



REPEALED BY ACT 438 (KIV)

LAWS OF MALAYSIA

Act 24

FREE TRADE ZONES ACT, 1971



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LAW OF MALAYSIA

Act 34

FREE TRADE ZONES ACT 1971

LAWS OF MALAYSIA**Act 24****FREE TRADE ZONES ACT, 1971**

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LAWS OF MALAYSIA

Act 24

FREE TRADE ZONES ACT, 1971

An Act to make provisions for the establishment of free trade zones in the Federation for promoting the economic life of the country and for connected purposes.

[30th April, 1971.] ?

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

PART I

PRELIMINARY

1. (1) This Act may be cited as the Free Trade Zones Act, Short title. 1971.

(2) The Minister may prescribe different dates for the coming into force of different provisions of this Act. 20.1.72 PU(B) 39/72

2. In this Act, unless the context otherwise requires— Interpretation.

“Authority” means any statutory body or company or department of the Government of the Federation or of any State thereof which has been appointed under the provisions of subsection (2) of section 3 to administer, maintain and operate any free trade zone which has been so declared under the provisions of subsection (1) of section 3;

“Committee” means the Free Trade Zone Advisory Committee appointed under the provisions of section 4;

“customs territory” means the Federation inclusive of Penang and Labuan and the territorial waters thereof but excluding any free trade zone;

“excise duty” means any duty imposed by or under the Excise Act, 1961 of the States of Malaya and the Excise Ordinances of Sabah and Sarawak;

“free trade zone” means any area declared to be a free trade zone under the provisions of subsection (1) of section 3;

“goods” includes animals, birds, fish, plants and all kinds of movable property;

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

“manufacture” with its grammatical variations and cognate expressions, means the process of converting materials into a new product or article, whether or not by power-operated machinery, whereby a change in tariff classification has been effected:

Provided that the Comptroller-General may, in his absolute discretion, determine that the result of any manufacture is not a new product or article and a change in tariff classification has not been effected;

“Minister” means the Federal Minister charged with the responsibility for finance;

“Penang” means Penang Island and all adjacent islands lying nearer to Penang Island than to the mainland;

“value” in relation to imported goods, means the price which an importer would give for the goods on a purchase in the open market if the goods were delivered to him at the place of payment of customs duty and if freight, insurance, commission and all other costs, charges and expenses (except any customs duties and wharf handling, storage, removal, mechanical equipment and other like charges incurred in a free trade zone) incidental to the purchase and delivery at such place had been paid.

The expressions “Comptroller-General”, “customs duty”, “dutiabale goods”, “officer of customs”, “proper officer of customs”, “Regional Comptroller” and “senior officer of customs” shall have the meaning assigned respectively to them in the Customs Act, 1967.

Declaration
of free trade
zones and
appoint-
ment of
Authority.

3. (1) The Minister may, after consultation with the Government of the State concerned, by notification in the *Gazette* declare any area to be a free trade zone and every such notification shall define the limits of such free trade zone.

FREE TRADE ZONES

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(2) The Minister may appoint any statutory body established or constituted by or under a federal law or any company or any department of the Government of the Federation or with the consent of the State concerned, any statutory body established or constituted by or under a State law or any department of the Government of a State as the Authority to administer, maintain and operate any free trade zone which has been so declared under the provisions of subsection (1).

4. (1) There shall be a Free Trade Zone Advisory Committee consisting of not less than five but not more than seven persons to be appointed by the Minister to advise him on all matters connected with free trade zones.

Advisory
Committee.

(2) At least three of the persons appointed under subsection (1) shall be persons with wide experience in commerce and trade.

(3) Every appointment made under this section shall be published in the *Gazette*.

PART II

OPERATIONS PERMITTED WITHIN A FREE TRADE ZONE

5. Goods of any description, except those which are specifically and absolutely prohibited by any written law, may be brought into a free trade zone without payment of any customs duty ~~or excise duty~~.

(Sub. Act. A. 229/74).
Free entry
of goods.
Sub by
Act. A. 146
excise duty or
sales tax.
Dealing
with or
disposal of
goods in a
free trade
zone.

6. (1) No person shall deal with or otherwise dispose of any goods taken into a free trade zone except in the manner hereinafter provided.

