



## LAWS OF MALAYSIA

### ACT A953

## ENVIRONMENTAL QUALITY (AMENDMENT) ACT 1996

Date of Royal Assent :	15th July 1996
Date of publication in the Gazette :	1st August 1996
Date of coming into operation:	1st August 1996 - PU(B) 314/96

---

### ARRANGEMENT OF SECTIONS

---

#### [Long Title & Preamble](#)

- Section 1. [Short title and commencement.](#)
- Section 2. [Amendment of section 2.](#)
- Section 3. [Amendment of section 3.](#)
- Section 4. [Amendment of section 4.](#)
- Section 5. [Amendment of section 7.](#)
- Section 6. [Amendment of section 16.](#)
- Section 7. [Amendment of section 18.](#)
- Section 8. [Amendment of section 19.](#)
- Section 9. [Amendment of section 21.](#)
- Section 10. [Amendment of section 22.](#)
- Section 11. [Amendment of section 23.](#)
- Section 12. [Amendment of section 24.](#)
- Section 13. [Amendment of section 25.](#)
- Section 14. [Amendment of section 27.](#)
- Section 15. [Amendment of section 29.](#)
- Section 16. [New sections 30A and 30B.](#)
- Section 17. [Amendment of section 31.](#)

- Section 18. [New section 31A.](#)
- Section 19. [Amendment of section 32.](#)
- Section 20. [Amendment of section 33.](#)
- Section 21. [New section 33A.](#)
- Section 22. [Amendment of section 34A.](#)
- Section 23. [New Part IVA.](#)
- Section 24. [Amendment of section 36.](#)
- Section 25. [New Part VA](#)
- Section 26. [Amendment of section 37.](#)
- Section 27. [Amendment of section 38.](#)
- Section 28. [New section 38A.](#)
- Section 29. [Amendment of section 41.](#)
- Section 30. [Amendment of section 45.](#)
- Section 31. [New sections 46A, 46B, 46C, 46D, and 46E.](#)
- Section 32. [Amendment of section 48.](#)
- Section 33. [Amendment of section 50.](#)
- Section 34. [Amendment of section 51.](#)

## Long Title & Preamble

An Act to amend the Environmental Quality Act 1974.

BE IT ENACTED by the 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.

This Act may be cited as the Environmental Quality (Amendment) Act 1996 and shall come into force on and such date as the Minister may, by notification in the *Gazette*, appoint.

### Section 2. Amendment of section 2.

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

(a) by inserting before the definition of "beneficial used" the following definition:

' "aircraft" includes any kind of vehicle which may be used for the conveyance of passenger or goods by air;';

(b) by inserting after the definition of "beneficial use" the following definitions:

' "Committee" means the Environmental Fund Committee established under section 36C;

"computer" means any device, identified by whatever name or description, for recording, storing, processing, retrieving or producing any information or matter, or for performing any one or more of those functions; and, where two or more computers carry out any one or more of those functions in combination, conjointly, or in succession, they shall be treated as a single computer;';

(c) in the definition of "control equipment" by inserting after the word "device" in paragraph (d) the words "or facility";

(d) by inserting after the definition of "Director General" the following definition:

' "document" means any matter expressed, described, or represented in whatever manner, upon any substance, material, thing or article, including any matter embodied in a disc, tape, film, sound track or device, by means of-

(a) any letter, figure, mark, symbol, signal, sign, or any other form of expression, description or representation;

(b) a visual recording (whether of any still or moving image);

(c) a sound recording, or any electronic, magnetic, mechanical or other recording, or by any sound, electronic impulse or other data; or

(d) a recording, or transmission, over a distance of any matter by any, or any combination, of the means mentioned in paragraph (a), (b) or (c), or in this paragraph;';

(e) by inserting after the definition of "environment" the following definitions:

' "environmental audit" means a periodic, systematic, documented and objective evaluation to determine-

(a) the compliance status to environmental regulatory requirements;

(b) the environmental management system; and

(c) the overall environmental risk of the premises;

