the Police</b>	Police can deny issuance of licence to an assembly.  A police officer may arrest without warrant any person reasonably suspected of committing any offence under the section.  Any police officer may stop and assembly, meeting or procession held without a license or which contravenes the conditions of a license, and may order the persons participating to disperse.	Police can impose conditions and restrictions on an assembly which includes conditions and restrictions on the date, time, duration, place, manner and conduct of the assembly, and any other restrictions the police deem necessary or expedient.  A police officer may arrest without warrant any organiser or participant: (i) who refuses or fails to comply with any restrictions or conditions; who has in his possession any arms; or (iii) who recruits or brings a child to an assembly not permitted under the Act. Before exercising his power of arrest, police officer shall take necessary measure to ensure voluntary compliance.  A police officer may order an assembly to disperse if (i) it is held at a prohibited place or within 50 metres of such place (ii) the assembly becomes a street protest (iii) any person at the assembly does or something that would tend to promote ill will, discontent or hostility amongst the public or does something that would disturb public tranquility (iv) any person at the assembly commits any offence under written law (v) the participants do not comply with restrictions or conditions imposed by the police or (vi) the participants engage in unlawful or disorderly conduct or violence towards persons or property.