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KUALA LUMPUR — The government yesterday tabled an amendment to the Dangerous Drugs Act 1952 (DDA) to return discretionary powers to the court instead of imposing the mandatory death sentence on drug traffickers.

The amendment, tabled for first reading by Minister in the Prime Minister’s Department Datuk Seri Azalina Othman Said, seeks to revert Section 39B as law, Malay Mail Online reported.

The provision, introduced in an amendment to the DDA or Act 234 in 1975, had allowed a person convicted of drug trafficking to be punished with jail and whipping or death.

It was removed in 1983 so that drug traffickers could only be punished with death.

Under the proposed amendment to Section 39B(2) of the DDA, any person found guilty of trafficking dangerous drugs can be punished with either the death penalty or life in prison and whipping with a minimum of 15 strokes.

The Bill also states several circumstances for the courts to consider when deciding whether to mete jail for life or the death penalty.

Among the circumstances are the lack of evidence against the convicted person to show “buying and selling of a dangerous drug” at the time of arrest, “no involvement of agent provocateur” and the convicted person’s role was merely in “transporting, carrying, sending or delivering a dangerous drug”.

Another consideration is if the public prosecutor certifies in writing to the court the person convicted has assisted an enforcement agency in disrupting drug trafficking activities within or outside the country.

Later, Azalina said in a statement the proposal is aimed at giving the courts the discretion to determine the appropriate penalty for the offenders.

According to Bernama, she said the proposal is also in tandem with the principle of sentencing, that is the court was allowed to use its discretion to impose a sentence other than the death penalty.

“However, the court’s discretionary power is subject to imposition of the life imprisonment and not less than 15 strokes of the cane after the court takes into account certain circumstances,” she said.

Azalina, who is the MP for Pengerang, said all quarters should see the amendment as a proactive measure of the government to ensure justice for those who should not be subjected to the mandatory death sentence.

“Nevertheless, the death sentence has to be retained to give a clear picture that the government will not compromise with drug traffickers whose action becomes a threat to the country and people,” she said.