

# FEDERAL AGRICULTURAL MARKETING AUTHORITY (AMENDMENT) ACT 2004

## ACT A1235

An Act to amend the Federal Agricultural Marketing Authority Act 1965.

ENACTED by the Parliament of Malaysia as follows:

### 1. Short title and commencement.

(1) This Act may be cited as the Federal Agricultural Marketing Authority (Amendment) Act 2004.

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

### 2. Amendment of long title.

The Federal Agricultural Marketing Authority Act 1965 [*Act 141*], which is referred to as the "principal Act" in this Act, is amended in the long title-

(a) by inserting after the word "co-ordinate" the words ", regulate"; and

(b) by inserting after the words "Malaysia," the words "including the importing and exporting of agricultural produce,".

### 3. Amendment of section 1A.

Section 1A of the principal Act is amended-

(a) in the definition of "agricultural produce"-

(i) in paragraph (b), by substituting for the words "Yang di-Pertuan Agong." the words "Minister,"; and

(ii) by inserting after the words "rubber," the words "oil palm,";

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

"export" means to take or cause to be taken out of Malaysia by land, water or air any agricultural produce for purposes of trade;

"Fund" means the fund established by section 9;

"import" means to bring or cause to be brought into Malaysia from any place outside Malaysia by land, water or air any agricultural produce for purposes of trade; and

(c) in the definition of "marketing", by inserting after the word "packaging" the words ", labelling, preserving, exporting, importing".

### 4. Amendment of section 2.

Section 2 of the principal Act is amended-

(a) by deleting subsection (4); and

(b) by inserting after subsection (6) the following subsection:

"(7) No member of the Authority shall incur personal liability for any loss or damage caused by any act undertaken by him in administering the affairs of the Authority, unless the loss or damage is occasioned by an intentionally wrongful act on his part."

### **5. Amendment of section 3.**

Section 3 of the principal Act is amended-

(a) in subsection (1)-

(i) in paragraph (e), by deleting the word "and" at the end of the paragraph;

(ii) in paragraph (f), by substituting for the full stop at the end of the paragraph the words "; and"; and

(iii) by inserting after paragraph (f) the following paragraph:

"(g) to deal with any other matter relating to the marketing of agricultural produce.";

(b) in subsection (2)-

(i) in paragraph (a), by substituting for the words

"particularly through" the words "including by the";

(ii) in paragraph (c), by substituting for the word

"packing" the words "packaging, labelling";

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

"(d) construct, establish, equip, maintain, let, lease, control, manage or operate markets or market premises for purposes of facilitating and regulating the purchase and sale of any agricultural produce;"

(iv) in paragraph (f), by deleting the words "processing or";

(v) in paragraph (j), by inserting before the word "receive" the words "provide technical, advisory or consultancy services, or any other services to any person, corporation or party, and to";

(vi) in paragraph (l), by deleting the word "and" at the end of the paragraph;

(vii) in paragraph (m), by substituting for the full stop at the end of the paragraph a semicolon; and

(viii) by inserting after paragraph (m) the following paragraphs:

"(n) acquire, purchase, establish, construct, equip, maintain, let, lease, control, manage or operate a warehouse for the storage and inspection of any agricultural produce in any public quay, wharf or street, adjacent to any airport or sea port or any waterway connected to that sea port; and

(o) prescribe the manner in which credit facilities are provided, including administrative fees payable, the period of credit, the method of repayment and the type of securities to be provided."; and

(c) in paragraph (3)(b), by substituting for the words "establish

or promote the establishment" the words "incorporate or promote the incorporation".

#### **6. Amendment of section 3A.**

Section 3A of the principal Act is amended by deleting the words "processing or".

#### **7. Deletion of section 6.**

The principal Act is amended by deleting section 6.

#### **8. Deletion of section 6A.**

The principal Act is amended by deleting section 6A.

#### **9. Deletion of section 6B.**

The principal Act is amended by deleting section 6B.

#### **10. New section 6C.**

The principal Act is amended by inserting before section 7 the following section:

**"Protection of Director General, duly appointed officers, authorized officers, etc.**

6C. No action or prosecution shall be brought, instituted or maintained in any court against the Director General, any officer duly appointed under this Act, any authorized officer, or any other person acting under the order, direction or instruction of the Director General or any officer duly appointed under this Act, for or on account of or in respect of any act done or purported to be done by him, if the act was done in good faith and in the reasonable belief that it was necessary for the purpose intended to be served by it."