(2) Goods in a free trade zone may—

(a) be removed from such free trade zone for export or sent into another free trade zone either in the original package or otherwise;

(b) unless otherwise directed by the Authority—

(i) be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed, or otherwise manipulated or be manufactured in accordance with the provisions of this Act, or

(ii) be destroyed;

(c) with the approval of the Authority, and subject to such conditions as may be imposed by it, be sent

into any part of the customs territory in the original package provided that the Authority shall consult the Regional Comptroller before movement of the goods is authorised.

(3) Goods, except such as are prescribed under the provisions of subsection (4) of this section, which have been brought into a free trade zone from any part of the customs territory shall be deemed to be exported for the purpose of drawback under the provisions of the Customs Act, 1967.

(4) The provisions of this section shall not apply to such goods as may be declared from time to time by the Minister, by notification in the *Gazette*.

Retail trade. 7. (1) No retail trade shall be conducted within a free trade zone unless authorised by the Authority; and the Authority may in relation to such authorisation impose such conditions as it deems fit.

(2) The Authority shall consult the Regional Comptroller before authorising any retail trade to be conducted within a free trade zone.

Use or consumption of dutiable goods. 8. Subject to the provisions of sections 6 and 7 no dutiable goods shall, without the written permission of a proper officer of customs not below the rank of Senior Superintendent of Customs and Excise, be used or consumed in a free trade zone.

Penalty. 9. Any person who contravenes the provisions of sections 6, 7 and 8 shall be guilty of an offence and shall on conviction, be liable for the first offence to a fine of not less than ten times the amount of the customs or excise duty or tax or five thousand dollars, whichever is the lesser amount, and of not more than twenty times the amount of the customs or excise duty or tax or five thousand dollars whichever is the greater amount, and for a second or any subsequent offence to a fine of not less than ten times the customs or excise duty or five thousand dollars, whichever is the lesser amount and of not more than forty times the customs or excise duty or ten thousand dollars, whichever is the greater amount, or to imprisonment for a term not exceeding two years or to both such fine and imprisonment:

Provided that when the amount of customs or excise duty cannot be ascertained the penalty may amount to a fine not exceeding five thousand dollars.

10. (1) With the approval of the Minister, there may be carried out in a free trade zone the manufactures set out in the First Schedule. Manu-
facture.

(2) The Minister may from time to time by notification in the *Gazette* add to, alter or amend the First Schedule.

(3) The Minister may make regulations governing manufacture within a free trade zone.

PART III

SPECIFIC FUNCTIONS OF AUTHORITY

11. (1) The Minister may require the Authority to provide and maintain in the free trade zone such facilities as he may consider necessary for the proper and efficient functioning of the free trade zone. Authority
to provide
facilities.

(2) The Minister may give to the Authority such directions as he may consider necessary for the proper functioning of a free trade zone or for the purpose of protecting revenue; and the Authority shall comply with any such directions.

(3) The Authority shall provide adequate facilities for officers of customs whose duties may require their presence within or at the perimeter of the free trade zone; and the Authority shall permit customs offices to be established in a free trade zone—

(a) to enable the Regional Comptroller to make such arrangements as he deems necessary to ensure the proper supervision of goods taken out from the free trade zone; and

(b) for such purposes as may be considered necessary by the Minister for the better administration of the provisions of this Act.

(4) The Authority shall provide adequate enclosures to segregate the free trade zone from the customs territory for the protection of revenue together with suitable provisions for the movement of persons, conveyances, vessels and goods into and from the free trade zone.

12. (1) The Authority may permit any person to erect such buildings and other structures within the free trade zone as may be required. Authority
may permit
erection of
private
buildings,
etc.

(2) The Authority may, after consulting the Regional Comptroller, lease to or allow any person to take, hold or enjoy movable and immovable property of every description in a free trade zone upon such terms and conditions and for such period as the Authority may determine.

Exclusion of certain goods, etc.

13. (1) The Authority may in its discretion order the exclusion or removal from the free trade zone of any goods, or the discontinuance of any operations, which in its opinion are dangerous or prejudicial to the public interest, health or safety.

(2) Any person aggrieved by such an order may appeal to the Minister within fourteen days of the service of such order; and the decisions of the Minister shall be final and shall not be questioned in any Court.

(3) An order by the Authority as to the removal of any goods, which in the opinion of the Authority are dangerous or prejudicial to public safety, shall, notwithstanding an appeal to the Minister, be complied with immediately; and an order as to the discontinuance of operations shall not take effect, if an appeal has been made to the Minister, until the determination of the appeal in favour of the Authority.

Annual Reports and accounts.

14. (1) The Authority shall prescribe the form and manner of keeping the accounts of the free trade zone.

