

A BILL

i n t i t u l e d

An Act to amend the Animals Act 1953.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Animals (Amendment) Act 2012.

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

Amendment of section 2

2. The Animals Act 1953 [*Act 647*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) by inserting after the definition of “dog” the following definitions:

‘ “enforcement officer” means an enforcement officer appointed under the Malaysian Quarantine and Inspection Services Act 2011 [*Act 728*];

“entry point” has the same meaning assigned to it under the Malaysian Quarantine and Inspection Services Act 2011;’;

(b) by inserting after the definition of “litter” the following definitions:

‘ “MAQIS” means the Malaysian Quarantine and Inspection Services as provided under the Malaysian Quarantine and Inspection Services Act 2011;

“MAQIS Act” means the Malaysian Quarantine and Inspection Services Act 2011;’; and

(c) by substituting for the definition of “quarantine station” the following definition:

‘ “quarantine station” means any building or place where quarantine is carried out and includes an examination station or hulk, and for the purposes of conducting quarantine under the MAQIS Act 2011, has the same meaning assigned to it under the Act;’.

Amendment of section 5

3. Section 5 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes any order made under paragraph (1)(b) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.”.

Substitution of section 6

4. The principal Act is amended by substituting for section 6 the following section:

“6. Except as specifically provided in any order made under paragraph 5(1)(a), no person shall import any animal or bird except in accordance with a licence in that behalf issued by the Director General of Quarantine and Inspection.”.

New section 6A

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

“No person to import carcass, product of animals or birds, etc., without permit

6A. Except as specifically provided in any order made under paragraph 5(1)(b), no person shall import any carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance that is likely to convey or spread disease except in accordance with a permit in that behalf issued by the Director General of Quarantine and Inspection under the MAQIS Act 2011.”.

Substitution of section 7

6. The principal Act is amended by substituting for section 7 the following section:

“Examination and detention of imported animals and birds

7. All animals and birds imported or about to be imported shall be examined by an enforcement officer at the entry points, quarantine stations or quarantine premises in accordance with the MAQIS Act 2011.”.

Amendment of section 8

7. Section 8 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “veterinary authority” the words “MAQIS office”;

(b) by deleting subsections (2), (3) and (4); and

(c) by substituting for subsection (5) the following subsection:

“(2) Any person who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 9**8. Section 9 of the principal Act is amended—**

(a) in subsection (1)—

- (i) by substituting for the words “If any animal, bird or carcass” the words “If any animal, bird or carcass, semen, fodder, litter, dung, or any product of animals or birds or any article or substance”;
- (ii) by inserting after the word “imported” the words “under section 6 or 6A”;
- (iii) by inserting after the word “carcass” wherever it appears in paragraph (b) the words “, semen, fodder, litter, dung, or any product of animals or birds or any article or substance”;
- (iv) by substituting for the words “a veterinary authority” the words “an enforcement officer”; and
- (v) by substituting for the words “the veterinary authority” the words “the enforcement officer”;

(b) in subsection (2)—

- (i) by inserting after the word “bird” the words “or carcass, semen, fodder, litter, dung, or any product of animals or birds or any article or substance”; and
- (ii) by substituting for the words “of the carcass” the word “it”;

(c) in subsection (3), by inserting after the word “bird” the words “or carcass, semen, fodder, litter, dung, or any product of animals or birds to any article or substance”; and

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

“(4) For the purpose of paragraph (1)(b), the destruction and disposal shall be conducted without undue delay in accordance with the procedures prescribed under the MAQIS Act 2011.”.

Amendment of section 10

9. Section 10 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “a veterinary authority” the words “an enforcement officer”;
- (b) in subsection (2), by inserting after the word “loss” the words “through the MAQIS office”; and
- (c) by substituting for subsection (3) the following subsection:

“(3) The master of any ship who contravenes subsection (1) or subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 11

10. Section 11 of the principal Act is amended—

- (a) by substituting for subsection (1) the following subsection:

“(1) If any animal or bird examined by an enforcement officer for the purposes of importation is found to be suffering from injury which in the opinion of the enforcement officer cannot be relieved, the enforcement officer may cause such animal or bird to be destroyed at once and its carcass to be disposed of in such manner as he may direct.”; and

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

“(1A) The destruction and disposal under subsection (1) shall be conducted without undue delay and in accordance with the procedures prescribed under the MAQIS Act 2011.”.

