

**THE LAW  
MALAYSIA**

Act 799

**BORDER CONTROL AGENCY ACT  
MALAYSIA 2017**

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## **MALAYSIAN LAW**

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## **BORDER CONTROL AGENCY ACT**

### **MALAYSIA 2017**

An Act to provide for the establishment of the Agency

Malaysian Border Control, controls border security

Malaysian land from any smuggling activity or

other illegal activities and matters

related.

[ ]

DONE by the Parliament of Malaysia as follows:

Part I

## **BEGINNING**

Short title and commencement of force

1. (1) This Act may be called the Border Control Agency Act  
Malaysia 2017.

(2) This Act comes into force on the specified date  
by the Minister through notification in the Gazette.

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Interpretation

2. In this Act, unless the context requires  
another meaning?

"Agency" means the Malaysian Border Control Agency which  
established under section 3;

?Government Entity? includes?

(a) any ministry, department, office, agency, party  
authority, commission, committee, board or  
council for the Federal Government, or for any  
The State Government, established under any  
written law or otherwise;

(b) any local authority; and

(c) security forces;

"Supreme Committee" means the Committee

The Supreme Court established under subsection 5(1);

"Coordinating Committee" means the Coordinating Committee  
Agency established under subsection 8(1);

"Commissioner-General" means the Commissioner-General of the Agency which appointed under subsection 11(1);

"Minister" means the Minister charged with responsibility for domestic security;

"Officer of the Agency" includes the Commissioner General and The Deputy Commissioners General appointed below section 11, and any appointed Agency officer under subsection 13(1);

"land boundary of Malaysia" means the land boundary between Malaysia with Thailand, Malaysia with Indonesia, and Malaysia with Brunei.

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## Part II

### **MALAYSIAN BORDER CONTROL AGENCY**

Establishment of Malaysian Border Control Agency

3. (1) An agency with the name "Border Control Agency Malaysia" was established.

(2) The Agency shall, subject to this Act, be used his service at the land border of Malaysia to control anything smuggling activities or other illegal activities laws on the land border of Malaysia.

#### Agency Functions

4. The agency shall have the following functions:

- (a) to carry out land border control of Malaysia;
- (b) to make recommendations on related matters with the security of Malaysia's land border or for matters provided under this Act to

## Supreme Level Committees and Committees

Coordinator;

(c) to receive any report for the commission of offenses related to smuggling activities or other illegal activities at the border

Malaysian land;

(d) to prevent and suppress the commission of an offence

in relation to smuggling activities or activities

others that are illegal at the land border

Malaysia;

(e) to coordinate the implementation of enforcement by the Agency

with other agencies at Malaysia's land border;

(f) to monitor any smuggling activity or

other illegal activities at the border

Malaysian land;

(g) to formulate policies and programs to prevent any

smuggling activities or other illegal activities

the law at Malaysia's land border; and

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(h) generally to perform any other function of

ensure well-being and border security

Malaysian land or do all things that

in addition to its function.

## Part III

### **HIGHEST LEVEL COMMITTEE**

Supreme Committee

5. (1) A committee known as the Committee

The Highest Level of the Agency is established for the purposes of the Act

this.

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

- (a) Minister as Chairman;
  - (b) Minister in the Prime Minister's Department;
  - (c) Ministers charged with responsibility for finance;
  - (d) Ministers charged with responsibility for transportation;
  - (e) Ministers charged with responsibility for medical and health services;
  - (f) Ministers charged with responsibility for plantation and commodity companies;
  - (g) Ministers charged with responsibility for tourism and culture;
  - (h) Ministers charged with responsibility for defense;
  - (i) Minister charged with responsibility for agriculture and agro-based industry;
  - (j) Ministers charged with responsibility for foreign affairs;
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- (k) Ministers charged with responsibility for natural resources and the environment;
  - (l) Chief Secretary of the responsible Ministry with responsibility for domestic security;
  - (m) Commander of the Armed Forces;

(n) Chief of Police;

(o) Director General of National Security, Security Council

Country;

(p) Director General of the Royal Malaysian Customs Department;

(q) Director General of the Malaysian Immigration Department;

(r) Director General of the National Anti-Drug Agency; and

(s) Director General of the Kenaf and National Tobacco Board.

Meeting of the Highest Level Committee

6. (1) The Highest Level Committee shall meet

as often as necessary.

