



LAWS OF MALAYSIA

REPRINT

Act 155

IMMIGRATION ACT 1959/63

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IMMIGRATION ACT 1959/63

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LAWS OF MALAYSIA

Act 155

IMMIGRATION ACT 1959/63

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LAWS OF MALAYSIA

Act 155

IMMIGRATION ACT 1959/63

An Act relating to immigration.

*[Peninsular Malaysia—1 May 1959;
Sabah and Sarawak—16 September 1963]*

PART I

PRELIMINARY

Short title and application

1. (1) This Act may be cited as the Immigration Act 1959/63.
- (2) This Act applies throughout Malaysia subject to Part VII.

Interpretation

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

“authorized airport”, “authorized landing place” and “authorized point of entry” mean respectively an airport, a landing place or a point of entry declared as such under subsection 5(1);

“captain” means any person having for the time being control or charge of an aircraft;

“Certificate” means any Certificate of Status issued under any regulations made under this Act;

“crew” includes every seaman on a vessel, and every person employed in the operation of an aircraft or in any service rendered to the crew or passengers of the aircraft while in flight;

“Director General” means the Director General of Immigration appointed under section 3;

“entry” means—

- (a) in the case of a person arriving by sea, disembarking in Malaysia from the vessel in which he arrives;
- (b) in the case of a person arriving by air at an authorized airport, leaving the precincts of the airport;
- (c) in the case of a person entering by land and proceeding to an immigration control post in accordance with section 26, leaving the precincts of the post for any purpose other than that of departing from Malaysia by an approved route; and
- (d) in any other case, any entry into Malaysia by land, sea or air:

Provided that it shall not include in any case an entry made for the purpose of complying with this Act or an entry expressly or impliedly sanctioned by an immigration officer for the purpose of any enquiry or detention under this Act;

“Entry Permit” means a Permit to enter and remain in Malaysia issued under section 10;

“immigration control post” means a post established as such by the Director General at a place declared to be an immigration control post under subsection 5(1);

“immigration depot” means any place designated by the Director General under section 51A;

“immigration officer” means any person appointed under section 3;

“immigration signal” means such signal as may be prescribed for vessels which arrive in Malaysia;

“master” means any person (except a pilot or Harbour Master) having for the time being control or charge of a vessel;

“Pass” means any Pass issued under any regulations made under this Act entitling the holder thereof to enter and remain temporarily in Malaysia;

“passenger” means any person carried in a vessel or aircraft, other than the members of the crew;

“Permit” includes an Entry Permit;

“Port Officer” includes a Harbour Master appointed under the Merchant Shipping Ordinance [*F.M. Ord. 70 of 1952, Sabah Ord. 11 of 1960, Sarawak Ord. 2 of 1960*] and any person lawfully acting for him;

“prescribed” means prescribed by regulations made under this Act;

“prohibited immigrant” means a person declared to be a prohibited immigrant under section 8;

“seaman” includes the master and any person carried in a vessel as a *bona fide* member of the staff employed in the operation or service of the vessel and, if the vessel has articles, entered on those articles;

“senior immigration officer” means any person appointed under subsections 3(1) and (1A);

“senior police officer” has the meaning assigned thereto in the Police Act 1967 [*Act 344*];

“stowaway” means a person who goes to sea secreted in a vessel without the consent of the master or other person in charge of the vessel or of a person entitled to give the consent and includes a person arriving in Malaysia on board any aircraft who is on board without the consent of the captain or of a person entitled to give the consent;

“through passenger” means any passenger who arrives in Malaysia by a vessel or aircraft and who is continuing his journey in the same vessel or aircraft to a place outside Malaysia;

“transportation company” means any government, municipality, body corporate, or organisation, firm or person carrying or providing for the transit of passengers, whether by vessel, aircraft, railway, highway or otherwise, and includes any two or more such transportation companies co-operating in the business of carrying passengers;

“vehicle” means a structure capable of moving or being moved or used for the conveyance of any person or thing and which maintains contact with the ground when in motion;

“vessel” includes any ship or boat or other description of floating craft used in navigation, and includes any tackle, equipment, book, document, goods, cargo or things carried therein or thereon.

(2) For the purposes of this Act a person travelling between two places in Malaysia without entering any territory outside Malaysia shall not be treated as leaving, entering or arriving in Malaysia because in so doing he passes out of and returns into Malaysia.

(3) Any reference in this Act to a person unlawfully entering or re-entering Malaysia or unlawfully remaining in Malaysia shall include any act of entering or re-entering or remaining in Malaysia which is in contravention of any provision of this Act or any subsidiary legislation made under this Act.

Appointment and powers of Director General and others

3. (1) The Yang di-Pertuan Agong may appoint a Director General of Immigration and one or more Deputy Directors General of Immigration for the purpose of this Act.

(1A) The Minister may appoint so many Directors of Immigration and other senior immigration officers, of or above the rank of Deputy Assistant Director of Immigration, as he may consider necessary for the proper carrying out of this Act.

(1B) The Director General may appoint so many immigration officers as he may consider necessary for the proper carrying out of this Act.

(2) The Director General shall have the general supervision and direction of all matters relating to immigration throughout Malaysia.

(3) The powers and discretions vested in the Director General by this Act, and the duties required to be discharged by him may, subject to section 4 and to such limitations as may be prescribed, be exercised and discharged by—

- (a) a Deputy Director General of Immigration or Director of Immigration; and
- (b) any senior immigration officer authorized in writing in that behalf by the Director General.

Power of Minister to issue directions

4. The Minister may from time to time give the Director General directions of a general character not inconsistent with this Act as to the exercise of the powers and discretions conferred on the Director General by, and the duties required to be discharged by

the Director General under, this Act in relation to all matters which appear to him to affect the immigration policy of Malaysia, and the Director General shall give effect to all such directions.

PART II

ADMISSION INTO AND DEPARTURE FROM MALAYSIA

Entry into or departure from Malaysia

5. (1) The Minister may, by notification in the *Gazette*, prescribe approved routes and declare such immigration control posts, landing places, airports or points of entry, as he may consider to be necessary for the purposes of this Act, to be immigration control posts, authorized landing places, authorized airports or authorized points of entry, as the case may be, and no person shall, unless compelled by accident or other reasonable cause, enter or leave Malaysia except at an authorized landing place, airport or point of entry.

(2) Any person who contravenes subsection (1) shall be guilty of an offence against this Act.

Control of entry into Malaysia

6. (1) No person other than a citizen shall enter Malaysia unless—

- (a) he is in possession of a valid Entry Permit lawfully issued to him under section 10;
- (b) his name is endorsed upon a valid Entry Permit in accordance with section 12, and he is in the company of the holder of the Permit;
- (c) he is in possession of a valid Pass lawfully issued to him to enter Malaysia; or
- (d) he is exempted from this section by an order made under section 55.

(2) (*Deleted by Act 27 of 1963*).

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both, and shall also be liable to whipping of not more than six strokes.

(4) The burden of proof that a person entered Malaysia without contravening subsection (1) shall lie upon that person, and in any prosecution for an offence under subsection (1), it shall not be necessary to specify in the charge the date, time, place or manner of the entry of such person into Malaysia, or the means of travel used for such entry, and such prosecution may be held at any place in Malaysia.

Right of entry

7. (1) (a) A citizen shall be entitled to enter Malaysia without having obtained a Permit or Pass in that behalf under this Act.

(b) *(Deleted by Act 27 of 1963).*

(2) *(Deleted by Act 27 of 1963).*

(3) The burden of proof that any person is a citizen shall lie upon that person.

Prohibited immigrants

8. (1) Any person who, in the opinion of the Director General—

(a) is a member of any of the prohibited classes as defined in subsection (3) and is not a citizen is a prohibited immigrant.

(b) *(Deleted by Act 27 of 1963).*

(2) Subject to any exemption granted under section 55—

(a) no prohibited immigrant who is a member of prohibited class defined in paragraph (3)(o) shall enter Malaysia or, where he becomes a member of such prohibited class after he has entered Malaysia, remain in Malaysia; and

(b) no other prohibited immigrant shall enter Malaysia, unless he is in possession of a valid Pass in that behalf issuable to a prohibited immigrant under any regulations made under this Act.

(3) The following persons are members of the prohibited classes:

(a) any person who is unable to show that he has the means of supporting himself and his dependants (if any) or that he has definite employment awaiting him, or who is likely to become a pauper or a charge on the public;

- (b) any person suffering from mental disorder or being a mental defective, or suffering from a contagious or infectious disease which makes his presence in Malaysia dangerous to the community;
- (c) any person who refuses to submit to a medical examination after being required to do so under subsection 39A(1);
- (d) any person who—
 - (i) has been convicted in any country or state of any offence and sentenced to imprisonment for any term, and has not received a free pardon; and
 - (ii) by reason of the circumstances connected with the conviction is deemed by the Director General to be an undesirable immigrant;
- (e) any prostitute, or any person, who is living on or receiving, or who, prior to entering Malaysia, lived on or received, the proceeds of prostitution;
- (f) any person who procures or attempts to bring into Malaysia prostitutes or women or girls for the purpose of prostitution or other immoral purpose;
- (g) vagrants and habitual beggars;
- (h) any person whose entry into Malaysia is, or at the time of his entry was, unlawful under this or any other written law for the time being in force;
- (i) any person who believes in or advocates the overthrow by force or violence of any Government in Malaysia or of any established government or of constituted law or authority or who disbelieves in or is opposed to established government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property;
- (j) any person who is a member of or affiliated with any organisation entertaining or teaching disbelief in or opposition to established government or advocating or teaching the duty, necessity or propriety of the unlawful assaulting or killing of any officer, either of specific individuals or officers generally, of any Government in Malaysia or of any established government, because of his or their official character, or advocating or teaching the unlawful destruction of property;

- (k) any person who, in consequence of information received from any source deemed by the Minister* to be reliable, or from any government, through official or diplomatic channels, is deemed by the Minister* to be an undesirable immigrant;
- (l) any person who has been removed from any country or state by the government of that country or state on repatriation for any reason whatever and who, by reason of the circumstances connected therewith, is deemed by the Director General to be an undesirable immigrant;
- (m) any person who, being required by any written law for the time being in force to be in possession of valid travel documents, is not in possession of those documents or is in possession of forged or altered travel documents or travel documents which do not fully comply with any such written law;
- (n) the family and dependants of a prohibited immigrant; and
- (o) any person, or any member of a class of persons, against whom an order has been made under paragraph 9(1)(a), or whose Pass or Permit has been cancelled under paragraph 9(1)(b) or 9(1)(c) respectively, or to whom such cancellation applies under subsection 9(6).

(4) The burden of proof that any person seeking to enter Malaysia is not a prohibited immigrant shall lie upon that person.

(5) Subject to any exemption granted under section 55, if any prohibited immigrant enters Malaysia otherwise than in accordance with a valid Pass lawfully issued to him he shall be guilty of an offence against this Act.

(6) Except where a person is a prohibited immigrant under paragraph (3)(o), any person in possession of a Permit issued to him under this Act who, upon his arrival in Malaysia, is refused permission to enter upon the ground that he is a prohibited immigrant, may appeal against the refusal within such time and in such manner as may be prescribed, to the Minister[†], whose decision shall be final:

*NOTE—For exercise of powers of Minister in respect of persons in Sabah and Sarawak, by the Federal Secretary or by any person in the State being a member of the public services so authorized to do—see paragraph 6(2)(a) and subsection 6(6) Immigration (Transitional Provisions) Order 1963 [L.N. 226/63].

