

A BILL

i n t i t u l e d

An Act to amend the Excise Act 1976.

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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 Excise (Amendment) Act 2019.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Amendment of section 2

2. The Excise Act 1976 [*Act 176*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) in subsection (1)—

(i) in the definition of “bottle” by substituting for the words “half a gallon” the words “two litres”;

- (ii) by deleting the definition of “public excise warehouse”;
- (iii) by inserting after the proposed definition of “public ruling” the following definition:
 - ‘ “road” has the meaning assigned by subsection 2(1) of the Customs Act 1967 [Act 235];’;
- (iv) by inserting after the definition of “Customs Appeal Tribunal” the following definition:
 - ‘ “customs control” has the meaning assigned by subsection 2(1) of the Customs Act 1967;’;
- (v) by inserting after the definition of “dutiable goods” the following definition:
 - ‘ “duty free shop” has the meaning assigned by subsection 2(1) of the Customs Act 1967;’;
- (vi) by inserting before the definition of “senior officer of excise” the following definition:
 - ‘ “public ruling” means the public ruling made by the Director General under section 5F;’;
- (vii) by inserting after the proposed definition of “road” the following definition:
 - ‘ “sea” has the meaning assigned by subsection 2(1) of the Customs Act 1967;’;
- (viii) in the definition of “native liquor” by inserting after the word “consumption” the words “and not for commercial use”;
- (ix) in the definition of “officer of excise” by deleting paragraph (b);

- (x) by substituting for the definition of “senior officer of excise” the following definition:

‘ “senior officer of excise” means—

- (a) the Director General;
- (b) any Deputy Director General of Customs and Excise appointed under subsection 3(1) of the Customs Act 1967;
- (c) any Assistant Director General, Director, Deputy Director, Senior Assistant Director and Assistant Director of Customs appointed under subsection 3(1) of the Customs Act 1967;
- (d) any Senior Superintendent, Superintendent, Chief Assistant Superintendent, Senior Assistant Superintendent or Assistant Superintendent of Customs appointed under subsection 3(4) of the Customs Act 1967;
- (e) any officer of excise invested with the powers of a senior officer of excise under subsection 4(2) or (3);
- (f) any police officer having the powers of a senior officer of excise by virtue of section 4A;”;

- (xi) by inserting after the definition “licensed warehouse” the following definition:

‘ “licensee” means any person licensed under section 25 or 35;”;

- (xii) by inserting after the proposed definition of “transhipment” the following definition:

‘ “transit” has the meaning assigned by subsection 2(1) of the Customs Act 1967;’;

- (xiii) by inserting after the definition of “toddy” the following definition:

‘ “transhipment” has the meaning assigned by subsection 2(1) of the Customs Act 1967;’;

- (xiv) by substituting for the definitions of “owner” the following definition:

‘ “owner”—

(a) in respect of goods, includes any person (other than an officer of excise acting in his official capacity) being or holding himself out to be the owner, importer, manufacturer, assembler, consignee, agent or person in possession of, or beneficially interested in, or having any control of, or power of disposition over, the goods; and

(b) in respect of land, means the registered proprietor or the legal owner or holder by customary tenure of any land;’;

- (xv) by inserting after the definition “computer” the following definition:

‘ “conveyance” has the meaning assigned by subsection 2(1) of the Customs Act 1967;’;

- (xvi) in the definition of “manufacture” by substituting for paragraph (c) the following paragraph:

“(c) in relation to petroleum, the process of refining that includes separation, conversion, purification and blending of refinery streams or petrochemical streams; and”;

- (xvii) by inserting after the definition of “licensed carrier” the following definition:

‘ “licensed manufacturer” means any person licensed under section 20;’;

- (xviii) by deleting the definition of “licensed tobacco manufacturer”;

- (xix) by inserting after the definition of “senior officer of excise” the following definition:

‘ “surcharge” means any charge that is due and payable under subsection 15(3);’;

- (xx) by deleting the definition of “free zone”;

- (b) by inserting after subsection (1) the following subsections:

“(1A) For the purposes of this Act, a free zone shall be deemed to be a place outside a principal customs area, and the provisions of Parts VII, VIII A and section 76 shall be applicable to a free zone.

(1B) For the purposes of subsection (1A)—

(a) “free zone” means any area in Malaysia which has been declared by the Minister to be a free commercial zone or a free industrial zone under the Free Zones Act 1990 [*Act 438*]; and

(b) “principal customs area” means any part of Malaysia excluding a free zone, Labuan, Langkawi, Tioman and Pangkor.”; and

(c) in subsection (2), by substituting for the words “any public excise warehouse, licensed warehouse, post office, or in any vessel, train, conveyance, aircraft, pipeline or place” the words “licensed warehouse, a warehouse or other place approved by the Director General, post office, or in any conveyance”.

Amendment of section 4

3. Subsection 4(1) of the principal Act is amended by inserting after the word “Director,” the words “Deputy Director,”.

New section 4A

4. The principal Act is amended by inserting after section 4 the following section:

“Powers of police officers

4A. For the purposes of this Act, all police officers not below the rank of Inspector shall have and may exercise all the powers conferred by Part X of this Act on senior officers of excise, and all police officers below the rank of Inspector shall have and may exercise all the powers conferred by Part X of this Act on officers of excise.”.

Amendment of Part IIA

5. Part IIA of the principal Act is amended in the heading by inserting after the words “CUSTOMS RULING” the words “AND PUBLIC RULING”.

New section 5F

6. The principal Act is amended by inserting after section 5E the following section:

“Public ruling

5F. (1) The Director General may, at any time, make a public ruling on the application of any provision of this Act.

(2) The Director General may withdraw, either wholly or partly, any public ruling made under this section.”.

Amendment of section 6

7. Section 6 of the principal Act is amended by deleting subsection (6).

New section 6A

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

“No excise duty levied on goods *bona fide* in transit and transshipment

6A. For the purpose of levying of excise duties, goods *bona fide* in transit, including goods for transshipment, shall not be deemed to be imported unless they are or become unexcisable goods.”.

Amendment of section 11A

9. Section 11A of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**excise duties**” the words “**excise duty, etc.**”;
- (b) by renumbering the existing provision as subsection (1);
- (c) in subsection (1) as renumbered, by substituting for the words “excise duties, or any other prescribed fees or charges” the words “excise duty, surcharge, penalty, fee or other money”; and
- (d) by inserting after subsection (1) as renumbered the following subsection:

“(2) Where a person has paid any of the excise duty, surcharge, penalty, fee or other money payable under this Act to which remission has been granted under subsection (1), he shall be entitled to a refund of such excise duty, surcharge, penalty, fee or other money which had been remitted.”.

Amendment of section 13

10. Section 13 of the principal Act is amended—

- (a) in the shoulder note by inserting after the word “**overpaid**” the words “**or erroneously paid**”;
- (b) by renumbering the existing provision as subsection (1);
- (c) in subsection (1) as renumbered, by substituting for the words “excise duties” the words “excise duty, surcharge, penalty, fee or other money”;
- (d) in paragraph (b) of the proviso to subsection (1)—
 - (i) by substituting for the words “under protest under section 8A” the words “under section 8A, or pending the result of a review or appeal under section 47”; and
 - (ii) by substituting for the words “after the decision on classification or valuation” the words “from the date of the decision on classification, valuation, review or appeal”; and
- (e) by inserting after subsection (1) as renumbered the following subsection:

“(2) A claim under subsection (1) shall be supported by such documents as required by the Director General.”.

Substitution of section 14

11. The principal Act is amended by substituting for section 14 the following section:

“Remission of duty on goods damaged, destroyed or lost before removal from excise control

14. (1) If any dutiable goods are damaged, destroyed or lost due to unavoidable accident at any time before removal from excise control, the Director General may, where he deems fit, remit the whole or any part of the excise duty payable

thereon if notice in writing of such damage, destruction or loss, supported by sufficient documents, has been given at or before the time of such removal.

(2) If any dutiable goods are damaged, destroyed or lost due to unavoidable accident after the removal of such goods from excise control, no abatement of excise duty shall be allowed on such goods.”.

Amendment of section 15

12. Section 15 of the principal Act is amended—

(a) in the shoulder note, by inserting after the word “**duty**” the words “, *etc.*”;

(b) by substituting subsection (1) the following subsection:

“(1) Whenever—

(a) through inadvertence, negligence, error, collusion, or misconstruction on the part of any officer of excise, or through misstatement as to value, quantity, quality or description by any person, or for any other reason, the whole or any part of any excise duty, surcharge, penalty, fee or other money payable under this Act has not been paid; or

(b) the whole or any part of such excise duty, surcharge, penalty, fee or other money, after having been paid, has been, owing to any cause, erroneously refunded,

the person liable to pay such excise duty, surcharge, penalty, fee or other money or the person to whom such refund has erroneously been made, as the case may be, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six years from the date on which the excise duty, surcharge, penalty, fee or other money were payable, or the deficient excise duty, surcharge, penalty, fee

or other money were paid or the refund was made, as the case may be, and without prejudice to any other remedy for the recovery of the amount due, any goods belonging to the person liable to pay the amount due which may be in excise control may be detained until such excise duty, surcharge, penalty, fee or other money or deficiency be paid or the refund be repaid, as the case may be.”;

(c) in subsection (2), by substituting for the words “in such amount and on such dates” the words “subject to such conditions”;

(d) by substituting for subsections (3), (4) and (5) the following subsections:

“(3) If there is default in payment of any instalment under subsection (2) on its due date, the whole outstanding balance shall become due and payable on that date and shall, without any further notice being served on the person liable to pay the amount due, be subject to a surcharge equal to ten per cent of that outstanding balance and the surcharge shall be recoverable as if it were due and payable.

(4) Nothing in subsections (2) and (3) shall prejudice the exercise of the rights and powers under this section by the Director General to seize or, subject to subsection (5), sell any goods under excise control belonging to the person liable to pay such excise duty, surcharge, penalty, fee or other money for the recovery of the amount payable under subsections (1), (2) or (3), or any outstanding balance thereof.