Amendment of section 12

11. Section 12 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “a veterinary authority” the words “an enforcement officer”; and

(b) by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes subsection (1) or fails to comply with any direction given by an enforcement officer as to the manner of disposal of carcass commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 13

12. Section 13 of the principal Act is amended—

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

(b) in subsection (1), by substituting for the words “a veterinary authority” the words “an enforcement officer”; and

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

“(2) The destruction and disinfection under subsection (1) shall be conducted without undue delay and in accordance with the procedures prescribed under the MAQIS Act 2011.”.

Substitution of section 14

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

“No person to export any animal, bird or its carcass without licence

14. No person shall export any animal, bird or its carcass except in accordance with a licence in that behalf issued by the Director General of Quarantine and Inspection.”.

New section 14A

14. The principle Act is amended by inserting after section 14 the following section:

“No person to export carcass, product of animals or birds, etc., without permit

14A. No person shall export any carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance that is likely to convey or spread disease except in accordance with a permit in that behalf issued by the Director General of Quarantine and Inspection under the MAQIS Act 2011.”.

Deletion of section 15

15. The principal Act is amended by deleting section 15.

Amendment of section 16

16. Section 16 of the principal Act is amended by inserting after the words “Every animal” the words “or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any article or substance”.

Substitution of section 17

17. The principal Act is amended by substituting for section 17 the following section:

“Diseased animal or bird, or carcass, etc., not to be exported

17. Upon the examination by a veterinary authority as required under section 16, if any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any article or substance which is about to be exported is in the opinion of the veterinary authority to be infected with any disease or likely to have been in contact with any infected or diseased animal, bird or carcass or any other infected articles or materials, the veterinary authority may refuse to permit such animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any article or substance thereof to be exported.”.

Amendment of section 18

18. Section 18 of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Any person who fails to comply with any order made under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 21

19. Section 21 of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Any person who fails to comply with any order made under subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 22

20. Section 22 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 23

21. Section 23 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 24

22. Section 24 of the principal Act is amended by substituting for subsection (4) the following subsection:

“(4) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 25

23. Section 25 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 26

24. Section 26 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 27

25. Section 27 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 28

26. Section 28 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 30

27. Section 30 of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Any person who—

- (a) has in his possession any culture or vaccine contrary to this section commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit; and
- (b) who inoculates any animal or bird contrary to this section commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both.”.

Amendment of section 31

28. Section 31 of the principal Act is amended by substituting for subsection (4) the following subsection:

“(4) Any person who—

- (a) fails to make a report as is required under this section commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit.
- (b) fails to cause any animal or bird to be confined and isolated as is required under subsection (1) or permits the carcass of an animal to be moved contrary to subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 33

29. Section 33 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who fails to comply with any direction given under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 34

30. Section 34 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 35

31. Section 35 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who fails to comply with an order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 36

32. Section 36 of the principal Act is amended—

(a) in subsections (4) and (5), by substituting for the words “may be seized and detained until its forfeiture has been ordered” the words “may be dealt with in accordance with section 68 of this Act”; and

(b) by substituting for subsection (7) the following subsection:

“(7) Any person who fails to comply with any order made under subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding fifteen thousand ringgit.”.

Amendment of section 38

33. Section 38 of the principal Act is amended by substituting for subsection (8) the following subsection:

“(8) Any person who contravenes subsection (1) or (6) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 39

34. Section 39 of the principal Act is amended by substituting for subsection (6) the following subsection:

“(6) Any person who—

(a) contravenes subsection (3) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three months; and

(b) contravenes subsection (4) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 40

35. Section 40 of the principal Act is amended by substituting for subsection (6) the following subsection:

“(6) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 41

36. Section 41 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 42

37. Section 42 of the principal Act is amended by substituting for subsection (8) the following subsection:

“(8) Any owner or person in charge of a dog who fails to comply with any order made or any direction given under subsection (1) or (4) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 44

38. Subsection 44(1) of the principal Act is amended by substituting for the words “shall be guilty of an offence of cruelty and shall be liable to a fine of two hundred ringgit or to imprisonment for a term of six months or to both” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.”.