†NOTE—For an appeal from a person in Sabah and Sarawak in certain circumstances—see paragraph 6(1)(a), subsections 6(5) and (6) Immigration (Transitional Provisions) Order 1963 [L.N. 226/1963].

Provided that, notwithstanding sections 24 and 26, any person who appeals against such refusal shall be permitted to disembark and shall be detained in an immigration depot pending the determination of his appeal, unless released on a Pass issued at the discretion of the Director General on such conditions as to furnishing security or otherwise as the Director General may deem fit.

***Director General's power to prohibit entry, or cancel any Pass or Permit**

9. (1) Notwithstanding anything contained in this Act or in any subsidiary legislation made under this Act, the Director General may—

- (a) where he deems it expedient to do so in the interests of public security or by reason of any economic, industrial, social, educational or other conditions in Malaysia, by order, prohibit, either for a stated period or permanently, the entry or re-entry into Malaysia of any person or class of persons:

Provided that the order made under this paragraph shall not apply to any citizen or to the holder of any valid Pass or Permit;

- (b) in his absolute discretion cancel any Pass at any time by writing under his hand; or
- (c) cancel any Permit at any time by writing under his hand, if he is satisfied that the presence in, or entry into, Malaysia of the holder of any Permit is, or would be, prejudicial to public order, public security, public health or morality in Malaysia or any part thereof.

(2) Every order made under paragraph (1)(a) shall come into force on the date of the making of such order, and shall subsequently be published in the *Gazette*.

(3) Every cancellation of a Pass under paragraph (1)(b) or a Permit under paragraph (1)(c) shall come into force on the date

*NOTE—This section shall apply to a Pass or Permit issued before the commencement of the Immigration (Amendment) Act 1989 [Act A719] in the same manner that they apply to a Pass or Permit issued after its commencement; and any order made under this section before the coming into force of the said amending law shall continue to remain in full force and effect until revoked—see subsections 5(2) & (3) of Act A719.

of the cancellation, and the Director General shall, as soon as may be thereafter, cause a notice of the cancellation to be sent to the holder of the Pass or Permit, as the case may be, if his address is known, and if it is not known, shall cause the notice to be published in such manner as he deems fit.

(4) Where a Pass is cancelled under paragraph (1)(b) or a Permit is cancelled under paragraph (1)(c)—

(a) if its holder is present in Malaysia, he shall not remain in Malaysia after such cancellation and shall be removed from Malaysia in accordance with the provisions of this Act, and he shall, thereafter, be prohibited from entering Malaysia; and

(b) if its holder is outside Malaysia, he shall be prohibited from entering or re-entering Malaysia.

(5) Any person who enters or re-enters or remains in Malaysia in contravention of any order made under paragraph (1)(a), or in contravention of subsection (4), shall be guilty of an offence against this Act and shall be removed or again removed, as the case may be, from Malaysia.

(6) Where a Pass is cancelled under paragraph (1)(b) or a Permit is cancelled under paragraph (1)(c), subsections (4) and (5) shall apply to—

(a) a person whose name is endorsed on the Pass or the Permit;

(b) any wife of the holder of the Pass or the Permit where the wife is a holder of a Pass or Permit issued to her in consequence of the issue of the Pass or the Permit to her husband; and

(c) any dependant child of the holder of the Pass or the Permit where such child is not a citizen,

in the same manner that they apply to the holder of the Pass or the Permit and the notification to such holder under subsection (3) shall also constitute notification to the persons mentioned in paragraphs (a), (b) and (c).

(7) Notwithstanding subsection 3(3), the powers of the Director General under this section shall be exercised only by the Director General personally or, during his absence or inability to act from any cause, only by the Deputy Director General personally.

(8) Any person who is dissatisfied with any order made against him under paragraph (1)(a), or the holder of any Pass or Permit cancelled under paragraph (1)(b) or (c) respectively, who is dissatisfied with the cancellation, or any person as is referred to under paragraph (6)(a), (b) or (c) who is dissatisfied with the application of subsections (4) and (5) to him under subsection (6), may appeal to the Minister within seven days of the publication of the order in the *Gazette* under subsection (2), or the notification of the cancellation to the holder of the Pass or Permit under subsection (3), as the case may be, and such appeal shall be by way of a petition in writing setting out clearly and in detail the grounds of the appeal:

Provided that notwithstanding any appeal under this subsection, pending the determination of such appeal, the order of the Director General under paragraph (1)(a), or the cancellation of the Pass or Permit under paragraph (1)(b) or (c) respectively, or the application of subsections (4) and (5) to any person under subsection (6), shall have full force and effect as provided under subsection (2) or (3), as the case may be, and, where accordingly the person appealing is outside Malaysia, or has left Malaysia or been removed from Malaysia before its determination, he may be permitted to enter or re-enter Malaysia if his appeal is allowed and the order under paragraph (1)(a) is revoked, or the Pass or Permit is restored to him, as the case may be.

Director General's power to limit entry into Malaysia

9A. (1) The Director General may, by order, where he deems it expedient to do so in the interests of public security or by reason of any economic, industrial, social, educational or other conditions in Malaysia—

- (i) limit the number of persons of any class who may enter Malaysia within any period specified in the order; or
- (ii) limit the period during which any person or class of persons entering or re-entering Malaysia may remain therein:

Provided that the order made under this subsection shall not apply to any citizen or to the holder of any valid Pass or Permit.

(2) Notwithstanding subsection 3(3), the powers of the Director General under this section shall be exercised only by the Director General personally or, during his absence or inability to act from any cause, only by the Deputy Director General personally.

(3) Every order made under subsection (1) shall come into force on the date of the making of such order, and shall subsequently be published in the *Gazette*.

PART III

ENTRY PERMITS

Entry Permits

10. (1) Any person seeking to enter Malaysia who is not entitled so to enter as a citizen or by virtue of a valid Pass to enter Malaysia issued to him or seeking to remain in Malaysia after the expiry of such a Pass may make application in that behalf in the manner prescribed to the Director General or to such other person whether within or outside Malaysia as the Director General may, from time to time, appoint for the purpose.

(2) Upon application made under subsection (1) and upon payment of the prescribed fees the Director General may issue to the applicant an Entry Permit on such terms and conditions as the Director General may think fit in the prescribed form and shall, if the applicant is required by any written law relating to passports for the time being in force in Malaysia to have a visa to enter Malaysia, issue a visa to the applicant on the production by him of his passport or other travel document and on payment of the fee prescribed by the written law and the visa shall remain valid until the expiry or cancellation of the Entry Permit issued to him.

(3) Any person aggrieved by the refusal of the Director General to issue to him an Entry Permit under subsection (2) may within thirty days of the notification of the refusal to him appeal by petition in writing to the Minister*, whose decision thereon shall be final.

*NOTE—For an appeal from a person in Sabah and Sarawak in certain circumstances—see paragraph 6(1)(a), subsections 6(5) and (6), Immigration (Transitional Provisions) Order 1963 [L.N. 226/1963].

11. *(Deleted by Act A985).*

Endorsement of name of wife and children on Permits, Passes and Certificates

12. Subject to such conditions as may be prescribed it shall be lawful for the Director General, on application made in that behalf in the prescribed form by the holder of, or by an applicant for, a Permit, Pass or Certificate, to endorse upon the Permit, Pass or Certificate issued to the person the name or names of the wife or child of that person.

Power to make inquiries

13. The Director General may before the issue of a Permit, Pass or Certificate under this Act or before making any endorsement thereon under section 12 make such inquiries or require the production of such evidence as he may think fit in order to satisfy himself as to the truth of any statement made in the application for the Permit, Pass or Certificate.

Cancellation of, and declarations regarding Permits and Certificates

14. (1) Where the holder of any Permit seeks to enter Malaysia accompanied by any child whose name is not endorsed upon the Permit under section 12 and who is not otherwise entitled to enter Malaysia under this Act, the Director General may cancel the Permit issued to that person.

(2) Where, upon the arrival in Malaysia of any person to whom a Permit or Certificate has been issued, the Director General is satisfied, as a result of inquiries made under section 24 or 26, or from other information, that the Permit or Certificate was issued as a result of any false representation or concealment of a material fact the Director General may cancel the Permit or Certificate.

(3) Where at any time, during the period of validity of any Permit or Certificate, the Director General is satisfied that the holder of the Permit or Certificate is a prohibited immigrant, the Director General shall cancel the Permit or Certificate.

(4) Where any person has entered Malaysia by virtue of a Permit or Certificate, and the Director General is satisfied—

- (a) that any material statement made in or in connection with the application for that Permit or Certificate was false or misleading; or
- (b) that the person is a prohibited immigrant,

the Director General may declare at any time after the date of the entry, that the presence of that person in Malaysia is unlawful.

(5) On making any cancellation under subsection (2) or (3) or on making any declaration under subsection (4) the Director General shall, by notification, which, if the address of the person is known shall be sent to him at that address and otherwise shall be published in such manner as the Director General deems fit, inform the person affected thereby of the grounds on which the cancellation or declaration has been made and the person may appeal against the cancellation or declaration, as the case may be, within such time and in such manner as may be prescribed, to the Minister*, whose decision shall be final.

Unlawful entry or presence in Malaysia

15. (1) Without prejudice to any other provision of this Act prohibiting a person from remaining in Malaysia, a person shall not remain in Malaysia—

- (a) after the cancellation of any Permit or Certificate under this Part;
- (b) after the making of a declaration under subsection 14(4);
- (c) after the expiration of the period of any Pass relating to or issued to him; or
- (d) after the notification to him, in such manner as may be prescribed, of the cancellation, under any regulations made under this Act, of any Pass relating to or issued to him,

unless he is otherwise authorized to remain in Malaysia under this Act.

*NOTE—For an appeal from a person in Sabah and Sarawak in certain circumstances—see paragraph 6(1)(a), subsections 6(5) and (6), Immigration (Transitional Provisions) Order 1963 [L.N. 226/1963].

(2) A person shall not remain in Malaysia in contravention of proviso (a) to section 60 or of article 8(2) of the Immigration (Transitional Provisions) Order 1963 [L.N. 226 of 1963].

(3) (*Deleted by Act 27 of 1963*).

(4) Any person who without reasonable cause contravenes this section shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

PART IV

PROCEDURE ON ARRIVAL IN MALAYSIA

Immigration signal

16. (1) Subject to subsection (2) the master of every vessel which arrives in Malaysia shall hoist the prescribed immigration signal and shall exhibit the signal until authorized by an immigration officer to haul it down.

(2) Subsection (1) shall not apply to any vessel which plies solely between ports in Malaysia.

(3) The master of any vessel who contravenes or fails to comply with subsection (1) shall be guilty of an offence against this Act.

Vessel to proceed to Immigration Anchorage or other place ordered by immigration officer

17. (1) The Director General may, by notification in the *Gazette*, declare any place within the limits of any port to be an Immigration Anchorage, either for vessels generally or for vessels of a class specified in the notification, and the master of any vessel which arrives at a port where an Immigration Anchorage, either for vessels generally or for vessels of a class to which that vessel belongs, has been declared shall, subject to any directions given under subsection (3), forthwith navigate his vessel to that anchorage and shall remain there until an immigration officer gives him permission to leave.

(2) No vessel carrying passengers, other than a vessel which plies solely between ports in Malaysia, shall proceed to any place in Malaysia other than a port within which an Immigration Anchorage has been declared under subsection (1).

(3) The master of every vessel which arrives in Malaysia shall, if so ordered by an immigration officer, anchor or tie up his vessel at such place as may be ordered, and shall remain there until an immigration officer gives him permission to leave.

