

D.R. 23/90

Naskhah Sahih—Bahasa Inggeris

RANG UNDANG-UNDANG

ber na ma

Suatu Akta untuk meminda Akta Kastam 1967.

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MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh Dull Yang Maha Mulia Sen Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut:

1. Akta inibolehlahdinamakan Akta Kastam (Pindaan) 1990. Tajuk ringkas.
2. Seksyen 2 Akta Kastam 1967, yang disebut "Akta ibu" dalam Akta ini, adalah dipinda— Pindaan seksyen 2. Akta 235.
 - (a) dengan memasukkan, selepas sahajatakrif 'dutiabable goods', takrif baru yang berikut:

' "duty free shop" means any place licensed for the warehousing and sale of dutiable goods free of duty under section 65D;'; dan
 - (b) dengan memasukkan, selepas sahaja takrif "importer", takrif baru yang berikut:

"inland clearance depot" means a common-user inland facility equipped with fixed installations and offering services for handling and temporary storage of any kind of goods carried in transit by land and placed under customs control;';
3. Seksyen 3 Akta ibu adalah dipinda dengan menggantikan perkataan-perkataan "section 22" dalam subseksyen (3) dengan perkataan-perkataan "sections 22 and 145". Pindaan seksyen 3.

Pindaan
seksyen 17.

4. Seksyen 17 Akta ibu adalah dipinda—

- (a) dengan menomborkan semula seksyen itu sebagai "17. (1)"; dan
- (b) dengan memasukkan selepas sahaja itu subseksyen baru (2) yang berikut:

"(2) Where any amount is payable in accordance with subsection (1) the Director General may allow the amount to be paid by instalments in such amounts and on such dates as he may determine."

Pindaan
seksyen 18.

5. Seksyen 18 Akta ibu adalah dipinda dengan menggantikan perkataan-perkataan "by unavoidable accident, lost, damaged or destroyed" dalam subseksyen (1) dengan perkataan-perkataan "damaged, destroyed, or by unavoidable accident, lost".

Pindaan
seksyen 44.

6. Seksyen 44 Akta ibu adalah dipinda dengan memotong perkataan-perkataan "the President of a Sessions Court in West Malaysia or" dan perkataan-perkataan "in the States of Sabah and Sarawak" dalam subseksyen (3).

Pindaan
seksyen 55.

7. Seksyen 55 Akta ibu adalah dipinda—

- (a) dengan menggantikan perkataan "one" di baris keenam subseksyen (2) dengan perkataan "five";
- (b) dengan menggantikan perkataan "one" di baris akhir subseksyen (2) dengan perkataan "two"; dan
- (c) dengan memotong perkataan-perkataan "a Sessions Court in West Malaysia or" dan perkataan-perkataan "in Sabah and Sarawak" dalam subseksyen (3).

Seksyen baru
65o dan 65E.

8. Akta ibu adalah dipinda dengan memasukkan, selepas sahaja seksyen 65c, seksyen baru 65o dan 65E yang berikut:

"Licensing
of duly free
shop.

65D (1) The Director General may at his absolute discretion on payment of such fee as may be prescribed, grant a licence to operate a duty free shop to any person, hereinafter in this section referred to as "the licensee", and when granted, may suspend or withdraw such licence.

(2) Any such licence shall be for such period and subject to such conditions as the Director General in each case may specify in the licence.

(3) The licensee shall, for the proper conduct of his business, furnish such security as may be required by the Director General.

(4) If it appears at any time that any goods have been sold or removed from such duty free shop otherwise than in accordance with all the conditions of a licence granted under this section, the licensee of such duty free shop shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay to the proper officer of customs the customs duty leviable on the goods sold or removed.

Licensing
of inland
clearance
depot.

65E. (1) The Director General may at his absolute discretion on payment of such fee as may be prescribed, grant a licence to operate an inland clearance depot to any person, hereinafter in this section referred to as "the licensee", and when granted, may suspend or withdraw such licence.