"environmental management system" means a system comprising of an organizational structure with its responsibilities, practices, procedures, processes and resources for implementing and maintaining the system relating to the management of the environment;

"environmental risk" means any risk, hazard or chances of bad consequences that may be brought upon the environment;

"environmentally hazardous substances" means any natural or artificial substances including any raw material, whether in a solid, semi-solid or liquid form, or in the form of gas or vapour, or in a mixture of at least two of these substances, or any living organism intended for any environmental protection, conservation and control activity, which can cause pollution;

"Fund" means the Environmental Fund established under section 36B;

"goods" includes environmentally hazardous substances, pollutants and wastes;';

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

' "inland waters" means any reservoir, pond, lake, river, stream, canal, drain, spring or well, or any part of the sea above the low water line along the coast, or any other body of natural or artificial surface or subsurface water;';

(g) by substituting for the definition of "occupier" the following definition:

' "occupier" means a person in occupation or control of-

(a) any premises; or

(b) in relation to premises where different parts of which are occupied by different persons, the respective persons in occupation or control of each part; or

(c) any vehicle, ship or aircraft;';

(h) by substituting for the definition of "owner" the following definition:

"owner" in relation to-

(a) any premises, means-

(i) the registered proprietor of the premises;

(ii) the lessee of a lease including a sub-lease of the premises, whether registered or otherwise;

(iii) the agent or trustee of any of the owners described in subparagraphs (i) and (ii) of this definition or where the owner as described in subparagraphs (i) and (ii) cannot be traced or has died, his legal personal representative; or

(iv) the person for the time being receiving the rent of the premises whether on his own account or as agent or trustee for any other person or as receiver or who would receive if the premises were let to a tenant;

(b) any ship, means-

(i) the person registered as the owner of the ship;

(ii) in the absence of registration, the person owning the ship;

(iii) in the case of a ship owned by any country and operated by a company which in that country is registered as the ship's operator, "owner" shall include the country; or

(iv) the agent or trustee of any .of the owners described in subparagraphs (i), (ii) and (iii), or where the owner as described in subparagraphs (i) and (ii) cannot be traced or has died, his legal personal representative;

(c) any vehicle or aircraft, means the person registered as the owner of the vehicle or aircraft;';

(i) by substituting for the definition of "pollutant" the following definition:

' "pollutants" means any natural or artificial substances, whether in a solid, semisolid or liquid form, or in the form of gas or vapour, or in a mixture of at least two of these

substances, or any objectionable odour or noise or heat emitted, discharged or deposited or is likely to be emitted, discharged or deposited from any source which can directly or indirectly cause pollution and includes any environmentally hazardous substances;',

(j) in the definition of "pollution"-

(a) by substituting for the words "biological, or radioactive" the words "or biological"; and

(b) by inserting after the word "depositing" the words "environmentally hazardous substances, pollutants or";

(k) by inserting after the definition of "prescribed" the following definition:

' "prescribed conveyance" means a vehicle or ship prescribed by the Minister under section 18 as a prescribed conveyance;';

(l) by substituting for the definition of "premises" the following definition:

' "premises" includes messuages, buildings, lands, and hereditaments of every tenure and any machinery or plant;';

(m) by inserting after the definition of "prescribed premises" the following definitions:

' "prescribed product" means any product prescribed by the Minister under paragraph 30A(1)(b);

"scheduled wastes" means any waste prescribed by the Minister in the regulations as scheduled wastes;';

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

' "transit" means the continuous passage from one border to another border through Malaysian territory and waters without storage;'; and

(o) by substituting for the definition of "waste" the following definition:

' "waste" includes any matter prescribed to be scheduled waste, or any matter whether in a solid, semi-solid or liquid form, or in the form of gas or vapour which is emitted, discharged or deposited in the environment in such volume, composition or manner as to cause pollution.'