(4) The master of any vessel who, without reasonable cause, contravenes or fails to comply with this section or any order made or direction given thereunder shall be guilty of an offence against this Act.

Aircraft arriving in Malaysia

18. (1) The captain of every aircraft which arrives in Malaysia shall land his aircraft at an authorized airport.

(2) The captain of any aircraft who, without reasonable cause, contravenes or fails to comply with subsection (1) shall be guilty of an offence against this Act.

Persons not to board or leave vessel until examination completed

19. (1) Save under and in accordance with any authority granted by an immigration officer, no person other than—

- (a) the pilot;
- (b) any Government officer boarding the vessel on duty;
- (c) the owner, charterer, or agent of the vessel; or
- (d) a consular officer of the country to which the vessel belongs,

shall leave or board a vessel arriving in Malaysia, nor may any person (other than the crew of a vessel carrying any such person) approach within one cable length of the vessel, until the vessel has been examined by an immigration officer and the immigration signal has been hauled down.

(2) Any person who contravenes subsection (1) shall be guilty of an offence against this Act and every such person leaving a vessel in contravention of subsection (1) shall if so required by an immigration officer return forthwith to the vessel and remain thereon and the master of the vessel shall be bound to re-embark the person.

Prohibition on disembarking from or boarding ships without permission of immigration officer

20. (1) It shall be the duty of the master, and the owner or charterer, of every vessel which arrives in Malaysia to prevent any person other than a person specified in subsection 19(1) from disembarking from or boarding any such vessel until the disembarkation or boarding has been authorized by an immigration officer, and for that purpose any means reasonably necessary may be used.

(2) Where any person disembarks from or boards any vessel before being authorized by an immigration officer in that behalf, that person, the master and the owner or charterer of the vessel shall each be guilty of an offence against this Act and it shall be no defence to a prosecution that the master, owner, or charterer did not permit or do anything to facilitate the disembarkation or boarding of any such person, but it shall be a good defence that the master, owner, or charterer took every reasonable precaution to prevent such disembarkation or boarding.

(3) The master of the vessel from which any person has disembarked before disembarkation has been authorized by an immigration officer shall be bound to re-embark that person and any master refusing to re-embark the person shall be guilty of an offence against this Act.

(4) *(Deleted by Act A719).*

Prohibition of removal of articles before examination

21. (1) Except with the authority of an immigration officer, no article or thing shall be removed or taken from, or put on board, any vessel until the vessel has been examined by an immigration officer under section 19.

(2) Any person who contravenes subsection (1) shall be guilty of an offence against this Act.

Production of certain lists and persons by masters of vessels and captains of aircraft

22. (1) (a) The master of every vessel arriving in or leaving Malaysia shall—

- (i) furnish to an immigration officer a complete list of the members of the crew in such form and containing such particulars as may be prescribed;

- (ii) produce to an immigration officer for inspection and interrogation all the members of the crew;
- (iii) furnish to an immigration officer in triplicate identification cards of each member of the crew in such form as may be prescribed;
- (iv) submit to such search of his vessel by an immigration officer as may be necessary to establish the presence or absence of other persons on board;
- (v) produce to an immigration officer his ship's papers;
- (vi) report to an immigration officer the presence on board of any stowaway or any unauthorized person or any person proceeding to any state or country on his removal from any other state or country by the competent authorities of that state or country; and
- (vii) furnish to an immigration officer in triplicate a general declaration in accordance with Appendix 1 to the Convention Facilitation of International Maritime Traffic 1965.

(b) In the case of vessels carrying passengers the master shall, in addition, produce—

- (i) a complete list of all the passengers in such form and containing such particulars as may be prescribed;
- (ii) in relation to every passenger disembarking in Malaysia such particulars in such form as may be prescribed; and
- (iii) all passengers for inspection and interrogation.

(2) The captain of every aircraft arriving in or leaving Malaysia shall—

- (a) produce to an immigration officer a passenger list as prescribed under subparagraph (1)(b)(i) or in accordance with Annex 9 to the Convention on International Civil Aviation;
- (b) produce to an immigration officer in relation to every passenger landing in Malaysia such particulars in such form as may be prescribed;

- (c) produce to an immigration officer a complete list of the members of the crew of his aircraft as prescribed under subparagraph (1)(a)(i) or in accordance with Annex 9 to the Convention on International Civil Aviation;
- (d) produce to an immigration officer the members of the crew and passengers of the aircraft for inspection and interrogation as directed either generally or specifically by an immigration officer;
- (e) submit to such search of his aircraft by an immigration officer as may be necessary to establish the presence or absence of other persons on board; and
- (f) report to an immigration officer the presence on board of any stowaway or unauthorized person or any person proceeding to any state or country on his removal from any other state or country by the competent authorities of that state or country.

(3) The master of any vessel or the captain of any aircraft who contravenes or fails to comply with subsection (1) or (2), as the case may be, and any person who hinders or obstructs any search of a vessel or aircraft as aforesaid, shall be guilty of an offence against this Act.

(4) If any person is found on board a vessel or aircraft whose presence has not been reported as aforesaid, the master of the vessel or the captain of the aircraft, as the case may be, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit in respect of each such person.

(5) In any proceedings under this section the certificate in writing of an immigration officer who boarded or examined the vessel or aircraft to the effect that it carried on arrival in Malaysia a total number of crew corresponding in description to the particulars on the identification cards furnished under subparagraph (1)(a)(iii) or on the list produced under paragraph (2)(c) shall be conclusive proof that the vessel or aircraft did on arrival carry that number of crew.

23. *(Omitted).*

23A. *(Omitted).*

Examination of persons arriving by sea or at authorized airport

24. (1) Every person arriving by sea or by air at an authorized airport in Malaysia shall appear before an immigration officer at such time and place as the officer may direct; and the officer, after such examination as he may consider necessary, shall inform any person whom he considers to be prohibited from entering Malaysia under this Act of his finding, and—

- (a) if the person arrived by sea and is still aboard the vessel, he shall not disembark in Malaysia, or, if disembarked for the purpose of the examination, he shall return forthwith to the vessel and remain thereon. The master of the vessel shall likewise forthwith be informed in writing by the immigration officer of his finding and the master shall not permit the person to disembark in Malaysia, or, if the person has disembarked, whether for the purpose of examination or otherwise, shall be bound to re-embark him; and
- (b) if the person arrived by air, he shall not leave the precincts of the airport except for a place approved by the immigration officer, and he shall leave and depart from Malaysia by the first available means in accordance with the instructions of the officer. The captain of the aircraft in which the person arrived shall, if so required by the officer, remove the person from Malaysia by the same aircraft.

(2) Any person who—

- (a) refuses or neglects to appear before an immigration officer as required by subsection (1) or who leaves the place of examination without or otherwise than in accordance with the authorization of that officer;
- (b) after being informed by an immigration officer that he is prohibited from entering Malaysia—
 - (i) he either disembarks in Malaysia or refuses or neglects to return forthwith to his vessel, as the case may be; or
 - (ii) he leaves the precincts of an airport without the permission of the officer, or refuses or neglects to proceed to or remain at a place approved by the

immigration officer, or refuses or fails to leave Malaysia in accordance with the instructions of an immigration officer given under subsection (1); or

(c) being—

- (i) the master of a vessel, permits any person to disembark in Malaysia, or refuses to re-embark any person; or
- (ii) the captain of the aircraft in which any person arrived in Malaysia, refuses or neglects to remove the person from Malaysia, after being informed by an immigration officer that the person is prohibited from entering Malaysia or that the person has refused or neglected to appear before an immigration officer as required by subsection (1) or that he has left the place of examination without or otherwise than in accordance with the authorization of that officer,

shall be guilty of an offence against this Act.

(3) (a) Where any person either disembarks in Malaysia or refuses or neglects to return to his vessel, in contravention of this section, an immigration officer may require the person to return to his vessel and may take such steps, including the use of force, as may be reasonably necessary to compel his return, and the master of the vessel shall be bound to re-embark the person and to remove him from Malaysia.

(b) The master of a vessel may use such force as may be reasonably necessary to enable him to comply with subsection (1) and paragraph (3)(a).

(4) Where any person leaves the precincts of an airport in contravention of this section or refuses to leave and depart from Malaysia in accordance with the instructions of the immigration officer given under subsection (1), the immigration officer may take such steps, including the use of force, as may be reasonably necessary to compel the person to return to the precincts of the airport or to comply with the instructions, as the case may be.

(5) In relation to a case where the vessel or the aircraft in which the person arrived has already left Malaysia before an immigration officer has made his finding under subsection (1) that he considers

such person to be prohibited from entering Malaysia under this Act, the immigration officer may require in writing the master of any vessel or the captain of any aircraft, as the case may be, belonging to the same owners or chartered by the same charterers as those of the vessel or the aircraft in which the person who is to be removed from Malaysia arrived, to receive the person on board his vessel or aircraft and afford such person free of charge a passage to the port or place at which the person embarked and proper accommodation and maintenance during the voyage or flight.

(6) The master of any vessel or the captain of any aircraft, as the case may be, who fails to comply with a requirement in writing made by an immigration officer under subsection (5) shall be guilty of an offence against this Act.

(7) Where a requirement has been made under subsection (5), the immigration officer shall inform the person in respect of whom the requirement has been made of his finding under subsection (1) that he considers such person to be prohibited from entering Malaysia under this Act, and give him instructions to depart from Malaysia on the vessel or aircraft in relation to which the requirement had been made, and may take such steps, including the use of force, as may be reasonably necessary to compel the person to comply with the instructions, and if such person fails to comply with the instructions and depart from Malaysia he shall be guilty of an offence against this Act.

25. (*Omitted*).

Examination of persons entering Malaysia by land or at a place other than an authorized airport

26. (1) Every person who enters Malaysia by land shall enter at an authorized point of entry and shall proceed therefrom by an approved route, prescribed under section 5, to the nearest immigration control post and shall appear before the immigration officer in charge of the post and shall, if required, produce particulars in such form as may be prescribed.

(2) Every person who arrives by sea or air in Malaysia at any place other than an authorized landing place or airport shall forthwith proceed to and appear before the nearest immigration officer.

(3) The immigration officer before whom any person appears in accordance with this section shall if he considers that the person

is prohibited from entering Malaysia under this Act inform the person of his finding and the person shall in accordance with the instructions of the immigration officer forthwith leave and depart from Malaysia.

(4) Any person who contravenes or fails to comply with this section shall be guilty of an offence against this Act.

Power to send person to depot for further examination

27. (1) Where an immigration officer is in doubt as to the right of any person to enter Malaysia, it shall be lawful for the officer to direct the person to an immigration depot and, in such case, the person shall proceed forthwith to the depot and shall remain there until permitted to leave by the officer:

Provided that—

(i) (*Deleted by Act A719*);

(ii) the Director General may, in his discretion, and pending the completion of inquiries regarding the said person, release the person from the immigration depot on such terms and conditions as the Director General may deem fit, and for that purpose the Director General may issue to the person a Pass in the prescribed form.

(2) Any person who refuses or neglects to comply with directions given by an immigration officer under subsection (1), or who leaves an immigration depot in contravention of that subsection, shall be guilty of an offence against this Act.

Interrogation of travellers

28. (1) Any person who arrives in Malaysia or who is about to leave Malaysia shall fully and truthfully answer all questions and enquiries put to him by an immigration officer, or a senior police officer, tending directly or indirectly to establish his identity, nationality or occupation or bearing on any of the restrictions contained in this Act or any absolute or conditional liability on his part to any military, naval or air force service under any state or country whatsoever, and shall disclose and produce to any such officer on demand all documents in his possession relating to those matters.