#### **11. Amendment of section 9.**

Section 9 of the principal Act is amended in subsection (1)-

(a) by deleting the words "(hereinafter referred to as the Fund)"; and

(b) in paragraph (1)(a)-

(i) in subparagraph (iv), by deleting the word "and" at the end of the subparagraph;

(ii) in subparagraph (v), by deleting the word "and" at the end of the subparagraph; and

(iii) by inserting after subparagraph (v) the following subparagraphs:

"(vi) all moneys earned from technical, advisory or consultancy services or any other services provided by the Authority; and

(vii) all moneys collected by the Authority under the regulations made under this Act; and".

#### **12. Deletion of section 11A.**

The principal Act is amended by deleting section 11A.

#### **13. Amendment of section 12.**

Section 12 of the principal Act is amended-

(a) in paragraph (b), by deleting the word "and" at the end of the paragraph; and

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

"(ba) prescribe the offences under this Act and the regulations made thereunder which may be compounded; and".

#### **14. Deletion of section 12A.**

The principal Act is amended by deleting section 12A.

#### **15. Amendment of section 14.**

Section 14 of the principal Act is amended in paragraph (1)(b)-

(a) by inserting after the words "established," the words "incorporated,"; and

(b) by substituting for the words "3(4)" the words "3(3A)".

#### **16. New section 15A.**

The principal Act is amended by inserting after section 15 the following section:

##### **"Power to compound offences**

15A. (1) The Director General may, with the consent of the Public Prosecutor, compound any offence under this Act or the regulations made under this Act which has been prescribed to be compoundable by accepting from the person reasonably suspected of having committed the offence such amount, not exceeding fifty per centum of the amount of maximum fine for that offence, within such time as may be specified in a written offer to compound made to such person.

(2) An offer to compound under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) Where the amount specified in the offer to compound is not paid within the time specified in that offer, or within such extended time as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer to compound was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall, within the time specified in subsection (3), be instituted in respect of the offence against the person to whom the offer to compound was made.

(5) The Director General may in writing delegate his functions and duties under this section to any officer of the Authority subject to such terms and conditions as he thinks fit, but a delegation under this subsection shall not preclude the Director General from performing or exercising at any time the functions and duties that have been delegated."

#### **17. Amendment of section 18.**

Subsection 18(1) of the principal Act is amended by inserting after the words "commission of an offence" the words "against this Act or any regulations made thereunder,".

#### **18. Amendment of section 19.**

Section 19 of the principal Act is amended-

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

"(1) Whenever it appears to any Magistrate upon written information on oath and after such inquiry as he considers necessary, that there is reasonable cause to believe that in or on any dwelling house, shop, or other building or place there is concealed or deposited any agricultural produce as to which an offence against this Act or any regulations made thereunder has been committed, the Magistrate may issue a warrant authorizing any authorized officer or police officer named therein, at any reasonable time by day or night and with or without assistance, to enter the dwelling house, shop, or other building or place, and there-

(a) search for, inspect, collect samples of, or seize any agricultural produce as to which such offence is suspected to have been committed;

(b) search for and seize any book, record, account, computerized data or other documents which are reasonably believed to contain information in respect of such offence suspected to have been committed;

(c) inspect, make copies of, or take extracts from any book, record, account, computerized data or other documents so seized; or

(d) search for, inspect or seize any machinery, contrivance, or other equipment or article."; and

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

"(3) A list of all things seized in the course of a search made under this section and of the places in which they are respectively found shall be prepared by the authorized officer or police officer conducting the search and signed by him.

(4) The occupant of the premises entered under subsection (1), or some person on his behalf, shall in every instance be permitted to attend during the search, and a copy of the list prepared and signed under subsection (3) shall immediately be delivered to such occupant or person."

#### **19. Amendment of section 21A.**

Section 21A of the principal Act is amended-

(a) by substituting for the words "conveyance or other article" wherever appearing the words "conveyance, machinery, contrivance, or other equipment or article";

(b) in paragraph (2)(b), by inserting after the word "possession"

the words "of the agricultural produce"; and

(c) in paragraph (3)(b), by inserting after the word "possession"

the words "of the conveyance, machinery, contrivance, or other equipment or article".

