

A BILL

i n t i t u l e d

An Act to amend the Promotion of Investments Act 1986.

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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 Promotion of Investments (Amendment) Act 2014.

(2) Paragraphs 2(*a*) and (*b*), section 4, paragraph 5(*a*), subparagraph 5(*b*)(i), subsubparagraphs 5(*b*)(ii)(A) and (B), subparagraph 5(*d*)(iii), paragraphs 5(*e*) and (*f*), 6(*a*) and (*c*), sections 7, 9 and 10, paragraph 11(*a*), subparagraph 11(*b*)(ii), sections 13 and 18, paragraphs 19(*a*), (*b*) and (*c*), subparagraph 21(*a*)(iv), sections 22, 23, 24, 25, 28, 30 and 37, subparagraphs 41(*a*)(ii) and (*b*)(ii), sections 45, 46 and 49 of this Act are deemed to have come into operation on 1 January 2011.

(3) Section 3, paragraphs 5(*c*) and 6(*b*), sections 12, 20, 26 and 43 of this Act are deemed to have come into operation on 1 January 2012.

(4) Subparagraphs 5(*d*)(i) and (ii), 5(*g*)(ii) and (iii), subsubparagraphs 5(*g*)(iv)(B) and (C), subparagraph 11(*b*)(i), paragraphs 11(*c*) and 19(*d*), subparagraphs 21(*a*)(i), (ii) and (iii), paragraph 21(*b*), section 27, subparagraphs 41(*a*)(i) and (*b*)(i), subparagraph 44(*a*)(i), paragraphs 44(*b*) and (*c*), subparagraphs 50(*a*)(ii) and (iii) and 50(*b*)(ii) and (iii) of this Act are deemed to have come into operation on 8 September 2007.

(5) Subparagraph 5(*g*)(i) of this Act, in relation to the deletion of subsections 5(1B), 5(1DE), 27B(1) and 27L(1) of the principal Act, is deemed to have come into operation on 1 January 2011.

(6) Subsubparagraph 5(*g*)(iv)(A) of this Act, in relation to the deletion of subsections 27B(1) and 27L(1) of the principal Act, is deemed to have come into operation on 1 January 2011.

(7) Subparagraph 5(*g*)(i) of this Act, in relation to the deletion of subsections 5(1DA) and 27H(1) of the principal Act, is deemed to have come into operation on 1 January 2012.

(8) Subsubparagraph 5(*g*)(iv)(A) of this Act, in relation to the deletion of subsection 27H(1) of the principal Act, is deemed to have come into operation on 1 January 2012.

(9) Paragraph 6(*d*) of this Act, in relation to the deletion of subsection 6(1AD) of the principal Act, is deemed to have come into operation on 1 January 2012.

(10) Paragraph 6(*d*) of this Act, in relation to the deletion of subsection 6(1AH) of the principal Act, is deemed to have come into operation on 1 January 2011.

(11) Section 14 of this Act, in relation to the deletion of sections 21D, 21DA and 21K of the principal Act, is deemed to have come into operation on 1 January 2011.

(12) Section 14 of this Act, in relation to the deletion of section 21G of the principal Act, is deemed to have come into operation on 1 January 2012.

(13) Section 15, paragraphs 16(*a*) and (*b*), 33(*b*), 34(*b*), sections 35, 36, 38, 39 and 40, paragraph 41(*c*) and section 42 of this Act are deemed to have come into operation on 20 August 2011.

(14) Paragraph 16(b) of this Act, in relation to the deletion of sections 21D, 21DA and 21K of the principal Act, is deemed to have come into operation on 1 January 2011.

(15) Paragraph 16(b) of this Act, in relation to the deletion of section 21G of the principal Act, is deemed to have come into operation on 1 January 2012.

(16) Paragraphs 17(a) and (b) of this Act, in relation to the deletion of subsections 21D(2), 21DA(2) and 21K(2) of the principal Act, are deemed to have come into operation on 1 January 2011.

(17) Paragraphs 17(a) and (b) of this Act, in relation to the deletion of subsection 21G(2) of the principal Act, are deemed to have come into operation on 1 January 2012.

(18) Paragraph 32(a) of this Act, in relation to the deletion of section 27B and subsections 27B(1) and (2) and section 27L and subsections 27L(1) and (2) of the principal Act, is deemed to have come into operation on 1 January 2011.