(2) All such answers and documents shall be admissible in evidence in any proceedings under this Act against the person making, disclosing or producing the same:

Provided that nothing in this section shall be construed as rendering any such answer inadmissible in any other proceedings in which they would otherwise be admissible.

(3) Any person who—

- (a) refuses to answer any question or inquiry put to him under subsection (1) or knowingly gives any false or misleading answer to any such question or inquiry; or
- (b) refuses or fails to produce any document in his possession when required so to do under subsection (1) or knowingly produces any false or misleading document,

shall be guilty of an offence against this Act.

29. (*Deleted by Act A719*).

Immigration officer may give instructions to prevent evasion of examination

30. (1) An immigration officer may give such instructions as may be reasonably necessary to ensure that no passenger or member of a crew evades examination either of his person or effects.

(2) Any person who without reasonable excuse refuses or fails to comply with any instruction given under subsection (1) shall be guilty of an offence against this Act.

PART V

REMOVAL FROM MALAYSIA

Removal of prohibited immigrants from Malaysia

31. If during the examination of any person arriving in Malaysia or after such enquiry as may be necessary the person is found to be a prohibited immigrant, the Director General shall, subject to any regulations made under this Act, prohibit the person from disembarking or may in his discretion detain him at an immigration depot or other place designated by the Director General until an opportunity arises to return him to his place of embarkation or to the country of his birth or citizenship.

Removal of illegal immigrants

32. (1) Any person who is convicted of an offence under section 5, 6, 8 or 9 shall be liable to be removed from Malaysia by order of the Director General:

Provided that no citizen convicted of an offence under section 5 shall be ordered to be removed from Malaysia under this subsection.

(2) (*Deleted by Act 27 of 1963*).

Removal of persons unlawfully remaining in Malaysia

33. (1) Where the presence of any person in Malaysia is unlawful by reason of section 9, 15 or 60 the person shall, whether or not any proceedings are taken against him in respect of any offence against this Act, be removed from Malaysia by order of the Director General.

(2) Any person in respect of whom an order of removal has been made under subsection (1) may appeal to the Minister* in such manner and within such time as may be prescribed:

Provided that there shall be no appeal under this subsection against an order of removal under subsection (1) made in respect of any person whose presence in Malaysia is unlawful under section 9 by reason of any order made under paragraph 9(1)(a) or by reason of the cancellation of a Pass or Permit under paragraph 9(1)(b) or 9(1)(c) respectively, or is unlawful under paragraph 15(1)(c) or section 60 by reason of the expiry of any Pass relating to or issued to him.

Detention of persons ordered to be removed

34. (1) Where any person is ordered to be removed from Malaysia under this Act, such person may be detained in custody for such period as may be necessary for the purpose of making arrangements for his removal:

Provided that any person detained under this subsection who appeals under subsection 33(2) against the order of removal may, in the discretion of the Director General, be released, pending the determination of his appeal, on such conditions as to furnishing security or otherwise as the Director General may deem fit.

*NOTE—For an appeal from a person in Sabah and Sarawak in certain circumstances—see paragraph 6(1)(a), subsections 6(5) and (6), Immigration (Transitional Provisions) Order 1963 [L.N. 226/1963].

(2) Subject to the determination of any appeal under section 33, any person who is ordered to be removed from Malaysia may be placed on board a suitable vessel or aircraft by any police officer or immigration officer, and may be lawfully detained on board the vessel or aircraft, so long as the vessel or aircraft is within the limits of Malaysia.

(3) Any person who is detained in custody in pursuance of an order made by the Director General under subsection (1) may be so detained in any prison, police station or immigration depot, or in any other place appointed for the purpose by the Director General.

Power to arrest person liable to removal

35. Any person reasonably believed to be a person liable to removal from Malaysia under this Act may be arrested without warrant by any immigration officer generally or specially authorized by the Director General in that behalf or by a senior police officer, and may be detained in any prison, police station or immigration depot for a period not exceeding thirty days pending a decision as to whether an order for his removal should be made.

Unlawful return after removal

36. Any person who, having been lawfully removed or otherwise sent out of Malaysia, unlawfully enters Malaysia or unlawfully resides in Malaysia shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both and shall also be liable to whipping of not more than six strokes, and shall, in addition to any penalty for the offence, be removed or again removed, as the case may be, from Malaysia.

37. *(Deleted by Act 27 of 1963).*

PART VI

MISCELLANEOUS

Performance of duties of immigration officers

38. (1) Immigration officers shall perform the duties imposed on them by this Act, and shall also perform such duties as are required of them by the Director General, either directly or through any

other officer; and no action taken by any such officer under or for any purpose of this Act shall be deemed to be invalid or unauthorized by reason only that it was not taken by the officer specially appointed or detailed for the purpose.

(2) Every immigration officer shall be deemed to be a public servant within the meaning of the Penal Code [Act 574].

Authority of immigration officer to arrest and prosecute

39. (1) Every immigration officer shall have the authority and powers of a police officer to enforce any of the provisions of this Act relating to arrest, detention or removal.

(2) (*Deleted by Act A1154/2002*).

Immigration officer's powers to make inquiries, etc.

39A. (1) An immigration officer may, where—

- (a) any person desires to enter Malaysia;
- (b) any person applies for a Pass, Permit, or Certificate, regardless whether he is within or outside Malaysia;
- (c) he considers it necessary in order to ascertain whether the holder of a Pass, Permit, or Certificate is a prohibited immigrant or that any material statement made in connection with his application for a Pass, Permit, or Certificate, was false or misleading;
- (d) he considers it necessary to do so in order to ascertain whether the presence of any person in Malaysia is lawful; or
- (e) he considers it necessary to do so for the purpose of otherwise exercising any of his powers, or discharging any of his duties, or carrying out any of his functions, under this Act in relation to any person,

make all such inquiries or require the production of all such documents or other evidence as the immigration officer may consider necessary and also require such person to present himself for the purpose of enabling the immigration officer to make inquiries from him, or requiring him to submit to an examination by a Government Medical Officer.

(2) Where any person, without reasonable excuse, refuses or fails to comply with any requirement of an immigration officer under subsection (1), or refuses to answer any question that may be lawfully put to him by an immigration officer in exercise of his powers under subsection (1), he shall be guilty of an offence against this Act.

(3) Where in pursuance of any inquiry by, or any requirement of, an immigration officer under subsection (1) any statement is made by any person, whether or not in answer to a question by an immigration officer, or any document is produced by any person, or any certificate is issued by a Government Medical Officer, such statement, document or certificate shall be admissible in evidence in any proceedings in court under this Act against the person who made the statement or produced the document, or against the person in respect of whom the certificate was issued, or against any other person.

(4) Subsection (1) shall be in addition to, and not in derogation of, any other provision of this Act conferring any power on an immigration officer.

Power to summon witnesses, etc.

40. (1) The Director General may for the purpose of—

- (a) any investigation into any offence under this Act;
- (b) any inquiry under this Act;
- (c) the enforcement of any provision of this Act; or
- (d) otherwise exercising any power, discharging any duty, or carrying out any function, under this Act,

summon and examine witnesses on oath or affirmation, and may require the production of any relevant documents.

(2) Any person summoned as a witness under subsection (1) who without reasonable excuse fails to attend at the time and place mentioned in the summons, or who, having attended, refuses to answer any question that may lawfully be put to him or to produce any document which it is in his power to produce, shall be guilty of an offence against this Act.

(3) Any statement made, or any document produced, by a witness under subsection (1) shall be admissible in evidence in any

proceedings in court under this Act against the witness or against any other person.

Admissibility of deposition of person who cannot be found

40A. (1) Notwithstanding anything contained in this Act and any written law to the contrary, where in any proceeding for any offence under this Act a testimony of any person in respect of whom an order for removal from Malaysia has been made by the Director General under sections 32, 33 and subsection 56(2) is required by the court, there shall be admissible in evidence before that court any deposition relating to the subject matter of that proceeding made by that person—

- (a) in Malaysia before a Sessions Court Judge or a Magistrate in the presence or absence of the person charged with the offence; or
- (b) outside Malaysia before a consular officer or a judicial officer of a foreign country in the presence or absence of the person charged with the offence,

and any such deposition shall, without further proof, be admitted as *prima facie* evidence of any fact stated in the deposition.

(2) It shall not be necessary for any party in any proceeding to prove the signature or official character of the Sessions Court Judge, Magistrate, consular officer or judicial officer before whom the deposition under subsection (1) was made.

(3) For the purposes of this section, a reference to—

- (a) a “deposition” includes any written statement made upon oath; and
- (b) an “oath” includes an affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swear.

(4) Nothing in this section shall prejudice the admission as evidence of any other depositions.

Duty of police officers to execute orders

41. All police officers shall, when so requested by a senior immigration officer, receive and execute according to the tenor thereof any written order of the Director General, and any warrant of the Director General for the arrest, detention or removal of any person made under this Act.

Restriction of discharge of member of crew

42. (1) When any seaman is about to be, or is discharged or paid off in Malaysia, the master, owner, charterer or agent shall so notify the Director General.

(2) No member of a crew who has been discharged or paid off shall be left in Malaysia unless either—

(a) he is a citizen; or

(b) he is in possession of a valid Permit or Pass.

(3) Where there has been any contravention of subsection (2), the master, captain, owner, charterer, agent or consignee of the vessel or aircraft in which the person concerned was employed shall be liable for the maintenance of that person and for the cost of his repatriation to his place of birth or citizenship or, if the master, captain, owner, charterer, agent or consignee so elects, to such other place as may be approved by the Director General.

Signing on or bringing as one of the crew any person with intent to land contrary to this Act

43. Any transportation company and any person, including the master or captain and the owner of a vessel or aircraft arriving in Malaysia, who has signed on the ship's articles or brought to Malaysia as a member of the crew of the vessel or aircraft any person with intent to permit the person to enter Malaysia contrary to this Act, or who represents to an immigration officer that any such person is a *bona fide* member of the crew of the vessel or aircraft, shall be guilty of an offence against this Act and shall, on conviction, be liable to a fine, in respect of each such person, not exceeding five thousand and not less than one thousand ringgit.

Security to prevent unlawful landing

44. (1) An immigration officer may demand security, whether by deposit or otherwise, from the master, captain, owner, charterer or agent or consignee of any vessel or aircraft from which he has reasonable grounds to believe that any person is about to disembark in or enter Malaysia in contravention of this Act, and may refuse to release the vessel or aircraft from examination until the security is furnished.

(2) The Director General may, if satisfied that any person has disembarked in or entered Malaysia from any vessel or aircraft, in respect of which security has been furnished under subsection (1), in contravention of this Act, direct the forfeiture of the security or any part thereof:

Provided that the Director General shall not direct the forfeiture of any security under this subsection if he is satisfied that the master, captain, owner, charterer, agent or consignee took every reasonable precaution to prevent any person from so disembarking in or entering Malaysia.

(3) Where an immigration officer in lieu of requiring a deposit under subsection (1) requires security by a bond with or without sureties then the bond shall be in the prescribed form.

Reports as to persons failing to continue their journey

45. (1) Where any through passenger on or member of the crew of any vessel or aircraft fails to continue his journey in that vessel or aircraft in circumstances from which it may reasonably be inferred that the passenger or member of the crew has remained in Malaysia, the master of the vessel or the captain of the aircraft, as the case may be, shall notify an immigration officer or a senior police officer of the failure of the passenger or member of the crew to continue his journey.