Amendment of section 45

39. Subsection 45(3) of the principal Act is amended by substituting for the words “may, subject to any order made in respect of the animal by a Magistrate, be there detained until the accused has been tried” the words “be dealt with according to subsection 68(2) of this Act”.

Amendment of section 47

40. Section 47 of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Any person who fails to comply with any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 50A

41. Section 50A of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months or to both.”.

Amendment of section 51

42. Section 51 of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Any person who contravenes any order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifteen thousand ringgit.”.

Amendment of section 55

43. Section 55 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifteen thousand ringgit.”.

Amendment of section 58

44. Section 58 of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Any person who fails to make any report required to be made under this section or fails to produce a licence as required by this section commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 60

45. Section 60 of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Any person who fails to comply with the requirement of the notice served under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 61

46. Section 61 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Substitution of Part VII

47. The principal Act is amended by substituting for Part VII the following Part:

“PART VII

ENFORCEMENT

Power to enter and search building, premises or land

67. (1) A veterinary authority or a veterinary police officer for the purpose of ascertaining whether any offence against this Act is being committed or any animal or bird, or carcass,

semen, fodder, litter, dung, or any product of animals or birds or any other article or substance is infected with any disease or likely to have been in contact with any infected or diseased animal, bird or carcass or any other infected articles or materials, as the case may be—

- (a) enter any building, premises or land belonging to or in the occupation of any person;
- (b) search for any animal or bird, or carcass, semen, fodder, litter, dung or any product of animals or birds or any other article or substance, or document as he may consider necessary;
- (c) carry out inspection and examination of any animal or bird, or carcass, semen, fodder, litter, dung or any product of animals or birds or any other article or substance, or document and may open any package or receptacle as he may consider necessary;
- (d) collect any kind of sample, take any photograph via any means or including electronic means, enquire and record any information about the inspection and examination as he may consider necessary;
- (e) require the production of, inspect, make copies of, or take extracts from any books or documents found in the building or premises for the purpose of ascertaining by taking or otherwise; or
- (f) take any photograph,

which may furnish evidence of the commission of an offence against this Act and the owner or the occupier of such building, premises or land shall render such veterinary authority or veterinary police officer all necessary assistance and furnish such information as may be required of him.

Power to stop and search conveyance

67A. (1) Where a veterinary authority, a police officer or an officer of customs has reasonable suspicion that a conveyance is carrying any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance in contravention of any provision of this Act or any subsidiary legislation made under this Act, it

shall be lawful for such officer to stop, enter and examine the conveyance for the purpose of ascertaining whether any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance is contained therein or is being moved or transported contrary to such provision and the person in control or in charge of the conveyance shall if required to do so by the officer, stop the conveyance and allow the officer to examine it.

(2) The person in control or in charge of the conveyance examined under the provision of subsection (1) shall, on request of the veterinary authority, police officer or officer of customs, open all parts of the conveyance for examination by such officer and take measures necessary to enable the examination as the officer considers necessary to be made.

Powers to seize, dispose and destroy animal or bird, or carcass, product of animals or birds, *etc.*

68. (1) If a veterinary authority, a police officer or an officer of customs has reason to believe that any person has committed an offence against this Act, he may seize any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance or document in any building, premises or lands by means of which such offence has been committed and which is a subject matter in relation to the evidence necessary to establish the commission of the offence.

(2) Where under this section any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance or document has been seized in respect of such offence then the veterinary authority, the police officer or the officer of customs may apply to a Magistrate for an order to retain the animal, bird, carcass, semen, fodder, litter, dung or any product of animals or birds or any other article or substance, conveyance or document until the conclusion of such criminal proceedings.

(3) If upon the application, the Magistrate is satisfied that, and where applicable, any of the said animal or bird, or carcass, semen, fodder, litter, dung or any product of animals or birds or any other article or substance—

- (a) is subject to speedy and natural decay;
- (b) is liable to die, deteriorate in quality or spoil within a short time;
- (c) is liable to depreciate in value within a short time;
or
- (d) the custody of which is unreasonable in view of the expense or inconvenience that would thereby involved,

he may order the animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance to be destroyed or otherwise disposed of in such manner as the Magistrate thinks fit, and the proceeds of sale, if any, shall be kept until the conclusion of such criminal proceedings.

(4) If upon the application, the Magistrate is satisfied that any of the said animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance is found to be imported or exported without any import or export licence, permit or certificate under the Act or from an unknown source or any source not approved under the Act, he shall order the animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance to be disposed of or destroyed immediately by the veterinary authority.