### **Section 3. Amendment of section 3.**

Subsection 3(1) of the principal Act is amended by inserting after paragraph (1) the following paragraph:

"(II) to administer the Fund;"

### **Section 4. Amendment of section 4.**

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

(a) by substituting for paragraphs (c) and (cc) the following paragraphs:

"(c) the Secretary General, Ministry of International Trade and Industry or his authorized representative;

(cc) the Secretary General, Ministry of Domestic Trade and Consumer Affairs or his authorized representative;

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

(b) by substituting for paragraph (d) the following paragraph:

"(d) the Secretary General, Ministry of Human Resources or his authorized representative; "

## **Section 5. Amendment of section 7.**

Section 7 of the principal Act is amended by inserting after subsection (5) the following subsection:

"(6) The Minister may invite or request a person, who is not a member of the Council, to attend any meeting of the Council for the purpose of advising it on a matter under discussion but the person so attending has no right to vote at the meeting."

## **Section 6. Amendment of section 16.**

Subsection 16(2) of the principal Act is amended by substituting for the words "ten thousand" the words "twenty-five thousand".

## **Section 7. Amendment of section 18.**

Section 18 of the principal Act is amended-

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

" (1A) The Minister, after consultation with the Council, may by order prescribe the vehicle or ship used for the movement, transfer, placement or deposit of wastes (hereinafter referred to as prescribed conveyance) the use of which by any person shall, unless he is the holder of a licence issued in respect of the prescribed conveyance, be an offence under this Act."; and

(b) in subsection (3)-

(i) by inserting after the words "subsection (1)" the words "or (1A)"; and

(ii) by substituting for the words "ten thousand" the words "fifty thousand".

## **Section 8. Amendment of section 19.**

Section 19 of the principal Act is amended-

(a) by substituting for the words "premises to become prescribed premises" in the marginal note the words "vehicle, ship or premises to become prescribed conveyance or prescribed premises"; and

(b) by substituting for the words "premises that would cause those premises to become prescribed premises" in paragraph (a) the words "vehicle or ship, or premises that would cause the vehicle or ship, or premises to become a prescribed conveyance or prescribed premises, as the case may be".

## **Section 9. Amendment of section 21.**

Section 21 of the principal Act is amended-

(a) by substituting for the words "discharge." in the marginal note the words "emission, discharge, etc."; and

(b) by inserting after the words "deposit of" in the section the words "environmentally hazardous substances, pollutants or".

## **Section 10. Amendment of section 22.**

Section 22 of the principal Act is amended-

(a) by inserting after the words "discharge any" in subsection (1) the words "environmentally hazardous substances, pollutants or"; and

(b) in subsection (3)-

(i) by substituting for the words "ten thousand dollars" the words "one hundred thousand ringgit";

(ii) by substituting for the word "two" the word "five"; and

(iii) by substituting for the words "one thousand dollars" in the English text the words "one thousand ringgit".

## **Section 11. Amendment of section 23.**

Subsection 23(2) of the principal Act is amended-

(a) by substituting for the words "five thousand dollars" the words "one hundred thousand ringgit";  
and

(b) by substituting for the word "one" the word "five".

## **Section 12. Amendment of section 24.**

Subsection 24(3) of the principal Act is amended-

(a) by substituting for the words "ten thousand dollars" the words "one hundred thousand ringgit";

(b) by substituting for the word "two" the word "five"; and

(c) by substituting for the words "one thousand dollars" in the English text the words "one thousand ringgit".

### **Section 13. Amendment of section 25.**

Section 25 of the principal Act is amended-

(a) by inserting after the words "deposit any" in subsection (1) the words "environmentally hazardous substances, pollutants or"; and

(b) in subsection (3)-

(i) by substituting for the words "ten thousand dollars" the words "one hundred thousand ringgit";

(ii) by substituting for the word "two" the word "five"; and

(iii) by substituting for the words "one thousand dollars" in the English text the words "one thousand ringgit".

### **Section 14. Amendment of section 27.**

Subsection 27(2) of the principal Act is amended-

(a) by deleting the words "of not less than one thousand dollars and";

(b) by substituting for the words "twenty-five thousand dollars" the words "five hundred thousand ringgit"; and

(c) by substituting for the word "two" the word "five".