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

Repatriation

46. (1) Any person residing in Malaysia who—

- (a) is not a citizen;
- (b) is by reason of destitution, infirmity or mental incapacity, unable to obtain employment or to support himself and his family (if any);
- (c) is unable to pay the cost of his passage and of the passages of his family (if any) to the country of his birth or citizenship; and
- (d) is or is likely to become a charge upon the public or on a charitable institution,

may apply to the Director General for the repatriation of himself and his family (if any) at the cost of the Government.

(2) Upon any such application, if the Director General is satisfied, after such inquiry as he deems necessary, that the person has or is about to become a charge on the public or on a charitable institution and is unable to pay the cost of the repatriation of himself and his family, if any, and that no government, organisation, company or person is liable or willing to pay the cost of repatriation, the Director General may authorize the payment of the cost subject to the condition specified in subsection (3).

(3) Any person repatriated at the cost of the Government shall enter into an undertaking, in such form as may be prescribed, that he will not return to Malaysia without the sanction in writing of the Director General. Any such sanction shall be conditional upon the person refunding to the Director General all costs and charges incurred in the repatriation of that person and his family, if any, and shall be subject to such other conditions as the Director General may deem expedient.

(4) Any person who has been repatriated at the cost of the Government under this section who enters or attempts to enter Malaysia without the sanction of the Director General under subsection (3), or who having entered Malaysia with such sanction, fails or neglects to comply with any condition upon which the sanction was given, shall be guilty of an offence against this Act.

Masters, captains, owners, etc., liable for expenses

47. If any person—

- (a) enters Malaysia from any vessel or aircraft contrary to this Act; or
- (b) disembarks from any vessel or aircraft on which he has been re-embarked or to which he has been returned under section 19, 20 or 24,

the master or captain and the owner, charterer and agent thereof shall be jointly and severally liable for all expenses incurred by the Government in respect of the detention and maintenance of that person and his removal from Malaysia and such expenses shall be recoverable as a debt due to Government from the master or captain and the owner, charterer and agent of the vessel or aircraft jointly and severally.

Obligation to afford free passage

48. (1) Where a person has been ordered to be removed under this Act and such person was brought to Malaysia in a vessel or an aircraft, the master, captain, owner, charterer or agent of the vessel or aircraft, as the case may be, shall, if required in writing by the Director General, afford that person free of charge a passage on any vessel or aircraft to the port or place at which he embarked and proper accommodation and maintenance during the voyage or flight:

Provided that no such master, captain, owner, charterer or agent shall be liable as aforesaid unless the order of removal has been made by the Director General within twelve months from the date upon which the person entered Malaysia.

(2) The master, captain, owner, charterer or agent of any vessel or aircraft, as the case may be, who fails to comply with this section shall be guilty of an offence against this Act.

(3) The Director General may exempt in writing the master, captain, owner, charterer or agent of any vessel or aircraft, as the case may be, from the obligations under subsection (1).

Liability for removal

48A. (1) A person—

- (a) who is involved, directly or indirectly, in conveying to Malaysia in or on any vehicle, vessel or aircraft any person contrary to this Act;
- (b) who employs any person, other than a citizen or a holder of an Entry Permit, who is not in possession of a valid Pass; or
- (c) who harbours any person whom he knows or has reasonable grounds for believing to have acted in contravention of this Act,

shall be liable for the expenses of removing that person from Malaysia and for reimbursing the Government the expenses incurred in respect of the detention and maintenance of that person.

(2) Where the Government has incurred expenses in detaining and maintaining or in removing any person ordered to be removed

under this Act, such expenses shall be recoverable as a debt due to the Government from the persons named in subsection (1).

Power to detain vessel

49. (1) The Director General may by writing under his hand authorize any Port Officer to detain any vessel in connection with which an offence against this Act is reasonably believed to have been or to be about to be committed, and the vessel may then be detained either at the place where it is found or at any place to which the Director General may order it to be brought. The Director General shall give notice to the master or owner or charterer or agent of the vessel of the detention of the vessel.

(2) For the purposes of the detention and other lawful dealing with the vessel the Port Officer shall have power to muster the crew and may, if he considers it necessary so to do, place a police guard on board.

(3) The detention shall be for safe custody only, and shall cease if a bond with two sufficient sureties to the satisfaction of the Director General be given by the master, owner, charterer or agent of the vessel for the payment of any fine, costs and charges incurred under this Act in respect of any offence or default thereunder.

(4) If default is made in the payment of any such fine, costs or charges the Port Officer may seize the vessel and the vessel shall be declared forfeited to the Government by order of a court upon the application of the Attorney General. Any vessel so forfeited shall be sold.

(5) The proceeds of sale of a vessel under this section shall be applied first in payment of any fine, costs or charges incurred under this Act and of any costs incurred in and about the sale and the proceedings leading thereto and the balance shall be paid to the owner of or other person lawfully entitled to the vessel before forfeiture and sale.

Power to seize, detain and forfeit vessels, vehicles or aircraft

49A. (1) Any vessel, vehicle or aircraft which is used or in respect of which there is reasonable cause to suspect that it has been or that it is about to be used in the commission of any offence against this Act may be seized and detained by the Director General or

any senior immigration officer, authorized in that behalf by the Director General in writing under his hand, at any place either on land or in the territorial waters of Malaysia.

(2) The seizing officer shall forthwith give notice in writing of the seizure and the grounds thereof to the owner, charterer or agent of the vessel, vehicle or aircraft so seized or detained, either by delivering the notice to him in person or by post at his place of office or abode, if known:

Provided that no notice shall be required to be given where the seizure or detention is made in the presence of or with the knowledge of the offender or the owner or his agent, as the case may be.

(3) Any vessel, vehicle or aircraft liable to seizure or detention under subsection (1) shall be liable to forfeiture.

(4) An order for the forfeiture or for the release of any vessel, vehicle or aircraft liable to forfeiture under this section shall be made by the court before which the prosecution with regard thereto has been held.

(5) An order for the forfeiture of any vessel, vehicle or aircraft shall be made if it is proved to the satisfaction of the court that an offence against this Act has been committed and that the vessel, vehicle or aircraft was used in the commission of the offence, notwithstanding that no person may have been convicted of the offence.

(6) The Director General may sell any vessel, vehicle or aircraft forfeited under this section. The proceeds of the sale shall, after payment of the expenses of the sale, be applied in payment of any fine, costs, or charge incurred under this Act and any balance remaining shall be paid into the Consolidated Fund.

Powers of interrogation

50. (1) Without prejudice to the powers of an immigration officer under section 39A, any person reasonably believed to be a person liable to removal from Malaysia under this Act may be questioned by an immigration officer, and the person shall fully and truthfully answer all questions and enquiries put to him by the immigration officer tending directly or indirectly to establish his identity, nationality, occupation or details of the mode or means of travel

or bearing on any of the restrictions contained in this Act, and shall disclose and produce to the officer on demand all documents in his possession relating to the matters.

(2) All such answers and documents shall be admissible in evidence in any proceedings under this Act against the person making or producing the same:

Provided that nothing in this section shall be construed as rendering any such answer inadmissible in any other proceedings in which they would otherwise be admissible.

Powers of search and arrest

51. (1) (a) Any senior immigration officer;

(b) any senior police officer;

(c) any other police officer generally or specially authorized in that behalf by the Director General; and

(d) any officer of the Customs Department acting under the instructions of a senior immigration officer,

may without a warrant and with or without assistance—

(i) enter and search any premises; or

(ii) stop and search any vessel, vehicle or person, or search any aircraft, whether in a public place or not,

if he has reason to believe that any evidence of the commission of an offence against this Act is likely to be found on such premises or person or in such vessel, vehicle or aircraft, and may seize any evidence so found.

(2) No woman shall be searched under this section except by a woman.

(3) (a) Any police officer, immigration officer or Customs Officer may arrest without warrant any person who he reasonably believes has committed an offence against this Act.

(b) The powers of arrest under paragraph (a) may—

(i) in the case of *Peninsular Malaysia, be conferred by the Minister, after consultation with the

*NOTE— Throughout the Act, references to Peninsular Malaysia shall be construed as including references to the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan—see P.U. (A) 160/1984.

Government of the State concerned, in areas to be notified in the *State Gazette*, on a Penghulu or Penggawa;

(ii) in the case of Sabah, be conferred by the Director General, with the approval of a Resident, in areas to be notified in the *State Gazette*, on any native officer within the meaning of the [†] Criminal Procedure Code of Sabah [*Ord. 4 of 1959*];

(iii) in the case of Sarawak, be conferred by the Director General, with the approval of a Resident, in areas to be notified in the *State Gazette*, on any Tua Kampong, Tuai Rumah or any Native or Chinese Headman.

(4) Where any person who is a citizen is arrested pursuant to subsection (3) by an immigration officer or by an officer of the Customs Department or by a person authorized under paragraph (3)(b), the person making the arrest shall comply with section 28 of the Criminal Procedure Code [*Act 593*] as if he were a police officer.

(5) Notwithstanding anything contained in this Act or in any subsidiary legislation made under this Act—

(a) where any person who is a citizen is arrested or detained under this Act otherwise than for an offence against this Act, and has not been earlier released, he shall without unreasonable delay, and in any case within twenty-four hours (excluding the time for any necessary journey), be produced before a Magistrate and shall not be further detained in custody without the Magistrate's authority; and

(b) where any person other than a citizen is arrested or detained under this Act, whether for an offence against this Act or otherwise than for such offence, and has not been earlier released, or charged in court for an offence against

[†]NOTE—The Criminal Procedure Code of Sabah [*Ord. 4 of 1959*] has been repealed by the Criminal Procedure Code (Amendments and Extension) Act 1976 [*Act A324*—see paragraph 4(b) of Act A324.

this Act or removed from Malaysia under this Act, he shall, within fourteen days of his arrest or detention, be produced before a Magistrate who shall make an order for his detention for such period as may be required by an immigration officer or a police officer for the purpose of investigations into an offence against this Act, or by an immigration officer for the purpose of either making inquiries, or effecting his removal from Malaysia, under this Act,

and any provision of this Act or any subsidiary legislation made under this Act providing for the arrest or detention, otherwise than for an offence, of a person who is a citizen, or for the arrest or detention of a person other than a citizen, whether for an offence against this Act or otherwise than for such offence, shall be read as being subject to the provisions of paragraph (a) or (b), as may be applicable:

Provided that the Magistrate before whom such person is produced under paragraph (a) or (b), as the case may be, shall not authorize or order the detention of such person for a period in excess of the maximum period which may be specified in the provision under which he is to be detained.

(6) Paragraph 5(b) shall have effect notwithstanding anything inconsistent therewith or contrary thereto in the Criminal Procedure Code.

Immigration depot

51A. The Director General may designate any place as an immigration depot for the examination, inspection, investigation or detention of persons under this Act.

Custody deemed lawful

51B. A person—

- (a) who is being taken to or from an immigration depot; or
- (b) who is being detained at an immigration depot,

shall be deemed to be in lawful custody.

Registration of particulars for purposes of identification

52. The provisions of the Registration of Criminals and Undesirable Persons Act 1969 [Act 7], relating to persons ordered to be expelled from Malaysia shall apply to persons ordered to be removed from Malaysia under this Act and for the purpose of so applying that Act an immigration officer shall be deemed to be a police officer.

Counterfoils, etc., to be *prima facie* evidence

53. In any proceedings under this Act or at the hearing of any charge for an offence against this Act any counterfoil or counterpart of any Permit, Pass, Internal Travel Document, Certificate or other document issued under this Act and purporting to be signed by a senior immigration officer may be produced in evidence without further proof and shall be *prima facie* evidence of the facts therein stated and shall unless the contrary be proved be presumed to be a true statement of the relevant contents of the Permit, Pass, Internal Travel Document, Certificate or other document to which it relates.