(5) Notwithstanding any other provisions of this Act where a Magistrate is not immediately available under subsection (2), the veterinary authority may destroy, sell or otherwise dispose of any of the said animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance as he thinks fit.

(6) The owner of the animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance that has been seized under subsection (1) shall pay such sum as the Magistrate may

consider reasonable to cover the expenses connected with the removal to a place of detention and unless such sum is paid within a specified time the animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance shall be forfeited.

Powers to seal building, premises, etc.

68A. (1) Where applicable and by reason of its nature, size or amount it is not practicable to remove any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance or document that has been seized in or on any building, premises or land or any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance or document in any conveyance referred to in subsection 36(5), 45(1) or 68(1), the veterinary authority, the police officer or the officer of customs shall by any means and in such a manner as he deems fit, seal the building, premise or land or seal the conveyance from where the animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance or document was found.

(2) The owner or the occupier of the building, premises, land or conveyance where applicable shall be responsible for the general care or the welfare of the animal or bird if any, the overall maintenance and safe keeping of the animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance or document that has been sealed in the building, premises or land or the animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance or document inside the conveyance referred to in subsection (1).

(3) It shall be an offence for a person without any written permission or lawful authority to break or tamper with the seal mentioned in subsection (1), or to remove any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance or document from such place or any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance or document from such conveyance or any attempt to do so.

Powers to temporarily return animal or bird, or carcass, product of animals or birds, etc., to the owner

68B. (1) Where under section 68, any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance or document has been seized and upon a written application by the owner of the same or person entitled to under any written law, a veterinary authority, a police officer or an officer of customs may at his discretion temporarily release or return it to the owner or person entitled to it and shall subject to—

(a) such terms and conditions as he may impose; and

(b) sufficient security being furnished to his satisfaction,

provided that the said owner or person entitled to it shall surrender the animal or bird, or carcass, semen, fodder, litter, dung or any product of animals or birds or any other article or substance, conveyance or document to the veterinary authority, the police officer or the officer of customs on demand being made.

(2) A person who fails to surrender on demand to a veterinary authority, a police officer or an officer of customs any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance or document that is temporarily released or returned to him under subsection (1), or fails to comply with the terms and conditions imposed under paragraph (1)(a) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Power to arrest

69. (1) A veterinary authority, a police officer or an officer of customs may arrest without warrant any person whom he sees or finds committing or attempting to commit or whom he reasonably suspects of being engaged in committing or attempting to commit any offence against this Act if the person—

(a) refuses to give his name and residence;

- (b) gives a name or residence which has reason to believe to be false;
- (c) he is likely to abscond; or
- (d) gives his residence in a place not within Malaysia.

(2) Every person so arrested under subsection (1) shall without unnecessary delay be handed over to the nearest police officer or in the absence of a police officer be taken to the nearest police station.

(3) The police officer shall re-arrest every person so arrested under subsection (1) and deal with it as provided for under section 24 of the Criminal Procedure Code [*Act 593*].

Power of investigation

69A. (1) A veterinary authority shall have the power to investigate the commission of an offence against this Act.

(2) A veterinary authority may, in relation to an investigation in respect of an offence committed against this Act, exercise the special powers in relation to police investigation except that of the power to arrest without warrant in a seizable offence given under the Criminal Procedure Code that may not be exercised by him.

Power to require attendance of person acquainted with case

69B. (1) Any veterinary authority making an investigation under section 68A may, by order in writing require the attendance before himself of any person who appears to the veterinary authority to be acquainted with the circumstances of the case, and the person shall attend as so required.

(2) If the person fails to attend as so required, the veterinary authority may report the failure to a Magistrate who shall issue a summons to secure the attendance of the person as required by the order aforesaid.

Examination of person acquainted with case

69c. (1) Any veterinary authority making an investigation under section 69A may obtain information from any person supposed to be acquainted with the facts and circumstances of the case.

(2) The person shall be legally bound to answer all questions relating to the case put to him by the veterinary authority:

Provided that the person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not the statement is made wholly or partly in answer to questions.

(4) The veterinary authority obtaining information from a person shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by a person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb print, as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make correction he may wish.