(2) Any such licence shall be for such period and subject to such conditions as the Director General in each case may specify in the licence.

(3) The licensee shall, for the proper conduct of his business, furnish such security as may be required by the Director General.

(4) If it appears at any time that in any inland clearance depot there is a deficiency in the quantity of dutiable goods which ought to be found therein, the licensee of such inland clearance depot shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay to the proper officer of customs the customs duty leviable on the goods found deficient:

Provided that if it is shown to the satisfaction of the Director General that such deficiency has been

caused by any leakage, breakage or other unavoidable accident, the Director General may remit the whole or any part of the customs duty leviable on the goods found deficient."

Pindaan
seksyen 86.

9. Seksyen 66 Akta ibu adalah dipinda dengan memasukkan, selepas sahaja subseksyen (4), subseksyen baru (5) yang berikut:

"(5) Notwithstanding anything contained in subsection (1), if the Director General is of the opinion that having regard to any particular goods imported into Malaysia it would be in the public interest not to require such goods to be deposited by the importer or his agent in accordance with the said subsection, he may direct such goods to be released subject to such conditions as he may impose."

Pindaan
seksyen 78.

10. Seksyen 78 Akta ibu adalah dipinda dengan memasukkan selepas sahaja perkataan-perkataan "charges leviable thereon" dalam subseksyen (2) perkataan-perkataan "within fourteen days of such declaration".

Pindaan
seksyen 90.

11. Seksyen 90 Akta ibu adalah dipinda—

- (a) dengan memasukkan, selepas sahaja perkataan-perkataan "senior officer of customs" dalam subseksyen (1), perkataan-perkataan "and subject to such terms and conditions as he may impose";
- (b) dengan menggantikan perkataan-perkataan "in default of the production of such authority such officer may refuse such permission" dalam subseksyen (2) dengan perkataan-perkataan "may at his absolute discretion grant or refuse such permission"; dan
- (c) dengan memasukkan, selepas sahaja perkataan-perkataan "to comply with" dalam subseksyen (4), perkataan-perkataan "the terms and conditions imposed pursuant to subsection (1) or".

12. Akta ibu adalah dipinda dengan menggantikan seksyen 91 dengan yang berikut: Penggantian seksyen 91.

"Person in charge of goods imported, etc. by roads to be deemed agents. 91. Notwithstanding anything contained in section 90 the person in charge of any goods imported or exported by road shall be deemed to be the agent of the importer or exporter, as the case may be."

13. Akta ibu adalah dipinda dengan menggantikan seksyen 99 dengan yang berikut: Penggantian seksyen 99.

"Drawback on imported goods used in manufacture or in packing. 99. (1) Where any imported goods are re-exported by the manufacturer as part or ingredient of any goods manufactured in Malaysia or as the packing, or part or ingredient of the packing, of such manufactured goods, then, if customs duty has been paid on such imported goods, the Director General may, on such re-export, allow to the manufacturer a full drawback of the duty so paid, if—

- (a) the finished goods exported have been manufactured on premises approved by the Director General;
- (b) such books and account are kept as the Director General may require for the purpose of ascertaining the quantity of the goods used in such manufacture or for or in the packing of such manufactured goods;
- (c) such goods are re-exported within twelve months of the date upon which the import duty was paid or such further period as the Director General may approve; and
- (d) written notice has been given on the export declaration form that a claim for drawback will be made, and such claim is made in the prescribed form and established to the satisfaction of a senior officer of customs within six months of the date of such re-export or such further period as the Director General may approve.

(2) In this section the expression "manufacturer" includes any person to whom the manufactured goods have been sold or otherwise disposed of."

Pindaan
seksyen 115.