(19) Paragraph 32(a) of this Act, in relation to the deletion of section 27H and subsections 27H(1) and (2) of the principal Act, is deemed to have come into operation on 1 January 2012.

(20) Subparagraph 32(b)(i) of this Act, in relation to the deletion of subsections 27B(1) and 27L(1) of the principal Act, is deemed to have come into operation on 1 January 2011.

(21) Subparagraph 32(b)(i) of this Act, in relation to the deletion of subsection 27H(1) of the principal Act, is deemed to have come into operation on 1 January 2012.

(22) Subparagraph 32(b)(ii) of this Act, in relation to the deletion of subsections 27B(1) and (2) and 27L(1) and (2) of the principal Act, is deemed to have come into operation on 1 January 2011.

(23) Subparagraph 32(b)(ii) of this Act, in relation to the deletion of subsections 27H(1) and (2) of the principal Act, is deemed to have come into operation on 1 January 2012.

(24) Paragraphs 33(a) and 34(a) of this Act are deemed to have come into operation on 31 August 2007.

(25) Paragraph 33(c) of this Act is deemed to have come into operation on 31 March 2011.

(26) Section 48 of this Act, in relation to the deletion of subsections 29C(7) and 29M(4) of the principal Act, is deemed to have come into operation on 1 January 2011.

(27) Section 48 of this Act, in relation to the deletion of subsection 29I(4) of the principal Act, is deemed to have come into operation on 1 January 2012.

(28) Subparagraph 50(a)(i) of this Act, in relation to the deletion of sections 27B and 27L, paragraphs 29C(2)(b) and (c) and 29M(3)(b) of the principal Act, is deemed to have come into operation on 1 January 2011.

(29) Subparagraph 50(a)(i) of this Act, in relation to the deletion of section 27H and paragraph 29I(3)(b) of the principal Act, is deemed to have come into operation on 1 January 2012.

(30) Subparagraph 50(a)(i) of this Act, in relation to the deletion of sections 27I and 27N and paragraph 29O(3)(b) of the principal Act, is deemed to have come into operation on 8 September 2007.

(31) Subparagraph 50(b)(i) of this Act, in relation to the deletion of sections 27B and 27L of the principal Act, is deemed to have come into operation on 1 January 2011.

(32) Subparagraph 50(b)(i) of this Act, in relation to the deletion of section 27H of the principal Act, is deemed to have come into operation on 1 January 2012.

(33) Subparagraph 50(b)(i) of this Act, in relation to the deletion of sections 27I and 27N of the principal Act, is deemed to have come into operation on 8 September 2007.

Amendment of section 2

2. The Promotion of Investments Act 1986 [*Act 327*], which is referred to as the “principal Act” in this Act, is amended in subsection 2(1)—

- (a) by deleting the definition of “promoted area”;
- (b) by deleting the definition of “industrial linkage programme”;
- (c) by inserting after the definition of ‘ “Area Fishermen’s Association”, “Federal Fishermen’s Association” and “State Fishermen’s Association” ’ the following definition:
 - ‘ “company” means a company—
 - (a) incorporated in Malaysia under the Companies Act 1965 [*Act 125*]; and
 - (b) resident in Malaysia in the basis year for a year of assessment;’; and
- (d) in the definition of ‘ “small company” or “medium company” ’—
 - (i) by deleting the words ‘ or “medium company” ’; and
 - (ii) in paragraph (a), by deleting the words “[*Akta 125*]”.

Amendment of section 4B

3. Section 4B of the principal Act is amended—

- (a) in the shoulder note—
 - (i) by deleting the words “5(1DA),” and “and 26H”;
 - and
 - (ii) by substituting for the comma after the word “26E” the word “and”; and
- (b) by—
 - (i) by deleting the words “5(1DA),” and “and 26H”;
 - and

- (ii) by substituting for the comma after the word “26E” the word “and”.

Deletion of section 4c

- 4. The principal Act is amended by deleting section 4c.

