

Tarikh Perkenan Diraja	24 Ogos 2018
Tarikh penyiaran dalam <i>Warta</i>	28 Ogos 2018

Hakcipta Pencetak (H)

PERCETAKAN NASIONAL MALAYSIA BERHAD

Semua Hak Terpelihara. Tiada mana-mana bahagian jua daripada penerbitan ini boleh diterbitkan semula atau disimpan di dalam bentuk yang boleh diperolehi semula atau disiarkan dalam sebarang bentuk dengan apa jua cara elektronik, mekanikal, fotokopi, rakaman dan/atau sebaliknya tanpa mendapat izin daripada Percetakan Nasional Malaysia Berhad (Pencetak kepada Kerajaan Malaysia yang dilantik).

UNDANG-UNDANG MALAYSIA

Akta A1571

AKTA KASTAM (PINDAAN) 2018

Suatu Akta untuk meminda Akta Kastam 1967.

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DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Kastam (Pindaan) 2018.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta*.

Pindaan seksyen 2

2. Akta Kastam 1967 [*Akta 235*], yang disebut “Akta ibu” dalam Akta ini, dipinda dalam subseksyen 2(1)—

(a) dengan memasukkan selepas takrif “computer” takrif yang berikut:

“customs agent” means any person approved under section 90 to undertake any customs transactions on behalf of another person;’; dan

(b) dalam takrif “manufacture”, dengan menggantikan perenggan (c) dengan perenggan yang berikut:

“(c) in the case of petroleum, any process of separation, purification, refining, conversion and blending; and”.

Pindaan seksyen 90

3. Seksyen 90 Akta ibu dipinda—

(a) dalam nota bahu, dengan menggantikan perkataan “**Control of agents**” dengan perkataan “**Customs agent**”;

(b) dalam subseksyen (1)—

(i) dengan menggantikan perkataan “an agent shall” dengan perkataan “a customs agent”;

(ii) dalam perenggan (a), dengan memasukkan sebelum perkataan “attend” perkataan “shall”;

(iii) dengan memasukkan selepas perenggan (a) perenggan yang berikut:

“(aa) shall be a registered person under the Service Tax Act 2018 [Act 807];”;

(iv) dalam perenggan (b)—

(A) dengan memasukkan sebelum perkataan “produce” perkataan “shall”; dan

(B) dengan memotong perkataan “and” di hujung perenggan itu;

(v) dalam perenggan (c)—

(A) dengan memasukkan sebelum perkataan “give” perkataan “shall”;

(B) dengan menggantikan perkataan “clerks” dengan perkataan “employees”; dan

(C) dengan menggantikan noktah dengan perkataan “; and”; dan

(vi) dengan memasukkan selepas perenggan (c) perenggan yang berikut:

“(d) shall not have been proved against him or convicted on a charge in respect of—

(i) an offence involving fraud or dishonesty;

(ii) an offence under any written law relating to corruption;

(iii) an offence under any written law relating to taxation; or

(iv) any offence punishable with imprisonment for more than two years.”;

(c) dengan menggantikan subseksyen (2) dengan subseksyen yang berikut:

“(2) Subject to subsection (1), any application for approval to act as a customs agent shall be made in the form as determined by the Director General.”;

(d) dalam subseksyen (3), dengan memasukkan selepas perkataan “sufficient knowledge” perkataan “and experience”;

(e) dengan memasukkan selepas subseksyen (3) subseksyen yang berikut:

“(3A) The Director General may grant such approval for the application made under subsection (2) subject to such terms and conditions as he deems fit.”;

(f) dalam subseksyen (4)—

- (i) dengan menggantikan perkataan “A senior officer of customs may suspend or cancel any permission granted under this section, if the agent commits any breach” dengan perkataan “The Director General may suspend or cancel any approval granted under subsection (3A) if the customs agent commits any breach”;
- (ii) dengan menggantikan perkataan “subsection (2)” dengan perkataan “subsection (3A)”;
- (iii) dengan menggantikan perkataan “by the agent” dengan perkataan “by the customs agent”;

(g) dengan memotong subseksyen (5);

(h) dalam subseksyen (6)—

- (i) dengan menggantikan perkataan “as agent when permission” dengan perkataan “as customs agent when approval”;
 - (ii) dengan menggantikan perkataan “while such permission” dengan perkataan “while such approval”;
 - (iii) dengan menggantikan perkataan “be liable to a fine not exceeding five hundred ringgit” dengan perkataan “be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both”;
- (i) dengan memasukkan selepas subseksyen (6) subseksyen yang berikut:

“(6A) The importer, exporter or manufacturer may appoint a customs agent to act on his behalf on matters relating to declaration and clearance of goods or entry or clearance of any vessel or aircraft under this Act.