14. Seksyen 115 Akta ibu adalah dipinda—

- (a) dengan memasukkan, selepas sahaja perkataan-perkataan "section 127 (1A)" dalam perenggan (b) subseksyen (1), perkataan-perkataan "or 128 (4)"; dan
- (b) dengan memasukkan, selepas sahaja perkataan "perishable" dalam perenggan (c) subseksyen itu, perkataan-perkataan "or dangerous".

Pindaan
seksyen 127.

15. Seksyen 127 Akta ibu adalah dipinda dengan memasukkan selepas sahaja perkataan "paragraph" dalam barisan pertama subseksyen (1A) perkataan-perkataan "(a) or".

Penggantian
seksyen 128.

16. Akta ibu adalah dipinda dengan menggantikan seksyen 128 dengan yang berikut:

- "Goods seized or in respect of which there is no prosecution, or the proceeds of sale thereof, are forfeited if not claimed within one month.
128. (1) If there be no prosecution with regard to any goods seized under this Act, such goods or the proceeds of sale of such goods which are held pursuant to paragraph (c) of subsection (1) of section 115 shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure of the goods unless before such expiration—
- (a) a claim to such goods or the proceeds of sale of such goods is made under subsection (2);
- (b) a written application is made for the return of such goods under paragraph (a) or (b) of subsection (1) of section 115; or
- (c) such goods are returned under the said paragraph (a) or (b).
- (2) Any person asserting that he is the owner of such goods or the proceeds of sale of such goods, as the case may be, and that they are not liable to forfeiture may give written notice to a senior officer of customs that he claims the same.

(3) On the expiration of the period mentioned in subsection (1), or, if a decision is made earlier that there be no prosecution with regard to the goods, on the making of the decision the senior officer of customs shall, if such goods or the proceeds of sale of such goods are not taken and deemed to be forfeited under that subsection, refer the claim to the Director General who may direct that such goods or the proceeds of sale of such goods or the security furnished under paragraph (a) or (b) of subsection (1) of section 115, as the case may be, be released, or may direct such senior officer of customs, by information in the prescribed form, to refer the matter to a Magistrate of the First Class for his decision.

(4) The Magistrate of the First Class shall issue a summons requiring the person asserting that he is the owner of the goods or the proceeds of sale of such goods, and the person from whom the goods were seized, to appear before him, and upon their appearance or default to appear, due service of such summons being proved, the Magistrate of the First Class shall proceed to the examination of the matter, and upon proof that an offence against this Act or any regulations made thereunder has been committed and that such goods were the subject matter, or were used in the commission, of such offence, shall order such goods or the proceeds of sale of such goods or the amount secured under paragraph (a) or (b) of subsection (1) of section 115, as the case may be, to be forfeited, or in the absence of such proof, may order the release of such goods or the proceeds of sale of such goods or the security furnished under paragraph (a) or (b) of subsection (1) of section 115, as the case may be.

(5) In any proceedings under subsection (4), section 119 shall apply to the person asserting that he is the owner of the goods and to the person from whom they were seized as if such owner or person had been the defendant in a prosecution under this Act."

8 RANG UNDANG-UNDANG

Penggantian
seksyen 129.

17. Akta ibu adalah dipinda dengan menggantikan seksyen 129 dengan yang berikut:

"Goods or,
amount
secured
maybe
delivered or
refunded to
the owner
or other
person.

129. The Minister may, upon application made to him in writing through the Director General, order—

(a) any goods seized under this Act; or

(b) any amount secured under paragraph (a) or (b) of subsection (1) of section 115 or the amount realized by sale under paragraph (c) of the said subsection (1);

whether forfeited, or taken and deemed to be forfeited pursuant to section 127 or 128, to be delivered or refunded, as the case may be, to the owner or other person entitled thereto upon such terms and conditions as he may deem fit:

Provided that any such application shall be made before the expiration of one calendar month from the date on which such goods or amount are forfeited or are taken and deemed to be forfeited, as the case may be."

Pindaan
seksyen 131.