Amendment of section 5

- 5. Section 5 of the principal Act is amended—

- (a) by deleting subsection (1B);

- (b) in subsection (1D)—

- (i) in paragraph (a), by deleting the words “, or any company participating in a promoted activity or producing a promoted product in an industrial linkage programme,”; and

- (ii) in paragraph (b)—

- (A) by deleting the words “or 5(1B)” and “or 27B(1)”;

- (B) in the proviso, by substituting for the words “, 29(2)(c), 29c(2)(b) or 29c(2)(c)” the words “or 29(2)(c)”;

- (c) by deleting subsection (1DA);

- (d) in the proviso to subsection (1DB)—

- (i) by inserting after the words “in the generation of renewable energy” the words “or provision of energy conservation services”;

- (ii) by substituting for the words “the Promotion of Investments (Promoted Activities and Promoted Products for Selected Industries) Order 2008 [P.U. (A) 458/2008]” the words “section 4D”; and

- (iii) by substituting for the words “31 December 2010” the words “31 December 2015”;

- (e) in subparagraph (ii) of the proviso to paragraph (1DD)(a), by deleting the words “29C,” and “, 29M”;
- (f) by deleting subsection (1DE); and
- (g) in subsection (1E)—
 - (i) by deleting the words “27B(1),”, “27H(1),”, “or 27L(1)”, “(1B),”, “(1DA),” and “, (1DE)”;
 - (ii) by inserting after the words “27I(1),” the words “27I(1A),”;
 - (iii) by inserting after the words “27K(1)” the words “or section 27N”; and
 - (iv) in the proviso—
 - (A) by deleting the words “27B(1),”, “27H(1),” and “or 27L(1)”;
 - (B) by inserting after the words “27I(1),” the words “27I(1A),”;
 - (C) by inserting after the words “27K(1)” the words “or section 27N”.

Amendment of section 6

6. Section 6 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “, 5(1B)”;
- (b) by deleting subsection (1AD);
- (c) by deleting subsection (1AH); and
- (d) in paragraph (3)(a), by deleting the words “(1AD),” and “, (1AH)”.

Amendment of section 7

7. Section 7 of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) An application for an extension under subsection (1) shall be made before the expiry of the period of twenty-four months or such extended period as the Minister may allow.”.

Deletion of section 19

8. The principal Act is amended by deleting section 19.

Deletion of section 21D

9. The principal Act is amended by deleting section 21D.

Deletion of section 21DA

10. The principal Act is amended by deleting section 21DA.

Amendment of section 21F

11. Section 21F of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

“Computation of income during tax relief period in respect of pioneer status granted under subsection 6(1) for an application under subsection 5(1D)”;

(b) in subsection (1)—

(i) by inserting after the words “testing laboratory” the words “or upgrading an existing medical devices testing laboratory in Malaysia,”; and

(ii) by deleting the words “or a company participating in a promoted activity or producing a promoted product in an industrial linkage programme”; and

(c) in subsection (2)—

(i) in paragraph (b), by substituting for the full stop at the end of the paragraph a colon; and

(ii) by inserting the following proviso:

“Provided that in the case of a company that is already in operation and carries out activities in relation to the upgrading of a medical devices testing laboratory in Malaysia, the income of

the company for each accounting period of its pioneer business shall be the value-added income of the company and subsections 21C(2A), (3) and (4) shall apply *mutatis mutandis*.”.

Deletion of section 21G

12. The principal Act is amended by deleting section 21G.

Deletion of section 21K

13. The principal Act is amended by deleting section 21K.

Amendment of section 22A

14. Section 22A of the principal Act is amended by deleting the words “21D, 21DA,”, “21G,” and “, 21K”.

Amendment of section 23

15. Section 23 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “section 22” the words “section 22A”; and
- (b) in subsection (2), by substituting for the words “section 22” the words “section 22A”.

Amendment of section 24

16. Subsection 24(1) of the principal Act is amended—

- (a) by substituting for the words “section 22” wherever they appear the words “section 22A”; and
- (b) in paragraph (c), by deleting the words “21D, 21DA,”, “21G,” and “, 21K”.

Amendment of section 25

17. Section 25 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “21D(2), 21DA(2),”, “21G(2),” and “, 21K(2)”; and
- (b) in paragraph (2)(b), by deleting the words “21D(2), 21DA(2),”, “21G(2),” and “, 21K(2)”.

