



LAWS OF MALAYSIA

ACT A636

ENVIRONMENTAL QUALITY (AMENDMENT) ACT 1985

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Long Title & Preamble

An Act to amend the Environmental Quality Act 1974.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

Section 1. Short title and commencement.

(1) This Act may be cited as the Environmental Quality (Amendment) Act 1985.

(2) Sections 9, 16 and 18 (b), (c), (d) and (e) shall come into force on a date to be appointed by the Minister by notification in the *Gazette*.

Section 2. Amendment of section 2.

Section 2 of the Environmental Quality Act 1974 [Act 127], which in this Act is referred to as "the principal Act", is amended -

(a) by inserting after the definition of "industrial plant", the following definition:

' "Malaysian waters" means the territorial waters of Malaysia as determined in accordance with the Emergency (Essential Powers) Ordinance, No. 7 1969[P.U.(A) 307A/69.]; and

(b) by inserting after the definition of "trade", the following definition:

' "vehicle" means a structure capable of moving or being moved or used for the conveyance of any person or thing and which maintains contact with the ground when in motion; '.

Section 3. Amendment of section 4.

(1) Subsection (2) of section 4 of the principal Act is amended -

(a) by substituting for the words "Ministry of Technology and Research" in paragraph (b), the words "Ministry of Science, Technology and the Environment";

(b) by substituting for the words "Secretary General of Labour and Manpower" in paragraph (d), the words "Secretary General, Ministry of Labour",

(c) by inserting after paragraph (c), the following paragraph:

"(cc) the Secretary General, Ministry of Agriculture or his authorized representative;"

(d) by inserting after paragraph (d), the following paragraph:

"(dd) the Secretary General, Ministry of Transport or his authorized representative;"

(e) by substituting for the words "one member from East Malaysia" in paragraph (f), the words "one member each from Sabah and Sarawak; " ;

(f) by inserting after paragraph (g), the following paragraph:

"(gg) one member who shall be appointed by the Minister from nominations by the oil palm industry;"

(g) by inserting after paragraph (h), the following paragraph:

"(hh) one member who shall be appointed by the Minister from nominations by the rubber industry;"

(h) by substituting for the full stop at the end of paragraph (i), a semi-colon and by adding after that paragraph, the following paragraph:

"(j) two members who shall be appointed by the Minister from among registered societies knowledgeable and having interests in matters pertaining to the environment."

(2) Subsection (3) of section 4 of the principal Act is amended by substituting for the words "(f), (g), (h) and (i)", the words "(f), (g), (gg), (h), (hh), (i) and (j)".

Section 4. Amendment of section 7.

Subsection (2) of section 7 of the principal Act is amended by substituting for the word "Five", the word "Eight".

Section 5. Amendment of section 11.

Section 11 of the principal Act is amended by substituting for the word "shall" where it first appears in paragraph (a) of subsection (3), the word "may".

Section 6. Amendment of section 13.

Subsection (2) of section 13 of the principal Act is amended by substituting for the words "more than one month", the words "less than three months nor more than four months".

Section 7. Amendment of section 16.

Section 16 of the principal Act is amended -

(a) by numbering the existing provision as subsection (1) of section 16; and

(b) by adding after subsection (1), the following subsection:

"(2) Any holder of a licence who contravenes subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a period not exceeding two years or to both, and to a further fine of one thousand ringgit for every day that the offence is continued after a notice by the Director General requiring him to comply with such term or condition specified therein has been served upon him."

Section 8. Amendment of section 18.

Section 18 of the principal Act is amended by inserting after subsection (2), the following subsection:

"(3) Any person found guilty of an offence under subsection (1) shall be liable to a fine not exceeding ten thousand ringgit or imprisonment for a period not exceeding two years or to both and to a further fine of one thousand ringgit for every day that the offence is continued after a notice by the Director General requiring him to cease the act specified has been served upon him."

Section 9. Deletion of section 26.

The principal Act is amended by deleting section 26.

Section 10. Amendment of section 27.

Section 27 of the principal Act is amended by substituting for subsection (1), the following subsection:

"(1) No person shall, unless licensed, discharge or spill any oil or mixture containing oil into Malaysian waters in contravention of the acceptable conditions specified under section 21."

Section 11. Amendment of section 28.

Section 28 of the principal Act is amended by deleting the words "26 or".

Section 12. Amendment of section 29.

Subsection (1) of section 29 of the principal Act is amended by deleting the full stop at the end of that subsection and by adding after the word "waters", the words "in contravention of the acceptable conditions specified under section 21."

Section 13. New section 34A.

Part IV of the principal Act is amended by inserting after section 34, the following section:

"34A. Report on impact on environment resulting from prescribed activities.

(1) The Minister, after consultation with the Council, may by order prescribe any activity which may have significant environmental impact as prescribed activity.

(2) Any person intending to carry out any of the prescribed activities shall, before any approval for the carrying out of such activity is granted by the relevant approving authority, submit a report to the Director General. The report shall be in accordance with the guidelines prescribed by the Director General and shall contain an assessment of the impact such activity will have or is likely to have on the environment .and the proposed measures that shall be undertaken to prevent, reduce or control the adverse impact on the environment.

(3) If the Director General on examining the report and after making such inquiries as he considers necessary, is of the opinion that the report satisfies the requirements of subsection (2) and that the measures to be undertaken to prevent, reduce or control the adverse impact on the environment are adequate, he shall approve the report, with or without conditions attached thereto, and shall inform the person intending to carry out the prescribed activity and the relevant approving authorities accordingly.