(5) If the excise duty, surcharge, penalty, fee or other money or deficiency, or the refund to be repaid remain unpaid, as the case may be, the Director General may sell such goods after giving not less than thirty days notice in writing from the date of seizure to the owner or his agent, or if the name and address of such owner or agent is not known to him, by notification in the *Gazette*.”; and

(e) by inserting after subsection (5) the following subsections:

“(6) The proceeds of sale of any goods under subsection (5) shall be applied to the payment of the excise duty, surcharge, penalty, fee or other money, or recovery of any amount or charges which may be due in respect of selling off such goods, and the surplus, if any, shall be paid to the person liable to pay the amount due under subsection (1) and if such person cannot be found within one month of the sale, such surplus shall be paid to the Consolidated Fund.

(7) If at the sale of any such goods no sufficient bid is forthcoming to defray the excise duty, surcharge, penalty, fee or other money payable or the refund erroneously paid, as the case may be, the goods shall be forfeited to the Government and shall be disposed of in such manner as the Director General may direct.

(8) Nothing in subsection (1) prevents the Director General to make a demand at any time after six years whenever any payment of excise duty, surcharge, penalty, fee or other money is not paid or short paid due to any form of fraud or default committed by or on behalf of any person.

(9) If the sale of such goods is by auction, electronically or otherwise, such auction shall be conducted by or in the presence of senior officer of excise.”.

Amendment of section 15A

13. Section 15A of the principal Act is amended—

- (a) in the shoulder note, by inserting after the words “**excise duty**” the words “, *etc.*”;
- (b) by inserting after the words “excise duty” wherever appearing the words “surcharge, penalty, fee or other money”;
- (c) by substituting for the words “any Director of Immigration” wherever appearing the words “the Director General of Immigration”;

- (d) in subsection (1), by substituting for the words “particulars of the excise duty so payable” the words “particulars of the person reasonably suspected of having committed an offence”;
- (e) in subsection (3), by substituting for the words “on the person” the words “at the last known address of the person”;
- (f) in subsection (4), by substituting for the words “excise duty specified in the certificate” the words “the excise duty, surcharge, penalty, fee or other money”; and
- (g) by deleting subsection (6).

New section 15B

14. The principal Act is amended by inserting after section 15A the following section:

“Recovery of excise duty, etc., as a civil debt

15B. (1) Without prejudice to any other remedy and notwithstanding any review or appeal against any decision of the Director General under section 47, any excise duty, surcharge, penalty, fee or other money payable under this Act, may be recovered as a civil debt due to the Government.

(2) In any proceedings to recover the excise duty, surcharge, penalty, fee or other money under subsection (1), the production of a certificate signed by the Director General—

- (a) stating that any excise duty, surcharge, penalty, fee or other money and the amount shown in the certificate as payable, in any assessment or notice made under this Act from a person named in the certificate; and
- (b) giving the address of the person and purporting to be a copy of or an extract from any notice of assessment,

shall be conclusive evidence of the excise duty, surcharge, penalty, fee or other money and the amount as payable in any assessment or notice and shall be sufficient authority for the court to give judgment for that amount.

(3) Any penalty imposed under this Act shall, for the purposes of this Act and the Limitation Act 1953 [*Act 254*], the Limitation Ordinance of Sabah [*Sabah Cap. 72*] or the Limitation Ordinance of Sarawak [*Swk. Cap 49*], as the case may be, be recoverable as if the penalty were excise duty, surcharge, penalty, fee or other money due and payable under this Act and accordingly subsection 6(4) of the Limitation Act 1953, section 3 of the Limitation Ordinance of Sabah or section 3 of the Limitation Ordinance of Sarawak, as the case may require, shall not apply to that penalty.”.

Amendment of section 16

15. Paragraph 16(1)(a) of the principal Act is amended by substituting for the words “public excise warehouse or licensed warehouse” the words “licensed warehouse, or a warehouse or any other place approved by the Director General”.

Amendment of section 19A

16. Section 19A of the principal Act is amended—

(a) in subsection (1)—

- (i) by inserting after the words “imported goods,” the words “other than goods affected under section 19E”;
- (ii) in paragraph (a), by substituting for the word “excise” the word “customs”;
- (iii) in paragraph (b), by substituting for the word “fifty” the words “two hundred”; and
- (iv) in paragraph (c), by substituting for the word “twelve” the word “three”; and

- (b) in subsection (2), by deleting the words “, or at the rate of excise duty leviable on goods of a like description at the time of re-export of the goods, whichever is the lower”.

Amendment of section 19B

17. Section 19B of the principal Act is amended—

- (a) by substituting for the words “a senior officer of excise a declaration in duplicate, substantially” the words “a senior officer of excise a declaration”; and
- (b) by deleting the words “, where goods of a like description are liable to excise duty”.

Deletion of section 19D

18. The principal Act is amended by deleting section 19D.

New section 19G

19. The principal Act is amended by inserting after section 19F the following section:

“Offsetting of drawback or refund against amount owing

19G. Notwithstanding any provision of this Act, where any person has failed to pay, in whole or in part—

- (a) any amount of excise duty, surcharge, penalty, fee or any other money under this Act;
- (b) any amount of customs duty, surcharge, penalty, fee or any other money under the Customs Act 1967;
- (c) any amount of sales tax due and payable, any surcharge accruing, or any penalty or any other money payable under the Sales Tax Act 1972 [*Act 64*];

- (d) any amount of service tax due and payable, any surcharge accruing, or any penalty or any other money payable under the Service Tax Act 1975 [Act 151];
- (e) any amount of tax due and payable, any surcharge accruing, or any penalty or any other money payable under the Goods and Services Tax Act 2014 [Act 762];
- (f) any amount of sales tax due and payable, any surcharge accruing, or any penalty, fee or any other money payable under the Sales Tax Act 2018 [Act 806];
or
- (g) any amount of service tax due and payable, any surcharge accruing, or any penalty, fee or any other money payable under the Service Tax Act 2018 [Act 807],

the Director General may offset any amount or any part of any amount of drawback or refund due to that person against the unpaid amount referred to in paragraph (a), (b), (c), (d), (e), (f) or (g), and the Director General shall treat the amount offset as payment or part payment received from that person.”.

Amendment of section 20

20. Section 20 of the principal Act is amended by substituting for the words “licensee” wherever appearing the words “licensed manufacturer”.

Amendment of section 21

21. Section 21 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “licensee” the words “**licensed manufacturer**”;
- (b) in subsection (1), by substituting for the words “holder of a licence” the words “licensed manufacturer”; and

- (c) in subsection (2), by substituting for the words “licenced tobacco manufacturer” the words “licensed manufacturer in tobacco product”.

Amendment of section 23

22. Section 23 of the principal Act is amended by deleting paragraph (1)(b).

Amendment of section 23A

23. Section 23A of the principal Act is amended—

- (a) by substituting for subsection (2A), the following subsections:

“(2A) Any liquidator who fails to comply with subsection (1) or (2B) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.”; and

- (b) by inserting after subsection (2A) the following subsection:

“(2B) A liquidator shall furnish all relevant documents, books and records which are in his possession to a proper officer for the purpose of calculating all duties payable under this Act.”.

Amendment of section 23B

24. Section 23B of the principal Act is amended—

- (a) in subsection (2A)—

(i) by inserting after the words “subsection (1)” the words “or (1A)”; and

(ii) by substituting for the words “ten thousand ringgit” the words “fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both”; and

(b) by inserting after subsection (2A) the following subsection:

“(2B) A receiver shall furnish all relevant documents, books and records which are in his possession to the proper officer for the purpose of calculating all duties payable under this Act.”.

Deletion of section 24

25. The principal Act is amended by deleting section 24.

Amendment of section 26

26. Section 26 of the principal Act is amended by substituting for the words “public excise, or licensed warehouse,” the words “licensed warehouse, or a warehouse or any other place approved by the Director General”.

Substitution of section 27A

27. The principal Act is amended by substituting for section 27A the following section:

“Depositing goods into warehouse

27A. (1) On arrival or landing, any goods imported shall be deposited in a licensed warehouse other than a warehouse licensed under section 25 or in a warehouse or any other place approved by the Director General unless—

- (a) the excise duty payable, if any, has been paid;
- (b) the goods have been approved for movement in transit and the payment of excise duty is suspended;
- (c) the goods have been approved for transshipment and the goods are for immediate off-loading to another vessel;

- (d) the goods are imported by post;
- (e) the goods are imported by road or by sea where there is no licensed warehouse or warehouse or other place approved by the Director General at the place of import; or
- (f) the goods are personal effects carried or brought by passengers in any baggage.

(2) If the Director General deems it necessary for the purposes of public interest that the goods are to be warehoused, the Director General may require the goods to be deposited in a licensed warehouse other than a warehouse licensed under section 25 or in a warehouse or other place approved by the Director General.

(3) The goods deposited under subsection (2) shall—

- (a) be deposited at the expense of the owner of such goods;
- (b) be deemed to be under customs control; and
- (c) not be removed except with the permission of the proper officer of customs.

(4) Subsection (1) shall not be applicable for goods entering a principal customs area by road, sea or air from a free zone.

(5) Notwithstanding subsection (4), the goods referred to in subsection (4) shall not be released from customs control unless—

- (a) the excise duty payable, if any, has been paid; or
- (b) the goods have been approved for movement in transit and the payment for excise duty is suspended.”.

New section 27AB

28. The principal Act is amended by inserting after section 27A the following section:

“Deposit of goods in a warehouse or other place approved by the Director General

27AB. (1) The Director General may approve any warehouse, not being a licensed warehouse, or any other place to be deposited with dutiable goods, and the approval granted may be withdrawn, suspended or cancelled.

(2) Any such approval shall be for such period and subject to such conditions as the Director General in each case may specify in the approval.”.

