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LAWS OF MALAYSIA

Act 176

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LAWS OF MALAYSIA

Act 176

EXCISE ACT 197

An act to amend and consolidate the law relating to excise in Malaysia.

[*1 July 1977, P.U. (B) 351/1977*]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

Short title and application

1. (1) This Act may be cited as the Excise Act 1976, and shall come into force on such date as the Minister may by notification in the *Gazette* appoint.

(2) This Act shall apply throughout Malaysia.

Interpretation

2. (1) In this Act, unless the context otherwise requires—

"agent" has the meaning assigned by subsection 2(1) of the Customs Act 1967 [*Act 235*];

"aircraft" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"alcohol" means ethyl alcohol;

"beer" includes ale, stout, porter and all other fermented liquors made from malt;

"bottle" includes any container, not exceeding two litres in capacity, for intoxicating liquor capable of being corked or sealed, and "bottling" shall be construed accordingly;

"cigarette" means a cigarette prepared from tobacco either with or without any other added ingredient and includes any form of tip and the paper thereof;

"collection station" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"computer" has the meaning assigned thereto in section 3 of the Evidence Act 1950 [*Act 56*];

"conveyance" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"customs airport" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"Customs Appeal Tribunal" means the Customs Appeal Tribunal established under section 141B of the Customs Act 1967;

"customs control" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"customs port" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"customs ruling" means the customs ruling made by the Director General under section 5B;

"Director General" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"document" has the meaning assigned thereto in section 3 of the Evidence Act 1950;

"dutiable goods" means goods subject to the payment of excise duty and on which such duty has not been paid;

"duty free shop" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"electronic data interchange" means the transfer, from computer to computer, of commercial and administrative transactions using an agreed message standard to structure the data pertaining to a transaction;

"excise duty" means any duty fixed under section 6;

"export" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"goods" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"import" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"importer" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"inland clearance depot" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"intoxicating liquor" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"legal landing place" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"licensed carrier" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"licensed manufacturer" means any person licensed under section 20;

"licensed premises" includes any warehouse, area or place licensed under sections 20, 24, 25 and 35 of this Act and sections 65 and 65A of the Customs Act 1967;

"licensed warehouse" means a warehouse or other place licensed under section 25 for the warehousing of dutiable goods, and includes—

(a) customs warehouse under section 63;

(b) any warehouse licensed under sections 65 and 65A;

(ba) any duty free shop licensed under section 65D; and

(c) any inland clearance depot licensed under section 65E,

of the Customs Act 1967, for the warehousing of goods of a similar class to such dutiable goods;

"licensee" means any person licensed under section 25 or 35;

"Licensing Boards" means a Board established under section 31;

"local craft" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"manufacture" means,—

(a) in the case of intoxicating liquors, distilling, brewing, fermenting, bottling of intoxicating liquor, and includes the addition of any substance (other than water) to any intoxicating liquor and the blending, compounding and varying of intoxicating liquors with intent that the compound so formed shall be sold for human consumption,

but does not include any such compound prepared at the order of the purchaser, and for his immediate consumption:

Provided that in the case of toddy, it also includes tapping, bottling and canning;

(b) in the case of tobacco, any process converting any raw or leaf tobacco into tobacco fit for smoking; snuffing or chewing, and includes the making of cigarettes from manufactured tobacco;

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

(d) in other cases, the conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the size, shape, composition, nature or quality of such materials and includes the assembly of parts into a piece of machinery or other products, but does not include the installation of machinery or equipment for the purpose of construction;

"master" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"Minister" means the Minister charged with responsibility for finance;

"native liquor" means any of the intoxicating liquors customarily fermented, made or prepared by natives in Sabah and Sarawak for their own consumption and not for commercial use;

"occupier" includes a lessee or tenant or a person in possession, management or control of any land or premises;

"officer of excise" means—

(a) any officer of customs as defined in subsection 2(1) of the Customs Act 1967;

(b) (*Deleted by Act A1594*);

"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;

"petroleum" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"pilot of an aircraft" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"proper officer" means any officer of excise acting in the fulfillment of his duties under this Act, whether such duties are assigned to him specially or generally, or expressly or by implication; and every person, whether an officer of excise or not, engaged by the orders or with the concurrence of the Director General (whether previously or subsequently expressed) in the performance of any act or duty relating to an assigned matter which is by law required or authorized to be performed by or with an officer of excise shall be deemed to be the proper officer by or with whom that act or duty is to be performed, and any person so deemed to be the proper officer shall have all the powers of an officer of excise in relation to that act or duty;

"public ruling" means the public ruling made by the Director General under section 5F;

"road" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"sea" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"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;

"surcharge" means any charge that is due and payable under subsection 15(3);

"tobacco" includes manufactured and unmanufactured tobacco of every description, including tobacco stalks and tobacco refuse but does not include uncured tobacco;

"toddy" means the fermented juice of the coconut or other palm;

"transhipment" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"transit" has the meaning assigned by subsection 2(1) of the Customs Act 1967;

"uncured tobacco" means raw leaf tobacco not yet subject to any process of drying or curing;

"unexcisable goods" means goods in respect of which a breach of the provisions of this Act or of any subsidiary legislation made thereunder has been committed;

"value" means—

(a) in relation to locally manufactured goods, value as determined under paragraph 85(2)*(bd)*; and

(b) in relation to imported goods—

(i) the value of such goods for the purpose of customs duty determined in accordance with the Customs Act 1967; and

(ii) the amount of customs duty, if any, payable on such goods.

(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 and VIIIA 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.

(2) For the purpose of this Act goods shall be deemed to be under excise control whilst they are deposited or held in any distillery, brewery or other places of manufacture, or in licensed warehouse, a warehouse or other place approved by the Director General, post office, or in any conveyance from which they may not be removed except with the permission of the proper officer.

PART II

APPOINTMENT OF OFFICERS

Functions of Director General

3. The Director General shall be the Chief Officer of Excise and shall have the superintendence of all matters relating to the excise, but subject to the direction and control of the Minister.

Deputy Director General and other officers to have powers of Director General

4. (1) Any Deputy Director General, Assistant Director General, Director, Deputy Director, Senior Assistant Director and Assistant Director of Customs and Excise appointed under section 3 of the Customs Act 1967 shall, subject to the general direction and supervision of the Director General, have and exercise all the powers conferred on the Director General by or under this Act, other than those conferred by section 18.

(2) The Director General may, by authorization in writing invest any officer of excise, not being a senior officer of excise, with all or any of the powers of a senior officer of excise for a period not exceeding ninety days in respect of any one authorization.

(3) The Minister may, by notification in the *Gazette*, invest any officer of excise, not being a senior officer of excise, with all or any of the powers of a senior officer of excise.

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.

Authority cards, etc., to be produced

5. (1) Every officer of excise when acting against any person under this Act shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting a badge or authority card as he has been directed to carry under subsection 9(1) of the Customs Act 1967.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any officer of excise acting or purporting to act under this Act, if such officer is not in uniform and refuses to declare his office and produce his badge or authority card on demand being made by such person.

PART IIA

CUSTOMS RULING AND PUBLIC RULING

Application for customs ruling

5A. (1) Any person may apply, in the prescribed form together with the prescribed fee, to the Director General for a customs ruling in respect of any one or more of the following matters:

(a) the classification of goods;

(b) the principles to be adopted for the purposes of determination of value of goods; or

(c) any other matters to be prescribed by the Director General.

(2) An application under subsection (1) may be made—

(a) in respect of imported goods—

(i) at any time before the goods, that are the subject matter of the application, are to be imported or intended to be imported into Malaysia; or

(ii) at any later time, if the Director General may in his discretion permit; or

(b) in respect of manufactured goods—

(i) at any time before the goods that are the subject matter of the application, are to be manufactured; or

(ii) at any later time, if the Director General may in his discretion permit.

(3) An applicant may withdraw his application at any time before a customs ruling is made and any payment made relating to the application for the customs ruling shall be forfeited by the Directed General.

Making of customs ruling

5B. (1) Subject to subsection (3), the Director General shall make a customs ruling in respect of any matter specified in the application made under section 5A and such ruling shall bind the applicant.

(2) Any such customs ruling may be subject to such conditions as the Director General may deem fit to impose.

(3) The Director General may decline to make a customs ruling if, in his opinion—

(a) the information given by the applicant is insufficient to do so;

(b) the application is for a hypothetical situation; or

(c) a review or an appeal under this Act is pending involving the subject matter referred to in the application.

Amendment, modification or revocation of customs ruling

5C. (1) A customs ruling may be amended, modified or revoked by the Director General if—

(a) it contains an error which needs to be corrected;

(b) the customs ruling was based on an error of fact or law;

(c) there is a change in law relating to excise; or

(d) there is a change in the material fact or circumstances on which the ruling was based.

(2) The Director General shall, immediately after making the amendment, modification or revocation, give a notice in writing to the applicant of the amendment, modification or revocation and, subject to subsection (3), such amended, modified or revoked customs ruling shall take effect from the date stated in the notice.

(3) Notwithstanding subsection (2), where a customs ruling has the effect of causing or increasing any duty liability in respect of any goods, and—

(a) the goods are imported within three months of the date the notice of the amendment, modification or revocation is given pursuant to a binding contract entered into before that date;

(b) the goods have left the place of manufacture or warehouse in the country from which they are being exported for direct shipment to Malaysia on the date the notice of the amendment, modification or revocation of the ruling is given; or

(c) the goods are imported on or before the date the notice of the amendment, modification or revocation is given but have not been released for the home consumption,

then the customs ruling which was made prior to the amendment, modification or revocation under this section shall be applied to such goods.

(4) Notwithstanding subsection (2), and subject to section 13, if the amendment, modification or revocation to a customs ruling has the effect of decreasing any duty liability in respect of any goods, any higher duty that has been paid shall be treated as if the higher duty paid in error.

Director General to declare rulings to be null, etc.

5D. The Director General shall by a notice declare a customs ruling made under section 5B to be null, void and of no effect if the ruling has been obtained by the applicant by way of fraud, misrepresentation or falsification of facts.

Receiving of two customs rulings

5E. Where an applicant receives two or more different customs rulings on the same subject matter, such rulings shall be treated as being null and void and such applicant shall immediately notify the Director General who shall, within thirty days from the date of the notification, issue a new customs ruling.

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.

PART III

LEVYING OF EXCISE DUTIES

Power of Minister to fix the rates of excise duties

6. (1) The Minister may from time to time, by order published in the *Gazette*, fix excise duties to be levied and paid on—

(a) any goods manufactured in Malaysia; or

(b) any goods imported into Malaysia,

and may prescribe the method according to which such duties shall be levied and paid.

(2) Any order made under subsection (1) shall, at the next meeting of the Dewan Rakyat, be laid on the table of the Dewan Rakyat and shall, at the expiration of one hundred and twenty days from being so laid or of such extended period as the Dewan Rakyat may, by resolution direct, cease to have effect if and in so far as it is not confirmed by a resolution passed by the Dewan Rakyat within the said one hundred and twenty days or, if such period has been extended, within such extended period.

(3) Where an order ceases to have effect in whole or in part as provided by subsection (2), then any duty levied in pursuance of such order or, as the case may be, of such part thereof as ceases to have effect shall, subject to subsection (4), be repayable to the person from whom such duty was levied.

(4) Unless the Minister shall otherwise direct, no duty repayable under subsection (3) shall be repaid unless the person entitled to such repayment makes a claim therefor to the Director General within one year from the day on which the order ceases to have effect in whole or in part as provided by subsection (2).

(5) Any such claim shall be made in writing and shall contain such particulars as the Director General may, by general or special order, require.

(6) (*Deleted by Act A1594*).

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

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

Value of goods for purposes of duty

7. The Minister may, from time to time, by notification in the *Gazette*, fix, for the purpose of the levy and payment of excise duty, the value of any dutiable goods.

Assessment of duty

8. (1) The proper officer may, in respect of any dutiable or unexcisable goods—

(a) determine the class of goods to which such dutiable or unexcisable goods belong; and

(b) value, weigh, measure or otherwise examine or cause to be valued, weighed, measured or otherwise examined such dutiable or unexcisable goods,

for the purpose of ascertaining the amount of excise duty leviable thereon.

(2) All necessary operations relating to the weighing, measuring and examination of dutiable goods shall be performed by or at the expense of the owner thereof or his agent:

Provided that the proper officer may at his discretion direct that any such operations shall be performed by persons under his control, and in any case such operations shall be performed at the expense of the owner or his agent.

(3) When a valuation of any goods has been made by the proper officer such valuation shall be presumed to be correct until the contrary is proved.

Payment of excise duty under protest

8A. Any person who is dissatisfied with a decision of a proper officer under subsection 8(1) as to whether any particular goods are or are not included in a class of goods appearing in an order made under subsection 6(1) or with the valuation, weighing, measuring or examination of any goods may pay the excise duty levied under protest.

Director General to determine questions on classification and valuation

8B. Where excise duty has been paid under protest, the proper officer shall, within thirty days of such payment being made, refer any question as to classification or valuation of goods to the Director General for his decision.

Power of the Director General to reassess

9. Whenever the Director General has reason to believe or suspect that the quantity or quality of dutiable goods produced from any given quantity or quality of raw materials or component parts is lesser in quantity or lower in quality than that which ought to have been obtained therefrom, the Director General may reassess the duty payable at such greater quantity or higher quality as he deems proper. Every assessment made by the Director General under this Act shall be deemed to be correct.

Power of Minister to prescribe charges for assessment

10. The Minister may by order prescribe the charges to be paid for operations performed under section 8 by officers of excise or other persons under the control of the proper officer, and may remit any charges due.

Exemption of excise duties

11. (1) The Minister may by order exempt, subject to such conditions as he may deem fit to impose, any class of goods or persons from the payment of the whole or any part of any excise duty or any other prescribed fees or charges which may be payable.

(2) The Minister may in any particular case:

(a) exempt any person from the payment of the whole or any part of the excise duties or any other prescribed fees or charges which may be payable by such person on any goods; or

(b) may direct the refund to any person of the whole or any part of the excise duties or any other prescribed fees or charges which have been paid by such person on any goods,

and in granting such exemption or directing such refund may impose such conditions as he may deem fit.

(3) Any goods in respect of which an exemption from the payment of excise duties has been granted under subsection (1) or (2) shall be deemed to be dutiable goods until the conditions, if any, subject to which the exemption from duty was granted are fulfilled, and shall be liable to all other charges, not being excise duties, to which they would be subject if no such exemption had been granted.

Minister may remit excise duties, etc.

11A. (1) The Minister may, if he thinks it is just and equitable to do so, and subject to such conditions as he may deem fit to impose, remit the whole or any part of the excise duty, surcharge, penalty, fee or other money payable under this Act.

(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.

Re-imposition of duty

12. (1) If any of the conditions subject to which exemption from duty granted under section 11 on any goods on which excise duty has not been paid, have not been complied with, or such goods cease to be kept or used by the person or for the purposes qualifying them for such exemption, such goods shall on non-fulfilment of such conditions or upon such cesser, become liable to the excise duty and the person to whom such exemption was granted and any person found in possession of such goods shall be jointly and severally liable to pay such excise duty.

