

A BILL

i n t i t u l e d

An Act to amend the Malaysian Aviation Commission Act 2015.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Malaysian Aviation Commission (Amendment) Act 2017.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Malaysian Aviation Commission Act 2015 [*Act 771*], which is referred to as the “principal Act” in this Act, is amended in section 2 by substituting for the definition of “air traffic right” the following definition:

‘ “air traffic right” means—

- (a) in relation to domestic routes, the right of an airline licensed by the Commission to provide air services on scheduled journeys within Malaysia, and includes the points to be served, the type of aircraft to be used and the capacity to be provided; or

- (b) in relation to international routes, the right of an airline licensed by the Commission and designated, nominated or otherwise authorized by the Government to provide air services on scheduled journeys from, to or over a country under an air services agreement, and includes the points to be served, the route on which the air services are to be provided, the type of aircraft to be used and the capacity to be provided;’.

Amendment of section 18

3. Subsection 18(2) of the principal Act is amended by inserting after paragraph (f) the following paragraph:

“(fa) to impose and collect charges on passengers at airports in Malaysia for regulatory services rendered by the Commission pursuant to this Act;”.

Amendment of section 36

4. Subsection 36(1) of the principal Act is amended in the English language text, by substituting for the words “and under” the words “and in accordance with”.

Amendment of section 65

5. Section 65 of the principal Act is amended by inserting after subsection (3) the following subsections:

“(4) The Commission may impose a financial penalty for any non-compliance of any guidelines issued under this section—

- (a) where such person is an individual, to an amount not exceeding one million ringgit; or
- (b) where such person is a body corporate, to an amount not exceeding five per cent of the body corporate’s annual turnover from the preceding financial year.

(5) For the purpose of this section—

“financial year” means the period in respect of which any financial statement is made up whether that period is a year or not;

“annual turnover” means the aggregate of all sums received in the course of the business during financial year, as stated or otherwise shown in the accounts of the business, including grants from any Federal Government or State Government.”.

Amendment of section 66

6. Subsection 66(1) of the principal Act is amended by substituting for the words “procured by the Ministry of Transport” the words “for both domestic and international routes”.

Amendment of section 69

7. Subsection 69(1) of the principal Act is amended—

(a) in paragraph (d) by deleting the word “and” at the end of the paragraph; and

(b) by inserting after paragraph (d) the following paragraph:

“(da) the determination of fees or charges imposed on consumers by providers of aviation services; and”.

Amendment of section 98

8. Paragraph 98(2)(k) of the principal Act is amended by inserting after the words “disbursing such fees” the words “, which includes to exempt fully or partially the payment of any fees and charges payable to the Commission under this Act by any aircraft, flight or person or classes of aircrafts, flights, or persons on such terms and conditions as the Commission thinks fit.”.

New section 98A

9. The principal Act is amended by inserting after section 98 the following section:

“Power to issue guidelines, circulars, directives, etc.

98A. (1) For the purposes of this Act or the subsidiary legislation made under this Act, the Commission may issue guideline, circular, directive, practice note or notice as it considers appropriate to regulate economic matters relating to the civil aviation industry and may impose any condition or restriction as the Commission thinks fit.

(2) Every guideline, circular, directive, practice note or notice issued under this Act or the subsidiary legislation made under this Act shall be published by the Commission in such manner as to ensure that the guideline, circular, directive, practice note or notice is brought to the attention of the person who has to comply with such guideline, circular, directive, practice note or notice.

(3) The Commission may impose a financial penalty for any non-compliance of any guideline, circular, directive, practice note or notice issued under this section—

(a) where such person is an individual, to an amount not exceeding one million ringgit; or

(b) where such person is a body corporate, to an amount not exceeding five per cent of the body corporate’s annual turnover from the preceding financial year.

(4) The Commission may revoke, vary, revise or amend the whole or any part of any guideline, circular, directive, practice note or notice issued under this section.

(5) For the purpose of this section—

“financial year” means the period in respect of which any financial statement is made up whether that period is a year or not;

“annual turnover” means the aggregate of all sums received in the course of the business during financial year, as stated or otherwise shown in the accounts of the business, including grants from any Federal Government or State Government.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Malaysian Aviation Commission Act 2015 (“Act 771”) to further enhance the effectiveness of the Commission in exercising its functions and powers under Act 771.

This Bill also seeks to ensure that the Commission will continuously have sufficient financial resources for protecting the rights and interest of the consumers and the development of the aviation industry in Malaysia.

The proposed provisions in this Bill also seeks to empower the Commission to impose financial penalty, to impose and collect charges on passengers at airports in Malaysia for the regulatory services rendered by the Commission.

2. *Clause 1* contains the short title and seeks to allow the Minister to appoint the date of commencement of the proposed Act.
3. *Clause 2* seeks to amend the definition of “air traffic right” as a consequence of the amendment to subsection 66(1) of Act 771.
4. *Clause 3* seeks to introduce a new paragraph (*fa*) into subsection 18(2) of Act 771 to enable the Commission to impose and collect charges on passengers at airports in Malaysia.
5. *Clause 5* seeks to introduce a new subsection 65(4) into Act 771 to allow the Commission to impose financial penalties for any non-compliance of any guidelines issued in relation to competition matters.
6. *Clause 6* seeks to amend subsection 66(1) of Act 771 to clarify that the allocation of air traffic rights for domestic routes is the function of the Commission. The proposed amendment is to reflect that it is the function of the Commission to administer, allocate and manage both domestic and international air traffic rights.
7. *Clause 7* seeks to introduce a new paragraph (*da*) into subsection 69(1) of Act 771 to empower the Commission to regulate unfair and arbitrary fees and charges imposed by the providers of aviation services in order to safeguard consumer interest.
8. *Clause 8* seeks to amend paragraph 98(2)(k) of Act 771 to enable the Commission to exempt fully or partially the payment of any fees and charges payable to the Commission under this Act by any aircraft, flight or person or classes of aircrafts, flights, or persons on such terms and conditions as the Commission thinks fit.

9. *Clause 9* seeks to introduce a new section 98A into Act 771. Section 98A empowers the Commission to issue guideline, circular, directive, practice note or notice in respect of economic matters. Due to the rapid development of the aviation industry, this new provision will facilitate the implementation of good practices in a shorter time frame. This new provision also allows the Commission to impose financial penalties for any non-compliance of any guideline, circular, directive, practice note or notice issued by the Commission.

10. Other amendments not specifically dealt with 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)3085]