Amendment of section 28

29. Section 28 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

“Removal of dutiable goods from excise control”;

(b) by substituting for the words “a public excise warehouse or a licensed warehouse” the words “a licensed warehouse or a warehouse or any other place approved by the Director General”; and

(c) by substituting for paragraph (b) the following paragraph:

“(b) if such goods are in a licensed warehouse, a warehouse or other place approved by the Director General or any other place under excise control, under such conditions as the Director General deems fit—

(i) for transit to another licensed warehouse, a warehouse or any other place approved by the Director General or any other place under excise control; or

- (ii) for manufacture in another place licensed under section 20; or”.

Amendment of section 30

30. Section 30 of the principal Act is amended by substituting for the word “licensee” wherever appearing the words “licensed manufacturer”.

Amendment of section 32

31. Subsection 32(2) of the principal Act is amended by inserting after the words “twenty seven litres” the words “in any one day”.

Amendment of section 35

32. Subsection 35(4) of the principal Act is amended by substituting for the words “holder of a licence issued” the words “licensee”.

Substitution of section 40D

33. The principal Act is amended by substituting for section 40D the following section:

“Declaration of dutiable goods on import

40D. (1) Every importer of dutiable goods shall make a declaration on such goods imported, personally or by his agent, in such form as may be prescribed to the proper officer—

- (a) in the case of goods deposited in a licensed warehouse other than a warehouse licensed under section 25 or in a warehouse or other place approved by the Director General referred to under subsection 27A(1) or (2), within a period of one month from the date of the arrival or landing of such goods before the removal of such goods or any part of the goods from customs control;

- (b) in the case of goods not deposited in the licensed warehouse or in a warehouse or other place approved by the Director General referred to under subsection 27A(1) or (2), upon arrival or landing of such goods at a place of import; or
- (c) in the case of goods entering the principal customs area from a free zone, upon arrival of such goods at the principal customs area.

(2) Notwithstanding subsection (1), the proper officer may, by notice in writing, require such declaration to be submitted within three days from the date of such notice.

(3) In the case of goods imported by post, the declaration shall be made by the addressee or by his agent on demand by the proper officer.”.

Amendment of section 40G

34. Section 40G of the principal Act is amended—

- (a) by substituting for the shoulder note the following shoulder note:

“Copies of declaration”; and

- (b) by substituting for the words “in duplicate or in such other” the words “in such”.

Substitution of section 41B

35. Section 41B of the principal Act is amended by substituting for the following section:

“Records relating to excise matters

41B. (1) Every person shall keep full and true records up to date of all transactions which affect or may affect his obligation on any matters under the Act.

- (2) The records to be kept shall include—
- (a) all records of importation and exportation of goods including goods in transit and transshipment;
 - (b) all payments and bank records including letter of credit, fund transfers application and debit advice;
 - (c) all accounting, management and financial records;
 - (d) sales and purchase records including invoices, receipts, debit note and credit note;
 - (e) other business records including sales, distribution and royalty contracts or agreements;
 - (f) accounting charts, access codes, program documentation and system instruction manuals;
 - (g) inventory records; and
 - (h) any other records as may be determined by the Director General.
- (3) Any records kept under this section shall be—
- (a) preserved for a period of seven years from the latest date to which such records relate; and
 - (b) kept in Malaysia, except as otherwise approved by the Director General subject to such conditions as the Director General deems fit.
- (4) Where the record is in an electronically readable form, the record shall be kept in such manner so as to enable the record to be readily accessible and convertible into writing.
- (5) Where the record is originally in a paper form and is subsequently converted into an electronic form, the record shall be retained in its original form prior to the conversion.
- (6) A copy of the record shall be admissible in evidence in any proceedings to the same extent as the record itself.

(7) Any person who contravenes subsection (1), (2), (3), (4) or (5) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.”.

New section 41BA

36. The principal Act is amended by inserting after section 41B the following section:

“Requirement to provide translation

41BA. (1) Where a senior officer of excise investigating into an offence finds, seizes, detains, or takes possession of any goods, record, report or document wholly or partly, is in a language other than the national language or English language, or is in any sign or code, such officer may, orally or in writing, require the person who had the possession, custody or control of the goods, record, report or document to furnish to the senior officer of excise a translation in the national language or English language within such period as the officer may specify.

(2) No person shall knowingly furnish a translation under subsection (1) which is not accurate, factful and true.

(3) Notwithstanding subsection (1), the senior officer of excise may require any other person to furnish the translation to him.

(4) The Director General may pay reasonable fees to the person who is required to furnish the translation under subsection (3).”.

Amendment of section 41c

37. Section 41c of the principal Act is amended—

(a) by renumbering the existing provision as subsection (1);

(b) in subsection (1) as renumbered—

- (i) by substituting for the words “to which dutiable goods are consigned shall on demand produce” the words “to which goods are consigned shall produce”; and
- (ii) by inserting after the word “waybill” the words “or any other document approved by the Director General”; and

(c) by inserting after subsection (1) as renumbered the following subsection:

“(2) No cargo shall be loaded into or unloaded off the train, except with the permission of the proper officer.”.

Amendment of section 41D

38. Section 41D of the principal Act is amended—

(a) in subsection (1)

- (i) by substituting for the words “two months” the words “one month”;
- (ii) by substituting for the words “ five hundred” the words “five thousand”; and
- (iii) by substituting for the words “two thousand” the words “ten thousand”;

(b) by inserting after subsection (2) the following subsection:

“(3) For the purpose of this section, “agent of the vessel” includes a freight forwarder.”.

Amendment of section 42A

39. Subsection 42A(2) of the principal Act is amended by inserting after the word “The baggage of passengers” the words “or any other person”.

Amendment of section 44

40. Section 44 of the principal Act is amended—

(a) in the shoulder note by deleting the word “**licensed**”;

(b) by substituting for subsection (1) the following subsection:

“(1) For the purposes of this Act and the regulations made thereunder, any senior officer of excise shall at all times have access to any place or premises where—

(a) any licensed manufacturer, licensee or importer carries on his business; and

(b) any person who has dealings with the licensed manufacturer, licensee or importer carries on his business.”;

(c) in subsection (2)—

(i) by substituting for paragraph (a) the following paragraph:

“(a) he may require the licensed manufacturer, licensee, importer or person referred to in paragraph 1(b) to produce any book, data, document, record or thing which is required to be kept under the provisions of this Act, or which relates to any dutiable goods;”;

(ii) in paragraph (d), by substituting for the words “manufacturer or importer or any person employed by such person or importer to answer questions” the words “licensed manufacturer, licensee, importer or person referred to in paragraph 1(b) or any person employed by the licensed manufacturer, licensee, importer or person referred to in paragraph 1(b) to answer the questions truthfully”; and

(iii) in paragraph (f) by substituting for the words “manufacturer or importer” the words “ licensed manufacturer, licensee, importer or person referred to in paragraph 1(b)”;

(d) in subsection (3)—

(i) by substituting for the words “an importer” the words “a licensed manufacturer, licensee or importer”;

(ii) by substituting for the words “such importer” the words “such licensed manufacturer, licensee or importer”; and

(e) by inserting after subsection (4) the following subsection:

“(5) Any person who refuses to give access to any place or premises to any senior officer of excise under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both.”.

New section 44B

41. The principal Act is amended by inserting after section 44A the following section:

“Protection against suit and legal proceedings

44B. No action, suit, prosecution or other proceeding shall lie or be brought, instituted or maintained in any court against—

(a) any officer of excise;

(b) any police officer having the powers of a senior officer of excise or officer of excise under section 4A; and

(c) any proper officer,

for or in respect of any act, neglect or default done or committed by him in good faith or any omission omitted by him in good faith in such capacity.”.

Amendment of section 46

42. Section 46 of the principal Act is amended—

(a) in the shoulder note by substituting for the words “**Clerks and servants**” the word “**Employees**”;

(b) by renumbering the existing provision as subsection (1);

(c) in subsection (1) as renumbered—

(i) by substituting for the words “clerk or servant” the word “employee”;

(ii) by substituting for the words “firm:” the words “firm.”; and

(iii) by deleting the proviso; and

(d) by inserting after subsection (1) as renumbered the following subsection:

“(2) Notwithstanding subsection (1), a senior officer of excise may refuse to deal with such employee unless such person or firm has furnished a signed authority authorizing such employee to transact business on behalf of such person or firm.”.

Amendment of section 49

43. Section 49 of the principal Act is amended by deleting the words “any public excise warehouse or in”.

Amendment of section 51

44. Section 51 of the principal Act is amended by inserting after subsection (2) the following subsections:

“(3) Where by reason of its nature, size or amount it is not practicable to remove any goods, document or thing seized under this section, the officer of excise may, by any means, seal the dwelling house, shop or other building, place, vessel or aircraft or such goods, document or thing in the dwelling house, shop or other building, place, vessel or aircraft in which it is found.

(4) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3) or removes the goods, document or thing under seal, or attempts to do so, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both.”.

Amendment of section 53A

45. Section 53A of the principal Act is amended—

(a) in subsection (2)—

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

(ii) by inserting after paragraph (a) the following paragraph:

“(aa) may make copies of or take extracts from the recorded information or computerized data referred to in subsection (1) as he deems necessary; and”; and

(b) by inserting after subsection (3) the following subsection:

“(4) Any person who contravenes subsection (1) or paragraph (2)(b) shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both.”.

Amendment of section 53B

46. Section 53B of the principal Act is amended—

- (a) by renumbering the existing provision as subsection (1);
and
- (b) by inserting after subsection (1) as renumbered the following subsection:

“(2) A proper officer may use any tracing or tracking device, non-intrusive instruments, or any other form of aids including animals in the performance of his duty under this Act.”.

Amendment of section 54

47. Section 54 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) by substituting for the words “vehicle, vessel not exceeding two hundred tons nett registered tonnage, or aircraft” the words “conveyance other than vessel not exceeding two hundred tons nett registered tonnage or aircraft engaged in international carriage”; and
 - (ii) by inserting after the words “may be seized by any officer of excise” the words “on the person”;
- (b) in subsection (3)—
 - (i) by substituting for the words “by post at his place of abode, if known:” the words “by registered post in accordance with section 42.”; and
 - (ii) by deleting the proviso.

