

A BILL

i n t i t u l e d

An Act to amend the Free Zones Act 1990.

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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 Free Zones (Amendment) Act 2020.

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

New sections 17A and 17B

2. The Free Zones Act 1990 [*Act 438*], which is referred to as the “principal Act” in this Act, is amended by inserting in Part IV before section 18 the following sections:

“Powers of enforcement, investigation and inspection

17A. 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.

Additional powers

17B. (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 26

3. Section 26 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, receptacle, package, baggage, vehicle, vessel or aircraft seized under this section, the officer effecting the seizure may, by any means, seal the goods, receptacle, package, baggage, vehicle, vessel or aircraft, or the premises or place in which goods, receptacle, package, baggage, 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, receptacle, package, baggage, 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 30B

4. The principal Act is amended by inserting after section 30A the following section:

“Evidence of agent provocateur admissible

30B. (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.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Free Zones Act 1990 (“Act 438”).

2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.
3. *Clause 2* seeks to introduce new sections 17A and 17B into Act 438.

The proposed new section 17A seeks to provide that for the purposes of Act 438, a senior officer of customs shall, in addition to the powers provided for under Act 438, 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.

The proposed new section 17B seeks 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.

4. *Clause 3* seeks to amend section 26 of Act 438 by introducing new subsections (3A) and (3B).

The proposed subsection 26(3A) seeks to empower the officer effecting the seizure to seal any goods, receptacle, package, baggage, vehicle, vessel or aircraft, or the premises or place in which the goods, receptacle, package, baggage, vehicle, vessel or aircraft is found where by reason of its nature, size or amount it is not practicable to remove the good, receptacle, package, baggage, vehicle, vessel or aircraft seized.

The proposed subsection 26(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, receptacle, package, baggage, vehicle, vessel or aircraft under seal, or attempts to do so and to provide punishments for such offence.

5. *Clause 4* seeks to introduce a new section 30B into Act 438 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.

6. 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.

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