

A BILL

i n t i t u l e d

An Act to amend the Excise Act 1976.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Excise (Amendment) Act 2022.

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

General amendment

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

(a) by substituting for the words “in the prescribed form”, wherever appearing in subsection 47(2) and paragraphs 13(1)(b), 19(1)(d), 19A(1)(e) and 67(3A)(b), the words “in the form and manner as determined by the Director General”; and

- (b) by substituting for the words “substantially in the prescribed form giving particulars of the goods transported in such vehicle, vessel or aircraft”, wherever appearing in sections 91DC and 91K, the words “in the form and manner as determined by the Director General”.

Amendment of section 5A

3. Subsection 5A(1) of the principal Act is amended by substituting for the words “Any person may apply, in the prescribed form together with the prescribed fee, to the Director General” the words “Any person may apply to the Director General, in the form and manner as determined by the Director General together with the prescribed fee.”.

Amendment of section 16

4. Section 16 of the principal Act is amended by deleting subsection (2).

Amendment of section 19B

5. Section 19B of the principal Act is amended by substituting for the words “in the prescribed form” the words “in the form and manner as determined by the Director General”.

Amendment of section 20

6. Subsection 20(1) of the principal Act is amended by substituting for the words “in the prescribed form issued by the Director General” the words “issued by the Director General in the form and manner as determined by the Director General”.

Amendment of section 23

7. Subsection 23(1) of the principal Act is amended by substituting for the words “in the prescribed form approved by the proper officer” the words “, in the form and manner as determined by the Director General, approved by the proper officer”.

New sections 44AA and 44AB

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

“Power to extend period

44AA. Where, by this Act, a period is specified within which an act or thing is to be done by a person, and the Minister is satisfied that the act or thing could not be completed in that period due to the occurrence of public emergency or public health crisis, the Minister may, upon such terms and conditions as the Minister thinks fit, extend the period for the completion of the act or thing before the expiration of the period.

Power to modify terms and conditions

44AB. (1) Where terms and conditions are imposed pursuant to this Act, the Minister may, on the advice of the Director General, from time to time modify the terms and conditions for the purpose of carrying out the objects of this Act.

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

(a) the terms and conditions as modified; and

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

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

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

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

Amendment of section 85

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

(a) by deleting paragraph (bc); and

(b) in paragraph (e) by substituting for the words “this Act” the words “section 35”.

Amendment of section 90c

10. Section 90c of the principal Act is amended by substituting for the words “substantially in the prescribed form giving particulars of the goods transported in such vehicles, vessels or aircraft” the words “in the form and manner as determined by the Director General”.

Amendment of section 91w

11. Section 91w of the principal Act is amended by substituting for the words “substantially in the prescribed form giving particulars of the goods transported in such vehicle, vessel or aircraft” the words “in the form and manner as determined by the Director General”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Excise Act 1976 (“Act 176”).

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

3. *Clause 2* seeks to provide for general amendments in relation to sections 91DC and 91K, and subsection 47(2), and paragraphs 13(1)(b), 19(1)(d), 19A(1)(e) and 67(3A)(b), to empower the Director General to determine the form and manner of, among others—

(a) a claim for refund of any money that has been overpaid or erroneously paid, and order the refund of the money if it is proved to the satisfaction of the Director General that the 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 Act 176;

- (b) a claim for drawback 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 and excise duty has been paid on that part or ingredient of such manufactured goods or on the packing or that part or ingredient thereof;
- (c) a claim for drawback when any imported goods, other goods affected under section 19E of Act 176 upon which excise duty has been paid, are re-exported;
- (d) an application to review a decision of the Director General by any person aggrieved by such decision;
- (e) an information for the purpose of referring a claim to seized goods or the proceeds of sale of the seized goods or a written application made for the release of the seized goods to a Magistrate of the First Class for decision; and
- (f) a declaration in relation to the goods transported in a vehicle, vessel or aircraft from Langkawi and Tioman to the principal customs area.

4. *Clause 3* seeks to amend subsection 5A(1) of Act 176 to empower the Director General to determine the form and manner of an application for a customs ruling.

5. *Clause 4* seeks to delete subsection 16(2) of Act 176 as the determination of the value any goods for the purpose of calculating the excise duty payable is provided by the regulations made under paragraph 85(2)(bd) of Act 176.

6. *Clause 5* seeks to amend section 19B of Act 176 to empower the Director General to determine the form and manner of a declaration that any goods where a drawback claim has been made for re-exported goods have actually been re-exported and have not been relanded or detained and are not intended to be relanded or detained at any customs port, customs airport or place in Malaysia or within any port of Malaysia.

7. *Clause 6* seeks to amend subsection 20(1) of Act 176 to empower the Director General to determine the form and manner of a licence to distil, ferment or otherwise manufacture any dutiable goods, or manufacture any tobacco or intoxicating liquor issued by the Director General.

8. *Clause 7* seeks to amend subsection 23(1) of Act 176 to empower the Director General to determine the form and manner of a permit approved by the proper officer to remove dutiable goods from any distillery, brewery or other place of manufacture specified in a licence issued under section 20 of Act 176, any licensed warehouse or any other place under excise control.

9. *Clause 8* seeks to introduce new sections 44AA and 44AB into Act 176.

The proposed section 44AA seeks to empower the Minister to extend the period to perform an act or thing which is required to be completed within a certain

period under Act 176 if he is satisfied that the act or thing could not be completed within the period due to the occurrence of any public emergency or public health crisis.

The proposed section 44^{AB} seeks to empower the Minister to add to, delete or vary any terms and conditions imposed pursuant to Act 176 for the purpose of carrying out the objects of Act 176, provided that reasonable notice is given to the person bound by the terms and conditions.

10. *Clause 9* seeks to delete paragraph 85(2)(bc) of Act 176 as the forms prescribed under the paragraph are to be determined by the Director General under the proposed Act. This *clause* also seeks to amend paragraph 85(2)(e) of Act 176 to provide that the Minister may make regulations to prescribe the forms to be used under and for purposes connected with section 35 of Act 176.

11. *Clause 10* seeks to amend section 90c of Act 176 to empower the Director General to determine the form and manner of a declaration in relation to the goods transported in a vehicles, vessels or aircraft from Labuan to the principal customs area.

12. *Clause 11* seeks to amend section 91w of Act 176 to empower the Director General to determine the form and manner of a declaration in relation to the goods transported in a vehicle, vessel or aircraft from Pangkor to the principal customs area.

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

FINANCIAL IMPLICATIONS

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

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