(2) If any goods, which are liable to excise duty under subsection (1) and on which such duty has not been paid, are found in

the possession or on the premises of any person other than the person authorized to possess them under the terms of such exemption, such goods shall, until the contrary is proved, be deemed to be dutiable goods within the meaning of this Act.

Refund of duty or other charges overpaid or erroneously paid

13. (1) It shall be lawful for the Director General, if it is proved to his satisfaction that any money has been overpaid or erroneously paid as excise duty, surcharge, penalty, fee or other money or as warehouse rent or as any other charges under this Act, to order the refund of the money so overpaid or erroneously paid:

Provided that—

(a) no such refund shall be allowed unless a claim in respect of the money overpaid or erroneously paid is made in writing to the Director General within one year after the over-payment or erroneous payment was made; or

(b) in the case where any excise duty has been paid under section 8A, or pending the result of a review or appeal under section 47, no claim for 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.

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

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 the removal of such goods.

(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.

Payment of duty, etc. short paid or erroneously refunded

15. (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.

(2) Where any amount is payable in accordance with subsection (1), the Director General may allow the amount to be paid by instalments subject to such conditions as he may determine.

(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 subsection (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*.

(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.

Recovery of excise duty, etc. from persons leaving Malaysia

15A. (1) 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 other money payable by him, he 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 the excise duty surcharge, penalty, fee or other money so payable, or furnishes security to the satisfaction of the Director General for its payment.

(2) Subject to any order issued or made under any written law for the time being in force relating to banishment or immigration, the Director General of Immigration who receives a request under subsection (1) in respect of a person shall exercise all measures which may include the removal and the retention of any certificate of identity, passport, exit permit, or other travel documents in relation to that person as may be necessary to give effect to the request.

(3) The Director General shall cause a notice of the issue of a certificate under subsection (1) to be served personally or by registered post at the last known address of the person to whom the certificate relates:

Provided that the non-receipt of the notice by that person shall not invalidate anything done under this section.

(4) Where the person in respect of whom a certificate has been issued under subsection (1) produces on or after the date of the certificate a written statement signed by the Director General stating

that all the excise duty, surcharge, penalty, fee or other money has been paid, or that security has been furnished for its payment, that statement shall be sufficient authority for allowing that person to leave Malaysia.

(5) No legal proceedings shall be instituted or maintained against the Government, a State Government or any other public officer in respect of anything lawfully done under this section.

(6) (*Deleted by Act A1594*).

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.

Rate of excise duty

16. (1) The rate of excise duty applicable to any goods shall be—

(a) in the case of goods manufactured in Malaysia, the rate of excise duty or valuation (if any) in force on the day on which such goods are removed from the distillery, brewery or other place of manufacture, or from the licensed warehouse, or a warehouse or any place approved by the Director General in which they are stored or from any other place under excise control;

(b) in the case of goods lawfully imported—

(i) if such goods (other than petroleum in a licensed warehouse) are warehoused, or if excise duty is paid at a collection station, the rate in force on the day on which the removal of the goods is authorized by the proper officer or, in the case of a collection station, by an officer appointed under the provisions of any law for the time being in force in Singapore relating to the collection of excise duties payable to the Government of Malaysia;

(ii) if such goods consist of petroleum which is in a licensed warehouse, the rate in force on the day on which such petroleum is removed from such warehouse;

(iii) if such goods are imported by post, the rate in force on the day on which duty is assessed by the proper officer; and

(iv) in any other case, the rate in force on the day on which such goods are released by the proper officer; and

(c) in the case of unexcisable goods, the rate in force on the day on which such goods became unexcisable goods, if known, or the rate in force on the day of seizure, whichever is the higher.

(2) For the purpose of calculating the excise duty payable, the valuation applicable to any goods shall be made in the prescribed manner.

Imposition or abolition of excise duty

17. When by virtue of an order made under subsection 6(1) an excise duty is fixed on any goods which previously were not dutiable or any excise duty on goods is abolished, such imposition or abolition of duty shall be deemed to have had effect at the time such goods are removed from the place of manufacture or excise control.

Question in respect of goods deemed to be dutiable

18. If any question arises whether any particular goods are or are not included in a class of goods appearing in an order under subsection 6(1), such question shall be decided by the Director General.

Certificate of Director General admissible in evidence

18A. Notwithstanding anything contained in any other written law or rule of evidence to the contrary, where in any proceedings a document purporting to be a certificate under the hand of the Director General in

respect of a decision made by him under section 5B, 8B or 18 is produced, such document shall be admissible in evidence and shall be accepted as sufficient evidence of the facts therein stated and the Director General shall not be required to give evidence in respect of such decision unless the court otherwise orders.

Drawback

19. (1) Where any goods are 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, then if excise duty has been paid on that part or ingredient of such manufactured goods or on the packing or that part or ingredient thereof, the Director General may, on such export, allow to the manufacturer a full drawback of the duty so paid, if—

(a) the finished goods have been manufactured on premises approved by the Director General;

(b) such books and account are kept as the Director General may require for the purpose of ascertaining the quantity of the goods used in such manufacture or for or in the packing of such manufactured goods;

(c) such goods are so exported within twelve months of the date upon which excise duty was paid or such further period as the Director General may approve;

(d) written notice has been given on the export declaration form that a claim for drawback will be made, and such claim is made in the prescribed form and established to the satisfaction of the senior officer of excise within six months of the date such export or such further period as the Director General may approve; and

(e) the drawback claimed in respect of any one consignment of exported goods is not les than two hundred ringgit.

(2) In this section, the expression "manufacturer" includes any person to whom the manufactured goods have been sold or otherwise disposed of.

Drawback on imported goods

19A. (1) When any imported goods, other goods affected under section 19E upon which excise duty has been paid, are re-exported, the Director General may allow nine-tenths of the duties calculated in accordance with subsection (2) be repaid as drawback if—

(a) the goods are identified to the satisfaction of a senior officer of customs at the customs port or customs airport at which such goods are shipped or loaded for re-export, or at the place of re-export;

(b) the drawback claimed in respect of any one consignment of re-exported goods is not less than two hundred ringgit;

(c) the goods are re-exported within three months of the date upon which the excise duty was paid;

(d) payment of drawback upon goods of a class to which the goods to be re-exported belong has not been prohibited by regulations made under this Act;

(e) written notice has been given to a senior officer of excise at or before the time of re-export that a claim for drawback will be made, and such claim is made in the prescribed form and established to the satisfaction of a senior officer of excise within three months of the date of re-export; and

(f) the goods have not been used after importation.

(2) The amount of drawback allowed shall be calculated at the rate of the excise duty levied at the time of import.

Declaration by claimant

19B. Every person claiming drawback on any goods re-exported shall, personally or by his agent, make to a senior officer of excise a declaration in the prescribed form, that such goods have actually been re-exported and have not been relanded or detrained and are not intended to be relanded or detrained at any customs port, customs airport or place in Malaysia or within any port of Malaysia.

Definition of "re-export" in sections 19A and 19B

19C. For the purposes of sections 19A and 19B, the expression "re-export" includes the movement of goods to a warehouse licensed under section 65A of the Customs Act 1967 and to a duty free shop licensed under section 65D of the Customs Act 1967.

19D. (*Deleted by Act A1594*).

Refund to visitors and owners of samples

19E. When any personal effects or other goods which have been imported by visitors to Malaysia for their personal use, or samples imported by commercial travellers, or trade samples or such other goods as may be prescribed, on which excise duty has been paid are re-exported within three months from the date of importation or within such further period as the Director General may, either generally or in any special case allow, the Director General may allow a drawback of such excise duty.

Relief from duty on goods temporarily imported

19F. Where the Director General is satisfied that goods are imported only temporarily with a view to subsequent re-exportation, he may permit the goods to be delivered on importation without payment of duty subject to the payment of a deposit equivalent to not less than the

amount of duty which would be payable if the goods were imported for home use or security being given to the satisfaction of the Director General for the payment of such duty, and such deposit shall be refunded or such security discharged if the goods are re-exported within three months of the date of importation or within such further period as the Director General may allow.

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.

PART IV

MANUFACTURE OF DUTIABLE GOODS

Licence to distil, ferment or otherwise manufacture dutiable goods

20. (1) Subject to this Part no person shall distil, ferment or otherwise manufacture any dutiable goods, or manufacture any tobacco or intoxicating liquor except under and in accordance with a licence in the prescribed form issued by the Director General, and at the distillery, brewery or other place of manufacture specified in such licence.

(2) The Minister may by order exempt, subject to such conditions as he may deem fit to impose, any class of persons from subsection (1).

(3) A licence under this section shall be issued at the discretion of the Director General and shall be issued on payment of such fees, and subject to such conditions as may be fixed by him in each case and to such further conditions as the Director General may direct to be endorsed on the licence.

(4) Notwithstanding the generality of subsection (3), the Director General may require any person being granted a licence under this section to give such security for the due compliance by that person with this Act and generally for the protection of the excise revenue as the Director General deems fit; and pending the giving of the said security the Director General may refuse to issue any licence.

(5) A licence issued under this section may be transferred, suspended or cancelled at any time by the Director General.

(6) When a licence is suspended or cancelled the licensed manufacturer shall not be entitled to refund of any licence fees paid.

(7) Any licensed manufacturer may apply in writing to the Director General—

(a) to transfer his licence to any other person; and in any such case such other person shall join in such application;

(b) to transfer his refinery or his place of manufacture to any other place,

and the Director General may, at his discretion, refuse to grant any such application; and where the Director General has granted any such application he shall, on surrender of the existing licence and on payment of the prescribed fee, if any, make the necessary endorsement thereon or issue a fresh licence as he may deem most convenient.

(8) A licence to distil, ferment or otherwise manufacture dutiable goods shall be deemed to include a licence for warehousing dutiable goods as provided for under subsection 25(1).

(9) Any regulations made under section 85 to regulate the control of licensed warehouses shall apply to warehouses deemed to be so licensed under subsection (8) to such extent as the Director General may direct.

No person except a licensed manufacturer ~~licensee~~ to keep a still, etc.

21. (1) Subject to subsection (4) and subsection 20(2), no person other than the licensed manufacturer under subsection 20(1) or a person exempted under section 22 shall knowingly keep or have in his possession any still, utensil or other apparatus for distilling, fermenting or otherwise manufacturing dutiable goods, or any power-operated machine for manufacturing tobacco or any part or accessory of such machine.

(2) No person other than a licensed manufacturer in tobacco product, or a person exempted under subsection 20(2), shall knowingly keep or have in his possession any manually-operated machine for manufacturing tobacco or any part or accessory of such machine.

(3) The owner or occupier of any land or premises upon which any still, utensil or other apparatus for distilling or fermenting or otherwise manufacturing any dutiable goods or any power-operated or manually-operated machinery for the manufacture of tobacco is found shall each be deemed, until the contrary is proved, knowingly to have kept or had in his possession such still, utensil or other apparatus or power-operated or manually-operated machinery for the manufacture of tobacco, as the case may be.

(4) Nothing in subsection (1) shall apply to any still, utensil or other apparatus for distilling, fermenting or otherwise manufacturing dutiable goods, or to any power-operated machine for manufacturing tobacco, or to any part or accessory of such machine—

(a) held as stock by a *bona fide* dealer in such apparatus or machinery;

(b) with the approval of the Director General, in the possession of any person constructing a distillery, brewery or other place of manufacture of dutiable goods, or in the possession of any person in occupation of any such distillery, brewery or other place of manufacture in respect of which a licence under subsection 20(1) had previously been in force and had with the approval of the Director General been surrendered, suspended or not renewed on account of the cessation of the operation for which the place of manufacture was licensed.

Exemptions

22. (1) Nothing in this Act shall apply to any distillation of dutiable goods by—

(a) a registered medical practitioner;

(b) a registered pharmacist; or

(c) a qualified chemist with the approval of the Director General,

where such distillation is proved to the satisfaction of the Director General to be for genuine medical or scientific purposes.

(2) Nothing in this Act shall apply to any native—

(a) knowingly keeping or having in his possession any utensil, other than a still, for manufacturing; or

(b) manufacturing, other than by distillation,

any native liquor for his own consumption.

Removal of dutiable goods from licensed premises

23. (1) No dutiable goods shall be removed from—

(a) any distillery, brewery or other place of manufacture specified in a licence issued under section 20;

(b) (*Deleted by Act A1594*);

(c) any licensed warehouse; or

(d) any other place under excise control,

except in accordance with a permit in the prescribed form approved by the proper officer or in accordance with regulations made under section 85.

(2) If it appears at any time that in any place or warehouse referred to in subsection (1) there is a deficiency in any lot,

consignment or package of dutiable goods which ought to be found therein, the licensee of such place or warehouse shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay forthwith to the proper officer the duty leviable on the goods found deficient:

Provided that if it is shown to the satisfaction of the Director General that such deficiency has been caused by unavoidable leakage, breakage or other accident, or by evaporation, the Director General may remit the whole or any part of the duty leviable on the goods found deficient.

Liquidator of company to give notice of winding up and set aside duty

23A. (1) Where an effective resolution is passed or an order is made for the winding up of a company to which a licence under this Act is issued or which is an importer, the liquidator of the company shall give notice thereof to the Director General within fourteen days thereafter, and shall before disposing of any of the assets of the company set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any excise duty that is or will thereafter become payable in respect of the company, and shall pay such excise duty.

(2) A liquidator of any such company who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the excise duty as required by that subsection shall be personally liable for any excise duty that is or becomes payable as aforesaid.

(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.

(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.

(3) Where two or more persons are appointed liquidators or are required by law to carry out the winding up of any such company, subject to a right of contribution between themselves as in cases of contract, the obligations and liabilities attaching to a liquidator under this section shall attach to all such persons jointly and severally.

Appointment of receiver to be notified to the Director General

23B. (1) Where a receiver is appointed of the property of a company to which a licence under this Act is issued or which is an importer, the receiver shall give notice thereof to the Director General within fourteen days thereafter, and shall before disposing of any of the assets of that company set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any excise duty that is or will thereafter become payable in respect of the dutiable goods that have been sold by the company before the appointment of the receiver, and shall pay such excise duty.

(2) A person appointed as receiver who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the excise duty as required by that subsection shall be personally liable for any excise duty that is or becomes payable as aforesaid.

(2A) Any receiver who fails to comply with subsection (1) or (1A) shall be guilty of an offence against this Act 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.

(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.

(3) Where two or more persons are appointed receivers, subject to a right of contribution between themselves as in cases of contract, the obligations and liabilities attaching to a receiver under this section shall attach to all such persons jointly and severally.

PART V

STORAGE OF DUTIABLE GOODS

24. (*Deleted by Act A1594*).

Warehouse licences

25. (1) The Director General may, in his discretion and on payment of such fees as may be fixed by him in each case, grant to any person a licence for warehousing goods liable to duty in such place or places as may be specified in such licence and may transfer, suspend or cancel such licence.

