

A BILL

*i n t i t u l e d*

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) 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 93**

**2.** The Customs Act 1967 [Act 235], which is referred to as the “principal Act” in this Act, is amended in subsection 93(1) 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”.

**Amendment of section 99**

3. Subsection 99(1) of the principal Act is amended—

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

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

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

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

**New section 106c**

4. The principal Act is amended by inserting after section 106B the following section:

**“Additional powers**

**106c.** (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 of customs 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 customs, 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 of customs 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 114**

5. Section 114 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 and such receptacles, packages or conveyances seized under this section, the seizing officer may, by any means, seal the goods and such receptacles, packages or conveyances, or the premises or place in which the goods and such receptacles, packages or conveyances are found.

(3B) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3A) or removes any goods and such receptacles, packages or conveyances 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 116E**

6. The principal Act is amended by inserting after section 116D the following section:

##### **“Evidence of agent provocateur admissible**

**116E.** (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 customs 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.”.

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#### EXPLANATORY STATEMENT

This Bill seeks to amend the Customs Act 1967 (“Act 235”).

2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.

3. *Clause 2* seeks to amend subsection 93(1) of Act 235 to provide that when any goods upon which customs duty has been paid, are re-exported, the Director General may allow nine-tenths of the duties calculated in accordance with subsection 93(2) of Act 235 to be repaid as drawback.

4. *Clause 3* seeks to amend subsection 99(1) of Act 235 to provide for the minimum amount of a claim of drawback that may be made on the imported goods upon which customs duty has been paid when the goods are re-exported.

5. *Clause 4* seeks to introduce a new section 106c into Act 235 to provide that a proper officer of customs 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 of customs, and for such purpose the office of the proper officer of customs shall be deemed to be a police station.

6. *Clause 5* seeks to amend section 114 of Act 235 by introducing new subsections (3A) and (3B).

The proposed subsection 114(3A) seeks to empower the seizing officer to seal any goods and such receptacles, packages or conveyances, or the premises or place in which the goods and such receptacles, packages or conveyances are found where by reason of their nature, size or amount it is not practicable to remove the goods and such receptacles, packages or conveyances seized.

The proposed subsection 114(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 and such receptacles, packages or conveyances under seal, or attempts to do so and to provide punishments for such offence.

7. *Clause 6* seeks to introduce a new section 116E into Act 235 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 customs 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)3237]