(6B) For the purpose of subsection (6A), a person is presumed to act as a customs agent without being duly authorized if there is reasonable cause to believe that the proprietor or consignee is not in existence or the existence of the proprietor or consignee is unlawful.”;

(j) dalam subseksyen (7)—

(i) dengan menggantikan perkataan “clerk or servant” dengan perkataan “employee”;

(ii) dengan memotong perkataan “generally”;

(iii) dengan menggantikan perkataan “firm:” dengan perkataan “firm.”; dan

(iv) dengan memotong proviso; dan

(k) dengan memasukkan selepas subseksyen (7) subseksyen yang berikut:

“(8) Notwithstanding subsection (7), a senior officer of customs may refuse to transact business with such employee unless such person or firm has furnished a signed authority authorizing such employee to transact business on behalf of such person or firm.”.

Pindaan seksyen 141c

4. Seksyen 141c Akta ibu dipinda—

(a) dalam subseksyen (1)—

(i) dalam perenggan (a), dengan menggantikan perkataan “a Chairman and a Deputy Chairman” dengan perkataan “a Chairman and not more than two Deputy Chairmen”;

(ii) dengan menggantikan perenggan (b) dengan perenggan yang berikut:

“(b) not less than seven other members as the Minister deems fit from amongst the persons who, in the opinion of the Minister, have wide knowledge or extensive experience in any field of activities relating to customs or taxation.”; dan

(b) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(3) The Minister shall determine the terms and conditions of the appointment of the Chairman, Deputy Chairman and other members of the Tribunal.”.

Pindaan seksyen 141E

5. Subperenggan 141E(c)(iii) Akta ibu dipinda dengan menggantikan perkataan “the Sales Tax Act 1972 [*Act 64*] or the Service Tax Act 1975 [*Act 151*]” dengan perkataan “the Sales Tax Act 2018 [*Act 806*] or the Service Tax Act 2018, or the repealed Sales Tax Act 1972 [*Act 64*], Service Tax Act 1975 [*Act 151*] or Goods and Services Tax Act 2014 [*Act 762*]”.

Penggantian seksyen 141F

6. Akta ibu dipinda dengan menggantikan seksyen 141F dengan seksyen yang berikut:

“**141F.** (1) Subject to subsection (2), a member of the Tribunal may at any time resign his office by giving notice in writing to the Minister.

(2) For the purpose of resignation, a member of the Tribunal appointed under paragraph 141c(1)(b) shall give three months’ notice in writing to the Minister.”.

Seksyen baharu 141FA

7. Akta ibu dipinda dengan memasukkan selepas seksyen 141F seksyen yang berikut:

“Vacation of office

141FA. (1) The office of any member of the Tribunal shall be vacated upon—

(a) his death;

(b) his resignation from office;

(c) expiry of his term of appointment; or

(d) revocation of his appointment by the Minister.

(2) The Minister shall appoint any person in accordance with section 141c to replace the Chairman, Deputy Chairman or any other member during the vacancy in the office of the Chairman, Deputy Chairman or the other member.

(3) The exercise of the powers or the performance of the functions of the Tribunal is not affected only because of there being a vacancy in the membership of the Tribunal.”.

Penggantian seksyen 141J

8. Akta ibu dipinda dengan menggantikan seksyen 141J dengan seksyen yang berikut:

“Hearing of appeals

141J. (1) The sitting of every appeal shall consist of a panel of three members.

(2) In every appeal proceedings, the Tribunal shall be presided by—

(a) the Chairman;

(b) a Deputy Chairman; or

(c) any other member appointed by the Chairman.

(3) The decision of the Tribunal shall be determined in accordance with the opinion of the majority of the members of the panel.

(4) Where a member of the panel under subsection (1), other than the person presiding over the proceedings referred to in subsection (2), dies or becomes incapable of exercising his functions as a member, the proceedings shall continue before, and decision shall be given by, the remaining members of the panel, and the panel shall, for the purposes of the proceedings, be deemed to be duly constituted notwithstanding the death or incapability of the member as aforesaid.