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

Storage and possession of dutiable goods

26. No person shall without lawful authority store or keep or have in his possession or control any dutiable goods, other than tobacco, except in a distillery, brewery or other place of manufacture specified in a licence under section 20, or in a licensed warehouse, or a warehouse or any other place approved by the Director General or in any other place under excise control.

Deposit and removal of dutiable goods

27. No dutiable goods shall be deposited in or removed from a licensed warehouse except in accordance with such regulations as may be made under section 85.

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 transhipment 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.

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.

Power to open and examine packages

27B. A senior officer of excise may, at any time, direct that any goods or package lodged in any licensed warehouse shall be opened, weighed or otherwise examined, and after such goods or package has been so opened or examined, may cause the goods or package to be sealed or marked in such manner as he sees fit.

Detention of goods where doubt exists

27C. (1) The proper officer may detain in a licensed warehouse or any other place deemed to be under excise control any goods if he is in doubt whether such goods are dutiable or not or for any other reason.

(2) In every such case the proper officer shall make a report to a senior officer of excise who shall, without undue delay, decide whether such goods are dutiable or not.

(3) If any such goods are found not to be dutiable, no warehouse rent, handling or other charges shall be payable in respect of such goods.

Removal of dutiable goods from excise control

28. No dutiable goods shall be consumed or made use of in, or removed from, a place licensed under section 20 or from a licensed warehouse or a warehouse or any other place approved by the Director General or excise control except—

(a) upon payment of duty thereon or, if the order under section 6 relating to the duty so allows, upon security being given as provided by that order for payment of the duty;

(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

(c) (*Deleted by Act A781*);

(d) for export to and consumption in a place outside Malaysia.

Payment of dues in public excise warehouse

29. (1) The owner of any goods deposited in a public excise warehouse or his agent shall pay on demand to the proper officer, at the prescribed rates, the warehouse dues which may be due in respect of such goods.

(2) If any warehouse rent in respect of any goods is not duly paid in the manner provided by subsection (1), a senior officer of excise may, after giving not less than fourteen days' notice in writing to the owner (if the name and address of such owner is known to him), or after due notice in the *Gazette* (if the name and address of such owner is not known to him), sell such goods:

Provided that goods of a perishable nature deposited in any excise warehouse shall be cleared forthwith, and if not so cleared a senior officer of excise may sell such goods.

(3) The proceeds of the sale of any such goods shall be applied to the payment of any excise duties, warehouse rent and other charges and railway freight which may be due in respect of such goods or of any other goods deposited by the owner of such goods, and the surplus, if any, shall be paid to the owner of such goods and if the owner cannot be found within one month of the sale, such surplus shall be paid to the Consolidated Fund of the Federation.

PART VI

PETROLEUM AND PETROLEUM PRODUCTS

Method of payment of excise duty

30. Notwithstanding section 28 dutiable petroleum and petroleum products may be removed from their place of manufacture licensed under section 20 or from any licensed warehouse in which they are stored—

(a) upon the manufacturer, licensed manufacturer or his duly authorized agent signing an undertaking in the form as may

be prescribed by the Director General and to pay the duty in full as prescribed under subsection 6(1);

(b) upon the manufacturer, licensed manufacturer or his duly authorized agent providing security as prescribed under subsection 6(1).

PART VII

LICENSING

Appointment of Licensing Boards

31. (1) The Minister may establish Licensing Boards for such areas in Malaysia as he may deem fit.

(2) Each Licensing Board shall consist of a Chairman, a Vice-Chairman and not less than two nor more than five other members, all of whom shall be appointed by the Minister:

Provided that, with the exception of the Chairman, no public officer who in his official capacity has any dealings or is in any way concerned with the sale or purchase of intoxicating liquors or with premises in which such sale or purchase is or may be carried on shall be appointed to any Board.

(3) Subject to this section each member of a Licensing Board shall hold office for such period not exceeding three years from the date of his appointment as may be specified in his appointment unless he shall previously have resigned from his office.

(4) A member of a Licensing Board may be re-appointed upon the expiration of the term of his appointment.

(5) The Minister may at any time revoke the appointment of any member of a Licensing Board, if he deems it expedient to do so, without assigning any reason therefor.

Retail sale to be licensed

32. (1) No person shall sell by retail, or offer for sale by retail, any intoxicating liquor whether for consumption on or off the premises of the vendor except under and in accordance with a licence issued under this Part and in a place specified in such licence:

Provided that nothing in this subsection shall apply—

(a) to the sale by retail of beer or toddy in unopened bottles having their proper seals and capsules intact or in unopened cans;

(b) in the case of Sabah, to a native selling by retail or offering to sell by retail any native liquor which is not a distilled liquor; or

(c) to the sale by retail of intoxicating liquors in duty free shops licensed under section 65D of the Customs Act 1967.

(2) Except as provided in subsection 33(2) the delivery of intoxicating liquor in quantities of less than twenty seven litres in any one day shall be taken in any proceeding under this Act to be *prima facie* evidence of sale by retail and that money or other consideration was given for the same.

(3) The Minister may in any deserving case and subject to any conditions he may deem fit to impose by order authorize any person to sell any intoxicating liquor by retail.

(4) The sale or offering for sale by retail of any intoxicating liquor under and in accordance with any order made under subsection (3) shall not constitute an offence against subsection (1).

Sale by wholesale to be licensed

33. (1) No person shall sell by wholesale, or offer for sale by wholesale, any intoxicating liquors except under and in accordance with a licence issued under this Part:

Provided that any person licensed under section 20 to distil, ferment or otherwise manufacture intoxicating liquor may sell such intoxicating liquor by wholesale without a licence issued under this Part—

(a) at the premises where such liquor is manufactured; or

(b) if such liquor is supplied to a purchaser direct from the said premises.

(2) The delivery of intoxicating liquors in any quantity to any person licensed or authorized to sell liquor by retail or wholesale, and the delivery of intoxicating liquors to any other person in quantities of or exceeding twenty seven litres in any one day, shall be taken in any proceeding under this Act to be *prima facie* evidence of sale by wholesale and that money or other consideration was given for the same.

(3) The Minister may in any deserving case and subject to any conditions he may deem fit to impose by order authorize any person to sell any intoxicating liquor by wholesale.

(4) The sale or offering for sale by wholesale of any intoxicating liquor under and in accordance with any order made under subsection (3) shall not constitute an offence against subsection (1).

Storage of intoxicating liquors on which duty has been paid

34. (1) No person licensed to sell intoxicating liquors by retail or by wholesale shall keep or store such liquors, on which duty has been paid, elsewhere than in such premises as shall be specified in his licence:

Provided that this section shall not apply to intoxicating liquors *bona fide* and actually in course of transit or kept solely for private consumption.

(2) No person other than a person holding a licence under this Part may have in his possession any intoxicating liquors except such as he may have purchased or obtained *bona fide* for his own private consumption and not for sale.

(3) This section shall not apply in the case of any person in respect of whom an order has been made under subsection 32(3) or 33(3).

Type of licences

35. (1) The Licensing Board for any area shall have authority in its discretion to issue or transfer licences within such area as follows:

(a) public house licences—for the sale by retail of intoxicating liquors, excluding toddy, for consumption on the premises or at the place where they are sold;

(b) beer house licences—for the sale by retail of beer for consumption on the premises or at the place where it is sold: provided that the holders of public house licences are exempted from beer house licences;

(c) retail shop licences—for the sale by retail of intoxicating liquors, excluding toddy, for consumption elsewhere than on the premises or at the place where they are sold;

(d) wholesale dealer's licences—for the sale by whole-sale of intoxicating liquors, excluding toddy.

(2) The Licensing Board may, in its discretion, subject the issue or transfer of any licence under this section to such restrictions or conditions which are not otherwise inconsistent with the provisions of this Act or any regulations made thereunder as it may deem fit to impose, to be endorsed on the licence.

(3) The Licensing Board may, in its discretion, refuse to issue or transfer any licence under this Part, and suspend or cancel such licence at any time; and the Licensing Board shall not be compelled to assign any reasons for any decision to refuse the issue or transfer of or to suspend or cancel any licence.

(4) The licensee under this Part shall not be entitled to any compensation for the suspension or cancellation of his licence under subsection (3), or to the refund of any fee paid in respect of such licence.

(5) In the case of death, mental disorder, illness or bankruptcy of any person licensed under this Part, the Licensing Board may, by endorsement on the licence, authorize any other person to exercise the rights conferred by the licence until the expiration of the term for which it was originally granted, or any shorter period, subject to all the conditions originally imposed by such licence and to such further conditions as the Licensing Board may deem fit to impose.

(6) The Licensing Board may, in its discretion, require as a condition of the issue of any licence that the applicant shall enter into recognisances with sureties in the prescribed form.

(7) Any person aggrieved by the decision of the Licensing Board may within thirty days of being notified of the decision appeal therefrom to the Minister whose decision shall be final.

Licensee to keep accounts, etc.

36. Every person licensed under this Part shall—

(a) exhibit his licence at all times in a conspicuous place on the licensed premises;

(c) maintain over the principal entrance to the licensed premises a legend, in the National Language or English and in a form approved by the Licensing Board, stating his name, the nature of the business which he is licensed to

transact, and such other matters as may be required by the Licensing Board;

(c) keep in the National Language or English such books of account, in which shall be set out detailed particulars of all receipts and despatches of intoxicating liquors, as may be prescribed;

(d) permit, at any time at which he is authorized by his licence to sell intoxicating liquors, any member of the Licensing Board for the area in which the licensed premises are situated, or the proper officer, to enter his licensed premises and inspect such premises and any intoxicating liquors therein and all accounts kept in connection therewith, and to take such copies or extracts thereof as such member of the Licensing Board or proper officer, as the case may be, may deem fit.

Licensee not to keep dutiable liquor on premises

37. (1) No person licensed under section 35 shall store or keep on his licensed premises any dutiable intoxicating liquor.

(2) In the absence of proof to the contrary any dutiable intoxicating liquor found on licensed premises shall be presumed to be kept or stored by the licensee.

Unlicensed person not to exhibit sign

38. No person, other than a person licensed under this Part, shall display any sign, writing, painting or other mark which may imply or give reasonable cause to believe that his premises are so licensed.

PART VIII

TODDY

Toddy Regulations

39. (1) The Minister may make regulations for any or all of the following matters—

(a) the establishment and operation of toddy shops and the sale of toddy by retail for consumption on such premises;

(b) the regulation of prices at which toddy shall be sold by retail in toddy shops;

(c) the issue of toddy shop licences and the terms and conditions to be imposed on such licences;

(d) regulation and control of bottling or canning of toddy; and

(e) for such other matters in respect of which regulations may be made under this Part.

(2) The power to make regulations under this section shall be without prejudice to the power of the Minister to make regulations under section 85.

Penalties

40. Any regulations made under section 39 may provide for persons guilty of any offence thereunder to be liable on conviction to a fine or a term of imprisonment or both, but may not provide for any such fine to exceed two thousand ringgit or any such term of imprisonment to exceed six months.

PART VIIIA

GENERAL PROVISIONS AFFECTING VESSELS IN TERRITORIAL WATERS

Goods unaccounted for to be deemed unexcisable

40A. If goods, other than *bona fide* ship's stores, are found by a proper officer in any vessel in territorial waters and such goods are not correctly accounted for in the manifest or other documents which ought to be aboard such vessel, then such goods shall be deemed to be unexcisable goods and shall be liable to seizure.

Prohibition of carriage of dutiable goods in local craft

40B. (1) No goods of a class dutiable on import shall be carried in any local craft except with the permission of the Director General and subject to such conditions as the Director General may impose.

(2) Such permission may be granted either generally, by notification in the *Gazette*, in respect of all local craft or any class or classes of local craft, or specially, in writing under the hand of the Director General or an officer authorized by him in that behalf, in respect of a particular local craft.

(3) No vessel shall go alongside a legal landing place or alongside an ocean going vessel except with the permission of the proper officer.

Application to aircraft

40C. The provisions of this Part shall apply, with such modifications and adaptations as may be necessary, in respect of aircraft arriving at, or departing from, any customs airport.

PART VIIIB

DECLARATION OF GOODS

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.

Declaration to give a full and true account

40E. (1) The declaration referred to in section 40D shall give a full and true account of the number and description of packages, of the description, weight, measure or quantity, and value of all such dutiable goods, and of the country of origin of such goods:

Provided that if it is shown to the satisfaction of the proper officer that such goods are urgently required for home consumption and that it is not within the power of the importer to furnish all the details required, such officer may, at his discretion, release the goods on payment of such excise duty as he may estimate to be leviable thereon, together with a deposit of such amount as such officer may determine

not exceeding such estimated duty and on an undertaking being given by the importer or his agent to furnish a correct declaration within two months or such further period as the proper officer may allow.

(2) On the submission of a correct declaration the proper amount of excise duty and other charges leviable shall be assessed and any money paid and deposited in excess of such amount shall be returned to the importer or his agent and in default of such submission within the period specified in subsection (1) the deposit shall be forfeited and paid into the Consolidated Fund.

Goods which have been declared at collection stations, passengers' baggage and postal good, etc., exempted

40F. The provisions of this Part shall not apply—

(a) to goods imported from a collection station or to goods which are forwarded to a collection station, subject to such conditions and restrictions as the Director General may, either generally by order or in any particular case, impose;

(b) to accompanied passengers' baggage or personal effects; and

(c) to goods sent by post, except as provided for in subsection 40D(3).

Copies of declaration

40G. Every declaration required to be made under this Part shall be in in such number of copies as the person to whom such declaration is required to be made may direct.

PART IX

MISCELLANEOUS PROVISIONS

Persons bound to give information

41. (1) It shall be the duty of every proper officer to enforce and ensure due compliance with the provisions of this Act and any subsidiary legislation made thereunder, and to make all due enquiries in relation thereto.

(2) Every person having information upon any matter into which it is the duty of the proper officer to enquire shall, upon being required by such officer to do so, be legally bound to give such information.

(3) Every person required by the proper officer to produce a document or other thing which is within the power of such person to produce and which is a document or thing required under this Act or a document or thing used in any transaction or other matter relating to excise, or a document or thing into which it is the duty of such officer to enquire under this Act, shall be legally bound to produce such document or thing.

Documents to be produced on demand

41A. On demand of the proper officer the importer of any goods or his agent shall produce to such officer all invoices, bills of lading, certificates of origin or of analysis and any other documents which such officer may require to test the accuracy of any declaration made by such importer to any officer of excise and the proper officer may retain any such invoice, bill of lading, certificate of origin or analysis or other documents.

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 this Act.

(2) The records to be kept shall include—

(a) all records of importation and exportation of goods including goods in transit and transhipment;

(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.

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).

Stationmaster to produce railway invoices and waybills

41C. (1) The stationmaster at the place of import of goods by rail and at the customs section to to which goods are consigned shall produce to the proper officer the railway invoice or waybill or any other document approved by the Director General, as the case may be, in respect of such goods.