(2) The Authority shall present to the Minister annually and at such other times as the Minister may prescribe, reports containing a full statement of all operations, receipts and expenditure and such other information as the Minister may require.

(3) The accounts of the Authority, together with its Annual Report, shall be laid on the table of each House of Parliament.

PART IV

OFFENCES, PENALTIES, SEARCH, SEIZURE, ARREST AND PROVISIONS AS TO TRIALS AND PROCEEDINGS

Entry and residence within a free trade zone.

15. Subject to the provisions of this Act, no person shall enter or reside within a free trade zone without the permission of the Authority.

16. Every person required by the proper officer of customs to give information or to produce documents on any subject which it is such officer's duty to enquire into and which it is in such person's power to give or produce shall be bound to give such information or to produce such documents.

Persons bound to give information.

17. Every omission or neglect to comply with, and every act done or attempted to be done contrary to the provisions of this Act or any regulations made thereunder shall be an offence and in respect of any such offence for which no penalty is expressly provided, the offender shall be liable on conviction to a fine not exceeding five thousand dollars.

Penalty for offences not otherwise provided for.

18. Whoever attempts to commit any offence punishable under this Act or any regulations made thereunder or abets the commission of such offence shall be punished with the punishment provided for such offence.

Attempts and abetments.

19. Whenever it appears to any Magistrate on information and after such enquiry as he may think necessary, that there is reasonable cause to believe that in any shop, warehouse or other building or place in a free trade zone, there are concealed or deposited any goods in respect of which an offence under the Customs Act, 1967, or this Act or any regulations made thereunder has been committed, such Magistrate may issue a warrant authorising an officer of customs, named therein, by day or by night and with or without assistance:

Issue of search warrant.

- (a) to enter such shop, warehouse or other building or place and there to search for and seize any goods in respect of which there is reason to believe that the offence aforesaid has been committed, and any books or documents which may reasonably be believed to have a bearing on the case;
- (b) to arrest any person or persons being in such shop, warehouse, building or place, in possession of any goods aforesaid found, or whom such officer may reasonably suspect to have concealed or deposited such goods;
- (c) to break open if necessary, any door of such shop, warehouse, building or place and enter thereinto;
- (d) to forcibly enter if necessary, such place and every part thereof;

- (e) to remove by force any obstruction to such entry, search, seizure and removal as he is empowered to effect; and
- (f) to detain any person found in such place until such place has been searched.

When search may be made without warrant.

20. Whenever it appears to any senior officer of customs that there is reasonable cause to believe that in any shop, warehouse or other building or place in a free trade zone, there are concealed or deposited any goods in respect of which an offence under the Customs Act, 1967, or this Act or any regulations made thereunder has been committed, and if he has reasonable grounds for believing that by reason of any delay in obtaining a search warrant under section 19, such goods are likely to be removed, such officer may exercise in, upon and in respect of such shop, warehouse or other building or place all the powers mentioned in the said section 19 in as full and ample a manner as if he were authorised so to do by warrant issued under that section.

Officers of Customs may stop and search conveyances.

21. (1) Any officer of customs may stop and examine any vehicle in a free trade zone for the purpose of ascertaining whether any goods which may form the subject of an offence under the Customs Act, 1967, or this Act or under any regulations made thereunder are contained therein, and the person in control or in charge of such vehicle shall if required so to do by such officer stop such vehicle and allow such officer to examine the same or move the vehicle to another place for examination, and shall not proceed until permission to do so has been given by such officer.

(2) The person in control or in charge of any vehicle stopped for examination under the provisions of subsection (1) shall if so requested by the officer of customs open all parts of the vehicle for examination by such officer and take all measures necessary to enable such examination as such officer considers necessary to be made.

Power to open packages and examine goods.

22. Any proper officer of customs may in a free trade zone examine any goods which are being taken into or being removed from a free trade zone or intended to be taken into or from a free trade zone and for the purpose of such examination direct the same to be brought to a customs office or a customs station and may open any package or receptacle.

23. Any person landing, or being about to land, or having recently landed, from any vessel or aircraft, or leaving in any vessel or aircraft, in a free trade zone, whether for the purpose of landing or otherwise, or entering or having recently entered a free trade zone by road or railway shall, if so requested by any proper officer of customs 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 customs station or police station and there permit his person, goods and baggage to be searched by an officer of customs:

Search of persons arriving in a free trade zone.

