

A BILL

i n t i t u l e d

An Act to amend the Tourism Industry Act 1992.

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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 Tourism Industry (Amendment) Act 2017.

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

Amendment of section 2

2. The Tourism Industry Act 1992 [*Act 482*], which is referred to as the “principal Act” in this Act, is amended in section 2, in the definition of “accommodation premises”, by substituting for the words “and lodging houses,” the words “, lodging houses, and other structures whether permanent or temporary,”.

Amendment of section 5

3. Subsection 5(3) of the principal Act is amended—

- (a) by substituting for the words “fifty thousand” the words “five hundred thousand”; and
- (b) by substituting for the words “five years” the words “ten years”.

Amendment of section 8

4. Section 8 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the word “**Revocation**” the words “**Suspension or revocation**”;
- (b) in subsection (1), by inserting after the words “The Commissioner may” the words “suspend or”;
- (c) in subsection (2)—
 - (i) by inserting after the word “Before” the words “suspending or”; and
 - (ii) by inserting after the word “be” the words “suspended or”;
- (d) in subsection (3), by inserting after the word “to” the words “suspend or”;
- (e) in subsection (4)—
 - (i) by substituting for the word “revocation” the words “suspension or revocation”;
 - (ii) in paragraph (a)—
 - (A) by inserting after the words “against such” the words “suspension or”; and
 - (B) by inserting after the words “notice of” the words “suspension or notice of”;
 - (iii) in paragraph (b)—
 - (A) by inserting after the words “against such” the words “suspension or”; and

(B) by inserting after the words “when the” the words “suspension or”;

(f) in subsection (5)—

- (i) by inserting after the words “against the” the words “suspension or”;
- (ii) by inserting after the words “licence has been so” the words “suspended or”; and
- (iii) by inserting after the words “and the” the words “suspension or”;

(g) in subsection (7)—

- (i) by inserting after the words “Where the” the words “suspension or”;
- (ii) by inserting after the word “such” the words “suspension or”; and
- (iii) by inserting after the word “newspaper” the words “or electronic media, as the Commissioner deems fit,”; and

(h) in subsection (8)—

- (i) by inserting after the words “notice of” the words “suspension or notice of”; and
- (ii) by inserting after the words “validity of the” the words “suspension or”.

Amendment of section 9

5. Subsection 9(1) of the principal Act is amended—

- (a) in paragraph (b), by substituting for the words “the revocation” the words “the suspension or revocation”; and
- (b) by inserting after the words “notice of refusal” the words “, suspension”.

Amendment of section 10

6. Section 10 of the principal Act is amended by deleting subsection (3).

Amendment of section 11

7. Section 11 of the principal Act is amended—

(a) in the shoulder note, by inserting after the words “**Effect of**” the words “**suspension,**”;

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

“(1A) Where the suspension of a license under section 8 has taken effect, the licensed tourism enterprise shall not transact any new business during the suspension period.”; and

(c) in subsection (2)—

(i) by inserting after the words “subsection (1)” the words “or (1A);

(ii) by substituting for the words “fifty thousand” the words “five hundred thousand”; and

(iii) by substituting for the words “five years” the words “ten years”.

Amendment of section 15

8. Subsection 15(3) of the principal Act is amended by substituting for the words “twenty thousand” the words “fifty thousand”.

Amendment of section 32

9. Section 32 of the principal Act is amended—

(a) by deleting subsection (3); and

(b) by inserting after subsection (4) the following subsection:

“(5) Any person who contravenes subsection (1) shall be guilty of an offence under this Act.”.

Amendment of section 34

10. Section 34 of the principal Act is amended by inserting after subsection (2) the following subsection:

“(3) Any regulations made under this section may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding one hundred thousand ringgit or imprisonment for a term not exceeding five years or both for such offence.”.

Amendment of section 37

11. Section 37 of the principal Act is amended by substituting for the words “five thousand” the words “fifty thousand”.

Amendment of section 39

12. Subsection 39(1) of the principal Act is amended by inserting after the words “The Commissioner may” the words “, with the written consent of the Public Prosecutor,”.

Substitution of section 49

13. The principal Act is amended by substituting for section 49 the following section:

“Prosecution

49. No prosecution in respect of an offence under this Act shall be instituted except by, or with the written consent of, the Public Prosecutor.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Tourism Industry Act 1992 (“Act 482”).

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

3. *Clause 2* seeks to amend the definition of “accommodation premises” to expand the definition to cover permanent or temporary structure.
4. *Clause 3* seeks to amend subsection 5(3) of Act 482 by increasing the penalty from the existing fine of not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years to a fine of not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years.
5. *Clause 4* seeks to amend section 8 of Act 482 to provide the procedure for suspension of any licence granted under Act 482. Under the proposed amendment, the Commissioner has a discretion either to suspend or to revoke any licence granted to a licensed tourism enterprise under Act 482. The proposed amendment further seeks to simplify the mode of advertising of a suspension or revocation of any licence granted under Act 482. With the proposed amendment, the Commissioner has an option to advertise the suspension or revocation of licence either in at least one national daily Bahasa Malaysia and English newspaper or any electronic media that the Commissioner deems fit.
6. *Clause 5* seeks to amend subsection 9(1) of Act 482 to allow any licensed tourism enterprise to appeal to the Minister against the suspension of their licence by the Commissioner.
7. *Clause 6* seeks to amend section 10 of Act 482 by deleting subsection 10(3) to waive a licensed tourism enterprise’s obligation to advertise the surrender of its licence.
8. *Clause 7* seeks to amend section 11 of Act 482 by inserting the effect of a suspension of licence under section 8 of Act 482. Under the proposed amendment, a licensed tourism enterprise whose license has been suspended is not allowed to transact any new business during the suspension period. The amendment further seeks to increase the penalty from the existing fine of not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years to a fine of not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years.
9. *Clause 8* seeks to amend subsection 15(3) of Act 482 by increasing the penalty from the existing fine of not exceeding twenty thousand ringgit to a fine of not exceeding fifty thousand ringgit.
10. *Clause 9* seeks to amend section 32 of Act 482 by deleting subsection 32(3) to waive a licensed tourism enterprise’s obligation to advertise its intention not to renew its license. The proposed amendment further seeks to make any contravention of subsection 32(1) an offence.
11. *Clause 10* seeks to insert new subsection 34(3) in Act 482 to empower the Minister to prescribe the penalty for the contravention of or failure to comply with any provision of any regulations made under Act 482. The penalty that may be prescribed is a fine not exceeding one hundred thousand ringgit or imprisonment for a term not exceeding five years or to both.

12. *Clause 11* seeks to amend section 37 of Act 482 by increasing the penalty from the existing fine of not exceeding five thousand ringgit to a fine of not exceeding fifty thousand ringgit.

13. *Clause 12* seeks to amend subsection 39(1) of Act 482 to provide that the written consent of the Public Prosecutor must be obtained before any offence can be compounded by the Commissioner.

14. *Clause 13* seeks to amend section 49 of Act 482 to provide that no prosecution in respect of any offence under Act 482 shall be instituted except by, or with the written consent of, the Public Prosecutor.

FINANCIAL IMPLICATIONS

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

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