Amendment of section 55

48. Section 55 of the principal Act is amended—

(a) in the shoulder note by substituting for the words “**movable property**” the word “**goods**”;

(b) in paragraph (1)(b)—

(i) by inserting after the words “such return being subject to” the words “such terms and conditions as a senior officer of excise may impose and”;

(ii) in subparagraph (ii), by inserting after the word “thereof” the words “, if any”; and

(iii) in subparagraph (iii), by inserting after the words “any written law,” the words “if any,”;

(c) in subsection (2)—

(i) in paragraph (b), by inserting after the words “(1)(a)” the words “or (b)”; and

(ii) by substituting for the words “three years or to a fine not exceeding ten thousand ringgit” the words “five years or to a fine not exceeding one hundred thousand ringgit”;

(d) in subsection (3), by inserting after the words “(1)(a)” the words “or (b)”; and

(e) in subsection (4), by inserting after the words “(1)(a)” the words “or (b)”.

Amendment of section 56

49. Section 56 of the principal Act is amended—

(a) by inserting after subsection (2) the following subsection:

“(2A) The proper officer may take or cause to be taken photographs and finger and thumb impressions of any person arrested under subsection (1).”;

- (b) in subsection (4), by substituting for the words “Every person so arrested may be released from custody” the words “Subject to such conditions as the Director General deems fit, every person so arrested may be released from custody”; and
- (c) by inserting after subsection (5) the following subsections:

“(6) Where a person who is arrested for an offence under this Act is serving a sentence of imprisonment or is under detention under any law relating to preventive detention, or is otherwise in lawful custody, he shall, upon an order in writing by a senior officer of excise or above the rank of Senior Assistant Director, be produced before such officer or before any other senior officer of excise for the purpose of investigation, and for such purpose he may be kept in lawful custody for a period not exceeding fourteen days.

(7) A person who is detained in lawful custody under subsection (6) or otherwise under any other written law may—

- (a) at any time be made available to a senior officer of excise for the purpose of investigation; or
- (b) be taken to any other place for the purpose of searching the place, or seizing any goods, or identifying any person for any other purposes relating to the investigation under this Act.”.

Amendment of section 61

50. Section 61 of the principal Act is amended—

- (a) by substituting for subsection (5) the following subsection:

“(5) In this section, “analyst” means—

- (a) a registered chemist under the Chemists Act 1975 [Act 158] or a person authorized under section 23A of such Act, or his employee working under his supervision;

- (b) a registered engineer under the Registration of Engineers Act 1967 [Act 138];
- (c) a registered geologist under the Geologists Act 2008 [Act 689];
- (d) an Inspector of Weights and Measures appointed as such under any written law relating to weights and measures in force in Malaysia;
- (e) an agronomist;
- (f) a botanist;
- (g) a plant pathologist; and
- (h) a plant entomologist.”; and

(b) by inserting after subsection (5) the following subsection:

“(5A) The Minister may, after consultation with the relevant Minister, appoint any qualified person or class of qualified person by notification in the *Gazette* to be an analyst for the purpose of this section.”.

New section 61A

51. The principal Act is amended by inserting after section 61 the following section:

“Evidential provisions

61A. (1) For the purposes of any proceeding under this Act, any statement purporting to be signed by the Director General or any officer of excise authorized by the Director General which forms part of or is annexed to the information, demand or statement of claim, shall be *prima facie* evidence of any fact stated therein.

(2) If a transcript of any particulars contained in a declaration or other document relating to the excise duty is certified under the hand of the Director General or any

officer of excise authorized by the Director General to be a true copy of the particulars, the transcript shall be *prima facie* evidence as proof of those particulars.

(3) No statement made or document produced by or on behalf of any person shall be inadmissible in evidence against that person in any proceedings against him to which this section applies by reason only that he was or may have been induced to make such statement or produce such document by any inducement or promise lawfully given or made by any person having any official duty under, or being employed in the administration of this Act.

(4) Nothing in this Act shall affect the operation of Chapter IX of Part III of the Evidence Act 1950.

(5) For the purposes of paragraph 74(1)(e), sections 74B and 74C, where in any proceedings it is proved that any false statement or entry has been made in any declaration rendered under this Act by or on behalf of any person, or in any books of account or records of any person—

- (a) the person shall be presumed, until the contrary is proved, to have made the false statement or entry or to have caused the false statement or entry to be made or to have allowed it to be made with intent to evade the payment of excise duty or to obtain a refund or drawback of excise duty to which the person is not entitled, as the case may be; and
- (b) any other person who made any false statement or entry shall be presumed, until the contrary is proved, to have made the false statement or entry with intent to assist the person referred to in paragraph (a) to evade the payment of excise duty or to obtain a refund or drawback of excise duty to which the person referred to in paragraph (a) is not entitled.

(6) Notwithstanding anything to the contrary in any written law, where any officer of excise has obtained any document or other evidence in exercise of his powers under this Act, the document or copy of the document or other evidence, as the case may be, shall be *prima facie* evidence in any proceedings under this Act.

(7) Where any document which is to be used in any proceedings against any person for an offence under this Act is in a language other than the national language or English language, a translation of the document into the national language or English language shall be admissible in evidence where the translation is accompanied by a certificate of the person who translated the document setting out that it is an accurate, faithful and true translation and the translation had been done by the person at the instance of any officer of excise.

(8) Subsection (7) shall apply to a document which is translated, regardless of whether the document was made in or outside Malaysia, or whether the translation was done in or outside Malaysia, or whether possession of the document was obtained by any officer of excise in or outside Malaysia.”.

Amendment of section 62

52. Section 62 of the principal Act is amended—

- (a) in the shoulder note by deleting the words “**vessels and**”;
and
- (b) by deleting the words “vessel or”.

Amendment of section 62c

53. Section 62c of the principal Act is amended—

- (a) in the shoulder note by substituting for the words “**and anti dumping**” the words “**, anti-dumping and safeguard**”;
and
- (b) by substituting for the words “or anti dumping duty” the words “**, anti-dumping duty or safeguard duty**”.

Amendment of section 63A

54. Section 63A of the principal Act is amended—

(a) in subsection (1), by substituting for the words “the name and address” the words “the name, address, identification card number and passport number”; and

(b) in subsection (2)—

(i) by substituting for the words “ten thousand” the words “five hundred thousand”; and

(ii) by substituting for the words “five years” the words “seven years”.

Substitution of section 64A

55. The principal Act is amended by substituting for section 64A the following section:

“Confidentiality of information

64A. (1) Any person having any official duty or being appointed or employed under this Act shall regard and deal with all information, documents or declarations relating to importation, exportation, valuation or classification of any goods as confidential.

(2) Subject to subsection (4), any person having possession or control over any document, information or declaration, or copies thereof, relating to importation, exportation, valuation or classification of any goods, who at any time, otherwise than for the purposes of this Act or with the express authority of the Director General—

(a) communicates such information or anything contained in such document or declaration, or copies thereof, to any person; or

(b) suffers or permits any person to have access to such information or to anything contained in such document or declaration, or copies thereof,

shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both.

(3) No person having any official duty or being appointed or employed under this Act shall be required—

(a) to produce in any matters or proceedings in any court or tribunal any information, documents or declarations; or

(b) to divulge or communicate in such matters or proceedings any matter or thing, coming under his notice in the performance of his duties under this Act,

except as may be necessary for the purpose of carrying into effect the provisions of this Act, or in order to institute a prosecution, or in the course of a prosecution for any offence committed under this Act.

(4) The Director General may transmit or communicate any information or documents referred to in subsection (2) as he deems expedient or necessary to allow disclosure of certain information to any person.”.

Amendment of section 65

56. Subsection 65(2) of the principal Act is amended by substituting for the words “, conveyances, vessels not exceeding two hundred tons net registered tonnage and aircraft” the words “and conveyances other than vessels exceeding two hundred tons net registered tonnage”.

Amendment of section 67

57. Section 67 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “one calendar month from the date” the words “thirty days from the date of the notice”;

(b) by substituting for subsection (3) the following subsection:

“(3) If there is a claim or a written application made within the period of thirty days referred to in subsection (1) and there is no prosecution with regard to the goods, the senior officer of excise shall, on the expiration of the period of thirty days, refer the claim or application to the Director General.”; and

(c) by inserting after subsection (3) the following subsection:

“(3A) Upon reference by the senior officer of excise under subsection (3), the Director General may direct such senior officer of excise—

(a) to release such goods or the proceeds of sale of such goods or the security furnished under paragraph 55(1)(a) or (b); or

(b) by information in the prescribed form, to refer the matter to a Magistrate of the First Class for his decision.”.

Substitution of section 69

58. The principal Act is amended by substituting for section 69 the following section:

“Compounding of offences

69. (1) The Minister may, with the approval of the Public Prosecutor, make regulations prescribing—

(a) any offence under this Act or its subsidiary legislation as an offence which may be compounded;

(b) criteria for compounding such offence; and

(c) method and procedure for compounding such offence.

(2) Any senior officer of excise may, with the written consent of the Public Prosecutor, compound any offence committed by any person under this Act and prescribed

to be a compoundable offence by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the Director General of an amount of money not exceeding fifty per centum of the amount of the maximum fine for that offence within the period specified in the offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the period specified in the offer or within any extended period as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall after that be instituted in respect of the offence against the person to whom the offer to compound was made.

(5) On the payment of such amount of money and if any goods are seized and the goods—

(a) are dutiable goods manufactured locally, such goods or the amount secured under paragraph 55(1)(a) or (b) or the amount realized by sale under paragraph 55(1)(c), as the case may be, shall be forfeited and no further proceedings shall be taken against such goods;

(b) are dutiable imported goods, such goods or the amount secured under paragraph 55(1)(a) or (b) or the amount realized by sale under paragraph 55(1)(c), as the case may be, shall be forfeited unless the excise duties payable is paid within thirty days from the date of payment of such amount of money.