Provided that—

- (a) any person requesting that his person be searched in the presence of a senior officer of customs 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 be taken into any customs office or customs station 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 a female.

24. (1) All goods in respect of which there has been, or there is a reasonable cause to believe that there has been committed any offence against, or any breach of, the Customs Act, 1967, or this Act or any regulations made thereunder or any contravention of any restriction or conditions subject to which any licence, permit or authorisation has been granted under any such law, together with any receptacle, baggage, vehicle, vessel (not exceeding seventy five nett registered tons), or aircraft, in which the same may be found or which is used in connection with such offence, breach or contravention, and any books or documents which may be reasonably believed to have a bearing on the case, may be seized by any officer of customs in a free trade zone.

Seizure of goods subject of an offence.

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

(3) Whenever any goods, receptacle, baggage, vehicles, vessels or aircraft are seized under this Act, the officer effecting the seizure shall forthwith give to the owner thereof, if known, notice in writing of such seizure and the reasons therefor, either by delivering such notice to him personally or by post at his place of abode, if known :

Provided that such notice shall not be required to be given where such seizure is made on the person, or in the presence of, the offender or the owner or his agents, and, in the case of a vessel or an aircraft in the presence of the master or pilot, as the case may be.

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

(5) The provisions of this section relating to the seizure of any vessel or aircraft shall apply also to the tackle, equipment and furnishing of such vessels or aircraft.

(6) The provisions of this section relating to the seizure of conveyances shall apply to all equipments thereof and to any animal by which the same is drawn.

(7) Any goods of a perishable nature seized under the provisions of this section may be sold forthwith and the proceeds of sale held to abide the result of any prosecution or claim.

(8) Any goods which are of a dangerous character and which cannot be removed without undue expense may be destroyed on the instructions of a senior officer of customs.

Release of
vehicle,
vessel or
aircraft
under bond.

25. When any vehicle, vessel or aircraft has been seized under this Act a senior officer of customs may, at his discretion, temporarily return such vehicle, vessel or aircraft to the owner of the same on security being furnished to the satisfaction of such officer that the vehicle, vessel or aircraft shall be surrendered to him on demand.

Powers of
arrest.

26. Any officer of customs may arrest in a free trade zone 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 the Customs Act, 1967, this Act or any regulations made thereunder; or
- (c) any person against whom a reasonable suspicion exists that he has committed an offence against the Customs Act, 1967, 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 a female.

27. (1) An officer of customs making an arrest without warrant shall, without necessary delay and subject to the provision of this Act, as to bail or previous release, take or send the person arrested before a Magistrate's Court.

Provisions relating to arrest without warrant.

(2) No officer of customs shall detain in custody a person arrested without a warrant for a longer period than under the circumstances of the case is reasonable; and such period shall not exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

(3) No person who has been arrested by an officer of customs shall be released except on his own bond or on bail or under a special order in writing by a Magistrate or a senior officer of customs.

28. Prosecutions in respect of offences committed under—

Who may prosecute.

(a) section 6 may be conducted by a senior officer of customs or any officer of customs specially authorised in writing in that behalf by the Regional Comptroller; and

(b) any other provision of this Act or any regulations made thereunder may be conducted by an officer of the Authority, specially or generally authorised in writing in that behalf by the Minister.

29. (1) Where an offence against this Act or any regulations made thereunder has been committed by a company, firm, society 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

Offence by bodies of persons and by servants and agents.

the company, firm, society 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 the 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 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.

Compound-
ing of
offences.

30. (1) Any senior officer of customs may compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed an offence a sum of money not exceeding six hundred dollars.

(2) On payment of such sum of money the person reasonably suspected of having committed an offence if in custody shall be discharged, and any properties seized shall be released and no further proceedings shall be taken against such persons or property, unless the property consists of goods the import of which into the Federation is absolutely or conditionally prohibited under any written law, in which case such goods shall be forfeited.

Action of
officers no
offence.

31. Nothing done in good faith by an officer of customs or a member or employee of the Authority in the course of his duties shall be deemed to be an offence under this Act.

32. Nothing in this Act shall prevent any person from being prosecuted under any written law for any act, omission, neglect or default which constitutes an offence under this Act or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty, higher or other than that provided by this Act or any regulations made thereunder.

Convictions under other law.

33. All goods liable to seizure under the provisions of this Act other than an aircraft engaged on international carriage, shall be liable to forfeiture.

Goods liable to seizure liable to forfeiture.

34. (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 the prosecution with regard thereto has been held, and 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 regulation 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.