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

Goods not accounted for in manifest

41D. (1) If any goods entered in the manifest of any vessel, as required under the Customs Act 1967, are not accounted for to the satisfaction of the proper officer within one month of the presentation of such statement or within such further period as such officer may allow, the master or the agent of the vessel shall be liable to pay to such officer on demand a sum not exceeding five thousand ringgit and, in addition, in the case of dutiable goods, the agent shall be liable to pay such officer on demand the amount of excise duty leviable on such goods or, when the correct duty cannot be assessed, an amount not exceeding ten thousand ringgit.

(2) If the person liable to the penalties in subsection (1) refuses or fails to pay the penalties demanded from him, any senior officer of excise may sue for and recover such penalties in a court of a Magistrate of the First Class.

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

Service of notices, etc.

42. (1) Every notice or other document required by this Act to be served on any person may be served—

(a) personally upon that person; or

(b) by sending it to that person by registered post.

(2) A notice or other document sent by registered post to a person shall be deemed to have been served on that person at the time at which it would have been delivered to that person in the ordinary course of the post if such notice or other document was addressed—

(a) in the case of a company, a firm, a society, an association or other body of persons—

(i) to its registered office;

(ii) to its last known address; or

(iii) to any person authorized by it to accept service of process; and

(b) in the case of an individual, to his last known address.

Baggage of passengers

42A. (1) Notwithstanding anything in this Act contained, every passenger or other person arriving in Malaysia shall declare all dutiable goods in his possession, either on his person or in any baggage or in any vehicle, to the proper officer, and if he fails so to do such goods shall be deemed to be unexcisable goods.

(2) The baggage of passengers or any other person may be examined and delivered in such manner as the Director General may direct, and it shall be the duty of the person in charge of such baggage to produce, open, unpack and repack such baggage.

Packing of dutiable goods

42B. No dutiable goods shall be packed in any manner calculated to deceive an officer of excise so that a proper account of such goods may not be taken.

Proper Officer may take samples

43. (1) The proper officer may at any time, if his duties so require, take samples of any goods to ascertain whether they are goods of a description liable to any duty, or to ascertain the duty payable on such

goods, or for such other purposes as the proper officer may deem necessary, and such samples may be disposed of in such manner as the Director General may direct.

(2) No payment shall be made for any sample taken under subsection (1), but the proper officer shall give a receipt for any such sample.

Access to places or premises

44. (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.

(2) Where any senior officer of excise enters upon any premises in accordance with the provisions of this section, then—

(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;

(b) he may examine any book, data, document, record or thing and take copies of any book, data, document or record;

(c) he may seize and detain any book, data, document, record or thing, if in his opinion it may afford evidence of the commission of any offence under this Act;

(d) he may require any 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 relating to any book, data, document, record or thing, or to any entry in any book, data or document or to any dutiable goods;

(e) he may require any container, envelope, or other receptacle, in any such premises to be opened;

(f) he may at the risk and expense of the licensed manufacturer, licensee, importer or person referred to in paragraph 1*(b)*, open and examine any package, or any goods or materials, in any such premises; and

(g) he may take and retain without payment such samples of any goods or materials as he may think necessary for the performance of his duties.

(3) Where the senior officer of excise acting under the provisions of this section is unable to obtain free access to any premises where a licensed manufacturer, licensee or importer carries on his business or where a person who has dealings with such licensed manufacturer, licensee or importer carries on his business or to any receptacle contained in those premises, he may, at any time, enter such premises and open such receptacle in such manner, if necessary by force, as he may think necessary.

(4) Where, on the entry upon any premises under the provisions of this section, any dutiable goods are found in relation to which any offence under the provisions of this Act has been committed, then such dutiable goods shall be liable to forfeiture.

(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.

Power of Director General to require security

44A. (1) The Director General may, at his discretion, either generally or in a particular case or in respect of a particular area, require security to be given by any person moving dutiable goods within Malaysia and where any such security has been required to be given no person shall move such goods unless such security has been given.

(2) The security required under subsection (1) shall not exceed the amount of duty leviable on such goods.

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.

Addition or deduction of new or altered duties in the case of contract

45. (1) Where any new excise duty is imposed or where any excise duty is increased, and any goods in respect of which the duty is payable are delivered after the day on which the new or increased duty takes effect in pursuance of a contract made before that day, the seller of the goods may, in the absence of agreement to the contrary, recover as an addition to the contract price a sum equal to any amount paid by him

in respect of the goods on account of the new duty or increase of duty, as the case may be.

(2) Where any excise duty is cancelled or decreased and any goods affected by the duty are delivered after the day on which the duty is cancelled or the decrease in the duty takes effect in pursuance of a contract made before that day, the purchaser of the goods may, in the absence of agreement to the contrary and if the seller of the goods has had in respect of those goods the benefit of the cancellation or decrease of the duty, deduct from the contract price a sum equal to the amount of duty or decrease of duty, as the case may be.

Employees may transact business

46. (1) The employee of any person or firm may transact business generally with any officer of excise on behalf of such person or firm.

(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.

Review of and appeal against decision of the Director General

47. (1) Subject to subsection (4), any person aggrieved by any decision of the Director General may apply to the Director General to review any of his decision within thirty days from the date the person has been notified of such decision provided that no appeal has been made on the same decision to the Tribunal or High Court.

(2) An application under subsection (1) shall be made in the prescribed form.

(3) Where an application for review has been made under subsection (1), the Director General shall, where practicable within sixty days from the date of the receipt of such application, carry out the review and notify the decision of the review to the person.

(4) No review may be made in any matter relating to compound or subsection 67(3).

(5) Any person aggrieved by any decision of the Director General under subsection (3) or any other provisions of this Act, except any matter relating to compound or subsection 67(3), may appeal to the Tribunal within thirty days from the date of notification in writing of the decision to the aggrieved person.

(6) Any excise duty payable under this Act shall be paid on the due date notwithstanding that any review or appeal has been made under this section.

(7) All provisions relating to the Customs Appeal Tribunal shall be applicable to this Act.

47A. (*Deleted by Act A1284*).

Forms to be used

48. Where a form has been prescribed under paragraph 85(2)*(e)* no person shall for the purposes of this Act use any form printed or issued otherwise than by the authority of the Director General:

Provided that the Director General may, at his discretion and subject to such conditions as he may deem fit to impose, permit any person to use any form not so printed or issued as aforesaid, or permit the use of any form submitted through an electronic data interchange.

Protection of Government and officers

49. Neither the Government nor any proper officer or other person employed by the Government in connection with excise shall be liable to make good any loss sustained in respect of any goods by fire, theft, damage or other cause while the goods are in the lawful custody or

control of any such officer or person unless the loss is caused by the wilful neglect or default of that officer or person.

Fees for services

50. The Director General may charge such fee as he may consider reasonable in respect of any act or service done or rendered by the Excise Department which is not required to be done or rendered under this Act and for which no fee is prescribed by any written law.

PART X

INSPECTION, INVESTIGATION, SEARCH, SEIZURE AND ARREST

Power of enforcement, investigation and inspection

50A. For the purposes of this Act, a senior officer of excise shall have all the powers of a police officer of whatever rank as provided for under the Criminal Procedure Code [*Act 593*] in relation to enforcement, investigation and inspection, and such powers shall be in addition to the powers provided for under this Act and not in derogation thereof.

Additional powers

50B. (1) In addition to and without affecting the existing powers conferred under this Act, when escorting and guarding any person in custody, a proper officer shall have all the powers of a police officer of the rank of Corporal and below and the powers of a prison officer of the rank of Sergeant and below under the Prison Act 1995 [*Act 537*].

(2) For the purposes of this Act –

(a) where an order, a certificate or any other act is required to be given, issued or done by an officer in charge of a Police District under any written law, such order, certificate or

act may be given, issued or done by a senior officer of excise, and for such purpose, the place where the order, certificate or act was given, issued or done shall be deemed to be a Police District under his charge; and

(b) a proper officer shall have all the powers conferred on an officer in charge of a police station under any written law, and for such purpose the office of such officer shall be deemed to be a police station.

Magistrate may issue search warrant

51. (1) Whenever it appears to any Magistrate, upon written information on oath and after any enquiry which he may deem necessary that there is reasonable cause to believe that in any dwelling house, shop, or other building or place, or on board any vessel other than a vessel which is or has the status of a ship of war or any aircraft, there are concealed or deposited any goods liable to forfeiture under this Act, or under any regulations made thereunder, or as to which an offence under this Act or any regulations made thereunder has been committed, such Magistrate may issue a warrant authorizing any officer of excise named therein, by day or night and with or without assistance—

(a) to enter such dwelling house, shop or other building, place, vessel or aircraft and there to search for and seize any goods reasonably suspected of being liable to forfeiture under this Act, or under any regulations made thereunder, or as to which any offence under this Act is suspected to have been committed, and any books or documents which may reasonably be believed to have a bearing on the matter; and

(b) to arrest any person being in such dwelling house, shop or other building, place, vessel or aircraft in whose possession such goods as aforesaid may be found or whom such officer may reasonably suspect to have concealed or deposited such goods.

(2) Such officer may if it is necessary so to do—

(a) break open any outer or inner door of such dwelling house, shop or building, place, vessel or aircraft and enter thereinto;

(b) forcibly enter such place, vessel or aircraft and every part thereof;

(c) remove by force any obstruction to such entry to search, seizure and removal as he is empowered to effect; and

(d) detain every person found in such place, vessel or aircraft until such place, vessel or aircraft has been searched.

(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.

When search may be made without warrant

52. Whenever it appears to any officer of excise that there is reasonable cause to believe that in any dwelling house, shop or other building, place, vessel or aircraft there are concealed or deposited any goods liable to forfeiture under this Act or any regulations made thereunder, or as to which an offence under this Act or any regulations made thereunder has been committed, and if he has reasonable grounds for believing that by reason of the delay in obtaining a search warrant

such goods are likely to be removed, such officer may exercise in, upon and in respect of such dwelling house, shop or other building, place, vessel or aircraft all the powers mentioned in section 51 in as full and ample a manner as if he were empowered so to do by a warrant issued under that section.

Power to stop and search vehicles, vessels and aircraft

53. (1) Any proper officer may stop and examine any vehicle, vessel or aircraft for the purpose of ascertaining whether any dutiable goods are contained therein, and the person in control or in charge of such vehicle, vessel or aircraft shall, if required so to do by such officer, stop such vehicle and allow such officer to examine the same or move the vehicle, vessel or aircraft to another place for search, and shall not proceed until permission to do so has been given by such officer.

(1A) A proper officer may—

(a) go on board any vessel or aircraft in any customs port or customs airport or place or within territorial waters;

(b) require the master of such vessel or the pilot of such aircraft to give such information relating to the vessel or aircraft, cargo, stores, crew, passengers or voyage as he may deem necessary;

(c) rummage and search all parts of such vessel or aircraft for unexcisable goods;

(d) examine all goods on board and all goods then being loaded or unloaded;

(e) demand all documents which ought to be on board such vessel or aircraft; and

(f) require all or any such documents to be brought to him for inspection,

and the master of any vessel and the pilot of any aircraft refusing to allow such officer to board or search such vessel or aircraft, or refusing to give such information or to produce such documents on demand shall be guilty of an offence against this Act.

(1B) If any place, box or chest on board such vessel or aircraft is locked and the key withheld, such officer may break open any such place, box or chest.

(1C) If any goods are found concealed on board any vessel or aircraft, they shall be deemed to be unexcisable goods.

(2) The person in control or in charge of any vehicle, vessel or aircraft examined under the provisions of this section shall on request by the proper officer open all parts of the vehicle, vessel or aircraft for examination by such officer and take all measures necessary to enable such examination as such officer considers necessary to be made.

(3) Notwithstanding any written law to the contrary, any senior officer of excise may, if he considers it necessary so to do for the enforcement of this Act, erect or place or cause to be erected or placed any barriers on or across any public road or street or in any public place in such manner as he may deem fit; and any proper officer may take all reasonable steps to prevent any person from passing or any vehicle from being driven past any such barrier, including any measure to pursue and apprehend any such person or stop any such vehicle where, having regard to the attendant circumstances at a given moment of time, it is apparent that if such measure is not taken the escape of such person and vehicle to avoid detection or otherwise is likely to be imminent.

(4) Any person who fails to comply with any reasonable signal of a proper officer requiring such person or vehicle to stop before reaching any such barrier shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding one thousand ringgit or to both such fine and imprisonment; and any proper officer may, without warrant, arrest such person unless he gives his name and address or otherwise satisfies

the proper officer that he will duly answer any summons or other proceedings that may be taken against him.

(5) No proper officer shall be liable for any loss, injury or damage caused to any person or property consequent upon his taking the steps mentioned in subsection (3).

Access to recorded information or computerised data

53A. (1) Any officer of excise exercising his powers under sections 51, 52 and 53 shall be given access to any recorded information or computerised data, whether stored in a computer or otherwise.

(2) In addition, an officer of excise exercising his powers under sections 51, 52 and 53—

(a) may inspect and check the operation of any computer and any associated apparatus or material which he has reasonable cause to suspect is or has been used in connection with that information or data;

(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

(b) may require—

(i) the person by whom or on whose behalf the officer of excise has reasonable cause to suspect the computer is or has been so used; or

(ii) the person having charge of, or is otherwise concerned with, the operation of the computer, apparatus or material,

to provide him with such reasonable assistance as he may require for the purposes of this section.

(3) For the purposes of subsection (1), "access" includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of recorded information or computerised data.

(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.

Power to open packages and examine goods

53B. (1) Any proper officer may examine any goods in the course of being imported or exported or intended to be imported and may for the purposes of such examination bring the goods to a customs office and may open any package or receptacle.

(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.

Search of persons arriving in Malaysia

53C. Any person landing, or being about to land, or having recently landed, from any vessel or aircraft, or leaving any vessel or aircraft in territorial waters, whether for the purpose of landing or otherwise, or entering or having recently entered Malaysia by road or railway shall, on demand by any proper officer, either permit his person, goods and baggage to be searched by such officer or, together with such goods and baggage, accompany such officer to a customs office or police station and there permit his person, goods and baggage to be searched by an officer of excise:

Provided that—

(a) any person who requests that his person be searched in the presence of a senior officer of excise shall not be searched

except in the presence of and under the supervision of such officer, but such person may be detained until the arrival of such officer, or taken to any customs office or police station where such officer may be found;

(b) the goods and baggage of any person who requests to be present when they are searched and so presents himself within a reasonable time shall not be searched except in his presence; and

(c) no female shall be searched except by another female with strict regard to decency.

Seizure of goods the subject of an offence

54. (1) All goods in respect of which there has been, or there is, reasonable cause to suspect that there has been committed any offence against this Act or any regulations made thereunder, or any breach of any of the provisions of this Act or of any regulations made thereunder, or of any restriction or condition subject to or upon which any licence or permit has been granted under this Act, together with any receptacle, package, conveyance other than vessel not exceeding two hundred tons nett registered tonnage or aircraft engaged in international carriage in which the same may have been found or which has been used in connection with such offence or breach, and any books or documents which may reasonably be believed to have a bearing on the case, may be seized by any officer of excise on the person in any place in Malaysia, and either on land or in territorial waters.

(2) All such goods and such receptacles, packages, vehicles, vessels or aircraft shall, as soon as practicable, be delivered into the care of the proper officer whose duty it is to receive the same.