Regulations

54. (1) The Minister may make regulations for all or any of the following purposes:

- (a) prescribing anything which is to be or may be prescribed under this Act;
- (b) prescribing the forms to be used for the purposes of this Act;
- (c) prescribing—
 - (i) the period for which Permits shall be valid;
 - (ii) the terms and conditions subject to which any person may be granted a Permit and the authority who may issue Permits;
 - (iii) the terms and conditions subject to which any person may be granted a Pass entitling him to enter and remain temporarily within Malaysia, the period for which any such Pass may be granted, the classes of Passes and the authority who may issue the Passes; and

- (iv) the terms and conditions subject to which any person may be granted a Certificate of Status entitling him to enter Malaysia, the period for which such Certificate may be granted and the authority who may issue the Certificates;
- (d) providing for the payment and recovery of any expenses incurred by the Government in connection with the detention, maintenance, medical treatment and removal from Malaysia of any person under this Act;
- (e) prescribing the place where, the person to whom and the manner in which application to enter Malaysia shall be made;
- (f) prescribing the procedure to be followed by persons entering Malaysia;
- (g) prescribing the procedure to be followed by authorities in the exercise of their functions under this Act;
- (h) governing the procedure to be followed and the fees and costs to be paid on any appeal;
- (i) prescribing the deposit or security to be made or given by or in respect of any person granted an Entry Permit or Pass and the conditions subject to which the deposit or security may be forfeited;
- (j) prescribing the fees to be charged upon the issue of any Entry Permit, Certificate or Pass;
- (k) prescribing the offences under this Act and any regulations, orders, or other subsidiary legislation made under this Act, which may be compounded, the persons who may compound, the limit of the sum of the money to be collected for compounding such offences which shall not exceed thirty per centum of the maximum fine provided for the offence, the procedure to be complied with and the forms to be used in respect of such compounding, and otherwise, as may be necessary, desirable or expedient in relation to such compounding;
- (ka) governing the administration and management of immigration depots; and
- (l) generally for the better carrying into effect of this Act.

(2) All regulations made under this section shall be published in the *Gazette* and shall be laid before the Dewan Rakyat as soon as possible after such publication. If a resolution of the Dewan Rakyat is passed within the next subsequent three months after any such regulation is laid before it disapproving the regulation or any part thereof, the whole regulation or such part thereof, as the case may be, shall thenceforth cease to have effect but without prejudice to the validity of anything previously done thereunder.

Power to exempt

55. (1) Notwithstanding anything contained in this Act, the Minister may by order exempt any person or class of persons, either absolutely or conditionally, from all or any of the provisions of this Act and may in any such order provide for any presumptions necessary in order to give effect thereto.

(2) Every order made under this section which relates to a class of persons shall be published in the *Gazette*.

Conveying a person to Malaysia contrary to this Act

55A. (1) Any person involved, directly or indirectly, in conveying to Malaysia in or on any vehicle, vessel or aircraft any person contrary to this Act shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit and to imprisonment for a term of not less than two years but not more than five years and shall also be liable to whipping of not more than six strokes.

(2) Where the offence under subsection (1) has been committed by a body corporate, the body corporate shall be guilty of that offence and shall, on conviction, be liable to a fine of not less than thirty thousand ringgit but not more than one hundred thousand ringgit.

(3) Where the offence under subsection (1) has been committed by a body corporate, any person who at the time of the commission of the offence was a member of the board of directors, a manager, a secretary or a person holding an office or a position similar to that of a manager or secretary of the body corporate shall be guilty of that offence and shall, on conviction, be liable to a fine of not less than thirty thousand ringgit but not more than one hundred thousand ringgit and to imprisonment for a term of not less than two years but not more than ten years and shall also be liable to whipping of not more than six strokes.

(4) Notwithstanding subsection (1), where the offence under subsection (1) has been committed by a person who has been proved to the satisfaction of the court to have acted jointly with one or more persons in the commission of the offence under subsection (1), that person shall, on conviction, be liable to a fine of not less than thirty thousand ringgit but not more than one hundred thousand ringgit and to imprisonment for a term of not less than two years but not more than ten years and shall also be punished with whipping of not more than six strokes.

Employing a person who is not in possession of a valid Pass

55B. (1) Any person who employs one or more persons, other than a citizen or a holder of an Entry Permit who is not in possession of a valid Pass shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each such employee.

(2) A Pass lawfully issued to any person shall cease to be a valid Pass when any of its terms and conditions is contravened.

(3) Where, in the case of an offence under subsection (1), it is proved to the satisfaction of the court that the person has at the same time employed more than five such employees that person shall, on conviction be liable to imprisonment for a term of not less than six months but not more than five years and shall also be liable to whipping of not more than six strokes.

(4) For the purposes of this section a person performing any act normally performed by an employee in a place of employment whether or not for payment shall be presumed, unless the contrary is proved, to have been employed.

(5) Where the offence under subsection (1) has been committed by a body corporate, any person who at the time of the commission of the offence was a member of the board of directors, a manager, a secretary or a person holding an office or a position similar to that of a manager or secretary of the body corporate shall be guilty of that offence and shall be liable to the same punishment to which the body corporate is liable under subsection (1) or (3).

Defence

55c. It shall be a defence for any person prosecuted pursuant to subsection 55A(3), 55B(5) or 55E(6) if he proves—

(a) that the offence was committed without his knowledge or connivance; or

(b) that he—

(i) took all reasonable precaution; and

(ii) exercised all due diligence,

to prevent the commission of the offence as he ought to have taken and exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Forgery or alteration of endorsement or document

55d. Any person who makes, forges or alters an endorsement or a document to be used as a visa, Permit, Pass or Certificate under this Act shall be guilty of an offence against this Act and shall, on conviction, be liable to a fine of not less than thirty thousand ringgit but not more than one hundred thousand ringgit and to imprisonment for a term of not less than five years but not more than ten years and shall also be punished with whipping of not more than six strokes.

Occupier not to permit illegal immigrant to enter or remain at premises

55e. (1) No occupier shall permit any illegal immigrant to enter or remain at any premises.

(2) An occupier who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each illegal immigrant found at the premises and, in the case of a second or subsequent conviction, to a fine of not less than ten thousand ringgit and not more than sixty thousand ringgit or to imprisonment for a term not exceeding two years or to both for each illegal immigrant found at the premises.

(3) For the purposes of this section, it shall be presumed, unless the contrary is proved, that an occupier in the case where an illegal immigrant is found at the premises—

- (a) had permitted the illegal immigrant to enter or remain at the premises; and
- (b) had knowledge that he is an illegal immigrant.

(4) The presumptions in subsection (3) shall not be rebutted unless the occupier proves that he has taken all reasonable measures, including all prescribed measures, to prevent any illegal immigrant from entering or remaining at the premises.

(5) For the purpose of subsection (4), the Minister may by regulations prescribe the measures that are required to be taken by an occupier.

(6) Where the offence under subsection (1) has been committed by a body corporate, any person who at the time of the commission of the offence was a member of the board of directors, a manager, a secretary or a person holding an office or a position similar to that of manager or secretary of the body corporate shall be guilty of that offence and shall on conviction be liable to the same punishment to which the body corporate is liable under subsection (2).

(7) In this section, unless the context otherwise requires—

“illegal immigrant” means a person, other than a citizen, who contravenes section 5, 6, 8, 9 or 15 of this Act or regulation 39 of the Immigration Regulations 1963 [*F.L.N.* 228/1963];

“occupier”, in relation to any premises, means any person having the charge, management or control of the premises;

“premises” includes—

- (a) any land, building or part of any building;
- (b) any place whether open or enclosed;
- (c) any vehicle, vessel or aircraft;
- (d) any installation on land, offshore installation, or other installation whether on the bed of or floating on any water; and
- (e) any structure movable or immovable.

Offences

56. (1) Any person who—

- (a) *(Deleted by Act A719)*;
- (b) *(Deleted by Act A719)*;
- (c) *(Deleted by Act 27 of 1963)*;
- (d) harbours any person whom he knows or has reasonable grounds for believing to have acted in contravention of this Act, except section 55E;
- (e) *(Deleted by Act 27 of 1963)*;
- (f) makes or causes to be made any false report, false statement or false representation in connection with any obligation imposed by this Act;
- (g) resists or obstructs, actively or passively, any immigration officer in the execution of his duty;
- (h) without lawful excuse hinders or obstructs any removal under this Act;
- (i) gives, sells or parts with possession of any Entry Permit, Pass, Internal Travel Document or Certificate in order that it may be used in contravention of paragraph (j);
- (j) uses any Entry Permit, Pass, Internal Travel Document or Certificate issued to any other person as if it had been lawfully issued to himself;
- (k) obtains or attempts to obtain for himself or for any other person by making a false statement any Entry Permit, Pass, Internal Travel Document or Certificate; or
- (l) uses or without lawful authority has in his possession any forged, unlawfully altered or irregular Entry Permit, Pass, Internal Travel Document or Certificate or other document issued under this Act, or any Permit, Pass, Internal Travel Document or Certificate or other document so issued on which any endorsement has been forged or unlawfully altered,

shall be guilty of an offence and shall, on conviction—

- (aa) except for an offence under paragraph (d), be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years;

(bb) in the case of an offence under paragraph (d), be liable to a fine of not less than ten thousand ringgit and not more than fifty thousand ringgit for each person harboured and where it is proved to the satisfaction of the court that the person has at the same time harboured more than five such persons that person shall be liable to imprisonment for a term of not less than six months but not more than five years and shall also be liable to whipping of not more than six strokes.

(1A) Any person who—

- (a) attempts to commit any offence under this Act;
- (b) does any act preparatory to or in furtherance of the commission of any offence under this Act; or
- (c) abets or is engaged in a criminal conspiracy to commit (as those terms are defined in the Penal Code) any offence under this Act whether or not the offence is committed in consequence thereof,

shall be guilty of such offence and be liable to the punishment provided for such offence.

(1B) Any reference in this Act to an offence under any specific provision of this Act, includes an offence by virtue of subsection (1A) in relation to that specific provision, except that, no citizen, shall, in any case, be liable to removal from Malaysia in consequence of an offence under subsection (1A).

(2) Any person who is not a citizen unlawfully entering or re-entering or attempting unlawfully to enter or re-enter Malaysia or unlawfully remaining in Malaysia shall whether or not any proceedings are taken against him in respect of the offence be liable to be removed from Malaysia by order of the Director General.

(3) Where the master of any vessel is charged with an offence against this Act, the clearance of the vessel may be refused until the charge has been heard and the fine imposed, if any, has been paid.

(4) Where in any proceedings under this Act it is proved that the defendant has failed to produce on demand by an immigration officer or a police officer—

- (a) any valid Permit, Pass or Certificate issued to him under this Act;
- (b) (Omitted);

- (c) any other document accepted by the Director General as evidence that the defendant has entered or remained in Malaysia lawfully; or
- (d) any other evidence showing to the satisfaction of the Director General that the defendant is exempted from subsection 6(1),

it shall be presumed, until the contrary is proved, that he has, as the case may be, entered or re-entered or remained in Malaysia unlawfully.

General penalty

57. Any person guilty of an offence against this Act for which no special penalty is provided shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Trial of offences

58. (1) All offences against this Act shall be cognizable—

- (a) in Peninsular Malaysia, by a Sessions Court and by a Court of a First Class Magistrate; and
- (b) in Sabah and Sarawak, by a Court of a First Class Magistrate.

