

A BILL

i n t i t u l e d

An Act to amend the Control of Supplies Act 1961.

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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 Control of Supplies (Amendment) Act 2021.

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

Amendment of section 10

2. The Control of Supplies Act 1961 [*Act 122*], which is referred to as the “principal Act” in this Act, is amended in section 10—

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

“(a) arrest without warrant any person whom he reasonably believes has committed or is attempting to commit an offence under this Act; and”;

- (b) by renumbering the existing subsection (1A) as subsection (1B); and
- (c) by inserting before the renumbered subsection (1B) the following subsection:

“(1A) The Controller, supplies officer, police officer not below the rank of Inspector or customs officer making an arrest under paragraph (1)(a) shall without unnecessary delay take such person to the nearest police station, and thereafter the person shall be dealt with as is provided for by the Criminal Procedure Code [Act 593].”.

New sections 12A and 12B

3. The principal Act is amended by inserting after section 12 the following sections:

“Sale of perishable etc., articles

12A. (1) Where any controlled article or other article seized in the exercise of the powers conferred by this Act—

- (a) is of a perishable or inflammable nature; or
- (b) the custody of such controlled article or other article involves unreasonable expense and inconvenience,

such controlled article or other article may be sold and the proceeds of sale held to abide by the result of any prosecution or claim under this section.

(2) The Government of Malaysia shall not be liable to any person for any deterioration, howsoever caused, in the quality of any controlled article or other article seized under this Act.

No cost or damages arising from seizure to be recoverable

12B. No person shall, in any proceedings before any court in respect of any controlled article, vehicle, vessel or thing other than a controlled article seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.”.

New section 25A

4. The principal Act is amended by inserting after section 25 the following section:

“Proportional examination or testing of articles seized

25A. (1) Where packages or receptacles containing articles which are suspected of being controlled articles have been seized, it shall be sufficient to open and examine one per centum or not less than five samples of each description of the package or receptacle in which such articles are contained.

(2) If it is necessary to test any article which is suspected of being controlled article seized under this Act, it shall be sufficient to test only a sample not exceeding five per centum in volume or weight of the articles examined under subsection (1).

(3) The court shall presume that the articles contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Control of Supplies Act 1961 (“Act 122”).

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

3. *Clause 2* seeks to amend section 10 of Act 122.

Subclause 2(a) seeks to substitute paragraph 10(1)(a) of Act 122 to empower the Controller, a supplies officer, police officer not below the rank of Inspector or customs officer to arrest without warrant any person whom he reasonably believed has committed or is attempting to commit an offence under Act 122. Currently, any person whom the Controller or any supplies officer, police officer not below the rank of Inspector or customs officer reasonably believes has committed or is attempting to commit any offence under Act 122 may only be arrested without warrant if the person refuses to furnish his name and address or furnishes an address out of Malaysia or a false name or address or likely to abscond.

Subclauses 2(b) and 2(c) seek to renumber subsection 10(1A) as subsection 10(1B) and to introduce new subsection 10(1A) into Act 122 as a consequential amendment arising from the substitution of paragraph 10(1)(a) of Act 122.

4. *Clause 3* seeks to introduce new sections 12A and 12B into Act 122. The new section 12A seeks to provide that any controlled article or other article seized under Act 122 which is of a perishable or inflammable nature or where the custody of such controlled article or other article involves unreasonable expense and inconvenience may be sold.

The new section 12B seeks to provide that no person shall, in any proceedings before any court in respect of any controlled article, vehicle, vessel or thing other than a controlled article seized in the exercise or the purported exercise of any power conferred under Act 122, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

5. *Clause 4* seeks to introduce a new section 25A into Act 122 to provide that if articles which are suspected of being controlled articles are found in two or more packages or receptacles of the same description, it shall be presumed that all the packages or receptacles contain articles of the same nature, quantity and quality and it shall be sufficient to open and examine one per centum or not less than five samples of each description of the package or receptacle in which such articles are contained. The court shall presume that the articles contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

FINANCIAL IMPLICATIONS

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

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