

A BILL

i n t i t u l e d

An Act to amend the Customs Act 1967.

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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 Customs (Amendment) Act 2022.

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

General amendment

2. The Customs Act 1967 [Act 235], which is referred to as the “principal Act” in this Act, is amended—

(a) by substituting for the words “in the prescribed form”, wherever appearing in sections 57, 59 and 94, and subsections 16(1), 37(1), 38(2), 52(1), 54(1), 56(1), 58(1) and 143(2), and paragraphs 93(1)(e), 128(3A)(b) and 133(1)(g), the words “in the form and manner as determined by the Director General”;

- (b) by substituting for the words “substantially in the prescribed form, giving particulars of the goods imported”, wherever appearing in section 83 and subsection 81(1), the words “in the form and manner as determined by the Director General”;
- (c) by substituting for the words “substantially in the prescribed form, giving particulars of the goods to be exported”, wherever appearing in section 86 and subsection 84(1), the words “in the form and manner as determined by the Director General”; and
- (d) by substituting for the words “substantially in the prescribed form giving particulars of the goods transported in such vehicle, vessel or aircraft”, wherever appearing in sections 163D, 163M and 163T, the words “in the form and manner as determined by the Director General”.

Amendment of section 3

3. Subsection 3(3) of the principal Act is amended by substituting for the words “sections 10F, 13B, 22 and 145” the words “sections 10F, 13B and 22”.

Amendment of section 10A

4. Subsection 10A(1) of the principal Act is amended by substituting for the words “Any person may apply, in the prescribed form together with the prescribed fee, to the Director General” the words “Any person may apply to the Director General, in the form and manner as determined by the Director General together with the prescribed fee,”.

Amendment of section 19

5. Section 19 of the principal Act is amended by deleting subsection (2).

Amendment of section 65A

6. Paragraph 65A(3)(b) of the principal Act is amended by substituting for the words “Subject to subsection (4), if” the word “If”.

Amendment of section 78

7. Subsection 78(1) of the principal Act is amended by substituting for the words “in such form as may be prescribed to the proper officer of customs” the words “in the form and manner as determined by the Director General”.

Amendment of section 78B

8. Subsection 78B(2) of the principal Act is amended by substituting for the words “the date of the declaration being approved by the proper officer of customs” the words “the date of arrival of such goods”.

Amendment of section 80

9. Paragraph 80(1)(a) of the principal Act is amended by substituting for the words “in the prescribed form and to the officer of customs specified in subsection (2)” the words “in the form and manner as determined by the Director General”.

Amendment of section 82

10. Section 82 of the principal Act is amended by substituting for the words “substantially in the prescribed form giving particulars of the goods imported” the words “in the form and manner as determined by the Director General”.

Amendment of section 85

11. Section 85 of the principal Act is amended by substituting for the words “substantially in the prescribed form giving particulars of the goods to be exported” the words “in the form and manner as determined by the Director General”.

Amendment of section 99

12. Paragraph 99(1)(d) of the principal Act is amended—

- (a) by deleting after the words “given on the” the word “prescribed”; and
- (b) by substituting for the words “in the prescribed form” the words “in the form and manner as determined by the Director General”.

Amendment of section 142

13. Section 142 of the principal Act is amended by deleting subsections (12) and (35E).

Deletion of section 145

14. The principal Act is amended by deleting section 145.

New sections 145c and 145d

15. The principal Act is amended by inserting after section 145B the following sections:

“Power to extend period

145c. Where, by this Act, a period is specified within which an act or thing is to be done by a person, and the Minister is satisfied that the act or thing could not be completed in that period due to the occurrence of public emergency or public health crisis, the Minister may, upon such terms and conditions as the Minister thinks fit, extend the period for the completion of the act or thing before the expiration of the period.

Power to modify terms and conditions

145d. (1) Where terms and conditions are imposed pursuant to this Act, the Minister may, on the advice of the Director General, from time to time modify the terms and conditions for the purpose of carrying out the objects of this Act.

(2) Before modifying the terms and conditions, notice must be given to the person bound by the terms and conditions stating—

(a) the terms and conditions as modified; and

(b) the date the terms and conditions as modified take effect.

(3) The modified terms and conditions shall not take effect in less than fourteen days from the date the notice is issued under subsection (2).

(4) Where the terms and conditions were initially imposed by the Director General pursuant to this Act, the terms and conditions as modified by the Minister shall be deemed to have been imposed by the Director General.

(5) For the purposes of this section, “modify” means add to, delete or vary.”.

Amendment of section 157

16. Section 157 of the principal Act is amended—

(a) by inserting after the word “any” the word “vehicle,”; and

(b) by substituting for the words “substantially in the prescribed form giving particulars of the goods transported in such vessel or aircraft” the words “in the form and manner as determined by the Director General”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Customs Act 1967 (“Act 235”).