### **Section 15. Amendment of section 29.**

Section 29 of the principal Act is amended-

(a) by inserting after the word "discharge" in subsection ( 1 ) the words "environmentally hazardous substances, pollutants or"; and

(b) in subsection (2)-

(i) by substituting for the words "ten thousand dollars" the words "five hundred thousand ringgit"; and

(ii) by substituting for the word "two" the word "five".

## **Section 16. New sections 30A and 30B.**

The principal Act is amended by inserting after section 30 the following sections:

### **30A. Power to control use of substance and product and to state environmental labelling.**

(1) The Minister, after consultation with the Council, may by order published in the *Gazette*-

(a) prescribe any substance as an environmentally hazardous substance which requires the substance to be reduced, recycled, recovered or regulated in the manner as specified in the order; and

(b) prescribe any product as a prescribed product for sale and that the product shall contain a minimum percentage of recycled substances and to carry an appropriate declaration on its recycled constituents, method of manufacture and disposal.

(2) Any order made under subsection (1) may specify rules on the use, design and application of the label in connection with the sale of the substance or product which claims to be environmentally friendly.

(3) Any person who fails or refuses to comply with the order made under subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a period not exceeding five years or to both.

### **30B. Power to specify rules on deposit and rebate schemes.**

The Minister, after consultation with the Council, may specify the guide-lines and deposit procedures on deposit and rebate schemes in connection with the disposal of products that are considered-

(a) environmentally unfriendly; or

(b) causing adverse constraint on the environment,

for the purpose of collecting the products efficiently in order to ensure that the recycling or disposal of the products is done in an environmentally sound manner."

### **Section 17. Amendment of section 31.**

The principal Act is amended by substituting for section 31 the following section:

#### **" 31. Power to require owner or occupier to install, operate, repair, etc.**

(1) Where any environmentally hazardous substances, pollutants or wastes are being or are likely to be emitted, discharged or deposited from any vehicle, ship or premises irrespective of whether the vehicle, ship or premises are prescribed under section 18 or otherwise, or from any aircraft, the Director General may by notice in writing require the owner or occupier of the vehicle, ship or premises, or aircraft, to-

(a) install and operate any control equipment or additional control equipment;

(b) repair, alter or replace any equipment or control equipment;

(c) erect or increase the height of any chimney;

(d) measure, take a sample of, analyse, record and report any environmentally hazardous substances, pollutants, wastes, effluents or emissions containing pollutants;

(e) conduct a study on any environmental risk;

(f) install, maintain and operate monitoring programme at the expense of the owner or occupier; or

(g) adopt any measure to reduce, mitigate, disperse, remove, eliminate, destroy or dispose of pollution,

within such time and in such manner as may be specified in the notice.

(2) Notwithstanding any other provisions to the contrary, the Director General may by notice direct the owner or occupier of any vehicle, ship, or premises, or aircraft to emit, discharge or deposit environmentally hazardous substances, pollutants or wastes during such periods of day as he may specify and may generally direct the manner in which the owner or occupier shall carry out his trade, industry or process or operate any equipment, industrial plant or control equipment therein.

(3) Any person who contravenes the notice issued under subsection (1) or (2) shall be guilty of an offence and shall be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a period not exceeding two years or to both and to a further fine not exceeding one thousand ringgit a day for every day that the offence is continued after service on him of the notice specified in subsection (1) or (2)."

## **Section 18. New section 31A.**

The principal Act is amended by inserting after section 31 the following section:

### **" 31A. Prohibition order, etc.**

(1) The Minister, after consultation with the Council, may by order published in the *Gazette* specify the circumstances whereby the Director General may issue a prohibition order to the owner or occupier of any industrial plant or process to prevent its continued operation and release of environmentally hazardous substances, pollutants or wastes either absolutely or conditionally, or for such period as he may direct, or until requirements to make remedy as directed by him have been complied with.