(3) Whenever any goods, vehicles, vessels or aircraft are seized under this Act, the seizing officer shall forthwith give notice in writing of such seizure and the grounds thereof to the owner of such goods, vehicles, vessels or aircraft, if known, either by delivering such notice to him personally or by registered post in accordance with section 42.

(3A) Where by reason of its nature, size or amount it is not practicable to remove any goods, vehicle, vessel or aircraft seized under this section, the seizing officer may, by any means, seal the goods, vehicle, vessel or aircraft, or the premises or place in which the goods, vehicle, vessel or aircraft is found.

(3B) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3A) or removes any goods, vihicle, vessel or aircraft under seal, or attempts to do so, shall be guilty of an offence and shall, or 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.

(4) The provisions of this section relating to the seizure of—

(a) any goods shall apply to all the contents of any package or receptacle in which the same are found, and to any article used to conceal the same;

(b) any vessel or aircraft shall apply also to the tackle, equipment and furnishings of such vessels or aircraft; and

(c) any vehicle shall apply to all equipment thereof, and to any animal by which the same is drawn.

(5) (*Deleted by Act A781*).

Return or disposal of goods

55. (1) Where any goods have been seized under this Act, a senior officer of excise may, at his discretion—

(a) temporarily return the goods to the owner thereof or to the person from whose possession, custody or control they were seized, or to such person as a senior officer of excise may consider entitled thereto, subject to such terms and conditions as such officer may impose, and subject, in any case, to sufficient security being furnished to the

satisfaction of such officer that the goods shall be surrendered to him on demand being made by him and that the said terms and conditions, if any, shall be complied with; or

(b) return the goods to the owner thereof or to the person from whose possession, custody or control they were seized, or to such person as a senior officer of excise may consider entitled thereto, with liberty for the person to whom the goods are so returned to dispose of the same, such return being subject to such terms and conditions as a senior officer of excise may impose and security being furnished to the satisfaction of such officer in an amount not less than an amount which, in the opinion of such officer, represents—

(i) for dutiable or unexcisable goods, their value on the date on which the goods are so returned;

(i*a*) for goods other than goods mentioned in subparagraph (i) their open market value;

(ii) the excise duty payable in respect thereof, if any; and

(iii) any tax payable in respect thereof under any written law, if any,

for the payment of the amount so secured to the Director General in the event of the court making an order for the forfeiture of such amount under subsection 66(3) or 67(4), or in the event of such amount being forfeited under section 69, as the case may be; and

(c) sell or destroy the goods, as appropriate in the circumstances, where they are a living creature or where, in the opinion of a senior officer of excise, they are of a perishable or dangerous nature or likely to speedily deteriorate in quality or value, and where they are so sold,

he shall hold the proceeds of sale to abide the result of any prosecution or claim, or a forfeiture under section 69, as the case may be.

(2) Any person who—

(a) fails to surrender on demand to a senior officer of excise the goods temporarily returned to him under paragraph (1)*(a)*; or

(b) fails to comply with or contravenes any of the terms or conditions imposed under paragraph (1)*(a)* or *(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 such imprisonment and fine.

(3) The criminal liability of any person under subsection (2) shall be in addition to any other liability that the said person or any other person may incur under the terms and conditions relating to the return of the goods under paragraph (1)*(a)* or *(b)*.

(4) The provisions of subsection (2) shall not apply to such person, if any, who is the guarantor or surety of the person to whom the goods are returned under paragraph (1)*(a)* or *(b)*.

(5) The Minister may, from time to time, either generally or in any particular case or class of cases, give such directions to the Director General as he may deem necessary or expedient with regard to the exercise of the powers conferred on a senior officer of excise under subsection (1).

(6) No person shall be entitled to maintain any action on account of any act done or any decision taken by or on behalf of the Minister or by or on behalf of a senior officer of excise under this section, and no court shall have any jurisdiction to entertain any such action.

Production of a certificate of an analyst, or a senior officer of excise, or a person authorized by the Minister

55A. (1) In any proceedings in respect of any offence against this Act or any regulations made thereunder in which the existence, description, classification, composition, quantity, quality or value of, or any other matter in relation to, any goods returned under paragraph 55(1)*(a)* or *(b)* or sold or destroyed under paragraph *(c)* of the said subsection, is in question, any document produced by the prosecutor purporting to be a certificate in respect of any such matter given and signed by—

(a) any analyst within the meaning of subsection 61(5); or

(b) a senior officer of excise; or

(c) any person, regardless whether or not he is a public officer, authorized by or on behalf of the Minister, either generally or in any particular case, for the purposes of this section,

shall be admissible in evidence and its conclusiveness shall not be challenged on the ground that the goods in respect of which the certificate is given has not been produced before the court either in part or in entirety, and it shall be evidence of its contents, including the facts stated therein, without proof of the signature to such certificate.

(2) The provisions of this section shall apply notwithstanding anything contained in any other written law or rule of evidence to the contrary.

Powers of arrest

56. (1) Any officer of excise may arrest without warrant—

(a) any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence against this Act or any regulations made thereunder;

(b) any person whom he may reasonably suspect to have in his possession any goods liable to seizure under this Act; and

(c) any person against whom a reasonable suspicion exists that he has been guilty of an offence against this Act or any regulations made thereunder,

and may search or cause to be searched any person so arrested:

Provided that no female shall be searched except by another female with strict regard to decency.

(2) Every person so arrested shall be taken to a police station or may be detained in the custody of the proper officer.

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

(3) If any person liable to arrest under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape he may at any time thereafter be arrested and dealt with as if he had been arrested at the time of committing such offence.

(4) Subject to such conditions as the Director General deems fit, every person so arrested may be released from custody—

(a) on his depositing such reasonable sum of money as the proper officer of excise may require;

(b) on his executing a bond, with such surety or sureties, as the proper officer of excise may require; or

(c) on his depositing such reasonable sum of money as the proper officer of excise may require and his executing a bond, with such surety or sureties, as the proper officer of excise may require.

(5) Any person who has been released from custody under subsection (4) may be arrested without warrant by any officer of excise—

(a) if such officer has reasonable grounds for believing that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be breached; or

(a) on being notified in writing by the surety of such person that such person is likely to breach any condition on or subject to which such person was released and that the surety wishes to be relieved of his obligation as surety.

(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.

Power to examine persons

56A. (1) A senior officer of excise investigating an offence under this Act may—

(a) order any person who appears to be acquainted with the facts and circumstances of the case to attend before him for the purpose of being examined orally in relation to any matter which may, in his opinion, assist in the investigation into the offence; or

(b) order any person to produce before him any book, document or any certified copy of it, or any other article which may, in his opinion, assist in the investigation into the offence.

(2) Paragraph (1)*(b)* shall not apply to banker's books.

(3) A person to whom an order under paragraph (1)*(a)* has been given shall—

(a) attend in accordance with terms of the order to be examined, and shall continue to attend from day to day where so directed until the examination is completed; and

(b) during such examination, be bound to answer all questions relating to the case put to him and shall be legally bound to state the truth, whether or not such answer is made wholly or partly in answer to questions but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty of forfeiture.

(4) A person to whom an order has been given under paragraph (1)*(b)* shall not conceal, destroy, alter, remove from Malaysia, or deal with, expend, or dispose of, any book, document or article specified in the order, or alter or deface any entry in any such book or document, or cause such act to be done, or assist or conspire to do such act.

(5) A person to whom an order is given under subsection (1) shall comply with such order and with the requirements of subsections (3) and (4) notwithstanding any written law to the contrary.

(6) A statement made by any person in the course of an investigation under this Act whether or not a caution has been administered to him under subsection 56B(3) shall be recorded in writing by the senior officer of excise examining him and the statement so recorded shall be read to and signed by the person, and where such person refuses to sign the record, the senior officer of excise shall endorse on it under his hand the fact of such refusal and the reason for it, if any, stated by the person examined.

(7) The record of an examination made in the course of an investigation under this Act or any book, document or article produced under paragraph (1)*(b)* or otherwise in the course of an examination under paragraph (1)*(a)*, shall, notwithstanding any written law to the contrary, be admissible in evidence in any proceedings under this Act in any court—

(a) for an offence under this Act; or

(b) for the forfeiture of property pursuant to section 66, 67 or 69,

regardless whether such proceedings are against the person who was examined, or who produced the book, document or article, or against any other person.

Admissibility of statements in evidence

56B. (1) In any trial or inquiry by a court into an offence under this Act, any statement, whether the statement amounts to a confession or not or whether it is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of an investigation under this Act or not, and whether or not wholly or partly in answer to questions, by an accused person to or in the hearing of any officer of excise, and whether or not interpreted to him by any other officer of excise or any other person, shall, notwithstanding any written law to the contrary, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement made under subsection (1) shall be admissible or used in cross-examination or for the purpose of impeaching the credit of the person making of the statement if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person, proceeding from a person in authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested for an offence under this Act, he shall be cautioned in the following words or words to the like effect:

> "It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence.".

(4) A statement made by any person accused of an offence under this Act made before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of no such caution having been administered if it has been administered as soon as possible.

(5) Notwithstanding anything to the contrary contained in any written law, a person accused of an offence under this Act to which subsection (1) applies, shall not be bound to answer any question relating to the case after any caution referred to in subsection (3) has been administered to him.

Procedure where investigation cannot be completed within twenty-four hours

56C. (1) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within a period of twenty-four hours and there are grounds for believing that the accusation or information is well founded, the senior officer of excise making the investigation under this Act shall immediately transmit to a Magistrate a copy of the entries in the diary prescribed under section

56D relating to the case and shall at the same time produce such person before the Magistrate.

(2) The Magistrate before whom a person is produced under this section may, whether he has or has no jurisdiction to try the case, from time to time, authorize the detention of such person in such custody as the Magistrate considers fit for a term not exceeding fifteen days in the whole.

(3) If the Magistrate has no jurisdiction to try the case and considers further detention unnecessary, he may order such person to be produced before a Magistrate having such jurisdiction or, if the case is triable only by the High Court, before himself or another Magistrate having jurisdiction with a view to transmitting the case for trial by the High Court.

(4) A Magistrate authorizing detention under this section shall record his reasons for so doing.

Diary of proceedings in investigation

56D. (1) Every officer of excise making an investigation under this Act shall day by day enter his proceedings in the investigation in a diary setting forth—

(a) the time at which the order, if any, for investigation reached him;

(b) the time at which he began and closed the investigation;

(c) the place or places visited by him; and

(d) a statement of the circumstances ascertained through his investigation.

(2) Notwithstanding anything contained in the Evidence Act 1950, an accused person shall not be entitled, either before or in the course of any proceedings under this Act, to call for or inspect any such diary:

Provided that if the officer of excise who has made the investigation refers to the diary for the purposes of section 159 or 160 of the Evidence Act 1950, such entries only as the officer has referred to shall be shown to the accused, and the court shall at the request of the officer cause any other entries to be concealed from view or obliterated.

Evidence of agent provocateur admissible

56E. (1) Notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, no agent provocateur shall be presumed to be unworthy of credit by reason only of his having attempted to abet or abetted the commission of an offence by any person under this Act if the attempt to abet or abetment was for the sole purpose of securing evidence against such person.

(2) Notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, and that the agent provocateur is an officer of excise or a police officer whatever his rank any statement, whether oral or written, made to an agent provocateur by any person who subsequently is charged with an offence under this Act shall be admissible as evidence at his trial.

PART XI

PROVISIONS AS TO TRIALS AND PROCEEDINGS

57. (*Deleted by Act A1112*).

Magistrate of the First Class to have full jurisdiction

58. Notwithstanding any written law to the contrary, a Magistrate of the First Class shall have jurisdiction to try any offence under this Act, and to award the full punishment therefor.

Burden of proof

59. If, in any prosecution in respect of any goods seized for non-payment of excise duties, or for any other cause of seizure, or for the recovery of any penalty or penalties under this Act, any dispute arises as to whether duties have been paid in respect of such goods, or whether the same have been lawfully produced, fermented, distilled, tapped or manufactured or imported, or concerning the place whence any dutiable goods were brought or where such dutiable goods were loaded or stored, then in every such case, the burden of proof thereof shall lie on the defendant in such prosecution.

Court order

59A. (1) Where any person is found guilty of an offence under this Act, the court before which that person is found guilty shall order that person to pay to the Director General the amount of excise duty due and payable or penalty payable under this Act, if any, as certified by the Director General and such excise duty or penalty shall be recoverable in the same manner as provided under section 283 of the Criminal Procedure Code.

(2) For the purpose of subsection (1), the court has civil jurisdiction to the extent of the amount of the excise duty due and payable, and the order is enforceable in all respects as a final judgment of the court in favour of the Director General.

(3) Where any person is found not guilty of an offence under this Act has paid the amount of excise duty due and payable or penalty payable pursuant to section 82A in respect of the offence charged, the court may order the amount so paid to be refunded to such person where no notice of appeal is filed.

Proportional examination of goods seized to be accepted by Courts

60. (1) When any goods suspected of being dutiable or otherwise liable to seizure have been seized, it shall be sufficient to open and examine

five per centum only of each description of the package or receptacle in which such goods are contained.

(2) If it is necessary to test any goods seized under this Act, it shall be sufficient to test only a sample not exceeding five per centum in volume or weight of the goods examined under subsection (1).

(3) The court shall presume that the goods contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

Evidence of analysis may be given in writing

61. (1) In any prosecution under this Act or any regulations made thereunder, a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the prosecutor, be sufficient evidence of the facts stated therein, unless the defendant requires that the analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than three clear days before the day of the trial.

(2) In like manner a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the defendant, be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst be called as a witness, in which case he shall give notice thereof to the defendant not less than three clear days before the day of the trial.

(3) A copy of the certificate referred to in subsections (1) and (2) shall be sent to the defendant or prosecutor at least ten clear days before the day of the trial, and if it is not so sent the court may adjourn the trial on such terms as it may deem fit.

(4) Analysts are by this Act bound to state the truth in certificates of analysis under their hands.

(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.

(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.

(6) If any analyst is called by the defendant as provided by subsection (1), he shall be called at the expense of the defendant.

(7) If in any trial or proceeding held under this Act it is necessary to determine the alcoholic content of any liquor, the certificate of a senior officer of excise as to such alcoholic content shall be accepted as if such officer were an analyst, and in any such case the provisions of subsections (1), (4) and (6) shall apply in the same manner and to the same extent as if such officer were an analyst.

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)* and 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.

Proof as to registration or licensing of conveyances in Malaysia and Singapore

62. Where in any prosecution under this Act it is relevant to ascertain particulars as to the registration and licensing of any conveyance registered or licensed in any port or place in Malaysia or Singapore, a certificate purporting to be signed by the officer responsible under any written law for the time being in force in Malaysia or any part thereof or in Singapore for such registration or licensing shall be *prima facie* evidence as to all particulars concerning such registration or licensing

contained therein, and the burden of proving the incorrectness of any particulars stated in such certificate shall be on the person denying the same.