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

3. *Clause 2* seeks to provide for general amendments in relation to sections 57, 59, 83, 86, 94, 163D, 163M and 163T, and subsections 16(1), 37(1), 38(2), 52(1), 54(1), 56(1), 58(1), 81(1), 84(1) and 143(2), and paragraphs 93(1)(e), 128(3A)(b) and 133(1)(g), to empower the Director General to determine the form and manner of, among others—

- (a) a claim for refund of any money that has been overpaid or erroneously paid, and to order the refund of the money if it is proven to the satisfaction of the Director General that the money has been overpaid or erroneously paid as customs duty, surcharge, penalty, fee or other money or as any other fee or charge under Act 235;
- (b) a port clearance;
- (c) a true and complete manifest of the whole cargo of a vessel in the national language or English language;
- (d) a declaration of a complete list of the whole cargo on board a vessel;
- (e) a true and complete manifest of the whole cargo of an aircraft in the national language or English language;
- (f) a true outward manifest of a vessel in the national language or English language containing all particulars as to marks, numbers and contents of each package shipped at the customs port and the names of the shippers;
- (g) a declaration of all cargo shipped on board a local craft and the port or ports of destination of such cargo, and a declaration that no cargo is being carried if there is no cargo being carried;
- (h) a true outward manifest of an aircraft in the national language or English language containing all particulars as to marks, numbers and contents of each package loaded at such customs airport and the names of the consignors and consignees of the same;
- (i) a declaration of any goods imported by sea or air which are not dutiable on import;
- (j) a declaration of any goods imported by road which are not dutiable on import;
- (k) a declaration of any goods exported by sea or air which are not dutiable on export;
- (l) a declaration of any goods exported by road which are not dutiable on export;
- (m) a claim for drawback when any goods, other than goods affected by section 96 of Act 235, upon which customs duty has been paid are re-exported;

- (n) a declaration that any goods, where a drawback claim for re-exported goods has been made, have actually been re-exported and have not been relanded or detained and are not intended to be relanded or detained at any customs port, customs airport or place in Malaysia or within any port of Malaysia;
- (o) an information for the purpose of referring a claim to seized goods or the proceeds of sale of seized goods or a written application made for the release of seized goods to a Magistrate of the First Class for decision;
- (p) an application to review a decision of the Director General by any person who is aggrieved by such decision; and
- (q) a declaration in relation to the goods which are transported in a vehicle, vessel or an aircraft from Langkawi, Tioman and Pangkor to the principal customs area.

4. *Clause 3* seeks to amend subsection 3(3) of Act 235 as a consequential amendment due to the deletion of section 145 of Act 235.

5. *Clause 4* seeks to amend subsection 10A(1) of Act 235 to empower the Director General to determine the form and manner of an application for customs ruling.

6. *Clause 5* seeks to delete subsection 19(2) of Act 235 as the determination of the customs value of imported goods for the purpose of calculating the customs duty payable is provided by the regulations made under paragraph 142(35B) of Act 235.

7. *Clause 6* seeks to amend section 65A of Act 235 to provide for the deletion of subsection 65A(4) by the Customs Act (Amendment) 2019 [Act A1593].

8. *Clause 7* seeks to amend subsection 78(1) of Act 235 to empower the Director General to determine the form and manner of a declaration on dutiable goods imported.

9. *Clause 8* seeks to amend subsection 78B(2) of Act 235 to provide that the importer of the dutiable goods shall pay the customs duties and other charges leviable on such goods within fourteen days from the date of arrival of such goods.

10. *Clause 9* seeks to amend paragraph 80(1)(a) of Act 235 to empower the Director General to determine the form and manner of a declaration of the goods to be exported.

11. *Clause 10* seeks to amend section 82 of Act 235 to empower the Director General to determine the form and manner of a declaration of any goods imported by rail which are not dutiable on import.

12. *Clause 11* seeks to amend section 85 of Act 235 to empower the Director General to determine the form and manner of a declaration of any goods exported by rail which are not dutiable on export.

13. *Clause 12* seeks to amend paragraph 99(1)(d) of Act 235 to empower the Director General to determine the form and manner of a declaration of a claim for drawback where any imported goods are re-exported by the manufacturer as part or ingredient of any goods manufactured in Malaysia or as the packing, or part or ingredient of the packing, of such manufactured goods in cases where customs duty has been paid on such imported goods.

14. *Clauses 13 and 14* seek to delete subsections 142(12) and (35E) and section 145 respectively as the Director General, through the proposed Act, is empowered to determine the form and manner for the relevant matters.

15. *Clause 15* seeks to introduce new sections 145c and 145D into Act 235.

The proposed section 145c seeks to empower the Minister to extend the period to perform an act or a thing which is required to be completed within certain period under Act 235 if he is satisfied that the act or thing could not be completed within the period due to the occurrence of any public emergency or public health crisis.

The proposed section 145D seeks to empower the Minister to add to, delete or vary any terms and conditions imposed pursuant to Act 235 for the purpose of carrying out the objects of Act 235, provided that reasonable notice is given to the person bound by the terms and conditions.

16. *Clause 16* seeks to amend section 157 of Act 235 to empower the Director General to determine the form and manner of a declaration in relation to the goods which are transported in a vehicle, vessel or an aircraft from Labuan to the principal customs area.

17. Other amendments not specifically dealt with in this Explanatory Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

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