(2) The Minister, in circumstances where he considers that the environment, public health or safety is under or likely to be under serious threat, may direct the Director General-

(a) to issue an order requiring a person to cease all acts that have resulted in the release of environmentally hazardous substances, pollutants or wastes; and

(b) to effect and render any machinery, equipment, plant or process of the person inoperable.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a period not exceeding two years or to both."

## **Section 19. Amendment of section 32.**

The principal Act is amended by substituting for section 32 the following section:

### **" 32. Owner or occupier to maintain and operate equipment.**

The owner or occupier of any vehicle, ship or premises irrespective of whether the vehicle, ship or premises are prescribed under section 18 or otherwise, or aircraft shall maintain any equipment or control equipment installed on the vehicle, ship or premises, or aircraft in good condition and shall operate the equipment or control equipment in a proper and efficient manner."

## **Section 20. Amendment of section 33.**

Section 33 of the principal Act is amended-

(a) by inserting after the word "deposit" first appearing in subsection ( 1 ) the words "environmentally hazardous substances, pollutants or"; and

(b) in subsection (2)-

(i) by substituting for the words "ten thousand dollars" the words "fifty thousand ringgit";

(ii) by substituting for the word "two" the word "five"; and

(iii) by substituting for the words "one thousand dollars" in the English text the words "one thousand ringgit".

## **Section 21. New section 33A.**

The principal Act is amended by inserting after section 33 the following section:

### **33A. Environmental audit.**

(1) The Director General may require the owner or occupier of any vehicle, ship or premises, irrespective of whether the vehicle, ship or premises are prescribed under section 18 or otherwise, to carry out an environmental audit and to submit an audit report in the manner as may be prescribed by the Minister by regulations made under this Act.

(2) For the purpose of carrying out an environmental audit and to submit a report thereof, the owner or occupier so directed shall appoint qualified personnel who are registered under subsection (3).

(3) For the purpose of this section, the Director General shall maintain a list of qualified personnel who may carry out any environmental audit and submit a report thereof."

## **Section 22. Amendment of section 34A**

Subsection 34A(8) of the principal Act is amended-

(a) by substituting for the words "ten thousand ringgit" the words "one hundred thousand ringgit"; and

(b) by substituting for the word "two" the word "five".

## **Section 23. New Part IVA.**

The principal Act is amended by inserting after Part IV the following Part:

" PART IVA  
CONTROL OF SCHEDULED WASTES

### **34B. Prohibition against placing, deposit, etc, of scheduled wastes.**

(1) No person shall-

(a) place, deposit or dispose of, or cause or permit to place, deposit or dispose of, except at prescribed premises only, any scheduled wastes on land or into Malaysian waters;

(b) receive or send, or cause or permit to be received or sent any scheduled wastes in or out of Malaysia; or

(c) transit or cause or permit the transit of scheduled wastes,

without any prior written approval of the Director General.

(2) The Director General may grant the written approval either subject to conditions or unconditionally.

(3) For the purpose of this Act, any act of receiving or sending, or transit of any scheduled wastes with an approval obtained through falsification, misrepresentation or fraud or which does not conform in a material way with the relevant documents in such form as may be prescribed, shall be an offence.

(4) Any person who contravenes this section shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a period not exceeding five years or to both."

## **Section 24. Amendment of section 36.**

Subsection 36(3) of the principal Act is amended by substituting for the words "Lord President" in the English text the words "Chief Justice".

## **Section 25. New Part VA**

The principal Act is amended by inserting after Part New Part V the following Part:

" PART VA  
PAYMENT OF CESS AND ENVIRONMENTAL FUND

### **36A. Research cess.**

(1) For the purpose of conducting, promoting or co-ordinating research in relation to any aspect of pollution or the prevention thereof, the Minister, after consultation with the Minister of Finance and the Council, may make an order for the imposition and collection, or variation or cancellation of an imposition, of a cess on the waste generated.

(2) Any order made under subsection (1) may provide-

(a) for different rates of cess to be imposed in respect of the different types of waste generated including the volume and composition of waste;

(b) for the manner of collection of the cess by the Director General; and

(c) for the exemption of any person or class of persons, or in respect of any waste generated other than for research purposes, from payment of the cess.