(2) No prosecution shall be instituted in respect of any offence against this Act without the sanction in writing of the Public Prosecutor:

Provided that nothing herein shall prevent any police officer or immigration officer from exercising his powers to arrest or detain any person under this Act.

(3) In Peninsular Malaysia any Sessions Court or Court of a First Class Magistrate and in Sabah and Sarawak any Court of First Class Magistrate* may notwithstanding anything in the Subordinate Courts Act 1948 [Act 92], the Sabah Criminal Procedure Code [Sabah 4/1959][†] or the Sarawak Criminal Procedure Code [Sarawak Cap.58][†], as the case may be, impose the full punishment

*NOTE—In relation to Sabah or Sarawak, a reference to the Court of a Magistrate of the First Class shall be substituted a reference to a Sessions Court—see paragraph 111(a) of Subordinate Courts Act 1948 [Act 92].

†NOTE—The Sabah Criminal Procedure Code [Sabah 4/1959] and Sarawak Criminal Procedure Code [Sarawak Cap. 58] have been repealed by Act A324—see section 4 of the Act.

prescribed for any offence except that the Court of a Magistrate of the First Class in Peninsular Malaysia and the Court of a Magistrate other than a Stipendiary Magistrate^{††} in Sabah and Sarawak shall not impose a sentence of imprisonment for a term exceeding the term of imprisonment that a Magistrate of the First Class may impose under the Subordinate Courts Act 1948.

Power to compound

58A. (1) Any person prescribed by regulations made under this Act, may, with the consent of the Public Prosecutor, compound any such offence as may be prescribed to be a compoundable offence by regulations made under this Act, by accepting from the person reasonably suspected of having committed the offence a sum of money within such time as may be specified in his written offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the prescribed person in subsection (1) may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) Where the offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made.

(4) Any money paid to the prescribed person pursuant to subsection (1) shall be paid into and form part of the Federal Consolidated Fund.

Exclusion of right to be heard

59. No person and no member of a class of persons shall be given an opportunity of being heard before the Minister or the Director General, or in the case of an East Malaysian State, the State Authority, makes any order against him in respect of any matter under this Act or any subsidiary legislation made under this Act.

Exclusion of judicial review

59A. (1) There shall be no judicial review in any court of any act done or any decision made by the Minister or the Director General, or in the case of an East Malaysian State, the State Authority,

^{††}NOTE—In relation to Sabah or Sarawak, a reference to a Stipendiary Magistrate shall be substituted a reference to a Sessions Court Judge—see paragraph 111(c) of Subordinate Courts Act 1948 [Act 92].

under this Act except in regard to any question relating to compliance with any procedural requirement of this Act or the regulations governing that act or decision.

(2) In this section, “judicial review” includes proceedings instituted by way of—

- (a) an application for any of the prerogative orders of *mandamus*, prohibition and *certiorari*;
- (b) an application for a declaration or an injunction;
- (c) any writ of *habeas corpus*; or
- (d) any other suit or action relating to or arising out of any act done or any decision made in pursuance of any power conferred upon the Minister or the Director General, or in the case of an East Malaysian State, the State Authority, by any provisions of this Act.

Definitions of “Director General” and “order” in sections 59 and 59A

59B. In sections 59 and 59A—

- (a) “Director General” includes any immigration officer exercising and discharging the powers and duties vested in the Director General; and
- (b) “order” includes any decision, any direction, and any act of cancellation of any Pass, Permit or Certificate.

Reward

59c. The Director General may order such reward as he thinks fit to be paid to any person for any service rendered in connection with the detection and prosecution of an offence under this Act.

Repeal and saving

60. The Federation of Malaya Immigration Ordinance 1952 [*Ord. 68 of 1952*], and, subject to section 74, the Sabah Immigration Ordinance 1962 [*Ord. 1 of 1962*], and the Sarawak Immigration Ordinance [*Cap. 15*] are repealed:

Provided that—

- (a) any person in Malaysia whose presence is unlawful under the Ordinances hereby repealed shall be deemed to be unlawfully in Malaysia for the purposes of this Act;

- (b) any person in Malaysia who is authorized to remain temporarily within Malaysia under any written law in force immediately prior to the coming into force of this Act shall be deemed to be the holder of a Pass issued under this Act to enter and remain temporarily within Malaysia for the period for which he is authorized to remain in Malaysia under the provisions of that law; and
- (c) any authority to enter Malaysia granted under any law in force immediately before the coming into operation of this Act and valid at that date shall be deemed to be a valid Permit or Pass, as the case may require, issued under this Act but subject to any limitations imposed by that law.

61. (*Deleted by Act 27 of 1963*).

PART VII

SPECIAL PROVISIONS FOR EAST MALAYSIA

Chapter 1—General

Interpretation

62. In this Part unless the context otherwise requires—

“East Malaysian State” means the State of Sabah or Sarawak, as the case may require, and “East Malaysian States” shall be construed accordingly;

“Director” means the Director of Immigration, Sabah, or the Director of Immigration, Sarawak, as the case may require;

“State Authority”, for any purpose relating to an East Malaysian State, means the Chief Minister of the State or such person holding office in the State as the Chief Minister may designate for the purpose by notification in the *State Gazette*.

Delegation of powers

63. Parts II and III of the Delegation of Powers Act 1956 [Act 358], so far as relevant for the purposes of this Act, shall for those purposes extend to East Malaysia whether or not so extended for any other purpose.

*Chapter 2—Special Provisions***Application of immigration law to each East Malaysian State as separate unit**

64. (1) Without prejudice to the general operation of Parts I to VI (in East Malaysia as in Peninsular Malaysia), as a general law for Malaysia as a whole, those Parts shall also have effect, subject to and in accordance with this Chapter, as a special law for each of the East Malaysian States as if for any reference to Malaysia (except in a reference to a Government in Malaysia) there were substituted a reference to the East Malaysian State.

(2) Regulations under section 54 and orders under section 55 (exemptions), may make special provision as regards an East Malaysian State for the purposes of Parts I to VI as a special law for that State; and no such regulations shall be made or have effect so as to prejudice the powers conferred by this Chapter on the authorities of the State.

(3) There shall be a Director for each of the East Malaysian States who, subject to subsection 3(2) and section 4, shall have all such authority to exercise the powers and discretions vested in the Director General by Parts I to VI, and discharge the duties required to be discharged by him, as may be necessary for the purpose of giving effect to those Parts as a special law for the State.

(4) In the operation of Parts I to VI as a special law for an East Malaysian State, those Parts shall have effect subject to the following modifications:

- (a) section 9A (which confers on the Director General a general power to limit entry into Malaysia) and section 46 (which relates to repatriation) shall not apply; and
- (b) references to a Permit or Pass shall mean a Permit or Pass to enter the East Malaysian State.

(5) Notwithstanding anything in subsections (1) to (4), the powers and discretions vested in the Director by Parts I to VI, as a special law for an East Malaysian State shall not be exercised by him so as to exclude or remove from the East Malaysian State a person entitled to be in Malaysia outside the East Malaysian State, except with a view to making effective the powers conferred by this Chapter on the authorities of the State; and no such person shall in the exercise of those powers be required to leave and depart from Malaysia nor, without his consent, be removed from Malaysia.

General powers of State authority

65. (1) In exercising his powers under Parts I to VI as a special law for an East Malaysian State the Director shall comply with any directions given to him by the State authority, being directions—

- (a) requiring him not to issue a Permit or Pass, or a specified description of Permit or Pass, to any specified person or class or persons, or to do so only for a specified period or on specified terms and conditions;
- (b) restricting the making of endorsements on a Permit, Pass or Certificate; or
- (c) requiring him to cancel any Permit, Pass or Certificate issued to a specified person, or to deem a specified person to be an undesirable immigrant, or to declare that a specified person's presence in the East Malaysian State is unlawful, or to order a specified person's removal from the State.

(2) Where the Director takes any action in obedience or purported obedience to any directions given under subsection (1), and there is an appeal to the Minister against that action, the Minister shall not allow the appeal without the concurrence of the State authority.

(3) An order under section 55 shall not have effect as a special law for an East Malaysian State, except so far as its provisions are by the same or a subsequent order applied to those purposes with the concurrence of the State Authority.

Restriction on citizen's right of entry into an East Malaysian State

66. (1) Subject to subsection (2) and to sections 67 and 68, a citizen shall not be entitled to enter an East Malaysian State without having obtained a Permit or Pass in that behalf unless—

- (a) he belongs to the East Malaysian State;
- (b) he is a member of the Federal Government, or of the Executive Council or Legislative Assembly of the East Malaysian State (or of any Council having similar functions in the State);
- (c) he is a judge of the Federal Court or of the High Court in Sabah and Sarawak, or is a person designated or nominated to act as such, or he is a member of any Commission or Council established by the Federal Constitution or by the Constitution of the East Malaysian State; or

(d) he is a member of any of the public services of the Federation, or of the public service of the East Malaysian State, or of a joint public service serving the East Malaysian State, or is seconded to any such service.

(2) Where a citizen is entitled to enter the East Malaysian State under subsection (1), the citizen's children under the age of eighteen years and (if he is a man) his wife, if entering the East Malaysian State with, or to be with, the citizen, shall not be required by subsection (1) to obtain a Permit or Pass in that behalf.

(3) Where a citizen is not entitled to enter an East Malaysian State under this section, Parts I to VI, in their operation as a special law for the East Malaysian State shall apply to him as if he were not a citizen:

Provided that a citizen arriving in Malaysia in the East Malaysian State or in the other of the East Malaysian States, and proceeding to a part of Malaysia which he is entitled to enter, shall be entitled to such Pass as is reasonably required to enable him to do so.

(4) The burden of proof that a person is entitled to enter the East Malaysian State under this section shall lie on him.

Right to enter East Malaysian State for exercise of political rights

67. Subsection 66(1) shall not have effect in relation to a citizen entering the East Malaysian State for the sole purpose of engaging in legitimate political activity; but the burden of proof that a person is entitled to enter the East Malaysian State under this section shall lie on him.

Right to enter East Malaysian State for purposes of Federal Government

68. (1) Subsection 66(1) shall not have effect in relation to any citizen whose entry into the East Malaysian State is temporarily required by the Federal Government in order to enable that Government to carry out its constitutional and administrative responsibilities.

(2) The Minister shall from time to time notify the Director of the persons or classes of persons whose entry into an East Malaysian State is required as aforesaid, and shall give him such particulars as are necessary to enable him to discharge his functions in relation

to those persons; and in relation to an East Malaysian State subsection (1) shall not be taken to apply to any person unless he is a person, or belongs to a class of persons, so notified to the Director in relation to that State.

(3) The Minister shall not give any notification to the Director under subsection (2) except after consultation with the State Authority.

Entry from outside East Malaysia for State purposes

69. (1) The powers of the Director under Parts I to VI shall be so exercised as to allow the entry into an East Malaysian State of any person if his entry is required by the Government of the State for State purposes.

(2) The State Authority shall from time to time notify the Director of any person whose entry is required as aforesaid, giving such particulars as are necessary to enable the Director to discharge his functions in relation to that person; and subsection (1) shall not be taken to apply to any person unless he is a person so notified to the Director.

(3) The State Authority shall not give any notification to the Director under subsection (2) except after consultation with the Minister; and if the Minister considers it desirable in the national interest for entry to be refused to the person in question, and so informs the State Authority, the notification shall not be given.