(6) Notwithstanding paragraph (5)(a), the Director General may on application of such person release such goods or return the amount realized by sale, as the case may be, on payment of such amount of money and on the terms and conditions which he deems fit.”.

New section 69A

59. The principal Act is amended by inserting after section 69 the following section:

“Cost of holding goods, document or thing seized

69A. Where any goods, document or thing seized under this Act is held in the custody of the officer of excise pending completion of any proceedings in respect of an offence under this Act, the cost of holding such goods, document or thing in custody shall, in the event of any person found guilty of an offence, be a debt due to the Government by such person and shall be recoverable accordingly.”.

Amendment of section 74

60. Subsection 74(1) of the principal Act is amended—

(a) in subparagraph (iii)(B), by substituting for the words “five years” the words “seven years”; and

(b) in subparagraph (iv)(B), by substituting for the words “five years” the words “seven years”.

New sections 74A, 74B and 74C

61. The principal Act is amended by inserting after section 74 the following sections:

“Penalty for offences relating to data stored in computer

74A. (1) Any person who, without the authority of the Director General—

(a) destroys, damages, erases, alters or manipulates the data stored in, or used in connection with, a computer;

- (b) introduces into, or records or stores in, a computer by any means data for the purpose of—
- (i) destroying, damaging, erasing, altering or manipulating other data stored in that computer; or
 - (ii) interfering with, interrupting or obstructing the lawful use of that computer, or the data stored in that computer; or
- (c) otherwise uses a computer,

the purpose or effect of which is to reduce, avoid or evade any liability to excise duty, imposed or which would otherwise have been imposed by the Act, or to defeat any provision of the Act shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) In this section, “data” includes any computer program or part of a computer program.

Penalty for offence relating to claims for drawback

74b. Any person who obtains, or does anything which causes any other person to obtain, any amount by way of drawback of any excise duty in respect of any goods which is not lawfully payable or allowable in respect thereof, or which is higher than the amount so payable or allowable shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding three times the amount of such duty or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding seven years or to both.

Penalty for offence relating to claims for refund

74c. Any person who obtains, or does anything which causes any other person to obtain, the refund of any money under paragraph 11(2)(b) or section 13, of any amount in excess of the amount properly so refundable, shall be guilty

of an offence and shall, on conviction, be liable to a fine not exceeding three times the amount refunded in excess of the amount properly so refundable or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding seven years or to both.”.

Amendment of section 75

62. Section 75 of the principal Act is amended by substituting for the words “a fine not less than two thousand ringgit but not exceeding ten thousand ringgit” the words “a fine not less than five thousand ringgit but not exceeding twenty thousand ringgit”.

Amendment of section 78

63. Paragraph 78(1)(a) of the principal Act is amended by substituting for the words “vessel or aircraft or other means of conveyance” the word “conveyance”.

Amendment of section 81

64. Section 81 of the principal Act is amended—

(a) by substituting for the scale the following scale:

“Where the fine	the period may extend to
does not exceed five thousand ringgit ...	two months
exceeds five thousand ringgit ... but does not exceed ten thousand ringgit	four months
exceeds ten thousand ringgit ... but does not exceed twenty thousand ringgit	six months”; and

(b) by substituting for the words “for every one hundred ringgit after the first two hundred ringgit” the words “for every ten thousand ringgit after the first twenty thousand ringgit”.

Amendment of section 82A

65. Section 82A of the principal Act is amended by substituting for the words “excise duty, penalty or surcharge” the words “excise duty, surcharge, penalty, fees or other money”.

Amendment of section 85

66. Subsection 85(2) of the principal Act is amended—

- (a) by deleting paragraph (h);
- (b) in paragraph (k), by substituting for the words “any person licensed” the words “licensed manufacturer”;
- (c) in paragraph (m), by inserting after the words “kept by” the words “licensed manufacturer and”; and
- (d) in paragraph (p), by inserting after the words “the offences which may be compounded” the words “, the criteria for compounding the compoundable offence”.

Amendment of section 87

67. Section 87 of the principal Act is amended in the definition of “principal customs area” by substituting for the words “and Tioman” the words “, Tioman and Pangkor”.

Amendment of section 90B

68. Section 90B of the principal Act is amended by substituting for the words “vessels and aircraft transporting such goods as if Labuan were a place outside Malaysia” the words “vehicles, vessels and aircrafts transporting such goods”.

Amendment of section 90c

69. Section 90c of the principal Act is amended by substituting for the words “vessels or aircraft” wherever appearing the words “vehicles, vessels or aircraft”.

Amendment of section 90E

70. Section 90E of the principal Act is amended by substituting for the words “vessels or aircraft” wherever appearing the words “vehicles, vessels or aircraft”.

Amendment of section 91A

71. Section 91A of the principal Act is amended in the definition of “principal customs area” by substituting for the words “and Tioman” the words “, Tioman and Pangkor”.

Amendment of section 91DB

72. Section 91DB of the principal Act is amended by substituting for the words “vessels and aircraft transporting such goods as if Langkawi were a place outside Malaysia” the words “vehicles, vessels and aircrafts transporting such goods”.

Amendment of section 91DC

73. Section 91DC of the principal Act is amended—

- (a) by substituting for the words “any vessel or aircraft” the words “any vehicle, vessel or aircraft”; and
- (b) by substituting for the words “such vessel or aircraft” the words “such vehicle, vessel or aircraft”.

Amendment of section 91DE

74. Section 90DE of the principal Act is amended by substituting for the words “vessels or aircraft” wherever appearing the words “vehicles, vessels or aircraft”.

Amendment of section 91E

75. Section 91E of the principal Act is amended in the definition of “principal customs area” by substituting for the words “and Tioman” the words “, Tioman and Pangkor”.

Amendment of section 91J

76. Section 91J of the principal Act is amended by deleting the words “as if Tioman were a place outside Malaysia”.

Amendment of section 91K

77. Section 91K of the principal Act is amended—

- (a) by substituting for the words “any vessel or aircraft” the words “any vehicle, vessel or aircraft”; and
- (b) by substituting for the words “such vessel or aircraft” the words “such vehicle, vessel or aircraft”.

Amendment of section 91M

78. Section 91M of the principal Act is amended by substituting for the words “vessels or aircraft” wherever appearing the words “vehicles, vessels or aircraft”.

New Part XVD

79. The principal Act is amended by inserting after Part XVC the following Part:

“PART XVD

SPECIAL PROVISIONS DEALING WITH PANGKOR

Interpretation

91Q. In this Part, unless the context otherwise requires—

“Pangkor” means the Pangkor Island, Mentagor Island, Giam Island, Simpan Island, Tukun Terindak Island, Pelanduk Island, Anak Pelanduk Island, Landak Island, Batu Orang Tua and Batu Jambal;

“principal customs area” means Malaysia exclusive of Labuan, Langkawi, Tioman and Pangkor.

Dutiable goods in Pangkor

91R. The provisions of this Act shall not apply to goods manufactured in or imported into Pangkor, other than goods which the Minister may from time to time declare by order published in the *Gazette*.

Goods manufactured in Pangkor shall be deemed to have been manufactured outside Malaysia

91s. Goods subject to excise duty, other than those referred to in section 91R, when manufactured in Pangkor shall be deemed to have been manufactured outside Malaysia and when moved from Pangkor to the other territories in Malaysia shall be deemed to have been imported into those territories and the provisions of the Customs Act 1967 shall apply.

Goods manufactured in other territories of Malaysia shall be deemed to have been exported when moved into Pangkor

91t. Goods subject to excise duty, other than those referred to in section 91R, manufactured in other territories of Malaysia when moved into Pangkor shall be deemed to have been exported from such territories to a place outside Malaysia for the purpose of section 19 and paragraph 28(d).

Excise duties relating to Pangkor

91u. (1) Notwithstanding anything to the contrary contained in this Act—

- (a) no excise duty shall be payable upon any goods imported into Pangkor, other than the goods which the Minister may from time to time declare by order published in the *Gazette*;
- (b) excise duty shall be payable upon all dutiable goods transported to the principal customs area from Pangkor as if such transportation to the principal customs area were importation into Malaysia; and

(c) the Minister may, by order, prescribe the meaning of the word “value” in relation to goods transported from Pangkor to the principal customs area.

(2) Subsections 6(2), (3), (4) and (5) shall apply to any order made by the Minister under paragraph (1)(a).

(3) Nothing in this section shall render inapplicable to Pangkor any other excise duty which may be fixed by the Minister under subsection 6(1).

Transportation of goods to or from Pangkor from or to the principal customs area

91v. Where goods are transported—

(a) from Pangkor to the principal customs area; or

(b) from the principal customs area to Pangkor,

the provisions of this Act shall, with such modifications and adaptations as may be necessary, apply as if such goods were imported into or, as the case may be, exported from, the principal customs area from or to a place outside Malaysia, and without prejudice to the above generality, the provisions of Part X shall apply to goods transported to or from Pangkor from or to the principal customs area and to persons, vehicles, vessels and aircrafts transporting such goods.

Declaration of goods transported from Pangkor to the principal customs area

91w. The person in charge of any vehicle, vessel or aircraft on which goods are transported from Pangkor to the principal customs area shall make a declaration substantially in the prescribed form giving particulars of the goods transported in such vehicle, vessel or aircraft.

Dutiable goods to be deemed to be non-dutiable while in Pangkor

91x. Any dutiable goods, other than goods declared by the Minister under paragraph 91U(1)(a) shall, while in Pangkor, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Pangkor

91y. In making regulations under section 85 the Minister may provide—

- (a) for the collection in Pangkor of excise duties payable in respect of goods transported or about to be transported from or to Pangkor to or from the principal customs area;
- (b) for the limitation or restriction of vehicles, vessels and aircrafts which may be used to transport such goods; and
- (c) for the licensing or control of persons or vehicles, vessels or aircrafts transporting such goods.

Application of provisions relating to drawback to goods transported to Pangkor

91z. The provisions relating to drawback under this Act shall apply to goods, other than goods declared by the Minister under paragraph 91U(1)(a), transported from the principal customs area to Pangkor as if such goods had been re-exported.”.

