

TERRITORIAL SEA BILL 2012

ARRANGEMENT OF CLAUSES

Clause

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A BILL

i n t i t u l e d

An Act to provide for the territorial sea of Malaysia and for connected matters.

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WHEREAS the Proclamation of Emergency issued by the Yang di-Pertuan Agong on 15 May 1969 under Article 150 of the Federal Constitution had been annulled by both the Dewan Rakyat and Senate on 24 November 2011 and 20 December 2011 respectively and had ceased to have effect pursuant to Clause (3) of Article 150 of the Federal Constitution;

AND WHEREAS the Emergency (Essential Powers) Ordinance, No. 7 1969 [*P.U. (A) 307A/1969*] was enacted and promulgated by the Yang di-Pertuan Agong on 2 August 1969 for the delimitation of the territorial waters of Malaysia pursuant to Clause (2) of Article 150 of the Federal Constitution and which came into force on 10 August 1969;

AND WHEREAS by virtue of Clause (7) of Article 150 of the Federal Constitution, the Emergency (Essential Powers) Ordinance, No. 7 1969 will cease to have effect at the expiration of a period of six months beginning with the date on which the Proclamation of Emergency ceases to be in force except as to things done or omitted to be done before the expiration of that period;

AND WHEREAS the United Nations Convention on the Law of the Sea was done at Montego Bay on 10 December 1982;

AND WHEREAS Malaysia deposited her instrument of ratification on 14 October 1996 and therefore in accordance with Article 308 of the Convention, the said Convention entered into force as far as Malaysia is concerned on 14 November 1996;

NOW, THEREFORE, IT IS **ENACTED** by the Parliament of Malaysia as follows:

Short title, commencement and application

1. (1) This Act may be cited as the Territorial Sea Act 2012.

(2) This Act comes into operation on 22 June 2012 and shall apply throughout Malaysia.

Interpretation

2. In this Act, unless the context otherwise requires—

“chart” means a nautical chart specifically designed to meet the needs of marine navigation, showing the depth of water, nature of the seabed, configuration and nature of the coast, dangers and aids to navigation, in a standardized format and such chart is also referred to as marine chart or hydrographic chart;

“baselines” means the baselines as defined under section 2 of the Baseline of Maritime Zones Act 2006 [*Act 660*].

Limits of territorial sea

3. (1) Subject to the provisions of this Act, the breadth of the territorial sea of Malaysia shall for all purposes be 12 nautical miles.

(2) The baselines from which the breadth of that territorial sea is to be measured shall for all purposes be those established in accordance with section 5 of the Baseline of Maritime Zones Act 2006.

(3) For the purposes of the Continental Shelf Act 1966 [*Act 83*], Petroleum Mining Act 1966 [*Act 95*], the National Land Code [*Act 56/65*] and any written law relating to land in force in Sabah and Sarawak, any reference to territorial sea therein shall in relation to any territory be construed as a reference to such part of the sea adjacent to the coast thereof not exceeding 3 nautical miles measured from the low-water line.

Sovereignty in respect of the territorial sea

4. The sovereignty in respect of the territorial sea, and in respect of its bed and subsoil, is vested in and exercisable by the Yang di-Pertuan Agong in right of Malaysia.

Maps and charts of limits of territorial sea

5. (1) The Yang di-Pertuan Agong may, on the recommendation of the Prime Minister—

- (a) cause to be prepared and issued any map, as he thinks fit, relating to the limits of the territorial sea; or
- (b) cause to be prepared and issued a large-scale chart or appropriate scale chart for ascertaining position, as he thinks fit, showing the low-water line along the coast and may cause to be shown on such chart any other matter referred to in paragraph (a).

(2) Any map or chart prepared and issued under paragraph (1)(a) or (b) shall be published in the *Gazette* and, if necessary, in such other form as the Yang di-Pertuan Agong, on the recommendation of the Prime Minister, may determine.

References to territorial waters in any other written law, etc.

6. Any reference made in any other written law, arrangement or instruments to “territorial waters” shall in so far as such reference affects federal law mean “territorial sea” and shall be construed subject to the provisions of this Act.

Power to make regulations

7. The Prime Minister may make regulations as may be necessary or expedient for giving full effect to the provisions of this Act.

EXPLANATORY STATEMENT

The proposed Territorial Sea Act 2012 (“the proposed Act”) seeks to provide for the territorial sea of Malaysia to replace the Emergency (Essential Powers) Ordinance, No. 7 1969 [*P.U. (A) 307A/1969*]. The Emergency (Essential Powers) Ordinance, No. 7 1969 was made under the Proclamation of Emergency of 1969. The Government has decided to annul all the three Proclamations of Emergency. The three Proclamations of Emergency are the Proclamation of Emergency of 1966, the Proclamation of Emergency of 1969 and the Proclamation of Emergency of 1979. With the annulment, all the Emergency Ordinances and Acts made under the three Proclamations of Emergency will cease to have effect. On 24 November 2011, the Dewan Rakyat passed a resolution that the three Proclamations of Emergency be annulled and on 20 December 2011, the Senate passed a resolution to annul the same. As a consequence, the proposed Act is now necessary to preserve the territorial integrity of Malaysia.

2. *Clause 1* contains the short title, date of commencement and application of the proposed Act.
3. *Clause 2* contains the definition of certain words used in the proposed Act.
4. *Clause 3* seeks to provide for the limit of the territorial sea for Malaysia based on the principle of international law and the United Nations Convention on the Law of the Sea 1982.
5. *Clause 4* seeks to provide for the sovereignty of the territorial sea to be vested in and exercisable by the Yang di-Pertuan Agong in right of the Federation consistent with international law and the Federal Constitution.
6. *Clause 5* seeks to provide for the maps and charts of limits of territorial sea.
7. *Clause 6* seeks to provide for the references to “territorial waters” in any other written law, arrangement and instruments in so far as it affects federal law to mean “territorial sea” as construed under the proposed Act. “Territorial sea” is the new term used in replacement of “territorial waters” in other written laws. The term “territorial sea” is consistent with the term used in the United Nations Convention on the Law of the Sea 1982.
8. *Clause 7* contains the power of the Prime Minister to make regulations.

FINANCIAL IMPLICATIONS

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

[PN(U²)2851]