## **20. Amendment of section 22.**

Section 22 of the principal Act is amended-

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

"(1A) An authorized officer or police officer may, for the purpose of investigating an offence under this Act or any regulations made thereunder-

(a) require any person, orally or in writing, to produce books, records, accounts, computerized data or other documents which may, in the opinion of the authorized officer or police officer, assist in the investigation of the offence, and to inspect, make copies of, or take extracts from, any of the books, records, accounts, computerized data or other documents;

(b) require a person suspected to have committed any offence or involved in the commission of any offence under this Act or any regulations made thereunder to produce documents verifying his identity; and

(c) make such inquiry as may be necessary."; and

(b) in subsection (2), by substituting for the words "document or matter" wherever appearing the words "record, account, computerized data or other document".

## **21. Deletion of section 23.**

The principal Act is amended by deleting section 23.

## **22. Amendment of section 24.**

Section 24 of the principal Act is amended by substituting for the words "shall be guilty of an offence under this Act" the words "commits an offence and shall be liable on conviction to a fine not exceeding fifteen thousand ringgit or to imprisonment for a term not exceeding two years or to both and, for a second or subsequent offence to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding five years or to both".

## **23. New section 24A.**

The principal Act is amended by inserting after section 24 the following section:

"**False declaration, return, certificate or other document** or information, *etc.*

24A. A person who makes or causes to be made, orally or in writing, or signs or furnishes, any declaration, return, certificate or other document or information required under this Act which is false, inaccurate or misleading in any material particular commits an offence and shall be liable on conviction to a fine not exceeding fifteen thousand ringgit or to imprisonment for a term not exceeding two years or to both and, for a second or subsequent offence to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding five years or to both."

#### **24. Amendment of section 25.**

The principal Act is amended by substituting for section 25 the following section:

##### **"Offences by body corporate etc.**

25. (1) Any body corporate which commits an offence under, or fails to comply with, this Act or any regulations made thereunder, shall be liable on conviction to a fine not exceeding twenty-five thousand ringgit and, for a second or subsequent offence to a fine not exceeding fifty thousand ringgit.

(2) Where a person charged with an offence under this Act or any regulations made thereunder is a body corporate- (a) every person who, at the time of the commission of the offence is a director or officer of the body corporate may be charged jointly in the same proceedings with the body corporate; and

(b) where the body corporate is convicted of the offence charged, every such director or officer shall be deemed to have committed that offence and shall be liable on conviction to a fine not exceeding fifteen thousand ringgit or to imprisonment for a term not exceeding two years or to both and, for a second or subsequent offence to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding five years or to both, unless he proves that the offence was committed without his knowledge or that he took reasonable precautions to prevent its commission.

(3) Any person who would have been liable under this Act or any regulations made thereunder to any penalty for anything done or omitted if the thing had been done or omitted by him personally, shall be liable to the same penalty if the thing had been done or omitted by his partner, agent or servant, unless he proves that he took reasonable precautions to prevent the doing or omission of the thing."

#### **25. Amendment of section 27.**

Paragraph 27(b) of the principal Act is amended by substituting for the words "or other article" the words ", machinery, contrivance or other equipment or article".

#### **26. Saving and transitional.**

(1) Any proceedings pending on the date of coming into operation of the Statutory Bodies (Discipline and Surcharge) Act 2000 [Act 605] before the Disciplinary Committee or the Disciplinary Appeal Board established under the principal Act shall, after the date of coming into operation of this Act, be continued as if the principal Act had not been amended by this Act.

(2) Any disciplinary offence committed or alleged to have been committed by an officer or servant of the Authority before the date of coming into operation of the Statutory Bodies (Discipline and Surcharge) Act 2000 shall, after the date of coming into operation of this Act, be dealt with in accordance with the principal Act as if it had not been amended by this Act.

(3) Notwithstanding subsection (2), the officer or servant referred to in that subsection shall be notified that he may elect to have the disciplinary offence dealt with in accordance with the provisions of the

Statutory Bodies (Discipline and Surcharge) Act 2000, and if he so elects the disciplinary offence shall be dealt in accordance with that Act.