(3) The cess collected under this section shall be paid into the Fund established under section 36B.

**36B. Establishment of Environmental Fund.**

(1) There shall be established a fund to be known as the Environmental Fund which shall be operated as a Trust Account within the Federal Consolidated Fund.

(2) The Fund shall consist of-

(a) such sums of money as may be provided from time to time by the Government;

(b) all donations and contributions received from within or outside Malaysia;

(c) all moneys paid to or received by the Director General from the cess imposed or collected in accordance with section 36A; and

(d) all moneys paid or received in accordance with section 36D.

**36C. Environmental Fund Committee.**

(1) There shall be established a committee to be known as the Environmental Fund Committee which shall have control of the Fund.

(2) The Committee shall consist of the following members:

(a) the Director General who shall be the Chairman;

(b) two Senior Environmental Officers to be appointed by the Minister; and

(c) two public officers to be appointed by the Minister.

(3) No meeting of the Committee shall be held in the absence of the Director General.

(4) The quorum for a meeting of the Committee shall be three persons.

(5) Subject to this Act, the Committee may determine its own proceedings.

### **36D. Contribution into the Fund.**

The Minister, after consultation with the Council, may require any person engaged in-

- (a) the exploration, extraction, refining, production, bulk movement, distribution or storage, of oil;
- (b) the production, bulk movement, distribution or storage, of environmentally hazardous substances; or
- (c) the bulk movement or storage, of waste,

to contribute to the Fund at a rate that he may specify.

### **36E. Application of the Fund.**

The Fund shall be administered for the purpose of-

- (a) conducting, promoting and co-ordinating research in relation to any aspect of pollution or the prevention thereof;
- (b) recovering of waste, or removing, dispersing, destroying, cleaning, disposing of or mitigating pollution;
- (c) preventing or combatting the following occurrences:
  - (i) a spillage, discharge or dumping, of oil;
  - (ii) a discharge, deposit or dumping, of environmentally hazardous substances;  
or
  - (iii) a discharge, deposit or dumping, of waste; and
- (d) encouraging conservation measures against any damage that may be caused by any of the occurrences spelt out under subparagraph (i), (ii) or (iii) of paragraph (c)".

## **Section 26. Amendment of section 37.**

Section 37 of the principal Act is amended-

(a) by substituting for the word "Occupier" in the marginal note the words "Owner or occupier";

(b) by substituting for subsection (1) the following subsection:

"(1) The Director General may by notice require the owner or occupier of any vehicle, ship, premises or aircraft to furnish to him within the period as may be specified in the notice information relating to-

(a) the ownership of the vehicle, ship, premises or aircraft;

(b) the use of raw materials, environmentally hazardous substances, or any process, equipment, control equipment or industrial plant found on the vehicle, ship, premises or aircraft;

(c) any environmentally hazardous substances, pollutants or wastes discharged or likely to be discharged therefrom; or

(d) any environmental risk that is likely to result from the use of the raw materials, environmentally hazardous substances or process."; and

(e) by substituting for the words "two thousand dollars" in subsection (2) in the English text the words "two thousand ringgit".

## **Section 27. Amendment of section 38.**

The principal Act is amended by substituting for section 38 the following section:

**" 38. Power to stop, board, search, etc.**

(1) Where the Director General or any officer duly authorized in writing by him is satisfied, or has reason to believe that any person has committed an offence under this Act, he may, if in his opinion it is necessary to do so for the purpose of investigating the offence, without a warrant, stop, board and search any vehicle, ship or aircraft, or enter any premises, irrespective of whether the vehicle, ship or premises are prescribed under section 18 or otherwise, and may-

(a) inspect, examine, seize or detain any equipment, computer, or industrial plant;

(b) inspect, examine, seize or detain any book, record, licence, permit, certificate or document relating to-

(i) the performance or use of the equipment or industrial plant;

(ii) environmentally hazardous substances, pollutants or wastes; or

(iii) any matter required to be carried on board a vehicle, ship or aircraft under this Act or under any other written law;