Deletion of section 26B

18. The principal Act is amended by deleting section 26B.

Amendment of section 26F

19. Section 26F of the principal Act is amended—

- (a) by substituting for the shoulder note the following shoulder note:

“Application for approval for investment tax allowance to a high technology company or a company establishing or upgrading medical devices testing laboratory”;
- (b) in subsection (1), by deleting the words “or any company participating in a promoted activity or producing a promoted product in an industrial linkage programme”;
- (c) in subsection (2), by deleting the words “or 5(1B)” and “or 27B(1)”; and
- (d) in subsection (2A), by inserting after the words “investment tax allowance” the words “provided that such application is received from 8 September 2007 until 31 December 2012”.

Deletion of section 26H

20. The principal Act is amended by deleting section 26H.

Amendment of section 26I

21. Section 26I of the principal Act is amended—

(a) in subsection (1A)—

- (i) by substituting for the words “the Promotion of Investments (Promoted Activities and Promoted Products for Selected Industries) Order 2008 [P.U. (A) 458/2008]” the words “section 4D”;
- (ii) in paragraph (a), by substituting for the words “section 27I” the words “subsection 27I(1)”;
- (iii) in paragraph (c), by substituting for the words “section 27I and the period as prescribed under section 29J has ended” the words “subsections 27I(1), (2) and (3) and the period as prescribed under subsections 29J(1), (2), (3) and (4) has ended”; and
- (iv) by substituting for the words “31 December 2010” the words “31 December 2015”; and

(b) by inserting after subsection (1A) the following subsection:

“(1B) Notwithstanding subsections (1) and (1A), where an application is made by a company participating or intending to participate in Malaysia in the generation of renewable energy for own consumption, which has been prescribed as a promoted activity under section 4D, and that company is controlled directly or indirectly by—

- (a) a pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under subsection 27I(1A) participating in the same promoted activity as that company;
- (b) a company granted pioneer status in relation to the same promoted activity as that company; or
- (c) a post-pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under subsections 27I(1A), (2) and (3) and the period as prescribed under subsections 29J(2A), (3A) and (4) has ended,

such application shall be considered by the Minister if the application is received from 8 September 2007 until 31 December 2015.”.

Amendment of section 26K

22. Subsection 26K(1) of the principal Act is amended in paragraph (b) of the proviso by deleting the words “29C,” and “, 29M”.

Deletion of section 26L

23. The principal Act is amended by deleting section 26L.

Amendment of section 26N

24. Subsection 26N(1) of the principal Act is amended by substituting for the words “on or after 1 October 2005” the words “from 1 October 2005 until 31 December 2015”.

Deletion of section 27B

25. The principal Act is amended by deleting section 27B.

Deletion of section 27H

26. The principal Act is amended by deleting section 27H.

Amendment of section 27I

27. Section 27I of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “subsection 26I(1)” the words “subsections 26I(1), (1A) and (1B)”;

(b) in subsection (1)—

(i) by substituting for the words “subsection 26I(1)” the words “subsections 26I(1) and (1A)”; and

- (ii) in paragraph (b) of the proviso, by substituting for the words “subsection 26I(1)” the words “subsections 26I(1) and (1A)”;
- (c) by inserting after subsection (1) the following subsection:

“(1A) The Minister may grant an approval in respect of an application for an investment tax allowance made under subsection 26I(1B) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or in the production of a promoted product, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity or product was deemed as a promoted activity or promoted product under section 4D in relation to renewable energy for own consumption, the approval may be granted retrospectively from a date not earlier than the date such activity or product is prescribed by the Minister as a promoted activity or promoted product under section 4D; and
- (b) no approval shall be granted retrospectively under subsection (1A) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26I(1B) is received by the Minister.”; and
- (d) in subsection (2), by substituting for the words “subsection (1)” the words “subsections (1) and (1A)”.

Deletion of section 27L

28. The principal Act is amended by deleting section 27L.

Amendment of section 27M

29. Subsection 27M(3) of the principal Act is amended by substituting for the words “subsections (1) and (2)” the words “this section”.

Amendment of section 27N

30. Subsection 27N(1) of the principal Act is amended in paragraph (aa) of the proviso by substituting for the words “31 December 2010” the words “31 December 2015”.

