

A BILL

*i n t i t u l e d*

An Act to amend the Windfall Profit Levy Act 1998.

[ ]

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

**Short title and commencement**

1. (1) This Act may be cited as the Windfall Profit Levy (Amendment) Act 2020.

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

**Substitution of section 13**

2. The Windfall Profit Levy Act 1998 [*Act 592*], which is referred to as the “principal Act” in this Act, is amended by substituting for section 13 the following section:

**“Remission of levy and penalty**

13. (1) The Minister may, if he deems fit, remit the whole or any part of the levy due and payable under this Act.

(2) The Director General may, if he deems fit, remit the whole or any part of the penalty under section 9.

(3) Where a person who has been granted remission under subsection (1) or (2) has paid any levy or penalty to which the remission relates, subject to subsection 14(3), he shall be entitled to a refund of the amount of the levy or penalty paid which had been remitted.”.

### **Substitution of section 14**

3. The principal Act is amended by substituting for section 14 the following section:

**“Claim for refund of levy and penalty overpaid or erroneously paid, etc.**

14. (1) Any person who has overpaid or erroneously paid any levy or penalty, or is entitled to a refund of the levy or penalty under section 13 may make a claim for refund in the prescribed form.

(2) A claim for refund under subsection (1) shall be made to the Director General within one year from the date such overpayment or erroneous payment occurred or such entitlement of the refund occurred.

(3) The Director General may reduce or disallow any refund in respect of the claim under subsection (1) to the extent that the refund would unjustly enrich the person referred to in subsection (1).”.

### **New section 14A**

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

**“Refund upon satisfaction of Director General and with supporting evidence**

14A. (1) A claim for refund of levy or penalty under subsection 14(1) shall be supported by such evidence as required by the Director General.

(2) The Director General may make such refund in respect of the claim made by any person under subsection 14(1) after being satisfied that the person has properly established the claim.”.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Windfall Profit Levy Act 1998 (“Act 592”).

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

3. *Clause 2* seeks to substitute section 13 of Act 592 to empower the Minister to remit the whole or any part of the windfall profit levy payable and to empower the Director General to remit the whole or any part of the penalty payable under Act 592. The proposed section 13 also provides for the refund of windfall profit levy or penalty which has been remitted to any person if the person has paid the windfall profit levy or penalty.

4. *Clause 3* seeks to substitute section 14 of Act 592 to allow any person who has overpaid or erroneously paid any windfall profit levy or penalty or any person who is entitled to a refund of the levy or penalty under section 13 of Act 592 to claim for a refund within one year from the time the overpayment or erroneous payment occurred, or the entitlement of the refund occurred. The proposed section 14 also empowers the Director General to reduce or disallow the refund if the refund will unjustly enrich the person who makes the claim.

5. *Clause 4* seeks to introduce a new section 14A into Act 592 to provide that the Director General may refund the windfall profit levy or penalty if he is satisfied that the person who makes the claim has properly established the claim. The claim shall be supported by such evidence as required by the Director General.

*FINANCIAL IMPLICATIONS*

This Bill will not involve the Government in any extra financial expenditure.

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