(4) If the Director General, on examining the report and after making such inquiries as he considers necessary, is of the opinion that the report does not satisfy the requirements of subsection (2) or that the measures to be undertaken to prevent, reduce or control the adverse impact on the environment are inadequate, he shall not approve the report and shall give his reasons therefor and shall inform the person intending to carry out the prescribed activity and the relevant approving authorities accordingly:

Provided that where such report is not approved it shall not preclude such person from revising and resubmitting the revised report to the Director General for his approval.

(5) The Director General may if he considers it necessary require more than one report to be submitted to him for his approval.

(6) Any person intending to carry out a prescribed activity shall not carry out such activity until the report required under this section to be submitted to the Director General has been submitted and approved.

(7) If the Director General approves the report, the person carrying out the prescribed activity, in the course of carrying out such activity, shall provide sufficient proof that the conditions attached to the report (if any) are being complied with and that the proposed measures to be taken to prevent, reduce or control the adverse impact on the environment are being incorporated into the design, construction and operation of the prescribed activity.

(8) Any person who contravenes this section shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a period not exceeding two years or to both and to a further fine of one thousand ringgit for every day that the offence is continued after a notice by the Director General requiring him to comply with the act specified therein has been served upon him."

Section 14. Amendment of section 35.

Subsection (1) of section 35 of the principal Act is amended -

(a) by deleting the word "or" after the semi-colon in paragraph (c) and by substituting for the comma at the end of paragraph (d), a semicolon; and

(b) by inserting after paragraph (d), the following paragraphs:

"(e) any decision of the Director General under subsection (3) or (4) of section 34A; and

(f) any decision of the Director General or any officer under subsection (2) or (5) of section 48A,".

Section 15. Amendment of section 45.

Subsection (1) of section 45 of the principal Act is amended by substituting for the words "Director General or any Deputy Director General" wherever they appear, the words "Director General, any Deputy Director General, any Director, or any other public officer to whom the Director General has delegated such power in writing".

Section 16. Amendment of section 47.

Section 47 of the principal Act is amended -

(a) by deleting the figures "26," in subsection (4); and

(b) by substituting for the words "oil from or to any ship (whether to or from a place on land or to or from a ship)" in paragraph (b) of subsection (4), the words "oil, mixture containing oil or wastes to any ship from a place on land".

Section 17. New sections 48A and 48B.

The principal Act is amended by inserting after section 48, the following sections:

"48A. Power to test and prohibit use of vehicle.

(1) The Director General or any officer duly authorized by him in writing may enter and inspect any vehicle in use and for that purpose may require any vehicle to be stopped, and may detain any vehicle during such time as is required for the inspection, and may require the driver of such vehicle to drive it to another place for the purpose of such inspection and may carry out, at the expense of the owner, all such tests and examinations as he considers desirable or necessary to satisfy himself that the provisions of this Act or any regulations made thereunder have been complied with in respect of the vehicle:

Provided that no vehicle shall be detained under this section for a period exceeding forty-eight hours or such longer period as the Director General may by writing authorize in any particular case.

(2) If, on such inspection, it appears to the Director General or officer that, by reason of any defects therein, such vehicle is or is likely to contravene this Act or any regulations made thereunder, he may prohibit the use of such vehicle:

Provided that where in the opinion of the Director General or officer the defects are such as can be remedied within any period not exceeding ten days, the prohibition shall not operate before the expiration of the period.

(3) Where, under subsection (2), the Director General or officer prohibits the use of a vehicle, he shall forthwith give written notice of such prohibition to the registered owner of the vehicle and to the person in charge thereof.

(4) In the case of prohibition on the grounds of such defects as are specified in the proviso to subsection (2), the notice given under subsection (3) shall specify the period within which the defects can in the opinion of such officer be remedied and may require the registered owner of the vehicle or the person in charge thereof to produce for his inspection the vehicle at such convenient time and place as may be specified in the notice.

(5) A prohibition order made under subsection (2) which has become effective may be removed by the Director General or any officer duly authorized by the Director General in writing if he is satisfied that the vehicle is fit for use.

(6) Where the Director General or an officer withdraws or removes a prohibition he shall give notice of that withdrawal or removal to the registered owner of the vehicle.

(7) The Director General or the officer may by notice in writing require the registered owners of the vehicle to produce for his inspection, at such convenient time and place as may be specified in the notice, any document relating to the vehicle.

(8) If any person fails to comply with this section, or uses or permits to be used a vehicle at any time whilst a prohibition order under subsection (2) is in force in relation to such vehicle, he shall be guilty of an offence and shall be liable to a fine not exceeding five thousand ringgit or to imprisonment for a period not exceeding one year or to both.

48B. Assistance

The Director General or any person duly authorized by him may require the assistance of any person in the event of pollution or an imminent threat of pollution to the environment."

Section 18. Amendment of section 51.

Subsection (1) of section 51 of the principal Act is amended -

- (a) by substituting for the words "under this Act;" in paragraph (a), the words "or for any other forms of approval given under this Act or any regulations made thereunder;"
- (b) by deleting paragraphs (m), (n) and (o);
- (c) by substituting for the words "the master of any ship and the owner of any oil refinery" in paragraph (p), the words "any person handling, storing or using oil or mixture containing oil";
- (d) by substituting for the words "the oil refineries carrying on business in Malaysia" in paragraph (q), the words "any person handling, storing or using oil or mixture containing oil"; and
- (e) by substituting for the semi-colon at the end of paragraph (q), a full stop and deleting paragraphs (r) and (s).

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