New section 27P

31. The principal Act is amended by inserting before section 28 the following section:

“Determination of effective date and compliance for investment tax allowance

27P. (1) Any company which has been granted approval for an investment tax allowance under sections 27, 27A, 27C, 27D, 27E, 27F, 27G, 27I, 27J, 27K, 27M and 27N shall, within twenty-four months from the date of such grant or such extended period as the Minister may allow, request for the determination of the effective date of its investment tax allowance.

(2) An application for an extension under subsection (1) shall be made before the expiry of the period of twenty-four months or such extended period as the Minister may allow.

(3) A company requesting for the determination of the effective date for its investment tax allowance under subsection (1) shall state the capital expenditure incurred by the company.

(4) The capital expenditure referred to in subsection (3) is as defined in subsections 29(7) and 29(8).

(5) Where a company has been granted the determination of the effective date for its investment tax allowance under subsection (1), the company shall, within the period of the investment tax allowance approved by the Minister of Finance, provide the Minister of Finance with particulars as may be determined for the purposes of compliance of any of the conditions imposed.”.

Amendment of section 28

32. Section 28 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “27B,”, “27H,”, “27L,”, “27B(1), (2),”, “27H(1), (2),” and “27L(1), (2),”; and
- (b) in subsection (2)—
 - (i) by deleting the words “27B(1),”, “27H(1),” and “27L(1),”; and
 - (ii) in paragraph (b), by deleting the words “27B(1), (2)”, “27H(1), (2),” and “27L(1), (2),”.

Amendment of section 29

33. Section 29 of the principal Act is amended—

- (a) in subsection (5)—
 - (i) by substituting for the colon at the end of the subsection a full stop; and
 - (ii) by deleting the proviso;
- (b) in subsection (6), by substituting for the words “section 22” the words “section 22A”; and
- (c) in paragraph (7)(iii), by inserting after the words “incurred on the” the words “purchase of a building or”.

Amendment of section 29A

34. Section 29A of the principal Act is amended—

(a) in subsection (6)—

(i) by substituting for the colon at the end of the subsection a full stop; and

(ii) by deleting the proviso; and

(b) in subsection (7), by substituting for the words “section 22” the words “section 22A”.

Amendment of section 29AA

35. Subsection 29AA(6) of the principal Act is amended by substituting for the words “section 22” the words “section 22A”.

Amendment of section 29B

36. Subsection 29B(6) of the principal Act is amended by substituting for the words “section 22” the words “section 22A”.

Deletion of section 29C

37. The principal Act is amended by deleting section 29C.

Amendment of section 29D

38. Subsection 29D(5) of the principal Act is amended by substituting for the words “section 22” the words “section 22A”.

Amendment of section 29E

39. Subsection 29E(5) of the principal Act is amended by substituting for the words “section 22” the words “section 22A”.

Amendment of section 29F

40. Subsection 29F(5) of the principal Act is amended by substituting for the words “section 22” the words “section 22A”.

Amendment of section 29G

41. Section 29G of the principal Act is amended—

(a) in subsection (1)—

- (i) by inserting after the words “new and emerging technologies or in respect of” the words “a company establishing a medical devices testing laboratory or upgrading an existing medical devices testing laboratory in Malaysia or in respect of”; and
- (ii) by deleting the words “or in respect of a promoted activity or a promoted product in an industrial linkage programme”; and

(b) in the proviso to subsection (2)—

- (i) by inserting after the words “new and emerging technologies or in respect of” the words “a company establishing a medical devices testing laboratory or upgrading an existing medical devices testing laboratory in Malaysia or in respect of”; and
- (ii) by deleting the words “or in respect of a promoted activity or a promoted product in an industrial linkage programme”; and

(c) in subsection (5), by substituting for the words “section 22” the words “section 22A”.

Amendment of section 29H

42. Subsection 29H(5) of the principal Act is amended by substituting for the words “section 22” the words “section 22A”.