Proof as to tonnage or build of a craft

62A. (1) Where in any prosecution under this Act or any regulation made thereunder it is relevant to ascertain the tonnage or build or such other particulars descriptive of the identity of a craft, and if any of these particulars relating to the identity of the craft is in question, then any document produced by the prosecution purporting to be a certificate in respect of any such matter given and signed by any officer responsible for such matter under any written law for the time being in force in Malaysia shall be admissible in evidence, and it shall be evidence of its contents, including the facts stated therein, without proof of the signature to such certificate.

(2) The provisions of this section shall apply notwithstanding anything contained in any other written law or rule of evidence to the contrary.

Proof as to accuracy of a compass radar, etc.

62B. Where in any proceedings it is necessary to prove the accuracy of a compass, radar or any other navigational aid, a certificate purporting to be signed by a harbour master or any officer appointed by the Minister responsible in respect of such compass, radar or any other navigational aid, shall be accepted by the court as *prima facie* proof of the facts certified in such certificate.

Proof as to countervailing, anti-dumping and duties payable

62C. Where in any proceedings it is necessary to prove the amount of countervailing duty, anti-dumping duty or safeguard duty payable, the production of a certificate signed by the Director General stating the

amount of duty payable shall be sufficient authority for the court to give judgement for that amount.

Manner of seizure not to be enquired into on trial or on appeal to High Court

63. In any trial before any court, and in any proceeding on appeal to the High Court, relating to the seizure of goods subject to forfeiture under this Act the court shall proceed to such trial or hear such appeal on the merits of the case only without enquiring into the manner or form of making any seizure except in so far as the manner and form of seizure may be evidence on such merits.

Obligation of secrecy

63A. (1) Except as provided under section 64, the name, address, identification card number and passport number of an informer and the substance of the information received from an informer shall be kept secret and shall not be disclosed by any proper officer or any person who in the ordinary course of his duties comes into possession of or has control of or access to such information to any person except the designated officer of excise authorized by the Director General.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence against this Act and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

Protection of informers from discovery

64. (1) Except as hereinafter provided, no witness in any civil or criminal proceedings shall be obliged or permitted to disclose the name or address of an informer, or the substance of the information received from him, or state any matter which might lend to his discovery.

(2) If any books, documents or papers, which are in evidence or liable to inspection in any civil or criminal proceeding whatsoever, contain any entry in which any informer is named or described or which might lend to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated as far as may be necessary to protect the informer from discovery.

(3) If on the trial for any offence against this Act or any regulations made thereunder, the court, after full enquiry into the case, believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of opinion that justice cannot fully be done between the parties thereto without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.

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.

Goods liable to seizure liable to forfeiture

65. (1) All goods liable to seizure under this Act shall be liable to forfeiture.

(2) For the purpose of this section and of sections 66, 67, 68 and 69 the word "goods" shall be deemed to include receptacles and conveyances other than vessels exceeding two hundred tons net registered tonnage.

(3) All things forfeited shall be delivered to the proper officer and shall be disposed of in accordance with the directions of the Director General.

Court to order disposal of goods seized

66. (1) An order for the forfeiture or for the release of anything liable to forfeiture under the provisions of this Act shall be made by the court before which a prosecution with regard thereto has been held.

(2) An order for the forfeiture of goods shall be made if it is proved to the satisfaction of the court that an offence against this Act or any regulations made thereunder has been committed and that the goods were the subject matter of, or were used in the commission of, the offence notwithstanding that no person may have been convicted of such offence.

(3) The amount secured under paragraph 55(1)*(a)* or *(b)* or the amount realized by sale under paragraph (1)*(c)* shall be forfeited by the court if it is proved to the satisfaction of the court that an offence against this Act or any regulations made thereunder has been committed and that the goods in respect of which the amount was secured or realized by sale, as the case may be, were the subject matter of or were used in the commission of the offence notwithstanding that no person may have been convicted of such offence.

Goods seized in respect of which there is no prosecution, or the proceeds of sale thereof, are forfeited if not claimed within one month

67. (1) If there be no prosecution with regard to any goods seized under this Act, such goods or the proceeds of sale of such goods which are held pursuant to paragraph 55(1)*(c)* 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 unless, before such expiration—

(a) a claim to such goods or the proceeds of sale of such goods is made under subsection (2);

(b) a written application is made for the return of such goods under paragraph 55(1)*(a)* or *(b)*; or

(c) such goods are returned under the said paragraph *(a)* or *(b)*.

(2) Any person asserting that he is the owner of such goods or the proceeds of sale of such goods, as the case may be, and that they are not liable to forfeiture may give written notice to a senior officer of excise that he claims the same.

(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.

(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.

(4) The Magistrate of the First Class shall issue a summons requiring the person asserting that he is the owner of the goods or the proceeds of sale of such goods, and the person from whom the goods were seized, to appear before him, and upon their appearance or default to appear, due service of such summons being proved, the Magistrate of the First Class shall proceed to the examination of the matter, and upon proof that an offence against this Act or any regulations made thereunder has been committed and that such goods were the subject matter, or were used in the commission, of such offence, shall order such goods or the proceeds of sale of such goods or the amount secured under paragraph 55(1)*(a)* or *(b)*, as the case may be, to be forfeited, or in the absence of such proof, may order the release of such goods or the proceeds of sale of such goods or the security furnished under paragraph 55(1)*(a)* or *(b)* as the case may be.

(5) In any proceedings under subsection (4), section 59 shall apply to the person asserting that he is the owner of the goods and to the person from whom they were seized as if such owner or person had been the defendant in a prosecution under this Act.

Goods or amount forfeited may be delivered or refunded to the owner or other person

68. The Minister may, upon application made to him in writing through the Director General, order—

(a) any goods seized under this Act; or

(b) any amount secured under paragraph 55(1)*(a)* or *(b)* or the amount realized by sale under paragraph 55(1)*(c)*,

whether forfeited or taken or deemed to be forfeited, pursuant to section 66, 67 or 69 to be delivered, or refunded, as the case may be, to the owner or other person entitled thereto upon payment of such amount and upon such terms and conditions as he may deem fit:

Provided that any such application shall be made before the expiration of one calendar month from the date on which such goods or the amount are forfeited or are taken and deemed to be forfeited, as the case may be.

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.

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.

No costs of damages arising from seizure to be recoverable unless seizure without reasonable cause

70. No person shall, in any proceedings before any court in respect of the seizure of any goods seized in exercise or purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief other than an order for the return of such goods or the payment of their value unless such seizure was made without reasonable cause.

PART XII

OFFENCES AND PENALTIES

Penalty on making incorrect statements and on falsifying documents

71. Whoever—

(a) makes, orally or in writing, or signs any statement, certificate or other document required by this Act, which is untrue or incorrect in any particular;

(b) makes, orally or in writing, or signs any statement or document, made for consideration of any officer of excise on any application presented to him, which is untrue or incorrect in any particular;

(c) counterfeits or causes to be counterfeited or falsifies or causes to be falsified any document which is or may be required under this Act or used in the transaction of any business or matter relating to excise, or uses or causes to be used or in any way assists in the use of such counterfeited or falsified document;

(d) fraudulently alters any document or counterfeits the seal, signature, initials or other mark of, or used by, any officer of excise for the verification of any such document or for the security of any goods or any other purpose in the conduct of business relating to excise;

(e) being required by this Act to make a declaration of dutiable goods imported, fails to make such declaration as required; or

(f) fails or refuses to produce to a proper officer any document required to be produced under subsection 41(3),

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

Special provision relating to incorrect statements, etc., under section 71

72. (1) When any such statement or declaration, whether oral or written, or any such certificate or other document as is referred to in paragraphs 71*(a), (b), (c)* and *(e)* has been proved to be untrue or incorrect or counterfeited or falsified in whole or in part, it shall be no defence to allege that such statement or declaration, certificate or other document was made or used inadvertently or without criminal or

fraudulent intent, or that the person signing the same was not aware of, or did not understand the contents of, such document; or where any statement or declaration was made or recorded in the National Language or in English by interpretation from any other language that such statement or declaration was misinterpreted or not fully interpreted by any interpreter provided by the declarant.

(2) For the purposes of section 71 and this section, "falsified" in relation to a document shall be deemed to include a document which is untrue or incorrect in any material particular, and "falsifies" has a similar meaning.

Penalty on refusing to answer questions or on giving false information

73. (1) Whoever, being required by this Act to give any information which may reasonably be required of him by the proper officer and which it is in his power to give, or to produce to such officer documents which it is within his power to produce, refuses to give such information or furnishes as true information which he knows or has reason to believe to be false, or refuses to produce such documents 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.

(2) When any such information is proved to be untrue or incorrect in whole or in part, it shall be no defence to allege that such information or any part thereof was furnished inadvertently or without criminal or fraudulent intent, or was misinterpreted or not fully interpreted by an interpreter provided by the informant.

Penalty on evasion of excise duty and on illegal manufacture of dutiable goods

74. (1) Whoever—

(a) shall contrary to the provisions of this Act receive into or have in his possession, custody or control any goods on which the excise duty leviable by law shall not be proved to have been paid or which have been illegally distilled, fermented or otherwise manufactured or imported;

(b) assists or is otherwise concerned in the illegal removal or withdrawal of any dutiable goods from any distillery, brewery or other place of manufacture of dutiable goods or from any licensed warehouse or excise control or place of security in which dutiable goods may have been deposited;

(c) knowingly harbours, keeps, conceals or is in possession of, or permits, suffers, causes or procures to be harboured, kept or concealed any dutiable goods which have been illegally removed;

(d) is in any way knowingly concerned in conveying, removing, depositing or dealing with any dutiable goods with intent to defraud the Government of any duties thereon, or to evade any of the provisions of this Act;

(e) is in any way knowingly concerned in any fraudulent evasion or attempt at fraudulent evasion of any excise duty;

(f) is in any way knowingly concerned in distilling, fermenting or otherwise manufacturing any dutiable goods, or manufacturing any tobacco, in contravention of the provisions of section 20;

(g) except by lawful authority, opens, breaks, alters or in any way interferes with any lock, seal, mark, or other fastening placed by a proper officer;

(h) without reasonable cause interferes in any way with any vessel, aircraft, vehicle, instrument or other thing used for any purposes relating to excise;

(i) is concerned in importing any unexcisable goods contrary to whether such unexcisable goods be shipped, unshipped, delivered or not;

(j) ships, unships, delivers or assists or is concerned in the shipping, unshipping or delivery of any unexcisable goods; or

(k) being a passenger or other person is found to have in his baggage or upon his person or otherwise in his possession, after having denied that he has any dutiable in his baggage or upon his person or otherwise in his possession, any dutiable goods,

commits an offence and shall on conviction be liable—

(i) in the case of locally manufactured goods other than cigarettes containing tobacco and intoxicating liquor—

(A) for the first offence, to a fine of not less than ten times the amount of the excise duty or fifty thousand ringgit, whichever is the greater amount, and of not more than twenty times the amount of the excise duty or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding five years or to both; and

(B) for a second offence or any subsequent offence, to a fine of not less than twenty times the amount of the excise duty or one hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the amount of the excise duty or one million ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding seven years or to both:

Provided that when no excise duty is involved or the amount of the excise duty cannot be ascertained, the penalty may amount to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both;

(ii) in the case of imported goods other than cigarettes containing tobacco and intoxicating liquor—

(A) for the first offence, to a fine of not less than ten times the amount of the excise duty or fifty thousand ringgit, whichever is the greater amount, and of not more than twenty times the amount of the excise duty or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding five years or to both; and

(B) for a second offence or any subsequent offence, to a fine of not less than twenty times the amount of the excise duty or one hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the amount of the excise duty or one million ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding seven years or to both:

Provided that where the amount of the excise duty cannot be ascertained, the penalty may amount to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both;

(iii) in the case of locally manufactured cigarettes or intoxicating liquor—

(A) for the first offence, to a fine of not less than ten times the amount of the excise duty or one hundred thousand ringgit, whichever is the greater amount, and of not more than twenty times the amount of the excise duty or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term of not less than six months and not more than five years or to both; and

(B) for a second offence or any subsequent offence, to a fine of not less than twenty times the amount of the excise duty or two hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the amount of the excise duty or one million ringgit, whichever is the greater amount, or to imprisonment for a term of not less than six months and not more than seven years or to both; and

(iv) in the case of imported cigarettes or intoxicating liquor—

(A) for the first offence, to a fine of not less than ten times the amount of the excise duty or one hundred thousand ringgit, whichever is the greater amount, and of not more than twenty times the amount of the excise duty or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term of not less than six months and not more than five years or to both; and

(B) for a second offence or any subsequent offence, to a fine of not less than twenty times the amount of the excise duty or two hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the

amount of the excise duty or one million ringgit, whichever is the greater amount, or to imprisonment for a term of not less than six months and not more than seven years or to both.

(2) In any prosecution under this section any dutiable goods shall be deemed to be dutiable goods to the knowledge of the defendant unless the contrary be proved by such defendant.

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 this Act, or to defeat any provision of this 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.

Penalty for possession of still, etc.

75. Every person, other than a person licensed or exempted from licensing under subsection 20(1), who knowingly keeps or has in his possession any still, utensil or any other apparatus for distilling, fermenting or otherwise manufacturing dutiable goods or any machinery for the manufacture of tobacco, shall, on conviction, be liable to imprisonment for a term not exceeding three years, or to a fine not less than five thousand ringgit but not exceeding twenty thousand ringgit, or to both such imprisonment and fine.

Penalty for sale of liquor without licence

76. Any person who shall sell intoxicating liquors otherwise than in accordance with a licence issued under subsection 35(1) shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Penalty for assaulting or obstructing excise officers and rescuing goods

77. Every person who—

(a) assaults, obstructs, hinders, threatens or molests any officer of excise, or other public servant, or any person acting in aid of him, or duly employed for the prevention of offences under this Act, in the execution of his duty or in the due seizing of any goods liable to seizure under this Act;

(b) rescues or endeavours to rescue, or causes to be rescued, anything which has been duly seized or any person who has been detained; or

(c) before or after any seizure, staves in, breaks or otherwise destroys any vessel, receptacle, container or package whatsoever, or the contents thereof, to prevent the seizure thereof or the securing of the same,

shall be guilty of an offence and shall be liable—

(i) on the first conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand ringgit or to both; and

(ii) on the second or subsequent conviction, to imprisonment for a term not exceeding seven years or to a fine not exceeding one million ringgit or to both.

Penalty for receiving or offering bribes and abuse of authority

78. (1) If any officer of excise or other person duly employed for the prevention of offences under this Act—

(a) makes any collusive seizure or delivers up any article, or makes any agreement to deliver up or not to seize any conveyance or any goods liable to seizure;

(b) accepts, agrees to accept, or attempts to obtain any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty;

(c) conspires or connives with any person to do any act or thing whereby the excise revenue is or may be defrauded, or which is contrary to this Act or the proper execution of his duty; or

(d) (i) knowingly demands from any person an amount in excess of the authorized duty;

(ii) withholds for his own use or otherwise any portion of the amount of the duty collected;

(iii) renders a false return, whether orally or in writing, of the amounts of duty collected or received by him;

(iv) defrauds any person, embezzles any money, or otherwise uses his position to deal wrongly with excise; or

(v) not being authorized under this Act to do so, collects or attempts to collect duty,

every such officer so offending shall be guilty of an offence against this Act and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand ringgit or to both such imprisonment and fine.