Court to order disposal of goods seized.

(2) All things forfeited shall be delivered to a proper officer of customs and shall be disposed of in accordance with the directions of the Regional Comptroller.

35. (1) If there be no prosecution with regard to any goods seized under this Act, such goods shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure unless a claim thereto is made before that date in the manner hereinafter set forth.

Goods seized in respect of which there is no prosecution, deemed to be forfeited if not claimed within one month.

(2) Any person asserting that he is the owner of such goods and that they are not liable to forfeiture may personally or by his agent authorised in writing give written notice to a senior officer of customs that he claims the same.

(3) On receipt of such notice the senior officer of customs shall refer the claim to the Regional Comptroller who may direct that such goods be released or may direct such senior officer of customs, by information in the prescribed form, to refer the matter to the President of a Sessions Court for his decision.

(4) The President of such Court shall issue a summons requiring the person asserting that he is the owner of the goods and the person from whom they were seized to appear before him, and upon their appearance or default to appear, due service of such summons being proved, the President shall proceed to the examination of the matter and on proof that an offence against this Act has been committed and that such goods were the subject matter, or were used in the commission, of such offence shall order the same to be forfeited, or may in the absence of such proof order their release.

Goods seized may be delivered to the owner or other person.

36. The Minister may, upon application made to him in writing through the Comptroller-General, order any goods seized under this Act, whether forfeited, or taken and deemed to be forfeited, to be delivered to the owner or other person entitled thereto, 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 of forfeiture of such goods or from the date on which such goods shall be taken and deemed to be forfeited, as the case may be.

PART V

MISCELLANEOUS PROVISIONS

Vessel in relation to zone.

37. Any vessel tied alongside the wharf of a free trade zone shall be deemed to be within such free trade zone.

Proper officer of customs may take samples.

38. (1) The proper officer of customs may at any time take samples of any goods to ascertain whether they are goods of a description liable to any customs duty or to ascertain the customs duty payable on such goods on entry into the customs territory or for such other purposes as the proper officer of customs may deem necessary, and such samples may be disposed of in such manner as the Regional Comptroller shall direct.

(2) No payment shall be made for any samples taken but the proper officer of customs shall give a receipt for any samples so taken.

39. The members of the Authority and the employees thereof of every description shall be deemed to be public servants within the meaning of the Penal Codes of the States of Malaya, Sabah or Sarawak as the case may be.

Public servants.

40. Where it is provided in this Act or any regulations made thereunder that the decision on any matter rests with the Authority or the Comptroller-General, then unless it is specifically provided that such decision is at the absolute discretion of the Authority or the Comptroller-General, any person aggrieved by such decision may appeal therefrom to the Minister.

Appeal from decision of the Authority or the Comptroller-General.

41. The Minister may make regulations for or in respect of every purpose which is deemed by him necessary for the carrying out of this Act.

Minister to prescribe.

42. The Minister may in relation to a free trade zone, delegate to any person all or any of his powers under the provisions of this Act, except section 10 (3) and section 41.

Power of delegation.

PART VI

AMENDMENTS OF CUSTOMS LAWS

Sub by Act-A. 146
CERTAIN OTHER

43. The amendments made to the written laws specified in the first column in the Second Schedule (as set out in the second column in the said Schedule) shall have effect.

Consequential amendments

PART VII

REPEAL

44. The Emergency (Essential Powers) Ordinance No. 26, 1970 is hereby repealed.

Repeal.

FIRST SCHEDULE

(Section 10)

Name of Free Trade Zone	Type of Manufacture
1.	
2.	
3.	
4.	
5.	
6.	
7-8	

(Pu(A) 15/72)
(Pu(A) 201/73)
(Pu(A) 325/73)
(Pu(A) 409/74)
(Pu(A) 43/75)
(Pu(A) 270/79)
(Pu(A) 291/79)

[2nd Schedule]

22

ACT 24

SECOND SCHEDULE

(Section 43)

(1)

Written laws

(2)

Amendments

Act 62 of 1967. Customs Act, 1967 ...

... There shall be inserted immediately after sub-section (1) of section 2 the following new sub-section (1A)—

“(1A) For the purposes of this Act (other than section 31), a free trade zone shall be deemed to be a place outside the Federation.

In this sub-section, the expression ‘free trade zone’ means any area declared to be a free trade zone under the provisions of section 3 of the Free Trade Zones Act, 1971.”

Act. A. 146. →