



LAWS OF MALAYSIA

Act A1581

EXCISE (AMENDMENT) ACT 2018

Date of Royal Assent	...	...	26 December 2018
Date of publication in the <i>Gazette</i>	...	...	28 December 2018

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EXCISE (AMENDMENT) ACT 2018

An Act to amend the Excise Act 1976.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Excise (Amendment) Act 2018.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Amendment of section 2

2. The Excise Act 1976 [*Act 176*], which is referred to as the “principal Act” in this Act, is amended in subsection 2(1) in the definition of “value” by substituting for paragraph (a) the following paragraph:

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

Amendment of section 5B

3. Paragraph 5B(3)(c) of the principal Act is amended by inserting before the words “an appeal” the words “a review or”.

Substitution of section 47

4. The principal Act is amended by substituting for section 47 the following section:

“Review of and appeal against decision of the Director General

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

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

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

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

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

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

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

Substitution of section 50A

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

“Power of enforcement, investigation and inspection

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

New section 59A

6. The principal Act is amended by inserting after section 59 the following section:

“Court order

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

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

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

Amendment of section 71

7. Section 71 of the principal Act is amended—

(a) by substituting for paragraph (c) the following paragraph:

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

(b) by substituting for the words “shall, on conviction” the words “shall be guilty of an offence and shall, on conviction”; and

(c) by substituting for the words “five years” the words “seven years”.

Amendment of section 73

8. Subsection 73(1) of the principal Act is amended by substituting for the words “six months or to a fine not exceeding two thousand ringgit or to both such imprisonment and fine” the words “five years or to a fine not exceeding one hundred thousand ringgit or to both”.

Amendment of section 74

9. Subsection 74(1) of the principal Act is amended—

(a) by substituting for subparagraph (i) the following subparagraph:

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

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

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

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

(b) by substituting for subparagraph (ii) the following subparagraph:

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

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

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

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

(c) by inserting after the proviso to subparagraph (ii) the following subparagraphs:

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

(A) for the first offence, to a fine of not less than ten times the amount of the excise duty or one hundred thousand ringgit, whichever is the greater amount, and of not more than twenty times the amount of

the excise duty or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term of not less than six months and not more than five years or to both; and

- (B) for a second offence or any subsequent offence, to a fine of not less than twenty times the amount of the excise duty or two hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the amount of the excise duty or one million ringgit, whichever is the greater amount, or to imprisonment for a term of not less than six months and not more than five years or to both; and
- (iv) in the case of imported cigarettes or intoxicating liquor—
- (A) for the first offence, to a fine of not less than ten times the amount of the excise duty or one hundred thousand ringgit, whichever is the greater amount, and of not more than twenty times the amount of the excise duty or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term of not less than six months and not more than five years or to both; and
 - (B) for a second offence or any subsequent offence, to a fine of not less than twenty times the amount of the excise duty or two hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the amount of the excise duty or one million ringgit, whichever is the greater amount, or to imprisonment for a term of not less than six months and not more than five years or to both.”.

Amendment of section 76

10. Section 76 of the principal Act is amended by substituting for the word “five” the word “fifty”.

Amendment of section 77

11. Section 77 of the principal Act is amended—

- (a) in paragraph (a), by substituting for the words “assaults or obstructs” the words “assaults, obstructs, hinders, threatens or molests”;
- (b) in paragraph (b), by inserting after the words “anything which has been duly seized” the words “or any person who has been detained”;
- (c) in subparagraph (i), by substituting for the words “a term not exceeding three years or to a fine not exceeding ten thousand ringgit or to both such imprisonment and fine” the words “a term not exceeding five years or to a fine not exceeding five hundred thousand ringgit or to both”; and
- (d) in subparagraph (ii), by substituting for the words “a term not exceeding five years or to a fine not exceeding twenty thousand ringgit” the words “a term not exceeding seven years or to a fine not exceeding one million ringgit”.

Amendment of section 78

12. Subsection 78(1) of the principal Act is amended by substituting for the words “a fine not exceeding ten thousand ringgit” the words “a fine not exceeding five hundred thousand ringgit”.

Amendment of section 79

13. Section 79 of the principal Act is amended by substituting for the words “twenty thousand” the words “fifty thousand”.

New section 82A

14. The principal Act is amended by inserting after section 82 the following section:

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

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

Amendment of section 85

15. Subsection 85(2) of the principal Act is amended by inserting after paragraph (*bc*) the following paragraph:

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