Admission of statements in evidence

69d. (1) Except as provided in this section, no statement made by any person to a veterinary authority in the course of an investigation under this Part shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to a veterinary authority in the course of an investigation under this Part and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [*Act 56*].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraph 32(1)(a) of the Evidence Act 1950.

(5) When a person is charged with any offence in relation to—

(a) the making; or

(b) the contents,

of any statement made by him to a veterinary authority in the course of investigation made under this Part, that statement may be used as evidence in the prosecution's case.

Powers of enforcement officers

69E. An enforcement officer exercising any powers under this Act shall only do so at the entry points, quarantine stations and quarantine premises in accordance with the MAQIS Act 2011.”.

Substitution of section 70

48. The principal Act is amended by substituting for section 70 the following section:

“Obstructing officers in the execution of their duties

70. Any person who, without lawful excuse, obstructs or impedes or assists in obstructing or impeding any veterinary authority, police officer or officer of customs in the exercise of his duty under this Act or any rule or order made under this Act commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months or to both.”.

Substitution of section 71

49. The principal Act is amended by substituting for section 71 the following section:

“Altering licences, permits or documents

71. Any person who, without lawful authority, alters or forges any licence, permit or any other written document issued under this Act or any subsidiary legislation made under this Act or knowingly makes use of any licence or permit or document so altered or forged, commits an offence and shall on conviction be liable to a fine not exceeding fifteen thousand ringgit or to imprisonment for a term not exceeding six months or to both.”.

Substitution of section 72

50. The principal Act is amended by substituting for section 72 the following section:

“General penalty

72. (1) Any person who commits an offence under this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Any body corporate which commits an offence under this Act for which no penalty is expressly provided, shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.”.

New section 73A

51. The principal Act is amended by inserting after section 73 the following sections:

“Offences committed by the body corporate and by agents and servants

73A. (1) Where a body corporate commits an offence under this Act or any of its subsidiary legislation, any person who at the time of the commission of the offence was a chief

executive officer, director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) where the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where any person would be liable under this Act or any of its subsidiary legislation to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed—

- (a) by his employee in the course of his employment;
- (b) by the agent when acting on his behalf; or
- (c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

Compounding of offences

73B. (1) The Minister may by order prescribe method, amount and offence to be compounded under this section.

(2) The Director General, the State Director or to whom the Director General or State Director General has delegated such power in writing as the case may be, may compound any offence by collecting the amount to be paid from person reasonably suspected of having committed such offence through a written offer specifying the amount to be paid within such time.

(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.

(4) If the amount specified in the offer under subsection (2) is not paid within the time specified in the offer or within such extended period as the Director General, the State Director or to whom the Director General or State Director has delegated such power in writing may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(5) Where an offence has been compounded under subsection (2), no prosecution shall thereafter be instituted against such person in respect of such offence and where seizure has been taken of any carcass, semen, fodder, litter, dung or any product of animals or birds or any other article or substance, conveyance or documents under this Act or any subsidiary legislation made under this Act or the proceeds of any sale under it, the Director General, the State Director or any veterinary authority, may destroy, forfeit or release such property in a manner as he may think fit with the approval of court.

Jurisdiction to try offences

73c. Notwithstanding any written law to the contrary, a Magistrate Court shall have jurisdiction to try any offence under this Act or any subsidiary legislation made under this Act, and to impose full punishment for any such offence.”.

Substitution of section 74

52. The principal Act is amended by substituting for section 74 the following section:

“Forfeiture

74. (1) Any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance or document that has been seized or any proceeds of a sale under this Act or any subsidiary legislation made under this Act shall be liable to forfeiture.

(2) Any order for the forfeiture or for the release of any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance or conveyance or document that had been seized in exercise of any power conferred under this Act or any subsidiary legislation made under this Act or the proceeds of any sale under it shall be made by the court before which the prosecution with regard thereto has been held and an order for its forfeiture shall be made if it is proved to the satisfaction of the court that an offence against this Act has been committed and it was the subject matter of or was used in the commission of the offence, notwithstanding that no person may have been convicted of such offence:

Provided that no order of forfeiture shall be made in respect of a conveyance unless the owner, if his name and place of residence is known, shall have had an opportunity of appearing to show cause why such order should not be made.