(2) Any officer of excise who is found when on duty to have in his possession any money in contravention of any departmental regulations issued in writing shall be presumed, until the contrary is proved, to have received the same in contravention of subsection (1).

(3) If an officer of excise has reasonable suspicion that another officer of excise junior in rank to him has in his possession any money received in contravention of paragraph (1)*(b)* he may search such other officer.

Penalty for offences not otherwise provided for

79. Every omission or neglect to comply with and every act done or attempted to be done contrary to this Act or any regulations made thereunder, or any breach of the conditions and restrictions subject to, or upon which, any licence or permit is issued or any exemption is granted under this Act, shall be an offence against this Act and in respect of any such offence for which no penalty is expressly provided the offender shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Attempts and abetment

80. Whoever attempts to commit any offence punishable under this Act, or abets the commission of such an offence, shall be punished with the punishment provided for such offence.

Imprisonment for non-payment of fine

81. Notwithstanding the Criminal Procedure Code [*Act 593*], the period of imprisonment imposed by any court in respect of the non-payment of any fine under this Act or any regulations made thereunder or in respect of the default of a sufficient distress to satisfy any such fine, shall be such period as in the opinion of the court will

satisfy the justice of the case, but shall not exceed in any case the maximum fixed by 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

with two additional months for every ten thousand ringgit after the first twenty thousand ringgit of the fine until a maximum period of six years is reached:

Provided always that—

(a) if before the expiration of such period of imprisonment such a proportion of the fine be paid or levied as is not less than proportional to the unexpired portion of such period, the imprisonment shall terminate;

(b) where a person is sentenced to both fine and imprisonment and the fine not being paid is commuted into imprisonment, such imprisonment shall be in addition to the imprisonment ordered by the original sentence.

Joint and several liability of director, etc.

81A. (1) Where any excise duty is payable by—

(a) a company;

(b) a firm; or

(c) a society, an association or other body of persons,

then notwithstanding anything to the contrary in the Act or in any other written law, the directors of such company or the partners of such firm or the members of such society, association or other body of persons, as the case may be, shall, together which such company, firm, society, association or other body of persons be jointly and severally liable for excise duty payable.

(2) In the case of a company that is being wound up, the directors of such company shall only be so liable where the assets of the company are insufficient to meet the amount due, after paying any sums having priority over the excise duty under the Companies Act 1965 in relation to the application of the assets of the company in such winding up.

Offences by bodies of persons and by servants and agents

82. (1) Where an offence against this Act or against any regulations made thereunder has been committed by a company, a firm, a society, an association or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society, association or other body of persons or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of such an offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Act, or under any regulations made thereunder, to any punishment, penalty or forfeiture for any act, omission, neglect or default he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect

or default of any clerk, servant or agent, or of the clerk or servant of such agent, provided that such act, omission, neglect or default was committed by such clerk or servant in the course of his employment, or by such agent when acting on behalf of such person, or by the clerk or servant of such agent when acting in the course of his employment in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Excise duty, etc., to be payable notwithstanding any proceedings, etc.

82A. The institution of proceedings or the imposition of a penalty, fine or term of imprisonment under this Act, or the compounding of an offence under section 69, shall not relieve any person from the liability to pay for excise duty, surcharge, penalty, fees or other money under this Act.

Rewards

83. The Director General may order such reward as he may deem fit to be paid to any officer of excise or other person for services rendered in connection with the detection of evasion of excise duty or other evasion of this Act and may order to be paid in respect of any seizure made under this Act to the person making the same, or by whose assistance the same was made such reward as he may deem fit.

Action of public officer no offence

84. Nothing done by a public officer in the course of his duties shall be deemed to be an offence under this Act.

PART XIII

REGULATIONS

Power to make regulations

85. (1) The Minister may make regulations for carrying this Act into effect.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may—

(a) regulate the powers and duties to be exercised and performed by officers of excise;

(b) regulate the conduct of all matters relating to the collection of excise duties;

(ba) regulate the conduct of all matters relating to customs rulings;

(bb) prescribe and impose fees relating to customs rulings and provide the manner for collecting and disbursing such fees;

(bc) prescribe the forms to be used for the purpose of customs rulings;

(bd) determine the value for the purpose of collection of excise duties;

(c) regulate the proceedings of Licensing Boards, the issue and transfer of licences under their authority and the fees for such licences or transfer of licences;

(d) regulate the management of premises licensed by Licensing Boards;

(e) prescribe the forms to be used under and for purposes connected with this Act;

(f) prescribe the days and times during which any excise office, public excise or licensed warehouse may be open for business;

(g) regulate the deposit, custody and withdrawal of goods in and from public excise and licensed warehouses, and the management and control of the same;

(h) (*Deleted by Act A1594*);

(i) regulate the erection, inspection, supervision, management and control of premises licensed under section 20 and the fittings, implements, machinery and apparatus maintained therein, including such seals and weights, lights, ladders, and other equipment as may be necessary in order to enable a proper officer to take account of or check by weight, gauge or measure, all dutiable goods or materials in such premises;

(j) regulate the hours during which manufacture may or may not take place and during which goods may be removed from premises licensed under this Act;

(k) prescribed what accommodation licensed manufacturer under section 20 shall provide free of cost for such excise officers as the Director General may deem to be necessary for the control of the licensed premises;

(l) regulate the blending, compounding, varying and bottling of intoxicating liquors, and fix the fees to be paid for bottling dutiable intoxicating liquor and may provide for the control of the movement of intoxicating liquors to and from any distillery or any place of manufacture specified in a licence issued under section 20;

(m) prescribe the books to be kept by licensed manufacturer and licensees;

(n) regulate the issue and transfer of licences;

(o) prescribe the rates and method of collection of overtime fees to be paid when proper officers are required to work beyond reasonable hours prescribed and the conditions under which such overtime shall be permitted;

(p) prescribe the offences which may be compounded, the criteria for compounding the compoundable offence and the manner in which, and the officers of excise by whom, they may be compounded;

(q) prescribe penalties for any contravention of or failure to comply with any of the regulations made under this section or with the restrictions or conditions of any licence or permission granted under any such regulations:

Provided that no such penalty shall exceed the penalty prescribed under section 79;

(r) to regulate the production, storage, use and warehousing of petroleum products in premises including refineries and the removal of such goods to or from such premises;

(ra) regulate all matters relating to goods subject to excise duty on import; and

(s) prescribe anything which is to be or may be prescribed under this Act.

Power of delegation

86. The Minister may, by notification in the *Gazette* and subject to such conditions and restrictions as may be prescribed in such notification, delegate the exercise of the powers or the performance of the duties conferred or imposed on him by this Act to any person described by name or office:

Provided that such delegation shall not affect the exercise of any such power or the performance of any such duty by the Minister.

PART XIV

SPECIAL PROVISIONS DEALING WITH LABUAN

Interpretation

87. In this Part, unless the context otherwise requires—

"Labuan" means the Island of Labuan and its dependent islands viz. Rusukan Besar, Rusukan Kechil, Keraman, Burong, Papan and Daat;

"principal customs area" means Malaysia exclusive of Labuan, Langkawi, Tioman dan Pangkor.

Dutiable goods in Labuan

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

Goods manufactured in Labuan shall be deemed to be manufactured outside Malaysia

89. Goods subject to excise duty, other than those referred to in section 88, when manufactured in Labuan shall be deemed to be manufactured outside Malaysia and when moved from Labuan to the other territories in Malaysia shall be deemed to be import into those territories and the provisions of the Customs Act 1967 shall apply.

Goods manufactured in other territories of Malaysia shall be deemed to be export when moved into Labuan

90. Goods subject to excise duty, other than those referred to in section 88 manufactured in other territories of Malaysia when moved into Labuan shall be deemed to be export from such territories to a place outside Malaysia for the purpose of section 19 and paragraph 28*(d)*.

Excise duties on goods imported into Labuan or transported to or from Labuan or to the principal customs area

90A. (1) Notwithstanding anything to the contrary contained in this Act—

(a) no excise duty shall be payable upon any goods imported into Labuan, 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 Labuan to all intents as if such transportation to the principal customs area were importation into Malaysia;

(c) the Minister may, by order, prescribe the meaning of the word "value" in relation to goods transported from Labuan 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 Labuan any other excise duty which may be fixed by the Minister under subsection 6(1).

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

90B. Where goods are transported—

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

(*b)* from the principal customs area to Labuan,

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 Labuan from or to the principal customs area and to persons and vehicles, vessels and aircrafts transporting such goods.

Declaration of goods transported from Labuan to the principal customs area

90C. The person in charge of any vehicles, vessels or aircraft on which goods are transported from Labuan to the principal customs area shall make a declaration substantially in the prescribed form giving particulars of the goods transported in such vehicles, vessels or aircraft.

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

90D. Any dutiable goods, other than goods declared by the Minister under paragraph 90A(1)*(a)* or deemed to have been declared by the Minister under that paragraph, shall, while in Labuan, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Labuan

90E. In making regulations under section 85 the Minister may provide—

(a) for the collection in Labuan of excise duties payable in respect of goods transported or about to be transported from or to Labuan to or from the principal customs area;

(b) for the limitation or restriction of vessels and aircraft which may be used to transport such goods; and

(c) for the licensing or control of persons or vehicles, vessels or aircraft transporting such goods.

Application of provisions relating to drawback to goods transported to Labuan

90F. The provisions relating to drawback under this Act shall apply to goods (other than goods declared by the Minister under paragraph 90A(1)*(a)* or deemed to have been declared by the Minister under that paragraph), transported from the principal customs area to Labuan as if such goods had been re-exported.

PART XV

SPECIAL PROVISIONS DEALING WITH SABAH AND SARAWAK

Agreements between Sabah and Sarawak relating to movement of goods

91. (1) Notwithstanding anything to the contrary in this Act any agreement in force in respect of Sabah and Sarawak relating to the movement of goods between those States shall, until the Minister otherwise directs, have effect with such modifications as the Minister may specify by notification in the Government *Gazettes* of Sabah and Sarawak.

(2) Notwithstanding anything to the contrary contained in this Act, section 40A shall not apply in Sabah and Sarawak to—

(a) any vessel, the master of which satisfies the proper officer that its entry into the waters of Malaysia was due to circumstances beyond his control, and that its entry and the

reason therefore was at the first possible opportunity reported to the nearest customs or police authority, and that after such entry no person on board or connected with the vessel has done any act contrary to any written law; or

(b) any local craft if the person in charge thereof can show to the satisfaction of a proper officer that he has come from a place of departure from which it is unusual to grant or carry clearances or manifest.

(3) Notwithstanding anything to the contrary contained in this Act, all excise duties payable in Sarawak under this Act shall be paid within such period after the date of importation or loading of the goods for transhipment, as the case may be, as the Minister may by regulation made hereunder provide, or in default of any such regulation, before such goods are removed from excise control:

Provided that the excise duty on goods stored in a customs licensed or approved warehouse in accordance with any regulation made hereunder in that behalf shall be paid at such time and in such manner as may be prescribed by such regulations.

PART XVA

SPECIAL PROVISIONS DEALING WITH LANGKAWI

Interpretation

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

"Langkawi" means the Langkawi Island and all adjacent islands lying nearer to Langkawi Island than to the mainland;

"principal customs area" means Malaysia exclusive of Labuan, Langkawi, Tioman dan Pangkor.

Dutiable goods in Langkawi

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

Goods manufactured in Langkawi shall be deemed to be manufactured outside Malaysia

91C. Goods subject to excise duty, other than those referred to in section 91B, when manufactured outside Malaysia and when moved from Langkawi to the other territories in Malaysia shall be deemed to be import into those territories and the provisions of the Customs Act 1967 shall apply.

Goods manufactured in other territories of Malaysia shall be deemed to be export when moved to Langkawi

91D. Goods subject to excise duty, other than those referred to in section 91B, manufactured in other territories of Malaysia when moved to Langkawi shall be deemed to be export from such territories to a place outside Malaysia for the purpose of section 19 and paragraph 28*(d)*.

Excise duties relating to Langkawi

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

(a) no excise duty shall be payable upon any goods imported into Langkawi, 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 Langkawi to

all intents as if such transportation to the principal customs area were importation into Malaysia;

(c) the Minister may, by order, prescribe the meaning of the word "value" in relation to goods transported from Langkawi 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 Langkawi any other excise duty which may be fixed by the Minister under subsection 6(1).

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

91DB. Where goods are transported—

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

(b) from the principal customs area to Langkawi,

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 Langkawi from or to the principal customs area and to persons and vehicles, vessels and aircraft transporting such goods.

Declaration of goods transported from Langkawi to the principal customs area

91DC. The person in charge of any vehicle, vessel or aircraft on which goods are transported from Langkawi 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 Langkawi

91DD. Any dutiable goods, other than goods declared by the Minister under paragraph 91DA(1)*(a)* or deemed to have been declared by the Minister under that section, shall while in Langkawi, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Langkawi

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

(a) for the collection in Langkawi of excise duties payable in respect of goods transported or about to be transported from or to Langkawi to or from the principal customs area;

(b) for the limitation or restriction of vessels and aircraft which may be used to transport such goods; and

(c) for the licensing or control of persons or vehicles, vessels or aircraft transporting such goods.

Application of provisions relating to drawback to goods transported to Langkawi

91DF. The provisions relating to drawback under this Act shall apply to goods other than goods declared by the Minister under paragraph 91DA(1)*(a)* or deemed to have been declared by the Minister under that section, transported from the principal customs area to Langkawi as if such goods had been re-exported.

PART XVB

SPECIAL PROVISIONS DEALING WITH TIOMAN

Interpretation

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

"principal customs area" means Malaysia exclusive of Labuan, Langkawi, Tioman and Pangkor;

"Tioman" means the Island of Tioman and the islands of Soyak, Rengis, Tumok, Tulai, Chebeh, Labas, Sepoi and Jahat.

Dutiable goods in Tioman

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

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

91G. Goods subject to excise duty, other than those referred to in section 91F, when manufactured in Tioman shall be deemed to have been manufactured outside Malaysia and when moved from Tioman 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 to Tioman

91H. Goods subject to excise duty, other than those referred to in section 91F, manufactured in other territories of Malaysia when moved into Tioman 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 Tioman

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

(a) no excise duty shall be payable upon any goods imported into Tioman, 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 Tioman 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 Tioman 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 Tioman any other excise duty which may be fixed by the Minister under subsection 6(1).

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

91J. Where goods are transported—

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

(b) from the principal customs area to Tioman,

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 Tioman from or to the principal customs area and to persons, and vehicles, vessels and aircraft transporting such goods.