(2) Seven members, including the Chairman, shall

constitute a quorum for a Level Committee meeting

Highest.

(3) The Highest Level Committee can invite

any person who is not a member of the Ranking Committee

Supreme to attend its meetings to advise

Supreme Level Committee on any matter which

is being discussed.

(4) The agency may appoint any officer in the circle

Agency officers to be secretaries for the Committee

Highest Rank.

Functions of the Highest Level Committee

7. The Highest Level Committee should consider carefully

and decide on the recommendations made by the Coordinating Committee

and Agency or anything related to

Malaysia's land border security.

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## **COORDINATING COMMITTEE**

### Coordinating Committee

8. (1) A Coordinating Committee is established for the purpose

This Act.

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

(a) The Chief Secretary of the responsible Ministry  
with responsibility for domestic security  
as Chairman;

(b) Commissioner General;

(c) Director General of National Security, Security Council  
Country;

(d) Director General of the Royal Malaysian Customs Department;

(e) Director General of the Malaysian Immigration Department;

(f) Director General of the Department of Wildlife Protection and  
National Park, Peninsular Malaysia;

(g) Director General of Agriculture, Department of Agriculture;

(h) Chief Commissioner of the Malaysian Civil Defense Force;

(i) Director General of Government Security;

(j) Chief Commissioner of the Malaysian Volunteer Force (RELA);

(k) Director General of the National Anti-Drug Agency;

(l) Director General of the National Kenaf and Tobacco Board;

(m) Director of the Department of Internal Security and  
Public Order, Royal Malaysian Police;

(n) Director of Management Department, Royal Malaysian Police;

(o) Chief Police Officer for the State of Kedah;

(p) Chief Police Officer for the State of Perak;

(q) Chief Police Officer for the State of Sabah;

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(r) Chief Police Officer for the State of Sarawak;

(s) Chief Police Officer for the State of Kelantan;

(t) Chief Police Officer for the State of Perlis;

(u) representatives from the Ministry of Finance; and

(v) representative from the Ministry of Defence.

#### Coordinating Committee Meeting

9. (1) The Coordinating Committee shall hold regular meetings as often as necessary.

(2) Seven members, including the Chairman, shall constitute a quorum for a meeting of the Coordinating Committee.

(3) The Coordinating Committee may invite any person who are not members of the Coordinating Committee to attend its meeting to advise the Coordinating Committee on whatever is being discussed.

(4) The agency may appoint any officer in the circle Agency officers to be secretaries for the Committee Coordinator.

#### Functions of the Coordinating Committee

10. (1) The Coordinating Committee shall have a function the following:

(a) coordinate the implementation of this Act;

(b) to make recommendations on related matters with the security of Malaysia's land border or for matters provided under this Act to

Committee of the Highest Level;

(c) implement all decisions made by

Committee of the Highest Level;

(d) formulate policies and programs to prevent any

smuggling activities or other illegal activities

the law at Malaysia's land border;

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(e) monitor any smuggling activities or activities

others that are illegal at the land border

Malaysia and get feedback from the agency

Government and related organizations;

(f) certify the recommendations made by the Agency to

Committee of the Highest Level;

(g) consider measures to control

any smuggling activities or other activities that

illegal at Malaysia's land border;

(h) cooperate and coordinate with Government agencies

and international organizations regarding any activity

smuggling or other illegal activities

the law at Malaysia's land border; and

(i) perform any other function for implementation

according to this Act.

(2) The Coordinating Committee may establish any

committee as deemed necessary or expedient

by the Coordinating Committee to assist the Committee

Coordinator in carrying out his functions.

Part V

## **AGENCY OFFICERS**

Appointment of Commissioner General and Deputy Commissioner

Agency General

11. (1) The Yang di-Pertuan Agong shall appoint a person among public officials to become Commissioner General Agency for a period not exceeding three years and persons that is eligible for re-appointment for such period as which is deemed necessary by the Yang di-Pertuan Agong.

(2) The Minister shall appoint Deputy Commissioners Agency General among public officials for a period as deemed necessary or expedient by the Minister for the purpose of carrying out and enforcing the provisions of the Act this.

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(3) The Commissioner General shall be responsible to Supreme Level Committee and Coordinating Committee for instructions, orders, control and supervision for all things related to the Agency.