(c) inspect, examine, seize or detain any scheduled wastes or environmentally hazardous substances: and any vehicle or ship used in the conveyance of the scheduled wastes or environmentally hazardous substances;

(d) make such enquiries and physical inspection of the ship, equipment, gear, stores and cargo as may be necessary;

(e) make copies of, or take extracts from, any book, record or documents so seized and detained;

(f) inspect, examine or take a sample of any substance, material or matter used, or which is likely to be used or usually used in any trade, industry or process carried on in or on the vehicle, ship, premises, or aircraft; or

(g) take a sample-of any environmentally hazardous substances, pollutants or wastes that are emitted, discharged or deposited, or are likely to be emitted, discharged or deposited from the vehicle, ship, premises, or aircraft."

## **Section 28. New section 38A.**

The principal Act is amended by inserting after section 38 the following section:

### **" 38A. Power to examine person acquainted with case.**

(1) The Director General or any officer duly authorized in writing by him in carrying out an investigation under this Act may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) The person referred to in subsection (1) shall be bound to answer all questions relating to the case put to him by the Director General or any officer duly authorized in writing by him:

Provided that the person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge, penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not the statement is made wholly or partly in answer to questions.

(4) The Director General, or any officer duly authorized in writing by him, in examining a person under subsection (1) shall first inform the person of the provisions of subsections (2) and (3).

(5) A statement made by a person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb-print, as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish, and where the person examined refuses to sign or affix his thumbprint on the statement, the Director General or any officer duly authorized in writing by him shall endorse thereon under his hand the fact of the refusal and the reason for it, if any, as stated by the person examined."

## **Section 29. Amendment of section 41.**

Section 41 of the principal Act is amended-

(a) by substituting for the words "five thousand dollars" the words "ten thousand ringgit"; and

(b) by substituting for the word "one" the word "two".

## **Section 30. Amendment of section 45.**

The principal Act is amended by substituting for subsection 45(1) the following subsection:

"45. (1) The Director General or any Deputy Director General, or any other public officer or any local authority to whom the Director General has delegated such power in writing, may compound any offence under this Act or the regulations made thereunder which is prescribed by the Minister to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence a sum of money not exceeding two thousand ringgit."

## **Section 31. New sections 46A, 46B, 46C, 46D, and 46E.**

The principal Act is amended by inserting after section 46 the following sections:

### **46A. Power to seize vehicle or ship.**

Any vehicle or ship that is used in the transportation of or the disposal of waste in vehicle or contravention of this Act or any regulations made thereunder may be seized by the Director General pending the outcome of any proceedings under this Act:

Provided that the Director General may release the vehicle or ship so seized upon the furnishing of a bond or other security that is adequate to cover the value of the vehicle or ship.

#### **46B. Power of forfeiture and disposal.**

Where it is proven to the satisfaction of the court that the vehicle or ship seized under this Act is used in the commission of an offence, the court shall order that the vehicle or ship be forfeited and disposed of in the manner as the court may direct.

#### **46C. Seizure and forfeiture of vehicle or ship.**

(1) Where any vehicle or ship is seized under this Act and there is no prosecution within one month from the date of seizure in respect of the matter, the vehicle or ship shall be deemed to be forfeited at the end of that period unless before that date a written claim on it is made in the manner set out in subsections (2), (3) and (4).

(2) Any person asserting that he is the owner of the vehicle or ship referred to in subsection (1) and that it is not liable to forfeiture may personally or by his agent authorized in writing give a written notice to the officer duly authorized in writing by the Director General in whose possession the vehicle or ship is held that he is making a claim on the vehicle or ship.

(3) On receipt of the notice referred to in subsection (2) the officer duly authorized in writing by the Director General shall refer the claim to the Director General who shall direct such officer to refer the matter to a Sessions Court Judge for a decision.