Saving

80. Any compounding of offences under the existing section 69 of the principal Act which is pending immediately before the date of coming into operation of this Act shall, on and after the date of coming into operation of this Act, continue to be a compoundable offence as if section 69 of the principal Act had not been amended by this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Excise Act 1976 (“Act 176”). The main purpose of the amendment is to improve excise procedures in particular relating to the payment of excise duty, obligation to keep records relating to excise matters and warehousing of imported goods. The amendment also seeks to strengthen the enforcement powers of the officers of Excise and to increase the amount of penalty for offences under Act 176.

2. *Clause 1* contains the short title of the proposed Act and the power of the Minister to appoint the commencement date of the proposed Act.

3. *Clause 2* seeks to amend section 2 of Act 176.

Subclause 2(a) seeks to provide for new definitions of “road”, “customs control”, “duty free shop”, “public ruling”, “sea”, “licensee”, “transit”, “transshipment”, “conveyance”, “licensed manufacturer”, “surcharge” and by deleting the definitions of “public excise warehouse”, “licensed tobacco manufacturer” and “free zone”. This *subclause* also seeks to amend the definitions of “bottle”, “native liquor”, “officer of excise”, “senior officer of excise”, “owner” and “manufacture”.

Subclause 2(b) seeks to introduce a new subsection 2(1A) into Act 176 to clarify that a free zone shall be deemed to be a place outside a principal customs area and the provisions under Parts VII, VIIIA and section 76 shall be applicable to a free zone. *Subclause 2(b)* also seeks to introduce a new subsection 2(1B) into Act 176 providing for the definitions of “free zone” and “principal customs area”.

4. *Clause 3* seeks to amend section 4 of Act 176 to provide that the Deputy Director shall be subject to the general direction of the Director General and to provide that Deputy Director General, Assistant Director General, Director, Deputy Director, Senior Assistant Director and Assistant Director shall have and exercise all powers conferred on the Director General under Act 176 other than the powers conferred by section 18.

5. *Clause 4* seeks to introduce a new section 4A into Act 176 to clarify that the powers exercisable by all police officers are only in relation to Part X of Act 176 (Inspection, Investigation, Search, Seizure and Arrest).

6. *Clause 6* seeks to introduce a new section 5F into Act 176 to empower the Director General to make public rulings on the application of any provision of Act 176.

7. *Clause 7* seeks to delete subsection 6(6) of Act 176 to empower the Minister to recover the surcharge, penalty and other moneys payable as a civil debt in the proposed new section 15B.

8. *Clause 8* seeks to introduce a new section 6A into Act 176 to provide that for the purpose of levying of excise duties, goods *bona fide* in transit, including goods for transshipment, shall not be deemed to be imported unless the goods are or become unexcisable goods.

9. *Clause 9* seeks to amend section 11A of Act 176.

Subclause 9(c) seeks to amend subsection 11A(1) of Act 176 as renumbered to empower the Minister to remit the whole or any part of the excise duty, surcharge, penalty, fee or other money payable under this Act.

Subclause 9(d) seeks to introduce a new subsection 11A(2) into Act 176 to provide that where a person has paid any of the excise duty, surcharge, penalty, fee or other money payable under this Act to which remission has been granted under subsection 11A(1) as renumbered, he shall be entitled to a refund of such excise duty, surcharge, penalty, fee or other money which had been remitted.

10. *Clause 10* seeks to amend section 13 of Act 176.

Subclause 10(d) seeks to amend the proviso to paragraph 13(1)(b) of Act 176 to provide that where any excise duty has been paid under section 8A or pending the result of a review or appeal under section 47 of Act 176, no claim of refund shall be allowed unless such claim is made in the prescribed form within one year from the date of the decision on classification, valuation, review or appeal is made known to the claimant.

Subclause 10(e) seeks to introduce a new subsection 13(2) into Act 176 to provide that a claim under this section shall be supported by such documents as required by the Director General.

11. *Clause 11* seeks to substitute section 14 of Act 176 to provide that if any dutiable goods are damaged, destroyed or lost due to unavoidable accident at any time before removal from excise control, the Director General may remit the whole or any part of the excise duty payable thereon if notice in writing of such damage, destruction or loss due to unavoidable accident supported by sufficient documents, has been given at or before the time of such removal. If any dutiable goods are damaged, destroyed or lost due to unavoidable accident after the removal of such goods from excise control, no abatement of excise duty shall be allowed on such goods.

12. *Clause 12* seeks to amend section 15 of Act 176.

Subclause 12(b) seeks to amend subsection 15(1) of Act 176 to provide that where excise duties, surcharges, penalties, fees or other moneys have not been paid or erroneously refunded due to inadvertence, negligence, error, collusion, or misconstruction on the part of any officer of excise or due to misstatement as to the value, quantity, quality or description by any person, the person liable to pay such excise duties, surcharges, penalties, fees or other moneys payable or the deficiency shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six years from the date on which excise duties, surcharges, penalties, fees or other moneys was payable or the deficient excise duties, surcharges, penalties, fees or other moneys was payable or the refund was made, as the case may be.

Subclause 12(c) seeks to amend subsection 15(2) of Act 176 to allow the Director General to impose conditions when the amount payable under subsection 15(1) of Act 176 is paid by instalments.

Subclause 12(d) seeks to substitute subsections 15(3), (4) and (5) of Act 176 and seeks to introduce new subsections 15(6), (7), (8) and (9) into Act 176.

Subsection 15(3) seeks to provide that if there is default in payment of any instalment under subsection 15(2) of Act 176 on its due date, the whole outstanding balance shall become due and payable on that date and shall, without any further notice being served on the person liable to pay the amount due, be subject to a surcharge equal to ten per cent of that outstanding balance and the surcharge shall be recoverable as if it were due and payable.

Subsection 15(4) provides that subsections 15(2) and (3) of Act 176 shall not prejudice the exercise of the rights and powers of the Director General to seize or, subject to the proposed subsection 15(5), sell any goods under excise control belonging to the person liable to pay such excise duties, surcharges, penalties, fees or other moneys for the recovery of the amount payable under subsection 15(1), (2) or (3) of Act 176, or any outstanding balance thereof.

Subsection 15(5) empowers the Director General to sell the goods under excise control belonging to a person liable to pay the amount due under subsection 15(1) of Act 176 if the excise duties, surcharges, penalties, fees or other moneys or deficiency, or the refund to be repaid remain unpaid by the person, as the case may be, after giving not less than thirty days notice in writing or in the *Gazette*.

The proposed subsection 15(6) provides that the proceeds of sale of any goods under the proposed subsection 15(5) shall be applied to the payment of the excise duty, surcharge, penalty, fee or other money, or recovery of any amount or charges in respect of selling off such goods, and the surplus, if any, shall be paid to the person liable to pay the amount due under subsection 15(1) of Act 176 and if such person cannot be found within one month of the sale, such surplus shall be paid to the Consolidated Fund.

The proposed subsection 15(7) provides that the goods under excise control belonging to a person liable to pay the amount due under the subsection 15(1) of Act 176 shall be forfeited to the Government and shall be disposed of in such manner as the Director General may direct if at the sale of any such goods no sufficient bid is forthcoming to defray the excise duty, surcharge, penalty, fee or other money payable or the refund erroneously paid, as the case may be.

The proposed subsection 15(8) seeks to provide that the Director General may make a demand at any time after six years from the date on which excise duty, surcharge, penalty, fee or other money was payable or excise duty, surcharge, penalty, fee or other money is not paid or short paid due to any form of fraud or default committed by or on behalf of any person.

The proposed subsection 15(9) seeks to provide for the sale of goods by auction shall be conducted by or in the presence of senior officer of excise.

13. *Clause 13* seeks to amend section 15A of Act 176.

Subclauses 13(b) and *(d)* seek to provide that where the Director General has reason to believe that any person is about or is likely to leave Malaysia without paying any excise duty, surcharge, penalty, fee or any other money, the Director General may issue to the Director General of Immigration a certificate containing particulars of the person reasonably suspected of having committed an offence with a request that such person be prevented from leaving Malaysia unless and until he pays all the excise duty, surcharge, penalty, fee or other money so payable or furnishes security to the satisfaction of the Director General for its payment. A written statement signed by the Director General stating that all the excise duties, surcharges, penalties, fees or other moneys have been paid or that security has been furnished for its payment, shall be sufficient authority for allowing that person to leave Malaysia.

Subclause 13(c) seeks to amend subsection 15A(2) of Act 176 to empower the Director General of Immigration who receives a request under subsection 15A(1) of Act 176 to exercise all measures which may include the removal or retention of any certificate of identity, passport, exit permit or other travel documents in relation to the person as may be necessary to give effect to the request.

Subclause 13(e) seeks to amend subsection 15A(3) of Act 176 to require the Director General to serve a notice of the issuance of a certificate under subsection 15A(1) to be served personally or by registered post at the last known address of the person to whom the certificate relates.

14. *Clause 14* seeks to introduce a new section 15B into Act 176 to allow any excise duty, surcharge, penalty, fee or other money payable under Act 176 to be recovered as a civil debt due to the Government.

15. *Clause 15* seeks to amend section 16 of Act 176 to provide wider scope of the calculation of the rate of excise duty for goods manufactured in Malaysia.

16. *Clause 16* seeks to amend section 19A of Act 176.

Subclause 16(a)(i) seeks to provide for the claims of drawback of the excise duty on imported goods other than personal goods or other goods carried by visitors to Malaysia or samples carried by commercial travellers under section 19E of Act 176.

Subclause 16(a)(ii) seeks to authorize the senior officer of customs at the customs port or customs airport to identify the goods subject to the claims of drawback before such goods are re-exported.

Subclause 16(a)(iii) seeks to increase the minimum value for drawback claims from fifty ringgit to two hundred ringgit.