(4) The Commissioner General may, in order to fully enforce any provision of this Act or for easier implementation provisions of this Act, issue any instructions, orders or decisions as deemed necessary or expedient by the Commissioner General.

Revocation and resignation of the Commissioner General

12. (1) The Yang di-Pertuan Agong may, at any time, cancel the appointment of the appointed Commissioner General under subsection 11(1).

(2) The Commissioner General may, at any time, place his position by giving a written notice to Yang di-Pertuan Agong.

Appointment of other officers of the Agency

13. (1) The Minister shall appoint any number of officers Agencies among public officials as necessary for the purpose of implementing the provisions of this Act as the following:

(a) police officers as specified in

Police Act 1967 [Act 344];

(b) customs officers as specified in

Customs Act 1967 [Act 235];

(c) immigration officers as specified in

Immigration Act 1959/63 [Act 155];

(d) officers of the National Anti-Drug Agency as

stated in the National Anti-Drug Agency Act

2004 [Act 638];

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(e) officials of the Kenaf and National Tobacco Board as

which is stated in the Kenaf and Tobacco Board Act

Country 2009 [Act 692]; and

(f) any other public officer as it deems fit

necessary

(2) Appointment of other officers of the Agency under subsection (1)

shall be for a period as deemed appropriate

benefits by the Minister.

(3) An officer appointed under subsection (1)

is subject to instructions, orders, control and supervision

The Commissioner General or any other officer of the Agency who is higher in rank than the officer, and shall exercise its powers, perform its functions and fulfill his duty by complying with any instructions, orders or control stated orally or in writing by the Commissioner General or any other officer of the Agency who is more than his rank from the officer.

#### Authority of Agency officers

14. For the purposes of this Act?

(a) an Agency officer shall have all the powers of a police officer no matter what his rank as provided below

Code of Criminal Procedure [Act 593], and that power is in addition to the powers provided under this Act; and

(b) an Agency officer shall have all authority given to a custodial officer at a police station under any written law or otherwise, and for that purpose the officer's office should be considered a police station.

#### Certificate of appointment

15. A certificate of appointment in the form of a power of attorney shall be issued to each Agency officer appointed below

This Act and the card shall be signed by the Commissioner General and shall be prima facie evidence of appointment that under this Act.

Part VI

**A.M**

Uniforms and equipment

16. An officer of the Agency shall be provided with any uniform and equipment and shall wear any rank insignia as determined by the Minister.

Uniforms and equipment are returned when cease to be an officer of the Agency

17. (1) When an officer of the Agency ceases to be an officer of his Agency shall, within fourteen days, return to the person appointed by the Commissioner General for that purpose uniforms and equipment provided to him.

(2) An officer of the Agency who, having ceased to be Agency officials, without reasonable cause do not comply subsection (1) commits an offense and may, when convicted, fined not more than five thousand ringgit or imprisoned for a period not exceeding three months or both, and, in addition, may be required to pay the value of the property that is not returned, and that value will be determined by court by way of direct and recoverable judgment as a fine.

Disguise

18. Any person who is not an officer of the Agency who?

(a) pretend to be an officer of the Agency by realized that he was not such;

(b) falsely impersonates an officer of the Agency;

or

(c) on the fictitious nature of doing or attempting to

do any act on the grounds of being a person

Agency officials,

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commit an offense and may, on conviction,

imprisoned for a period not exceeding seven years or

fined not exceeding ten thousand ringgit or both.

Agency officer rank

19. (1) The rank of the Agency's officers is as follows

specified in the Table.

(2) The Minister may, by order published in the Gazette,

amend the Schedule.

Prosecution

20. No prosecution for an offense under this Act

may be commenced except by, or with the written consent of,

Public Prosecutor.

Obligation of confidentiality

21. (1) Except for any purpose of this Act or for the purpose

any civil or criminal proceedings under any

written law or if otherwise permitted by

Agency?

(a) no officer of the Agency or committee

or any person attending any

Agency meetings, High Level Committees

or the Coordinating Committee, either during or



after the period of his position or employment, may  
disclose any information obtained by him  
while performing his duties; and

(b) no other person in any way has  
access to any information or documents that  
relating to the affairs of the Agency may disclose  
that information or document.

(2) Any person who contravenes subsection (1) commits  
an offense and may, on conviction, be imprisoned for  
period not exceeding two years or fined not exceeding one  
hundred thousand ringgit or both.