Deletion of section 29I

43. The principal Act is amended by deleting section 29I.

Amendment of section 29J

44. Section 29J of the principal Act is amended—

(a) in subsection (2)—

(i) by substituting for the words “section 27I” the words “subsection 27I(1)”; and

(ii) in the national language text, by substituting for the words “dan keluaran digalakkan” the words “atau keluaran digalakkan”;

(b) by inserting after subsection (2) the following subsection:

“(2A) Where a company which has been granted approval under subsection 27I(1A) has incurred, in the basis period for a year of assessment in respect of a promoted activity or promoted product in relation to renewable energy for own consumption, capital expenditure for that purpose, the company shall be given for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.”; and

(c) by inserting after subsection (3) the following subsection:

“(3A) An allowance for expenditure given under subsection (2A)—

(a) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and

(b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that—

(i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (b) in relation to a business which it is about to carry on in respect of a promoted activity or promoted product, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and

- (ii) where the company incurs capital expenditure prior to its application under section 26I and the approval under section 27I, the allowance is granted retrospectively from the date such activity or product is prescribed by the Minister as a promoted activity or promoted product under section 4D.”.

Deletion of section 29M

- 45.** The principal Act is amended by deleting section 29M.

Amendment of section 29O

- 46.** Subsection 29O(2A) of the principal Act is amended by substituting for the words “31 December 2010” the words “31 December 2015”.

Deletion of section 30

- 47.** The principal Act is amended by deleting section 30.

Amendment of section 30A

- 48.** Subsection 30A(2) of the principal Act is amended by deleting the words “29C(7),”, “29I(4),” and “29M(4),”.

Deletion of Chapter 7

- 49.** The principal Act is amended by deleting Chapter 7.

Amendment of section 43A

- 50.** Section 43A of the principal Act is amended—

(a) in subsection (1)—

- (i) by deleting the words “27B,”, “27H, 27I,”, “, 27L,”, “or 27N”, “29C(2)(b) or (c),”, “29I(3)(b),”, “29M(3)(b),” and “or 29O(3)(b)”;

- (ii) by substituting for the comma after the words “27F” the word “or”;
 - (iii) by inserting after the words “27G,” the words “subsection 27I(1) or section”;
 - (iv) by inserting after the words “27K” the word “or”;
and
 - (v) by substituting for the comma after the words “6(a)(ii)” the word “or”; and
- (b) in subsection (3)—
- (i) by deleting the words “27B,” “27H, 27I,” “, 27L,” and “or 27N”;
 - (ii) by substituting for the comma after the words “27F” the word “or”;
 - (iii) by inserting after the words “27G,” the words “subsection 27I(1) or section”; and
 - (iv) by inserting after the words “27K” the word “or”.

Saving and transitional

51. (1) Notwithstanding the deletion of the definitions of “promoted area” and “industrial linkage programme” in subsection 2(1) and the deletion of subsections 5(1B), 5(1DA), 5(1DE), 6(1AD) and 6(1AH) and sections 4C, 19, 21D, 21DA, 21G, 21K, 26B, 26H, 26L, 27B, 27H, 27L, 29C, 29I, 29M and 30 and Chapter 7 of the principal Act, the provisions shall remain in operation and continue to apply to any company for all purposes and in all respects in relation to any application approved under those provisions before the coming into operation of this Act as if those provisions had not been deleted by this Act.

(2) The definition of “company” as introduced in paragraph 2(c) of this Act shall not apply to the company referred to in subsection (1).

EXPLANATORY STATEMENT

This Bill seeks to amend the Promotion of Investments Act 1986 (“Act 327”).