(3) Any animal or bird, or carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance, document or the proceeds from any sale forfeited under this section shall be disposed of in accordance with the directions of the Magistrate.”.

New section 74A

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

“Carcass, etc., or any product of animals or birds, etc., seized in respect of which there is no prosecution

74A. (1) If there is no prosecution with regard to any carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyance, receptacle, package, or document that had been seized in exercise of any power conferred under this Act or any subsidiary legislation made under this Act or the proceeds of any sale under it, it shall be deemed to be forfeited at the expiration of one hundred and eighty days from the date

of the publication of a public notice in accordance with subsection (2) by the Director General or the State Director unless a claim thereto is made before the expiration of the said notice in the manner hereinafter set out.

(2) The Director General or the State Director shall issue a public notice specifying the date, locality, types of offence and carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance seized in subsection (1) and requiring any person who has any claim of it to appear before a veterinary authority and establish his claim within one hundred and eighty days from the date of such public notification.

(3) The public notice mentioned in subsection (2) shall be published by posting it in a conspicuous place at the office of any veterinary centre in the district in which such carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance was seized or in any local newspaper as the Director General may feel necessary.

(4) The public notice mentioned in subsection (2) shall be published in the *Gazette* if it involves a conveyance or the value of each item of the carcass, semen, fodder, litter, dung or any product of animals or birds or any other article or substance amounts to fifty ringgit or more.

(5) A veterinary authority may require the owner or person entitled to the carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyances, receptacles, packages or document who had laid a claim within one hundred and eighty days from the date of the publication of public notice under this section, to show proof of such entitlement before deciding to return the carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyances, receptacles, packages or document.

(6) If a veterinary authority is doubtful of the claim of ownership of such carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, he may refer the claimant to a Magistrate to determine the rightful ownership of such carcass, semen,

fodder, litter, dung or any product of animals or birds or any other article or substance, conveyances, receptacles, packages or document; and the burden shall be on the claimant to prove that he is the rightful owner and such carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyances, receptacles, packages or document were not a subject matter of the offence or used in the commission of such offence.

(7) If at the expiration of the period of one hundred and eighty days from the date of the publication of public notice under this section, no person has made any claim of such carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyances, receptacles, packages or document, any veterinary authority may apply for an order to destroy or dispose of the carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance, conveyances, receptacles, packages or document as the Magistrate may think fit and the proceeds of sale, if any, shall be credited to the Government revenue.”.

Substitution of section 76

54. The principal Act is amended by substituting for section 76 the following section:

“Prosecution

76. No prosecution for any offence under this Act or any rules made under this Act shall be instituted except by or with the written consent of the Public Prosecutor.”.

Substitution of section 79

55. The principal Act is amended by substituting for section 79 the following section:

“Brands or other identification marks applied to animals, etc.

79. (1) Any person who has charge of any animal or bird shall ensure that the animal or bird bears any mark of identification which the Minister may prescribe by order.

(2) Any person who fails to comply with any order made under subsection (1) commits an offence.

(3) A veterinary authority may, if he deems it necessary and where applicable for purposes of identification, brand, label, tattoo, notch or otherwise mark either permanently or temporarily any carcass, semen, fodder, litter, dung, or any product of animals or birds or any other article or substance.

(4) Any person who counterfeits, copies, alters, defaces or erases, any brand, label, tattoo, notch or mark applied by a veterinary authority commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.”.

Amendment of section 84

56. Section 84 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) Upon receiving the written permission from the Director General, such person shall apply for a permit to import into Peninsular Malaysia in accordance with the MAQIS Act 2011.”; and

(b) by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes this section shall be dealt with in accordance with MAQIS Act 2011.”.

Amendment of section 85

57. Section 85 of the principal Act is amended by inserting after the words “under instructions of a veterinary authority” the words “or an enforcement officer”.

Amendment of section 86

58. Section 86 of the principal Act is amended—

(a) in subsection (2)—

- (i) by deleting paragraph (c);
- (ii) by deleting paragraph (e);
- (iii) by substituting for paragraph (ka) the following paragraph:

“(ka) regulating the licensing, control, supervision and inspection of places in which animals or birds are or may be kept in captivity for sale, export or exhibition, recreation or sports, research or scientific experiments and such rules may—

- (i) prescribe the conditions subject to which animals or birds may be so kept;
 - (ii) specify the authorities by which such licences may be granted; and
 - (iii) prescribe the circumstances in which such licences may be revoked or suspended;”;
- (iv) by deleting paragraph (m); and

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

“(3) Rules made under this section may prescribe any act or omission in contravention of the rules to be an offence and may prescribe penalties of a fine not exceeding ten thousand ringgit, and in the case of a continuing offence, may prescribe a further fine of five hundred ringgit for every day or part of a day during which the offence continues after conviction.”.

