

A BILL

i n t i t u l e d

An Act to amend the Excise Act 1976.

[]

ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Excise (Amendment) Act 2020.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 19

2. The Excise Act 1976 [*Act 176*], which is referred to as the “principal Act” in this Act, is amended in subsection 19(1)—

(a) in paragraph (c), by deleting the word “and” at the end of the paragraph;

(b) in paragraph (d), by substituting for the full stop at the end of the paragraph the words “; and”; and

(c) by inserting after paragraph (d) the following paragraph:

“(e) the drawback claimed in respect of any one consignment of exported goods is not less than two hundred ringgit.”.

Amendment of section 19A

3. Subsection 19A(1) of the principal Act is amended by substituting for the words “nine-tenths of the duties calculated in accordance with subsection (2) may be repaid” the words “the Director General may allow nine-tenths of the duties calculated in accordance with subsection (2) be repaid”.

New section 50B

4. The principal Act is amended by inserting after section 50A the following section:

“Additional powers

50B. (1) In addition to and without affecting the existing powers conferred under this Act, when escorting and guarding any person in custody, a proper officer shall have all the powers of a police officer of the rank of Corporal and below and the powers of a prison officer of the rank of Sergeant and below under the Prison Act 1995 [*Act 537*].

(2) For the purposes of this Act—

(a) where an order, a certificate or any other act is required to be given, issued or done by an officer in charge of a Police District under any written law, such order, certificate or act may be given, issued or done by a senior officer of excise, and for such purpose, the place where the order, certificate or act was given, issued or done shall be deemed to be a Police District under his charge; and

- (b) a proper officer shall have all the powers conferred on an officer in charge of a police station under any written law, and for such purpose the office of such officer shall be deemed to be a police station.”.

Amendment of section 54

5. Section 54 of the principal Act is amended by inserting after subsection (3) the following subsections:

“(3A) Where by reason of its nature, size or amount it is not practicable to remove any goods, vehicle, vessel or aircraft seized under this section, the seizing officer may, by any means, seal the goods, vehicle, vessel or aircraft, or the premises or place in which the goods, vehicle, vessel or aircraft is found.

(3B) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3A) or removes any goods, vehicle, vessel or aircraft under seal, or attempts to do so, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both.”.

New section 56E

6. The principal Act is amended by inserting after section 56D the following section:

“Evidence of agent provocateur admissible

56E. (1) Notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, no agent provocateur shall be presumed to be unworthy of credit by reason only of his having attempted to abet or abetted the commission of an offence by any person under this Act if the attempt to abet or abetment was for the sole purpose of securing evidence against such person.

(2) Notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, and that the agent provocateur is an officer of excise or a police officer whatever his rank, any statement, whether oral or written, made to an agent provocateur by any person who subsequently is charged with an offence under this Act shall be admissible as evidence at his trial.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Excise Act 1976 (“Act 176”).

2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.
3. *Clause 2* seeks to amend subsection 19(1) of Act 176 to provide for the minimum amount of a claim of drawback that may be made on the goods upon which excise duty has been paid when the goods are exported.
4. *Clause 3* seeks to amend subsection 19A(1) of Act 176 to provide that when any imported goods upon which excise duty has been paid, are re-exported, the Director General may allow nine-tenths of the duties calculated in accordance with subsection 19A(2) of Act 176 to be repaid as drawback.
5. *Clause 4* seeks to introduce a new section 50B into Act 176 to provide that a proper officer shall have all the powers of a police officer of the rank of Corporal and below and the powers of a prison officer of the rank of Sergeant and below under the Prison Act 1995 when escorting and guarding any person in custody. This *clause* also seeks to confer powers of an officer in charge of a police station on a proper officer, and for such purpose the office of the proper officer shall be deemed to be a police station.
6. *Clause 5* seeks to amend section 54 of Act 176 by introducing new subsections (3A) and (3B).

The proposed subsection 54(3A) seeks to empower the seizing officer to seal any goods, vehicle, vessel or aircraft, or the premises or place in which the goods, vehicle, vessel or aircraft is found where by reason of its nature, size or amount it is not practicable to remove the goods, vehicle, vessel or aircraft seized.

The proposed subsection 54(3B) seeks to make it an offence for any person who without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3A) or removes any goods, vehicle, vessel or aircraft under seal, or attempts to do so and to provide punishments for such offence.

7. *Clause 6* seeks to introduce a new section 56E into Act 176 to provide for the credibility of an agent provocateur's evidence and the admissibility as evidence of any statement given to an agent provocateur, whether he is an officer of excise or a police officer whatever his rank, by a person who is subsequently charged with an offence under this Act.

8. Other amendments not specifically dealt with in this Explanatory Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)3238]