Subclause 16(a)(iv) the seeks to shorten the period during which the goods are to re-exported for the purposes of drawback claim from twelve months to three months from the date the excise duty was paid.

Subclause 16(b) seeks to require the amount of drawback allowed to be calculated at the rate of excise duty levied at the time of import only.

17. *Clause 18* seeks to delete section 19D of Act 176 to remove the power of the Director General to allow drawback of excise duty on goods which suffer deterioration or damage which are to be destroyed in the presence of a senior officer of excise.

18. *Clause 19* seeks to introduce a new section 19G into Act 176 to provide that where a drawback or refund of excise duties under Act 176 is due to a person who has failed to pay any amount of excise duty, customs duty, *etc.*, the Director General may offset the amount of such drawback or refund against the amount such person has failed to pay.

19. *Clause 22* seeks to delete paragraph 22(1)(b) of Act 176 as a consequential amendment to the deletion of section 24 of Act 176.

20. *Clause 23* seeks to amend section 23A of Act 176.

Subclause 23(a) seeks to make it an offence for any liquidator who fails to furnish the relevant documents, books and records provided under the proposed subsection 23(2B). This *clause* also seeks to increase the penalty for the offence of failure to give notice to the Director General and to set aside such sum out of the assets for payment of excise duty under subsection 23A(1) and the offence under the proposed subsection 23A(2B) from a fine not exceeding ten thousand ringgit to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Subclause 23(b) seeks to introduce a new subsection 23A(2B) into Act 176 to require the liquidator to furnish all relevant documents, books and records which are in his possession to the proper officer for the purpose of calculating all duties payable.

21. *Clause 24* seeks to amend section 23B of Act 176.

Subclause 24(a) seeks to make it an offence for any receiver who fails to furnish the relevant documents, books and records provided under the proposed subsection 23B(2B). This *clause* also seeks to increase the penalty for the offence of failure to give notice to the Director General and to set aside such sum out of the assets for payment of excise duty under subsection 23B(1) and the offence under the proposed subsection 23B(2B) from a fine not exceeding ten thousand ringgit to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Subclause 24(b) seeks to introduce a new subsection 23B(2B) into Act 176 to require the receiver to furnish all relevant documents, books and records which are in his possession to the proper officer for the purpose of calculating all duties payable.

22. *Clause 25* seeks to delete section 24 of Act 176 to remove the power of the Minister to establish a public excise warehouse to deposit and keep dutiable goods without payment of duty as it is no longer necessary.

23. *Clause 26* seeks to amend section 26 of Act 176 to remove the function of public excise warehouse as a place to store or keep any dutiable goods as a consequential amendment to the deletion of section 24 of Act 176.

24. *Clause 27* seeks to amend section 27A of Act 176.

The proposed subsection 27A(1) seeks to require imported goods, on arrival or landing, to be deposited in a licensed warehouse, a warehouse or other place approved by the Director General except where the duty payable has been paid in accordance with section 28, or the goods have been approved for movement in transit or transshipment under certain conditions, the goods are imported by post, by road or by sea under certain conditions and the goods are personal effects.

The proposed subsection 27A(2) seeks to allow the Director General to require the goods, if it is necessary for the purposes of public interest, to be deposited in a licensed warehouse or in a warehouse or other place approved by the Director General.

The proposed subsection 27A(3) seeks to provide that the goods deposited under the proposed subsection 27A(2) to be deposited at the expense of the owner and to be deemed under excise control. The goods shall not be removed except with the permission of the proper officer of customs.

The proposed subsection 27A(4) seeks to provide that the proposed subsection 27A(1) is not applicable to goods entering principal customs area from a free zone.

25. *Clause 28* seeks to introduce a new section 27AB into Act 176 to empower the Director General to approve a warehouse, not being a licensed warehouse, or other place for depositing dutiable goods subject to such conditions as the Director General deems fit.

26. *Clause 29* seeks to amend section 28 of Act 176 to prohibit the removal of dutiable goods from a licensed warehouse, a warehouse or any other place approved by Director General or excise control except for transit to another licensed warehouse, warehouse or other place approved by Director General or in any other place under excise control or for manufacture in another place licensed under section 20 of Act 176.

27. *Clause 33* seeks to substitute section 40D of Act 176 to provide for the time or period for making declaration on dutiable goods on import in the form as may be prescribed to the proper officer.

28. *Clause 35* seeks to substitute section 41B of Act 176 to require every person to keep full and true records up to date of all transactions which affect or may affect his obligation on any matters under Act 176.

29. *Clause 36* seeks to introduce a new section 41^{BA} into Act 176 to empower a senior officer of excise to require the person who had the possession, custody or control of the goods, record, report or document which has been seized, detained, or taken possession to furnish him a translation in the national language or English language within such period as the officer may specify if the goods, record, report or document is in a language other than the national language or English language.

30. *Clause 37* seeks to amend section 41^C of Act 176 to require the station master at the place of import of goods by rail and at the customs section to which goods are consigned to produce to the proper officer the railway invoices or waybills in respect of such goods without a demand being made and to prohibit cargo from being loaded into or unloaded off the train except with the permission of the proper officer.

31. *Clause 38* seeks to amend section 41^D of Act 176.

Subclause 38(a) seeks to amend subsection 41^D(1) of Act 176 to increase the sum liable to be paid, on demand, by the master or the agent of the vessel to the proper officer in the case where any goods entered in the manifest of any vessel are not accounted for to the satisfaction of the proper officer within one month of the presentation of the statement of the outturn of the cargo from not exceeding five hundred ringgit to not exceeding five thousand ringgit. In the case where the correct duty cannot be assessed, the sum liable to be paid is increased from not exceeding two thousand ringgit to not exceeding ten thousand ringgit.

Subclause 38(b) seeks to introduce a new subsection 41^D(3) into Act 176 to provide for the definition of “agent of the vessel” which includes a freight forwarder.

32. *Clause 39* seeks to amend subsection 42^A(2) of Act 176 to allow the baggage of the passenger or any person to be examined and delivered in such manner as the Director General may direct.

33. *Clause 40* seeks to amend section 44 of Act 176.

Subclause 40(b) seeks to substitute subsection 44(1) of Act 176 to provide wider access for any senior officer of excise or any officer deputed by him to have access not only to the importer place or premise to carry in his business but also to place or premise of licensed manufacturer, licensee and any person who has dealings with the licensed manufacturer, licensee and importer to carry in their business.

Subclause 40(c)(i) seeks to amend paragraph 44(2)(a) of Act 176 to empower the senior officer of excise who enters into the premises to require any books, data, document or other record, or thing to be produced to him by the licensed manufacturer, licensee, importer or person referred to in the proposed paragraph 44(1)(b) of Act 176.

Subclause 40(c)(ii) seeks to amend paragraph 44(2)(d) of Act 176 to empower a senior officer of excise who enters into the premises to require questions relating to any books, data, document or other record, *etc.*, to be answered truthfully by the licensed manufacturer, licensee, importer or person referred to in the proposed paragraph 44(1)(b) of Act 176 or any person employed by licensed manufacturer, licensee, importer or person referred to in the proposed paragraph 44(1)(b) of Act 176.

Subclause 40(c)(iii) seeks to amend paragraph 44(2)(f) of Act 176 to empower a senior officer of excise to open and examine any packages or any goods or materials in the premises at the risk and expense of the licensed manufacturer, licensee, importer or person referred to in the proposed paragraph 44(1)(b) of Act 176.

Subclause 40(d) seeks to amend subsection 44(3) of Act 176 to empower a senior officer of excise to enter any premise and open any receptacle contained in any premises where the licensed manufacturer, licensee, importer or person referred to in proposed paragraph 44(1)(b) of Act 176, carries on his business, if necessary by force when he is unable to obtain free access to such premises or to any receptacle contained in any premises.

Subclause 40(e) seeks to introduce a new subsection 44(5) into Act 176 to make it an offence for any person who refuses to give access to any place or premises to any senior officer of excise and to provide punishment for such offence.

34. *Clause 41* seeks to introduce a new section 44B into Act 176 to deal with the protection against any action, suit, prosecution or other proceeding in relation to any officer of excise, any police officer having the powers of a senior officer of excise or officer of excise under the new section 4A of Act 176, or any proper officer in respect of any act, neglect or default done or committed by him in good faith or any omission omitted by him in good faith in the execution of his duty under this Act.

35. *Clause 42* seeks to amend section 46 of Act 176.

Subclause 42(d) seeks to introduce a new subsection 46(2) into Act 176 to empower a senior officer of excise to refuse to deal with an employee unless such person or firm has furnished a signed authority authorizing such employee to transact business on its behalf.

36. *Clause 43* seeks to amend section 49 of Act 176 by deleting the words “any public excise warehouse or in” as a consequential amendment to the deletion of section 24 of Act 176.

37. *Clause 44* seeks to amend section 51 of Act 176 by introducing new subsections (3) and (4).

The proposed new subsection 51(3) seeks to empower an officer of excise to seal the dwelling house, shop or other building, place, vessel or aircraft or such goods, document or thing in the dwelling house, shop or other building, place, vessel or aircraft in which it is found if by reason of its nature, size or amount it is not practicable to remove such goods, document or thing seized.

The proposed new subsection 51(4) seeks to make it an offence for any person who without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3) or removes the goods, document or thing under seal, or attempts to do so and to provide punishment for such offence.

38. *Clause 45* seeks to amend section 53A of Act 176.

Subclause 45(a)(ii) seeks to introduce a new paragraph 53A(2)(aa) into Act 176 to allow an officer of excise to make copies or take extracts from the recorded information or computerized data as he deems necessary in exercising his powers under sections 51, 52 and 53 of Act 176.

Subclause 45(b) seeks to introduce a new subsection 53A(4) into Act 176 to make it an offence for any person who contravenes subsection 53A(1) and paragraph 53A(2)(b) of Act 176 and to provide punishment for such offence.

39. *Clause 46* seeks to amend section 53B of Act 176.

Subclause 46(b) seeks to introduce a new subsection 53B(2) into Act 176 to allow a proper officer to use any tracing or tracking device, non-intrusive instrument, or any other form of aids, including animals, in the performance of his duty under Act 176.