18. Seksyen 131 Akta ibu adalah dipinda—

(a) dengan menggantikan perkataan "two" dalam subseksyen (1) dengan perkataan "five"; dan

(b) dengan menggantikan noktah di hujung subseksyen (3) dengan noktah bertindih dan memasukkan selepas itu proviso yang berikut:

"Provided that where the prohibition is conditional upon a licence being issued in respect of the import of such goods, a senior officer of customs may release such goods if a licence is subsequently issued by any relevant authority."

Pindaan
seksyen 138.

19. Seksyen 138 Akta ibu adalah dipinda dengan menggantikan perkataan "four" dengan perkataan "five".

20. Seksyen 142 Akta ibu adalah dipinda—Pindaan
seksyen 142.

- (a) dengan memasukkan, selepas sahaja perenggan (34), perenggan baru (35) yang berikut:

"(35) to regulate the conduct of all matters relating to duty free shops;" dan

- (b) dengan menomborkan semula perenggan (35) yang sedia ada sebagai perenggan (36).

HURAIAN

Rang Undang-Undang ini bertujuan meminda Akta Kastam 1967 (kemudian daripada ini disebut "Akta").

2. *Fasal 2* bertujuan meminda seksyen 2 Akta dengan mewujudkan tiga takrif baru untuk menghuraikan penggunaannya dalam berbagai-bagai seksyen dalam Akta.

3. *Fasal 3* meminda seksyen 3 (3) Akta untuk memastikan bahawa kelonggaran tentang penggunaan berbagai-bagai borang yang dibenarkan di bawah seksyen 145 Akta tidak disalahgunakan.

4. *Fasal 4* bertujuan meminda seksyen 17 Akta untuk memberi kuasa kepada Ketua Pengarah membenarkan wang yang kena dibayar oleh seseorang yang kena membayar wang itu dibayar secara ansuran dengan amaun-amaun dan pada tarikh-tarikh yang ditentukan olehnya.

5. *Fasal 5* bertujuan meminda seksyen 18 (1) Akta untuk mengadakan peruntukan bagi hal-hal keadaan yang menurutnya peremitan duti kastam, dalam hal-hal jika barang-barang hilang, hanya boleh dibenarkan jika kehilangan itu adalah oleh sebab kemalangan yang tak dapat dielakkan.

6. *Fasal 6* bertujuan meminda seksyen 44 (3) Akta. Pindaan yang dicadangkan itu adalah berbangkit daripada pindaan yang dibuat kepada Akta Mahkamah Rendah 1948 di mana bidang kuasa seseorang Majistret diperluaskan supaya dia boleh membicarakan segala kes dalam lingkungan Akta.

7. *Fasal 7* bertujuan meminda seksyen 55 (2) untuk membuat peruntukan bagi penalti yang lebih tinggi bagi apa-apa kesalahan yang dilakukan di bawah subseksyen ini. Pindaan yang dicadangkan kepada seksyen 55 (3) adalah bagi maksud yang serupa dengan maksud seperti dalam fasal 6.

8. *Fasal 8* bertujuan memasukkan dua seksyen baru ke dalam Bahagian VIII, iaitu seksyen 65D dan seksyen 65E. Seksyen 65D memberi Ketua Pengarah kuasa untuk mengeluarkan lesen mengendalikan kedai bebas duti. Seksyen 65E pula memberi kuasa kepada Ketua Pengarah untuk mengeluarkan lesen mengendalikan depot pelepasan di darat (*inland clearance depot*).

18. *Fasal 19* bertujuan meminda seksyen 138 Akta untuk mengadakan penalti yang lebih tinggi.

19. *Fasal 20* bertujuan meminda seksyen 142 Akta dengan mengadakan perenggan baru (35) untuk member! kuasa kepada Menteri membuat peraturan-peraturan berkenaan dengan perkara-perkara yang berhubungan dengan kedai-kedai bebas duti.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U²) 1510.]