(5) In the case where two members of the panel under subsection (1), other than the person presiding over the proceedings referred to in subsection (2), die or become incapable of exercising their functions as members, the proceedings shall be continued by the person presiding over the proceedings sitting alone.

(6) In the case under subsection (4), the decision shall be determined in accordance with the opinion of the majority of the remaining members of the panel, and if there is no majority, the person presiding over the proceedings shall have a casting vote.

(7) If the person presiding over the proceedings referred to in subsection (2) dies or becomes incapacitated, or is for any other reason unable to complete or dispose of the proceedings, the appeal shall be heard afresh, unless the parties agree that the presiding person be replaced—

(a) in the case where the presiding person is the Chairman, by a Deputy Chairman, or any other member appointed by the Deputy Chairman;

(b) in the case where the presiding person is a Deputy Chairman, by the Chairman or another Deputy Chairman, or any other member appointed by the Chairman; or

(c) in the case where the presiding person is the member appointed by the Chairman, by the Chairman or a Deputy Chairman, or any other member appointed by the Chairman.

(8) Where the term of appointment of any member of the panel expires during the pendency of any proceedings in respect of an appeal, the term of his appointment shall be deemed to be extended until the final disposal of the appeal.

(9) The Tribunal may sit in one or more sittings on such day and at such time and place as the Chairman may determine.”.

Penggantian seksyen 141k

9. Akta ibu dipinda dengan menggantikan seksyen 141k dengan seksyen yang berikut:

“Hearing by single member

141k. Notwithstanding section 141J, if the Chairman deems it fit in the interest of achieving expeditious and efficient conduct of the appeal, the proceedings of the appeal shall be presided over by any of the following persons sitting alone:

(a) the Chairman;

(b) any of the Deputy Chairmen; or

(c) any other member of the Tribunal as the Chairman may determine.”.

Pindaan seksyen 141M

10. Subseksyen 141M(1) Akta ibu dipinda dengan menggantikan perkataan “subsection 68(2) of the Sales Tax Act 1972 and subsection 50(2) of the Service Tax Act 1975” dengan perkataan “subsection 96(5) of the Sales Tax Act 2018, section 81 of the Service Tax Act 2018, and section 126 of the repealed Goods and Services Tax Act 2014 as provided under section 5 of the Goods and Services Tax (Repeal) Act 2018 [Act 805]”.

Penggantian seksyen 141Q

11. Akta ibu dipinda dengan menggantikan seksyen 141Q dengan seksyen yang berikut:

“Representation at hearing

141Q. For the purpose of an appeal before the Tribunal—

- (a) the Director General may be represented by any officer authorized by him; and
- (b) the appellant may conduct the appeal himself or be represented by any person duly authorized by him.”.

Pindaan seksyen 141R

12. Seksyen 141R Akta ibu dipinda—

- (a) dengan menomborkan semula peruntukan yang sedia ada sebagai subseksyen (1); dan
- (b) dengan memasukkan selepas subseksyen (1) yang dinomborkan semula subseksyen yang berikut:

“(2) Notwithstanding subsection (1), where the Tribunal is of the opinion that it would be in the interest of the public, the Tribunal may allow the publication of the facts of the appeal, decision of the appeal and reasons for the decision.

(3) Notwithstanding subsection (2), the Tribunal shall not publish information the disclosure of which is prohibited or restricted by or under this Act or any other written law.”.

Seksyen baharu 141TA

13. Akta ibu dipinda dengan memasukkan selepas seksyen 141T seksyen yang berikut:

“Provisions relating to costs and expenses

141TA. The Tribunal may make an award as to costs and expenses as may be prescribed and may determine to what extent the costs and expenses are to be paid—

- (a) by the appellant, if the Tribunal is satisfied that the appellant had conducted his case in a frivolous or vexatious manner; or
- (b) by any party to the appeal, if the Tribunal is satisfied that in all circumstances of the case it would be unjust and inequitable not to award the costs and expenses.”.

Kecualian

14. Apa-apa rayuan di hadapan Tribunal yang didengar oleh anggota Tribunal yang bersidang seorang diri atau panel tiga orang anggota yang belum selesai sebaik sebelum tarikh permulaan kuat kuasa Akta ini hendaklah, pada atau selepas tarikh permulaan kuat kuasa Akta ini, diteruskan untuk didengar dan diputuskan oleh anggota Tribunal yang bersidang seorang diri atau panel tiga orang anggota itu, mengikut mana-mana yang berkenaan, seolah-olah Akta ibu tidak dipinda oleh Akta ini.