Transitional and saving

59. (1) On the coming into operation of this Act, any rules made under paragraphs 86(2)(c) and (e) of the principal Act before the coming into operation of this Act shall be deemed to be have been made under the Malaysian Quarantine and Inspection Services Act 2011 and shall continue to be in force until amended, revoked or replaced by any subsidiary legislation made under the Malaysian Quarantine and Inspection Services Act 2011.

(2) Any matters relating to the application for and issuance of a permit to import and export animals and birds, or carcass, semen, fodder, litter, dung, or any product of animals or birds which are pending before the date of coming into operation of this Act shall not be affected by this Act and shall continue as if this Act had not been enacted.

EXPLANATORY STATEMENT

The Animals (Amendment) Act 2012 (“the Bill”) as proposed by this Bill seeks to amend the Animals Act 1953 [Act 647] (“the Act”) on the quantum of penalties, the powers of enforcement and for a more effective implementation and enforcement of the Act to ensure the prevention, control and eradication of diseases from animals or birds as well as the prevention of cruelty to animals. The amendments to the Act are also as a consequence to the introduction of the Malaysian Quarantine and Inspection Services Act 2011.

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

3. *Clause 2* of the Bill seeks to introduce the definitions of “enforcement officer”, “entry point”, “MAQIS”, “MAQIS Act” and “quarantine station”.

4. *Clause 3* of the Bill seeks to amend section 5 of the Act to increase the penalty under the section.

5. *Clause 4* of the Bill seeks to amend section 6 of the Act to confer the power of issuance of licence to import any animal or bird to enforcement officers in line with MAQIS Act 2011.

6. *Clause 5* of the Bill seeks to provide for the prohibition on importation of carcass, product of animals or birds, *etc.*, without a permit. For this purpose, a new section 6A is being inserted.

7. *Clause 6* of the Bill seeks to amend section 7 of the Act to empower an enforcement officer to examine animals or birds imported at the entry points, quarantine stations and quarantine premises.

8. *Clause 7* of the Bill seeks to amend section 8 of the Act to require the arrival of animals to be reported through the MAQIS office. It also seeks to increase the penalty provided under the section.

9. *Clause 8* of the Bill seeks to amend section 9 of the Act to empower an enforcement officer either to refuse to permit the landing or removing of diseased animals or birds, to destroy, or detain in quarantine, the diseased animal or bird or carcass.

10. *Clause 9* of the Bill seeks to amend section 10 of the Act to empower the enforcement officer to authorize the landing of any dog or cat imported by sea. It also seeks to amend subsection 10(2) to require the death or loss of dog or cat to be notified to the veterinary authority through the MAQIS office. The amendment to subsection 10(3) seeks to increase the penalty provided under the section.

11. *Clause 10* of the Bill seeks to amend subsection 11(1) of the Act to empower an enforcement officer to destroy an animal or bird which is found to be suffering from injury which cannot be relieved and to dispose of the carcass.

12. *Clause 11* of the Bill seeks to amend subsection 12(1) of the Act to provide that the written permission to land from any ship or to remove from any aircraft, train or vehicle, the carcass of any animal or bird shall be obtained from an enforcement officer who shall give directions as to the manner of its disposal. It also seeks to increase the penalty provided under the section.

13. *Clause 12* of the Bill seeks to amend subsection 13(1) of the Act to enable an enforcement officer to seize and detain any bedding, litter, fodder, dung, semen, personal belongings or other substance or material imported which may convey or spread disease.

14. *Clause 13* of the Bill seeks to amend section 14 of the Act to confer the power of issuance of licence to export any animal, bird or carcass to an enforcement officer in accordance with MAQIS Act 2011.

15. *Clause 14* of the Bill seeks to provide for the prohibition on exportation of carcass, product of animals or birds, *etc.*, without a permit. For this purpose, a new section 14A is being inserted.

16. *Clause 15* of the Bill seeks to delete section 15 of the Act.