Declaration of goods transported from Tioman to the principal customs area

91K. The person in charge of any vehicle, vessel or aircraft on which goods are transported from Tioman 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 Tioman

91L. Any dutiable goods, other than goods declared by the Minister under paragraph 91I(1)*(a)* or deemed to have been declared by the Minister under that section shall, while in Tioman, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Tioman

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

(a) for the collection in Tioman of excise duties payable in respect of goods transported or about to be transported from or to Tioman to or from the principal customs area;

(b) for the limitation or restriction of vessels and aircraft which may be used to transport such goods; and

(c) for the licensing or control of persons or vehicles, vessels or aircraft transporting such goods.

Application of provisions relating to drawback to goods transported to Tioman

91N. The provisions relating to drawback under this Act shall apply to goods other than goods declared by the Minister under paragraph 91I(1)*(a)* or deemed to have been declared by the Minister under that section, transported from the principal customs area to Tioman as if such goods had been re-exported.

PART XVC

SPECIAL PROVISION DEALING WITH THE JOINT DEVELOPMENT AREA

Movement of goods into or from Joint Development Area

91O. (1) The movement of goods from a country other than Malaysia or the Kingdom of Thailand or from a licensed warehouse of Malaysia or the Kingdom of Thailand into the Joint Development Area shall be deemed to be an importation of such goods into the Joint Development Area.

(2) The movement of goods produced in the Joint Development Area from the Joint Development Area into Malaysia, the Kingdom of Thailand or any other country shall be deemed to be an exportation of such goods from the Joint Development Area.

(3) The movement of goods from Malaysia or the Kingdom of Thailand into the Joint Development Area for use in the Joint Development Area and the movement of such goods from the Joint Development Area into Malaysia or the Kingdom of Thailand shall be deemed to be an internal movement of such goods.

Excise duty payable on importation into Joint Development Area

91P. Excise duty shall be payable on all goods imported into the Joint Development Area.

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.

PART XVI

REPEAL

Repeal and saving

92. The written laws specified in the Schedule hereto are hereby repealed except in so far as they relate to toddy:

Provided that any appointment made, duty imposed, licence issued, and rules or regulations made under any of the written laws hereby repealed shall, in so far as it is not inconsistent with this Act, remain in force until other provision is made therefor under this Act.

SCHEDULE

[Section 92]

F.M. Act 34 of 1961	Excise Act 1961
Malaysia Act 18 of 1966	Customs (Malaysia Common Tariffs) Act 1966
Sabah Ordinance No. 18 of 1959	Excise Ordinance, 1959
Sabah Cap. 73	Liquors Revenue Ordinance
Sarawak Cap. 27	Excise Ordinance

LAWS OF MALAYSIA

Act 176

EXCISE ACT 1976

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A73	Excise (Amendment) (No. 2) Act 1971	01-03-1962
Act A36	Excise (Amendment) Act 1971	30-04-1971
Act 293	Finance Act 1983	21-10-1983
Act 329	Finance (No. 2) Act 1986	01-01-1987
Act A781	Excise (Amendment) Act 1990	31-08-1990
Act 451	Finance Act 1991	4.00 pm on 14-12-1990
Act 438	Free Zones Act 1990	05-09-1991
Act A874	Excise (Amendment) Act 1994	04-03-1994
Act A922	Excise (Amendment) Act 1995	21-07-1995
Act A1059	Excise (Amendment) Act 1999	01-01-2000
Act A1112	Excise (Amendment) Act 2001	06-07-2001
Act A1164	Excise (Amendment) Act 2002	01-09-2002
Act A1184	Excise (Amendment) (No. 2) Act 2002	01-01-2003
Act A1245	Excise (Amendment) Act 2005	20-10-2005
Act A1284	Excise (Amendment) Act 2007	01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and 4; 01-06-2007

Amending law	Short title	In force from
		para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4)
Act A1581	Excise (Amendment) Act 2018	02-01-2019
Act A1594	Excise (Amendment) Act 2019	01-01-2020
Act A1629	Excise (Amendment) Act 2020	01-01 2021

LAWS OF MALAYSIA

Act 176

EXCISE ACT 1976

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act A781	31-08-1990
	Act 438	05-09-1991
	Act A874	04-03-1994
	Act A922	21-07-1995
	Act A1059	01-01-2000
	Act A1184	01-01-2003
	Act A1245	20-10-2005
	Act A1284	01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and 4; 01-06-2007 para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4)
	Act A1581	02-01-2019
	Act A1594	01-01-2020
4	Act A781	31-08-1990
	Act A1594	01-01-2020
4A	Act A1594	01-01-2020
5	Act A1059	01-01-2000
Part IIA	Act A1594	01-01-2020
5A	Act A1284	01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2),

Section	Amending authority	In force from
		(3) and 4; 01-06-2007 para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4)
5B	Act A1284	01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and 4; 01-06-2007 para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4)
	Act A1581	02-01-2019
5C-5E	Act A1284	01-04-2007 except para 2(b), s 5, 6 and ss 9(2), (3) and 4; 01-06-2007 para 2(b), s 5, 6 and ss 9(2), (3) and (4)
5F	Act A1594	01-01-2020
6	Act 293 Act A1184 Act A1594	21-10-1983 01-01-2003 01-01-2020
6A	Act A1594	01-01-2020
8	Act A1184	01-01-2003
8A	Act A1184	01-01-2003
8B	Act A1184	01-01-2003
11	Act A1184	01-01-2003

Section	Amending authority	In force from
11A	Act A1184	01-01-2003
	Act A1594	01-01-2020
12	Act 293	21-10-1983
13	Act 293	21-10-1983
	Act A1184	01-01-2003
	Act A1594	01-01-2020
14	Act A781	31-08-1990
	Act A1594	01-01-2020
15	Act A781	31-08-1990
	Act A1059	01-01-2000
	Act A1594	01-01-2020
15A	Act A1059	01-01-2000
	Act A1594	01-01-2020
15B	Act A1594	01-01-2020
16	Act A781	31-08-1990
	Act A1184	01-01-2003
	Act A1594	01-01-2020
17	Act A1184	01-01-2003
18A	Act A1184	01-01-2003
	Act A1284	01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and 4; 01-06-2007 para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4)
19	Act A781	31-08-1990
	Act A1629	01-01-2021
19A	Act A1184	01-01-2003
	Act A1594	01-01-2020

Section	Amending authority	In force from
	Act A1629	01-01-2021
19B	Act A1184	01-01-2003
	Act A1594	01-01-2020
19C	Act A1184	01-01-2003
19D	Act A1184	01-01-2003
	Act A1594	01-01-2020
19E	Act A1184	01-01-2003
19F	Act A1184	01-01-2003
19G	Act A1594	01-01-2020
20	Act A1594	01-01-2020
21	Act A1594	01-01-2020
23	Act A781	31-08-1990
	Act A1184	01-01-2003
	Act A1594	01-01-2020
23A	Act A781	31-08-1990
	Act A1059	01-01-2000
	Act A1184	01-01-2003
	Act A1594	01-01-2020
23B	Act A781	31-08-1990
	Act A1059	01-01-2000
	Act A1184	01-01-2003
	Act A1594	01-01-2020
24	Act A1594	01-01-2020
26	Act A781	31-08-1990
	Act A1594	01-01-2020
27A	Act A1184	01-01-2003
	Act A1594	01-01-2020
27AB	Act A1594	01-01-2020
27B	Act A1184	01-01-2003

Section	Amending authority	In force from
27C	Act A1184	01-01-2003
28	Act 293	21-10-1983
	Act A781	31-08-1990
	Act A1184	01-01-2003
	Act A1594	01-01-2020
30	Act A1594	01-01-2020
32	Act A781	31-08-1990
	Act A1594	01-01-2020
33	Act A781	31-08-1990
35	Act A1594	01-01-2020
40A	Act A1184	01-01-2003
40B	Act A1184	01-01-2003
40C	Act A1184	01-01-2003
40D	Act A1184	01-01-2003
	Act A1594	01-01-2020
40E	Act A1184	01-01-2003
40F	Act A1184	01-01-2003
40G	Act A1184	01-01-2003
	Act A1594	01-01-2020
41A	Act A1184	01-01-2003
41B	Act A1184	01-01-2003
	Act A1594	01-01-2020
41BA	Act A1594	01-01-2020
41C	Act A1184	01-01-2003
	Act A1594	01-01-2020
41D	Act A1184	01-01-2003
	Act A1594	01-01-2020
42	Act A1059	01-01-2000

Section	Amending authority	In force from
	Act A1112	06-07-2001
42A	Act A1184 Act A1594	01-01-2003 01-01-2020
42B	Act A1184	01-01-2003
44	Act A1184 Act A1594	01-01-2003 01-01-2020
44A	Act A1184	01-01-2003
44B	Act A1594	01-01-2020
46	Act A1594	01-01-2020
47	Act A1284 Act A1581	01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and 4; 01-06-2007 para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4) 02-01-2019
47A	Act A1184 Act A1284	01-01-2003 01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and 4; 01-06-2007 para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4)
48	Act A874	04-03-1994
46	Act A1594	01-01-2020

Section	Amending authority	In force from
49	Act A1594	01-01-2020
50A	Act A1184	01-01-2003
	Act A1581	02-01-2019
50B	Akta A1629	01-01-2021
51	Act A1594	01-01-2020
53	Act A1184	01-01-2003
53A	Act A1112	06-07-2001
	Act A1594	01-01-2020
53B	Act A1184	01-01-2003
	Act A1594	01-01-2020
53C	Act A1184	01-01-2003
54	Act A781	31-08-1990
	Act A1594	01-01-2020
	Act A1629	01-01-2021
55	Act A781	31-08-1990
	Act A1112	06-07-2001
	Act A1594	01-01-2020
55A	Act A781	31-08-1990
56	Act A1112	06-07-2001
	Act A1594	01-01-2020
56A	Act A1184	01-01-2003
56B	Act A1184	01-01-2003
56C	Act A1184	01-01-2003
56D	Act A1184	01-01-2003
56E	Akta A1629	01-01-2021
57	Act A1112	06-07-2001

Section	Amending authority	In force from
58	Act A781	31-08-1990
	Act A1184	01-01-2003
59	Act A1184	01-01-2003
59A	Act A1581	02-01-2019
60	Act A1112	06-07-2001
61	Act A1594	01-01-2020
61A	Act A1594	01-01-2020
62	Act A1594	01-01-2020
62A	Act A1184	01-01-2003
62B	Act A1184	01-01-2003
62C	Act A1184	01-01-2003
	Act A1594	01-01-2020
63A	Act A1112	06-07-2001
	Act A1594	01-01-2020
64A	Act A1184	01-01-2003
	Act A1594	01-01-2020
65	Act A1594	01-01-2020
66	Act A781	31-08-1990
67	Act A781	31-08-1990
	Act A1184	01-01-2003
	Act A1594	01-01-2020
68	Act A781	31-08-1990
	Act A1184	01-01-2003
69	Act 293	21-10-1983
	Act A781	31-08-1990
	Act A1112	06-07-2001
	Act A1184	01-01-2003
	Act A1594	01-01-2020
69A	Act A1594	01-01-2020

Section	Amending authority	In force from
71	Act A1184	01-01-2003
	Act A1581	02-01-2019
72	Act A1184	01-01-2003
73	Act 293	21-10-1983
	Act A1581	02-01-2019
74	Act 293	21-10-1983
	Act A1184	01-01-2003
	Act A1284	01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and 4; 01-06-2007 para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4)
	Act A1581	02-01-2019
	Act A1594	01-01-2020
74A	Act A1594	01-01-2020
74B	Act A1594	01-01-2020
74C	Act A1594	01-01-2020
75	Act A781	31-08-1990
	Act A1594	01-01-2020
76	Act A1581	02-01-2019
77	Act A1184	01-01-2003
	Act A1581	02-01-2019
78	Act 293	21-10-1983
	Act A1184	01-01-2003
	Act A1581	02-01-2019
	Act A1594	01-01-2020
79	Act 293	21-10-1983
	Act A781	31-08-1990

Section	Amending authority	In force from
	Act A1184	01-01-2003
	Act A1581	02-01-2019
81	Act 293	21-10-1983
	Act A1594	01-01-2020
81A	Act A1184	01-01-2003
82	Act A1112	06-07-2001
82A	Act A1581	02-01-2019
	Act A1594	01-01-2020
85	Act A1184	01-01-2003
	Act A1284	01-04-2007 except para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and 4; 01-06-2007 para. 2*(b)*, s. 5, 6 and ss. 9(2), (3) and (4)
	Act A1581	02-01-2019
	Act A1594	01-01-2020
87	Act A1184	01-01-2003
	Act A1594	01-01-2020
88	Act 451	4.00 pm on 14-12-1990
	Act A1164	01-09-2002
	Act A1184	01-01-2003
90	Act A1059	01-01-2000
90A	Act A1184	01-01-2003
90B	Act A1184	01-01-2003
	Act A1594	01-01-2020
87	Act A1184	01-01-2003
	Act A1594	01-01-2020

Section	Amending authority	In force from
88	Act 451	4.00 pm on 14-12-1990
	Act A1164	01-09-2002
	Act A1184	01-01-2003
90	Act A1059	01-01-2000
90A	Act A1184	01-01-2003
90B	Act A1184	01-01-2003
	Act A1594	01-01-2020
90C	Act A1184	01-01-2003
	Act A1594	01-01-2020
90D	Act A1184	01-01-2003
90E	Act A1184	01-01-2003
	Act A1594	01-01-2020
90F	Act A1184	01-01-2003
91	Act A1184	01-01-2003
91A	Act 329	01-01-1987
	Act A1184	01-01-2003
	Act A1594	01-01-2020
91B	Act 329	01-01-1987
	Act A1164	01-09-2002
	Act A1184	01-01-2003
91C	Act 329	01-01-1987
91D	Act 329	01-01-1987
	Act A1059	01-01-2000
91DA	Act A1184	01-01-2003
91DB	Act A1184	01-01-2003
	Act A1594	01-01-2020
91DC	Act A1184	01-01-2003
	Act A1594	01-01-2020
91DD	Act A1184	01-01-2003

Section	Amending authority	In force from
91DE	Act A1184	01-01-2003
	Act A1594	01-01-2020
91DF	Act A1184	01-01-2003
91E	Act A1164	01-09-2002
	Act A1184	01-01-2003
	Act A1594	01-01-2020
91F	Act A1164	01-09-2002
	Act A1184	01-01-2003
91G	Act A1164	01-09-2002
91H	Act A1164	01-09-2002
91I	Act A1184	01-01-2003
91J	Act A1184	01-01-2003
	Act A1594	01-01-2020
91K	Act A1184	01-01-2003
	Act A1594	01-01-2020
91L	Act A1184	01-01-2003
91M	Act A1184	01-01-2003
	Act A1594	01-01-2020
91N	Act A1184	01-01-2003
91O	Act A1184	01-01-2003
91P	Act A1184	01-01-2003
91R	Act A1594	01-01-2020
91S	Act A1594	01-01-2020
91T	Act A1594	01-01-2020
91U	Act A1594	01-01-2020
91V	Act A1594	01-01-2020
91W	Act A1594	01-01-2020

Section	Amending authority	In force from
91X	Act A1594	01-01-2020
91Y	Act A1594	01-01-2020
91Z	Act A1594	01-01-2020