2. *Clause 1* contains the short title and the dates of commencement of different provisions of the proposed Act.
3. *Clause 2* seeks to amend section 2 of Act 327—
 - (a) to delete the definitions of “promoted area” and “industrial linkage programme” as these incentives have been discontinued effective 1 January 2011; and
 - (b) to provide for the definition of “company” to ensure that only companies incorporated in Malaysia under the Companies Act 1965 [Act 125] are eligible for the incentives under Act 327.
4. *Clauses 4, 5, 9, 10, 18, 25 and 37* seek to delete section 4C, subsection 5(1B), sections 21D, 21DA, 26B, 27B and 29C of Act 327 following the cessation of incentives for promoted areas.
5. *Clause 5* seeks to amend section 5 of Act 327—
 - (a) to amend paragraph (1D)(a) as the incentive for industrial linkage programme has been discontinued effective 1 January 2011 in Budget 2008;
 - (b) to delete subsection (1DA) as the incentive for strategic knowledge-intensive activities has been discontinued effective 1 January 2012;
 - (c) to amend subsection (1DB) as the period for incentives offered to companies participating or intending to participate in the generation of renewable energy or providing energy conservation services in Malaysia other than for its own consumption is extended until 31 December 2015 in accordance with Budget 2011; and
 - (d) to delete subsection (1DE) following the cessation of incentives for companies relocating existing promoted activities or promoted products from outside a promoted area to a promoted area effective 1 January 2011.
6. *Clause 7* seeks to amend section 7 of Act 327 by providing a time frame for any company that has been granted pioneer status to apply for a pioneer certificate before the expiry of the period of twenty-four months or such extended period as the Minister may allow.
7. *Clauses 8 and 47* seek to delete sections 19 and 30 of Act 327 in relation to hotel buildings deemed to be industrial buildings as the same has been provided for in paragraph 37F of Schedule 3 to the Income Tax Act 1967 [Act 53].
8. *Clause 11* seeks to amend section 21F of Act 327 by deleting the industrial linkage programme incentive and to provide tax exemption for the value-added income for companies which upgrade their existing medical devices testing laboratories in Malaysia.
9. *Clauses 12, 20, 26 and 43* seek to delete sections 21G, 26H, 27H and 29I of Act 327 following the discontinuation of the incentive for strategic knowledge-intensive activities effective 1 January 2012 in accordance with Budget 2010.

10. *Clauses 13, 23, 28 and 45* seek to delete sections 21K, 26L, 27L and 29M of Act 327 following the cessation of incentives for companies relocating existing promoted activities or promoted products from outside a promoted area to a promoted area effective 1 January 2011.

11. *Clauses 14, 15, 16, 33, 34, 35, 36, 38, 39, 40, 41 and 42* seek to amend sections 22A, 23, 24, 29, 29A, 29AA, 29B, 29D, 29E, 29F, 29G and 29H of Act 327 in line with the Self-Assessment System introduced under the Income Tax Act 1967.

12. *Clause 19* seeks to amend section 26F of Act 327 to delete the industrial linkage programme incentive and to provide for the period of the incentives for companies establishing medical devices testing laboratories or upgrading existing medical devices testing laboratories in Malaysia to be extended until 31 December 2012.

13. *Clause 21* seeks to amend section 26I of Act 327—

- (a) to extend the period of incentives for generation of renewable energy until 31 December 2015 in accordance with Budget 2011; and
- (b) by inserting a new subsection (1B) for the purpose of exempting a company engaging in the generation of renewable energy for own consumption from the requirement to have a separate account under section 43A.

14. *Clauses 24, 30 and 46* seek to amend subsection 26N(1), paragraph 27N(1)(aa) and subsection 29O(2A) of Act 327 to extend the period of incentives for generation of renewable energy for own consumption to 31 December 2015 in accordance with Budget 2011.

15. *Clause 27* seeks to amend section 27I of Act 327 by introducing a new subsection (1A) to provide for exemptions to a company engaging in the generation of renewable energy for own consumption from the requirement to have a separate account under section 43A.

16. *Clause 31* seeks to introduce a new section 27P into Act 327 to provide a time frame for a company that has been granted investment tax allowance to apply for the determination of its effective date or an extension of time for such application before the expiry of the period of twenty-four months or such extended period as the Minister may allow.

17. *Clause 33* seeks to also amend paragraph 29(7)(iii) of Act 327 to include the purchase of a building as part of the definition of capital expenditure related to a hotel business.

18. *Clause 41* seeks to also amend section 29G of Act 327 to include incentives for a company upgrading an existing medical devices testing laboratory.

19. *Clause 44* seeks to amend section 29J of Act 327 by inserting new subsections (2A) and (3A) to provide exemptions to a company engaging in the generation of renewable energy for own consumption from the requirement to have a separate account under section 43A.

20. *Clause 49* seeks to delete Chapter 7 of Act 327 following the cessation of the incentive of infrastructure allowance effective 1 January 2011.
21. *Clause 50* seeks to amend section 43A of Act 327 to provide exemptions to a company engaging in the generation of renewable energy for own consumption from the requirement to have a separate account.
22. *Clause 51* seeks to provide for the saving and transitional provision.
23. Other amendments not specifically dealt with in this Explanatory Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

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

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