40. *Clause 47* seeks to amend section 54 of Act 176.

Subclause 47(b)(ii) seeks to delete the proviso to subsection 54(3) of Act 176 to require the seizing officer to give written notice for any seizure made on the person, or in the presence of the offender or the owner or his agent, or in the presence of the master or pilot.

41. *Clause 48* seeks to amend section 55 of Act 176 to provide for the return of goods to the owner of the goods or to the person from whose possession, custody, control the goods were seized.

Subclause 48(b)(i) seeks to amend paragraph 55(1)(b) of Act 176 to provide that the return of the goods to the owner of the goods or to the person from whose possession, custody, control the goods were seized is subject to such terms and conditions as senior officer of excise may impose.

Subclause 48(c)(ii) seeks to amend subsection 55(2) of Act 176 to increase the punishment from imprisonment for a term not exceeding three years or to a fine not exceeding ten thousand ringgit to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit.

42. *Clause 49* seeks to amend section 56 of Act 176.

Subclause 49(a) seeks to introduce a new subsection (2A) into Act 176 to allow a proper officer to take or cause to be taken photographs and finger and thumb impressions of any person arrested under subsection 56(1) of Act 176.

Subclause 49(b) seeks to amend subsection 56(4) of Act 176 to provide that every person arrested may be released from custody subject to such conditions as the Director General deems fit.

Subclause 49(c) seeks to introduce new subsections 56(6) and (7) into Act 176.

The proposed subsection 56(6) seeks to allow, upon an order by a senior officer of excise or above the rank of Senior Assistant Director, a person who is arrested for an offence under Act 176 who is serving a sentence of imprisonment or is under detention under any law relating to preventive detention, or is otherwise in lawful custody, to be produced before such officer for the purpose of investigation and the person may be kept in lawful custody for a period not exceeding fourteen days for the purpose of such investigation.

The proposed subsection 56(7) seeks to provide that a person who is detained in lawful custody under the proposed subsection 56(6) to be made available to a senior officer of excise for the purpose of investigation or to be taken to any other place for the purpose of searching the place, or seizing any goods, or identifying any person for any other purposes relating to the investigation under Act 176.

43. *Clause 50* seeks to amend subsection 61(5) of Act 176 to provide for a more comprehensive and relevant definition of “analyst”.

44. *Clause 51* seeks to introduce a new section 61A into Act 176 which deals with evidential provisions.

45. *Clause 54* seeks to amend section 63A of Act 176.

Subclause 54(a) seeks to amend subsection 63A(1) of Act 176 which deals with the obligation of secrecy in relation to identification card number and passport number of an informer.

Subclause 54(b) seeks to amend subsection 63A(2) of Act 176 to increase the punishment for the offence under subsection 63A(1) of Act 176 from a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years to a fine not exceeding one hundred thousand ringgit and imprisonment for a term not exceeding seven years.

46. *Clause 55* seeks to substitute section 64A of Act 176 which deals with the confidentiality of information, documents or declarations relating to importation, exportation, valuation and classification of any goods as confidential. With this amendment any person who commits an offence of communicating such confidential information, document or declaration shall, on conviction, be liable to an imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both.

47. *Clause 57* seeks to amend section 67 of Act 176.

Subclause 57(a) seeks to amend subsection 67(1) of Act 176 to provide that if there is no prosecution with regard to any goods seized under the Act 176, such goods or the proceeds of sale of such goods which are held pursuant to paragraph 55(1)(c) of Act 176 shall be taken and deemed to be forfeited at the expiration of thirty days from the date of the notice of seizure of the goods except where certain requirements are met.

Subclause 57(b) seeks to amend subsection 67(3) of Act 176 to require a senior officer of excise to refer the claim or the written application relating to such goods seized or the proceeds of such goods to the Director General if the claim or the written application made within the period of thirty days and there is no prosecution with regard to the goods.

Subclause 57(c) seeks to introduce a new subsection 67(3A) into Act 176 to empower the Director General to direct such senior officer of excise to release such goods or the proceeds of sale of such goods or the security furnished under paragraph 55(1)(a) or (b) of Act 176 or to refer the matter to a Magistrate for his decision.

48. *Clause 58* seeks to amend section 69 of Act 176 to empower any senior officer of excise to compound any offence which is prescribed to be a compoundable offence committed by any person under Act 176 with the written consent of the Public Prosecutor. The amount compounded shall not exceed fifty per centum of the amount of the maximum fine for that offence.

49. *Clause 59* seeks to introduce a new section 69A into Act 176 to provide that where any goods, document or thing seized under Act 176 is held in the custody of the officer of excise pending completion of any proceedings in respect of an offence under Act 176, the cost of holding such goods, document or thing in custody shall, in the event of any person found guilty of an offence, to be a debt due to the Government by such person and shall be recoverable accordingly.

50. *Clause 60* seeks to amend section 74 of Act 176.

Subclause 60(a) seeks to amend subparagraph 74(1)(iii)(B) of Act 176 to increase the term of imprisonment from five years to seven years for a second offence or any subsequent offence under subsection 74(1) of Act 176 in the case of locally manufactured cigarettes or intoxicating liquor.

Subclause 60(b) seeks to amend subparagraph 74(1)(iv)(B) of Act 176 to increase the term of imprisonment from five years to seven years for a second offence or any subsequent offence under subsection 74(1) of Act 176 in the case of imported cigarettes or intoxicating liquor.

51. *Clause 61* seeks to introduce new sections 74A, 74B and 74C into Act 176.

The proposed section 74A seeks to provide for offences relating to data stored in computer and its penalty.

The proposed section 74B seeks to provide for the offence relating to the claim for drawback and its penalty.

The proposed section 74C seeks to provide for the offence relating to the claim for refund and its penalty.

52. *Clause 62* seeks to amend section 75 of Act 176 to increase the penalty for the offence under section 75 of Act 176 from a fine not less than two thousand ringgit but not exceeding ten thousand ringgit to a fine not less than five thousand ringgit but not exceeding twenty thousand ringgit.

53. *Clause 64* seeks to amend section 81 of Act 176 to substitute the scale consisting of the new threshold of fine and the maximum period of imprisonment imposed by any court in respect of non-payment of any fine under Act 176.

54. *Clause 66* seeks to amend section 85 of Act 176.

Subclause 66(a) seeks to delete paragraph 85(h) of Act 176 as a consequential amendment to the deletion of section 24 of Act 176.

Subclause 66(c) seeks to amend paragraph 85(p) of Act 176 to empower the Minister to prescribe the criteria for compounding the compoundable offence.

55. *Clause 67, 71 and 75* seeks to amend sections 87, 91A and 91E of Act 176 to exclude Pangkor from the principal customs area. With this amendment, Pangkor shall be regarded as a duty free island similar to Labuan, Langkawi and Tioman.

56. *Clause 68, 72 and 76* seeks to amend sections 90B, 91DB and 91J of Act 176 to clarify that Labuan, Langkawi and Tioman is not a place outside Malaysia. This is in line with the introduction of new subsections 2(1A) and (1B) into Act 176 which provides that Labuan, Langkawi and Tioman is a place outside principal customs area.

57. *Clause 73* seeks to amend section 91DC of Act 176 to require the person in charge of any vehicle, vessel or aircraft on which goods are transported from Langkawi to the principal customs area to make a declaration in the prescribed form giving particulars of the goods transported in such vehicle, vessel or aircraft.

58. *Clause 77* seeks to amend section 91K of Act 176 to require the person in charge of any vehicle, vessel or aircraft on which goods are transported from Tioman to make a declaration in the prescribed form giving particulars of the goods transported in such vehicle, vessel or aircraft.

59. *Clause 79* seeks to introduce a new Part XV_D (Special Provisions dealing with Pangkor) into Act 176.

The proposed new section 91Q seeks to provide for the definitions of “Pangkor” and “principal customs area”.

The proposed new section 91R seeks to provide for non-application of the provisions of Act 176 to goods manufactured in or imported into Pangkor, other than goods which the Minister may, from time to time, declare by an order published in a *Gazette*.

The proposed new section 91S seeks to provide that goods subject to excise duty, other than the goods referred to in the proposed new section 91R, when manufactured in Pangkor to be deemed as manufactured outside Malaysia and when moved from Pangkor to the other territories in Malaysia to be deemed as imported into those territories.

The proposed new section 91T seeks to provide that goods subject to excise duty, other than the goods referred to in the proposed new section 91R, manufactured in other territories of Malaysia when moved to Pangkor to be deemed as exported from such territories to a place outside Malaysia for the purpose of section 19 and paragraph 28(d) of Act 176.

The proposed new section 91U seeks to provide for the treatment of excise duty in Pangkor relating to the importation and transportation of goods.

The proposed new section 91V seeks to provide for the application of the provisions of Act 176 where goods are transported from Pangkor to the principal customs area or from the principal customs area to Pangkor. The proposed section 91V also seeks to provide for the application of Part X of Act 176 to goods transported to or from Pangkor from or to the principal customs area, and to persons and vessels and aircrafts transporting such goods.

The vehicle, proposed new section 91W seeks to require the person in charge of any vehicle, vessel or aircraft on which goods are transported from Pangkor to the principal customs area to make a declaration of the goods transported in such vehicle, vessel or aircraft.

The proposed new section 91X seeks to provide that dutiable goods, other than goods declared by the Minister under the proposed paragraph 91U(1)(a), are deemed to be non-dutiable goods while in Pangkor.

The proposed new section 91Y seeks to empower the Minister to make regulations under section 85 of Act 176 to provide for certain matters in relation to Pangkor.

The proposed new section 91Z seeks to provide for the application of the provisions of Act 176 which deals with drawback to goods, other than goods declared by the Minister under the proposed paragraph 91U(1)(a), transported from the principal customs area to Pangkor.

60. *Clause 80* seeks to provide for saving provision.

61. Other amendments not specifically dealt with in this statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)3162]