



# **LAWS OF MALAYSIA**

**Act A1580**

**CUSTOMS (AMENDMENT) (NO. 2) ACT 2018**

Date of Royal Assent	...	...	26 December 2018
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**LAWS OF MALAYSIA****Act A1580****CUSTOMS (AMENDMENT) (NO. 2) ACT 2018**

An Act to amend the Customs Act 1967.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

**1.** (1) This Act may be cited as the Customs (Amendment) (No. 2) 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 Customs Act 1967 [*Act 235*], which is referred to as the “principal Act” in this Act, is amended in subsection 2(1) by substituting for the definition of “intoxicating liquor” the following definition:

‘ “intoxicating liquor” includes any alcohol, or any liquid containing more than 1.14 per centum volume over volume of alcohol, which is fit or intended to be or which can by any means be converted for use as a beverage;’.

**Amendment of section 10B**

3. Paragraph 10B(3)(c) of the principal Act is amended by inserting before the words “an appeal” the words “a review or”.

**Substitution of section 106B**

4. The principal Act is amended by substituting for section 106B the following section:

**“Power of enforcement, investigation and inspection**

**106B.** For the purposes of this Act, a senior officer of customs 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 119A**

5. The principal Act is amended by inserting after section 119 the following section:

**“Court order**

**119A.** (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 customs duty due and payable or penalty payable under this Act, if any, as certified by the Director General and such customs 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 customs 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 found not guilty of an offence under this Act has paid the amount of customs duty due and payable or penalty payable pursuant to section 145A 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 133**

6. Subsection 133(1) 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 customs, 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 134**

7. Subsection 134(1) of the principal Act is amended by substituting for the words “six months or to a fine not exceeding one thousand ringgit” the words “five years or to a fine not exceeding one hundred thousand ringgit”.

### **Amendment of section 135**

8. Section 135 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**Penalty for various smuggling offences**” the words “**Penalty relating to smuggling offences, evasion of duty, fraud, etc.**”;

(b) in subparagraph (1)(i)—

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

“(aa) be liable for the first offence to a fine of not less than ten times the amount of the customs duty or fifty thousand ringgit, whichever is the greater amount, and of not more than twenty times the amount of the customs 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”;

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

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

(c) in the proviso to subparagraph (1)(ii), by deleting the word “and” at the end of the proviso;

(d) in subparagraph (1)(iii)—

(i) by inserting after the words “in the case of prohibited goods” the words “other than cigarettes containing tobacco and intoxicating liquor”;

- (ii) by substituting for subsubparagraph (*aa*) the following subsubparagraph:

“(*aa*) be liable for the first offence to a fine of not less than ten times the value of the goods or fifty thousand ringgit, whichever is the greater amount, and of not more than twenty times the value of the goods or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding five years or to both; and”;

- (iii) by substituting for subsubparagraph (*bb*) the following subsubparagraph:

“(*bb*) be liable for a second offence or any subsequent offence to a fine of not less than twenty times the value of the goods or one hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the value of the goods or one million ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding seven years or to both:”; and

- (iv) in the proviso to subparagraph (1)(iii), by substituting for the full stop at the end of the proviso a semicolon; and

- (*e*) by inserting after the proviso to subparagraph (1)(iii) the following subparagraphs:

“(iv) in the case of cigarettes containing tobacco or intoxicating liquor included in a class of goods appearing in an order made under subsection 11(1)—

(*aa*) be liable for the first offence to a fine of not less than ten times the amount of the customs duty or one hundred

thousand ringgit, whichever is the greater amount, and of not more than twenty times the amount of the customs 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

(*bb*) be liable for a second offence or any subsequent offence to a fine of not less than twenty times the amount of the customs duty or two hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the amount of the customs 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

(v) in the case of cigarettes containing tobacco or intoxicating liquor which are prohibited goods—

(*aa*) be liable for the first offence to a fine of not less than ten times the value of the goods or one hundred thousand ringgit, whichever is the greater amount, and of not more than twenty times the value of the goods 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

(bb) be liable for a second offence or any subsequent offence to a fine of not less than twenty times the value of the goods or two hundred thousand ringgit, whichever is the greater amount, and of not more than forty times the value of the goods 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 136**

**9.** Section 136 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 “any goods which have been duly seized” the words “or any person who has been detained”;
- (c) in subparagraph (i), by substituting for the words “three years or to a fine not exceeding ten thousand ringgit” the words “five years or to a fine not exceeding five hundred thousand ringgit”; and
- (d) in subparagraph (ii), by substituting for the words “five years or to a fine not exceeding twenty thousand ringgit” the words “seven years or to a fine not exceeding one million ringgit”.

### **Amendment of section 137**

**10.** Subsection 137(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 138**

**11.** Section 138 of the principal Act is amended by substituting for the words “twenty thousand” the words “fifty thousand”.

**Amendment of section 142**

**12.** Section 142 of the principal Act is amended by inserting after paragraph (19) the following paragraph:

“(19A) to regulate any matter relating to customs agent;”.

**Substitution of section 143**

**13.** The principal Act is amended by substituting for section 143 the following section:

**“Review of and appeal against decision of the Director General**

**143.** (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 128(3).

(5) Any person aggrieved by any decision of the Director General under subsection (3) or any other provision of this Act, except any matter relating to compound or subsection 128(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 customs duty payable under this Act shall be paid on the due date notwithstanding that any review or appeal has been made under this section.”.

### **New section 145A**

**14.** The principal Act is amended by inserting after section 145 the following section:

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

**145A.** 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 131, shall not relieve any person from the liability to pay for customs duty, penalty or surcharge under this Act.”.