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Protection against lawsuits and legal proceedings

22. No action, suit, prosecution or any proceeding  
other can be taken or carried, initiated or maintained in  
any court against the Agency, any committee,  
any Agency officer or committee member, or  
staff of other Government Entities in respect of any act,  
neglect or default done or omitted  
by him with a pure heart, for such nature.

Civil servants

23. Every Agency officer or committee member or  
employees of other Government Entities while performing their duties  
or perform his functions under this Act in the nature that  
such shall be deemed to be public servants according to  
the meaning of the Penal Code [Act 574].

Public Authorities Protection Act 1948

#### 24. Public Authorities Protection Act 1948 [Act 198]

shall apply to any action, suit, prosecution or proceedings against the Agency, any committee, any Agency officer or a committee members, or Entity staff Other governments with respect to any act, omission or disobedience made or done by him in a holy way heart or any omission by him in good faith, on nature such a one.

#### Standing Orders

25. The Commissioner General may issue administrative orders the so-called "Standing Order", which is in line with the provisions This Act, about general control, training, duties and responsibilities Agency officers, and for any other necessary matter or expedient for the good administration of the Agency or to prevent abuse of power or neglect of duty, and in general to ensure the Agency functions efficiently and effectively.

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Protection for whistleblowers from being found out

26. (1) Except as provided in section this, no witness in any civil or criminal proceeding may be required or permitted to disclose the name or address of any informant or state anything things that may cause the whistleblower to become known.

(2) If any book, document or paper that becomes evidence or may be examined in any proceeding civil or criminal contains any record whatsoever the informant is named or described or who may be

led to the discovery of the informant, the court shall cause all such passages to be closed from visibility or eliminated to the extent necessary for protect the whistleblower from being discovered.

(3) If in the trial for any of the offenses below

This Act or any regulations made thereunder

Act, the court, after a full investigation into the case, opined

that the informant intentionally made in

his complaint is a material statement that he knows or

believed to be false or not believed to be true,

or if in any other proceeding the court thinks so

that justice cannot be done completely between

the parties to the proceedings without the knowledge of the giver

that information, the court may require that it be shown

the original complaint, if in writing, and authorizes an investigation and

require full disclosure of the whistleblower

that.

The testimony of the provocateur is admissible

27. (1) Notwithstanding any law or regulation

law to the contrary, in any proceeding

against any person for an offense under the Act

this, no agent of provocation can be considered unreliable

merely because he has attempted to commit or abet,

or has abetted or engaged in a criminal conspiracy to

commit the offense if the main purpose of the attempt, abetment

or the engagement is to obtain evidence against

that person.

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(2) Notwithstanding any law or regulation  
contrary law, a conviction for anything  
an offense under this Act which is based solely on  
testimony without the support of any agent of provocation is not  
shall be void and no such conviction shall be set aside  
only because the court that heard the case has failed  
to mention in the reasons of his judgment the necessity that  
reminded himself of the dangers of making convictions based on  
such information.

The regulations

28. The Minister may make any regulations which  
necessary or beneficial to give full effect to  
or to implement the provisions of this Act.

Part VII

## **EXCEPTIONS AND TRANSITIONS**

Existing committee

29. All committees established under the Directive  
No. 15 National Security Council and effective immediately before  
the commencement of the force of this Act shall, when this Act commences  
take effect, continue to be in effect until dissolved pursuant to  
section 44 of the National Security Council Act 2016 [Act 776].

Existing Smuggling Prevention Unit

30. (1) Any act done or action which  
taken before the coming into force of this Act by the Unit

Existing Smuggling Prevention established by

The Federal Government shall be deemed to have done or

taken by the Agency under this Act.

(2) Any instructions, orders or decisions made by

Smuggling Prevention Unit existing and in force

immediately before the coming into force of this Act shall, when

This Act comes into force, insofar as it is consistent with the Act

shall remain in effect until revoked by the Agency.

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## **SCHEDULE**

[Section 19]

### **RANK OF AGENCY OFFICERS**

Commissioner General

Deputy Commissioner General

Commissioner

Deputy Commissioner

Ruler

Deputy Superintendent

Assistant Superintendent

Inspector

Sub-Inspector

Sergeant Major

Sergeant

Corporal

Lance Corporal

Constable