(4) The Sessions Court Judge to whom the matter is referred under subsection (3) shall issue a summons requiring the person asserting that he is the owner of the vehicle or ship, and the person from whom it was seized, to appear before the Sessions Court Judge, and upon their appearance or default to appear, due service of the summons being proved, the Sessions Court Judge shall proceed to the examination of the matter and on proof that an offence under this Act has been committed and that the vehicle or ship was the subject matter of or was used in the commission of the offence shall order the vehicle or ship to be forfeited and shall, in the absence of such proof, order its release.

(5) Any vehicle or ship deemed to be forfeited or forfeited under this section shall be delivered to the Director General and shall be disposed of by the Director General-

(a) in accordance with the directions given by the Sessions Court Judge; or

(b) in the manner as he deems fit.

**46D. No costs or damages arising from seizure unless seizure made without reasonable cause.**

In any proceedings before any court in respect of any vehicle or ship seized in the exercise of any power conferred under this Act, a person shall not be entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the vehicle or ship seized or the payment of its value unless the seizure was made without reasonable cause.

**46E. Compensation for loss or damage to property.**

After a person has been convicted for an offence against this Act or any regulations made thereunder, the court, in addition to imposing a penalty for the offence, may, where it appears to the court that any other person has, by reason of the commission of, or the omission resulting in the offence, suffered loss or damage to any property, order the person so convicted to pay the other person the costs and expenses incurred or compensation for loss or damage to the property and any other costs, in the amount as the court considers fit. "

**Section 32. Amendment of section 48.**

The principal Act is amended by substituting for section 48 the following section:

**" 48. Power to detain and sell vehicle or ship.**

(1) Where the Director General has reason to believe that any discharge or spillage of oil or mixture containing oil or scheduled wastes was from a vehicle or ship, he may detain the vehicle or ship and the vehicle or ship may be detained until the owner deposits with the Government such sum or furnishes such security as would, in the opinion of the Director General, be adequate to meet the costs and expenses which would be incurred to remove or eliminate the oil or mixture containing oil or scheduled wastes.

(2) If the detained vehicle or ship proceeds to move before it is released, the owner or master, or any person who causes the vehicle or ship to move shall be guilty of an offence and shall be

liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a period not exceeding five years or to both.

(3) Where the owner of the vehicle or ship is unable to pay the costs and expenses incurred in removing or eliminating the oil or mixture containing oil or scheduled wastes, the Director General may apply to the court for the sale of the vehicle or ship and use the proceeds to pay for the costs and expenses of removing or eliminating the oil or mixture containing oil or scheduled wastes."

### **Section 33. Amendment of section 50.**

Section 50 of the principal Act is amended by substituting for the words "ten thousand dollars" in the English text the words "ten thousand ringgit".

### **Section 34. Amendment of section 51.**

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

(a) by deleting the words ", or of radio-activity" in paragraph (d);

(b) by inserting after paragraph (e) the following paragraph:

"(ee) prescribing ambient water quality standards and discharge standards and specifying the maximum permissible loads that may be discharged by any source into inland waters, with reference either generally or specifically to the body of waters concerned;"

(c) by substituting for the full stop at the end of paragraph (q) a semicolon; and

(d) by inserting after paragraph (s) the following paragraphs:

"(t) regulating environmental audit and the submission of an audit report and the appointment of qualified personnel to assist the Director General in carrying out an environmental audit of any vehicle, ship or premises, irrespective of whether the vehicle,

ship or premises are prescribed under section 18 or otherwise, and their manner of operation, and prescribing the fees chargeable;

(u) prohibiting or regulating the manufacture, storage, transportation, or the application or use, emission, discharge, or deposit into the environment, of any environmentally hazardous substances;

(v) regulating measures to assess, control, reduce or eliminate environmental risk;

(w) regulating the competency of persons qualified to maintain and operate any equipment or control equipment."

**Copyrights Reserved**

All rights reserved. No part of this publication may be reproduced, stored in retrieval system or transmitted in any form or by any means electronic, mechanical, photocopying, recording and/or otherwise without the prior permission of Lawnet.



---

PRODUCED BY  
LAWNET  
PERCETAKAN NASIONAL MALAYSIA BERHAD