17. *Clause 16* of the Bill seeks to include birds and other parts or products of birds or animals as being required to go for examination prior to exportation.

18. *Clause 17* of the Bill seeks to substitute section 17 of the Act with a new section 17. This *clause* provides that the veterinary authority may refuse permit to allow other parts or products of birds or animals infected with any disease to be exported.

19. *Clauses 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31* of the Bill seek to amend sections 18, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 34 and 35 of the Act respectively to increase the penalties provided under the sections.

20. *Clause 32* of the Bill seeks to amend subsections 36(4) and (5) of the Act to provide for the better management of animals and birds seized, by having it dealt with according to section 68 of the Act. This *clause* also seeks to increase the penalty provided under the section.

21. *Clauses 33, 34, 35, 36 and 37* of the Bill seek to amend sections 38, 39, 40, 41 and 42 of the Act respectively to increase the penalties provided under the sections.

22. *Clause 38* of the Bill seeks to amend subsection 44(1) of the Act to increase the penalty to be imposed for offences under the section. With this amendment, the maximum fine is increased to fifty thousand ringgit and the maximum term of imprisonment to one year.

23. *Clause 39* of the Bill seeks to amend section 45 of the Act for better management of animals seized by the authority, by having it dealt under section 68 of the Act.

24. *Clauses 40, 41, 42, 43, 44, 45 and 46* of the Bill seek to amend sections 47, 50A, 51, 55, 58, 60 and 61 of the Act respectively to increase the penalties provided under the sections.

25. *Clause 47* of the Bill seeks to amend the Act by substituting for Part VII a new Part VII. This Part contains provisions on powers relating to enforcement. The new sections inserted are sections 67, 67A, 68, 68A, 68B, 69, 69A, 69B, 69C, 69D and 69E.

26. *Clauses 48, 49 and 50* of the Bill seek to amend sections 70, 71 and 72 of the Act respectively to increase the penalties under the sections.

27. *Clause 51* of the Bill seeks to introduce a new section 73A which deals with offences committed by a body corporate and its agents and servants. It also seeks to introduce a new section 73B to provide for the compounding of offences. *Clause 51* also seeks to introduce a new section 73C to give the jurisdiction to the Magistrate Court to try any offence under the Act.

28. *Clause 52* of the Bill seeks to substitute section 74 of the Act with a new section to provide a comprehensive provision on forfeiture of animals or birds, or the carcasses, *etc.*, or any product of animals or birds, *etc.*.

29. *Clause 53* of the Bill seeks to introduce a new section 74A to deal with the carcass, *etc.*, or any product of animals or birds, *etc.*, in respect of which there is no prosecution.

30. *Clause 54* of the Bill seeks to amend section 76 of the Act on the conduct of prosecution under the Act.

31. *Clause 55* of the Bill seeks to substitute section 79 of the Act with a new provision to require any person who has charge of any animals or birds to apply brands or other identifications on those animals and birds. Failure to comply with the requirement is an offence.

32. *Clause 56* of the Bill seeks to amend section 84 of the Act to increase the penalty provided under the section. It also seeks to introduce a new subsection 84(1A) to require a person who has received a written permission from the Director General of Veterinary Services to apply for a permit to import in accordance with the MAQIS Act 2011. It also seeks to amend subsection 84(2) of the Act to provide that the contravention of section 84 shall be dealt with in accordance with MAQIS Act 2011.

33. *Clause 57* of the Bill seeks to amend section 85 of the Act by inserting the words “an enforcement officer” after the words “under instruction of a veterinary authority”.

34. *Clause 58* of the Bill seeks to amend section 86 of the Act on the power of the Minister to make rules by adding new matters in paragraph (2)(ka) which will extend the Minister’s power to regulate the licensing, control, supervision and inspection of places in which animals or birds are or may be kept in captivity for sale, export or exhibition, recreation or sports, research or scientific experiments.

This *clause* also seeks to delete paragraphs 86(2)(c) and (e) of the Act on the power of the Minister to make rules on matters specified in the paragraphs. It also seeks to provide for higher penalties for the contravention of any of the rules made by the Minister in the proposed new subsection 86(3).

35. *Clause 59* of the Bill seeks to provide for the saving provision.

36. Other amendments not specifically mentioned in this Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

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

[PN(U²)2700]