Temporary protection for potential citizens in an East Malaysian State

70. (1) As regards entry into and residence in an East Malaysian State and all matters connected therewith a person entitled in the State to the benefit of this section shall be treated for the purposes of Parts I to VI as if he were a citizen.

(2) Subject to this section, a person shall be entitled in an East Malaysian State to the benefit of the section if—

- (a) on Malaysia Day he is ordinarily resident in the State, and in the ten years immediately preceding that day he has resided in the territories comprised in the East Malaysian States and Brunei for periods which amount in the aggregate to not less than seven years; and
- (b) immediately before Malaysia Day under the immigration law of the territories comprised in the State, he would as being a Commonwealth citizen (or if not a Commonwealth

citizen, then in the case of Sabah as having been before November 1931 born in North Borneo) have been entitled to enter those territories without having obtained a permit or pass.

(3) A person shall not be entitled to the benefit of this section after the beginning of September, 1965:

Provided that where before September 1965, a person entitled in an East Malaysian State to the benefit of this section makes an application to be registered as a citizen and the application is not disposed of before the beginning of that month, he shall continue to be so entitled until the application is disposed of.

(4) So long as a person is entitled in an East Malaysian State to the benefit of this section that person's children under the age of twenty-one years and (if he is a man) his wife shall as regards entry into and residence in the State and all matters connected therewith be treated for the purposes of Parts I to VI as if they were citizens.

(5) For the purpose of determining whether paragraph (2)(b) is satisfied in the case of any person, any question which under the immigration law of the territories comprised in an East Malaysian State would have fallen to be determined by an authority or officer of the Government of those territories shall be determined by the Minister.

(6) A person who has left an East Malaysian State on or after Malaysia Day shall not be entitled in the State to the benefit of this section if the Minister* is satisfied that his residence in the State would be prejudicial to public security.

(7) This section shall not entitle any person for the purpose of reaching an East Malaysian State to enter or remain in any part of Malaysia outside the State otherwise than in accordance with Parts I to VI, as those Parts apply to persons who are not citizens; but a person entitled by virtue of this section to enter an East Malaysian State shall be entitled to receive such Pass to enter a part of Malaysia outside the State as is reasonably required to enable him to do so.

*NOTE—For exercise of powers of Minister in respect of persons in East Malaysian state by the Federal Secretary or by any person in the state being a member of the Public Services so authorized to do—see paragraph 6(2)(a) and subsection 6(6)—Immigration (Transitional Provisions) Order 1963 [L.N. 226/1963].

(8) For persons entitled to enter an East Malaysian State by virtue of this section regulations under section 54 may, as respects Certificates of Status and other matters, make special provision different from that made for citizens.

(9) For purposes of this section residence shall be calculated in like manner as for the purpose of registration as a citizen, and “child” includes in relation to a woman, an illegitimate child.

Persons to be treated as belonging to East Malaysian State

71. (1) For purposes of section 66 a citizen shall be treated as belonging to an East Malaysian State if—

- (a) he is or has within the preceding two years been a permanent resident in the East Malaysian State; or
- (b) he became a citizen in any of the following ways, that is to say—
 - (i) by operation of law on Malaysia Day in respect of his being a citizen of the United Kingdom and Colonies ordinarily resident in the State;
 - (ii) by operation of law on or after Malaysia Day in respect of his birth in Malaysia and of one of his parents being at the time of the birth a permanent resident in the East Malaysian State; or
 - (iii) by registration in respect of his being on Malaysia Day ordinarily resident in the East Malaysian State.

(2) Subject to subsection (3) a person shall not be treated for purposes of this section—

- (a) as becoming a permanent resident in an East Malaysian State after not being one, until he has in a period not exceeding five years been resident in the State for periods amounting to three years; or
- (b) as being a permanent resident in an East Malaysian State at any time when under federal law he requires permission to reside there and has not got permission to do so granted without limit of time.

(3) Paragraph (2)(a) shall not prevent a woman being treated as a permanent resident in an East Malaysian State at any time when she is married to a permanent resident in the State and is ordinarily resident there with him.

(4) In determining for the purposes of this section whether a person is or was at any time a permanent resident in an East Malaysian State no account shall be taken of any period of residence in the State while he is there by virtue of section 67 or 68; but a period of residence or of permanent residence shall not for purposes of this section be treated as interrupted or terminated—

- (a) by a period of absence from the State of less than six months;
- (b) by a period of absence from the State for purposes of education of such kind, in such country and for such time as may from time to time be either generally or specially approved by the State authority;
- (c) by a period of absence from the State on duty in the service of the Federation or of any State, where the absence is not inconsistent with the essential continuity of the residence in the State; or
- (d) by a period of absence from the State for any other cause allowed generally or specially by the State Authority.

(5) A person who for purposes of Parts I to VI is for the time being treated under section 70 as a citizen in respect of his being on Malaysia Day ordinarily resident in an East Malaysian State shall for purposes of section 66 be treated as belonging to that State.

(6) Any authority empowered under Parts I to VI in its operation as a special law for an East Malaysian State to issue Certificates of Status showing that a person belongs to that State shall (unless the authority is an authority of the State) notify the State Authority of any application for the issue of such a Certificate, and if so required by the State Authority consult with that authority before issuing the Certificate.

Chapter 3—Supplementary

Travel documents required

72. (1) Subject to any exemption granted under section 55 every person entering Peninsular Malaysia or an East Malaysian State from a place in Malaysia outside Peninsular Malaysia or outside that State, as the case may be, shall produce to the immigration

officer either an internal travel document issued under section 73 or the like passport, or other travel document, having the like visa (if any), as would be required by the law for the time being in force with respect to passports if he were entering from a place outside Malaysia.

(2) A person shall be guilty of an offence against this Act if he enters Peninsular Malaysia or an East Malaysian State contrary to subsection (1), or attempts to do so, or abets any person to do so.

Provision for internal travel documents

73. (1) The Minister shall make arrangements for the issue to citizens in such circumstances and on such conditions as may be prescribed, of special travel documents for travel within Malaysia; and any such document shall be known as an internal travel document, and shall not be deemed to be a passport within the meaning of any law relating to passports.

(2) (*Omitted*).

Continuation of State subsidiary legislation

74. (1) The repeal of the Sabah Immigration Ordinance 1962, and the Sarawak Immigration Ordinance by section 60 shall not affect the operation of any subsidiary legislation then having effect under those laws; but any such subsidiary legislation shall continue to have the like effect, as nearly as may be, for any corresponding purpose of this Act, until it is superseded by any regulations or order made under this Act.

(2) No such subsidiary legislation shall be so superseded in whole or in part without the concurrence of the Chief Minister of the State.

LAWS OF MALAYSIA

Act 155

IMMIGRATION ACT 1959/63

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 6/1961	Immigration (Amendment) Act 1961	01-04-1961
L.N. 226/1963	Immigration (Transitional Provisions) Order 1963	16-09-1963
Act 27/1963	Immigration Act 1963	16-09-1963
Act 15/1965	Immigration (Amendment) Act 1965	16-09-1963
Act 7/1966	Immigration (Amendment) Act 1966	27-01-1966
P.U. (A) 179/1969	Essential (Immigration) (Borneo States) Regulations 1969	13-06-1969
P.U. (A) 238/1969	Essential (Modifications of Immigration Laws) Regulations 1969	15-07-1969
P.U. (A) 404/1969	Essential (Modifications of Immigration Laws) (Amendment) Regulations 1969	15-07-1969
P.U. (B) 324/1970	Notification under section 3 of the Titles of Office Ordinance 1949	01-01-1971
Act A82	Immigration (Amendment) Act 1971	24-09-1971
P.U. (A) 209/1971	Notification under section 3 of the Titles of Office Ordinance 1949	25-06-1971
Act A191	Immigration (Amendment) Act 1973	30-03-1973
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A324	Criminal Procedure Code (Amendment and Extension) Act 1976	10-01-1976

Amending law	Short title	In force from
P.U. (A) 357/1980	Subordinate Courts Act (Extension) Order 1980	01-06-1981
P.U. (A) 160/1984	Federal Territory of Labuan (Modification of Immigration Act) Order 1984	16-04-1984
Act A719	Immigration (Amendment) Act 1989	09-02-1989
Act A885	Constitution (Amendment) Act 1994	24-06-1994
*Act A985	Immigration (Amendment) Act 1997	01-02-1997
P.U. (A) 282/2002	Revision of Laws (Rectification of Immigration Act 1959/63) Order 2002	01-08-2002
Act A1154	Immigration (Amendment) Act 2002	01-08-2002

*NOTE—Any enquiry or proceedings commenced or pending before or on the commencement of the amending Act shall be continued or concluded in all respects as if the amending Act had not been passed and any order, decision or Re-entry Permit issued, made or given and any act lawfully done under or by virtue of the repealed provisions shall continue and remain in force and have effect until amended, repealed, rescinded, revoked or replaced under or by virtue of the amending Act—see section 22 of Act A985.

LAWS OF MALAYSIA

Act 155

IMMIGRATION ACT 1959/63

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
1	P.U. (A) 282/2002	11-07-2002
2	Act A719 Act A985 Act A1154	09-02-1989 01-02-1997 01-08-2002
3	Act A985 Act A1154	01-02-1997 01-08-2002
6	Act A719 Act A985 Act A1154	09-02-1989 01-02-1997 01-08-2002
8	Act A719	09-02-1989
9	Act A719	09-02-1989
9A	Act A719	09-02-1989
10	Act A985	01-02-1997
11	Act A719 Act A985	09-02-1989 01-02-1997
15	Act A719 Act A1154	09-02-1989 01-08-2002
20	Act 160 Act A719	29-08-1975 09-02-1989
22	Act 160 Act A985	29-08-1975 01-02-1997
24	Act A719 Act A985	09-02-1989 01-02-1997
Part III Heading	Act A985	01-02-1997

Section	Amending authority	In force from
26	Act 160 Act A719	29-08-1975 09-02-1989
27	Act A719	09-02-1989
29	Act A719	09-02-1989
33	Act A719	09-02-1989
34	Act A719	09-02-1989
36	Act 160 Act A719 Act A985	29-08-1975 09-02-1989 01-02-1997
39	Act A1154	01-08-2002
39A	Act A719	09-02-1989
40	Act A719	09-02-1989
40A	A1154	01-08-2002
43	Act 160 Act A719 Act A985	29-08-1975 09-02-1989 01-02-1997
48	Act A985	01-02-1997
48A	Act A985	01-02-1997
49A	Act A985	01-02-1997
50	Act A719	09-02-1989
51	Act A719	09-02-1989
51A	Act A1154	01-08-2002
51B	Act A1154	01-08-2002
54	Act A719 Act A985	09-02-1989 01-02-1997
55A	Act A985	01-02-1997
55B	Act A985 Act A1154	01-02-1997 01-08-2002

Section	Amending authority	In force from
55C	Act A985	01-02-1997
	Act A1154	01-08-2002
55D	Act A985	01-02-1997
55E	Act A1154	01-08-2002
56	Act A719	09-02-1989
	Act A985	01-02-1997
	Act A1154	01-08-2002
57	Act A719	09-02-1989
	P.U. (A) 282/2002	11-07-2002
58	Act A324	10-01-1976
	Act A1154	01-08-2002
58A	A1154	01-08-2002
59	Act A719	09-02-1989
	Act A985	01-02-1997
59A	Act A719	09-02-1989
	Act A985	01-02-1997
59B	Act A719	09-02-1989
59C	Act A985	01-02-1997
64	Act A719	09-02-1989
65	Act A985	01-02-1997

