



# **LAWS OF MALAYSIA**

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TEXT OF REPRINT

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**Act 791**

## **TOURISM TAX ACT 2017**

*As at 1 January 2024*

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**TOURISM TAX ACT 2017**

Date of Royal Assent      ...    ...    ...    ...    19 June 2017

Date of publication in the  
*Gazette*      ...    ...    ...    ...    21 June 2017

Latest amendment made  
by Act 851 which came  
into operation on      ...    ...    ...    ...    See section 97 of  
Act 851

# **LAWS OF MALAYSIA**

## **Act 791**

### **TOURISM TAX ACT 2017**

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**LAWS OF MALAYSIA****Akta 791****TOURISM TAX ACT 2017**

An Act to provide for the imposition and collection of tourism tax and for connected matters.

*[1 August 2017-Parts I, II, IV and X,  
and sections 8 and 9, P.U. (B) 398/2017;  
1 September 2017-Parts V, VI, VII, VIII  
and IX, and sections 6 and 7, P.U.(B) 398/2017]*

**ENACTED** by the Parliament of Malaysia as follows:

**PART I****PRELIMINARY****Short title and commencement**

**1.** (1) This Act may be cited as the Tourism Tax Act 2017.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different Parts or different provisions of this Act.

**Territorial and extra-territorial application**

**1A.** (1) This Act and its subsidiary legislation shall apply both within and outside Malaysia.

(2) Notwithstanding subsection (1), this Act and its subsidiary legislation shall apply to any person of whatever nationality or

citizenship, beyond the geographical limits of Malaysia and the territorial waters of Malaysia, if the person is a digital platform service provider registered under section 20D.

## **Interpretation**

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

“prescribed” means prescribed by regulations made under this Act;

“document” has the meaning assigned to it in section 3 of the Evidence Act 1950 [*Act 56*];

“electronic” has the meaning assigned to it in section 5 of the Electronic Government Activities Act 2007 [*Act 680*];

“Director General” means the Director General of Customs and Excise appointed under subsection 3(1) of the Customs Act 1967 [*Act 235*];

“computer” has the meaning assigned to it in section 3 of the Evidence Act 1950;

“Minister” means the minister charged with the responsibility for finance;

“person” includes an individual, a firm, a society, an association, a company and other body of persons;

“senior officer of customs” has the meaning assigned to it in subsection 2(1) of the Customs Act 1967;

“officer of customs” has the meaning assigned to it in subsection 2(1) of the Customs Act 1967;

“tourist” has the meaning assigned to it in subsection 2(1) of the Tourism Industry Act 1992 [*Act 482*];

“operator” means any person who operates accommodation premises;

“digital platform service provider” means any person who provides service relating to online booking accommodation premises to a tourist whether such person is in Malaysia or outside Malaysia;

“accommodation premises” has the meaning assigned to it in subsection 2(1) of the Tourism Industry Act 1992;

“service relating to online booking accommodation premises” means any online service relating to the booking of accommodation premises that is delivered automatically over the internet or any other electronic network;

“surcharge” means the surcharge imposed under section 26;

“taxable period” means the period as specified in section 18.

## PART II

### ADMINISTRATION

#### **Functions and powers of Director General and other officers**

**3.** (1) The Director General shall have the superintendence of all matters relating to tourism tax subject to the direction and control of the Minister.

(2) Subject to the general direction and supervision of the Director General, all officers of customs appointed under section 3 of the Customs Act 1967 and holding the rank of Superintendent or any rank higher than that of Superintendent, shall have and exercise all powers conferred on the Director General in this Act other than those conferred in sections 21 and 66.

(3) It shall be the duty of any officer of customs to enforce and ensure due compliance with the provisions of this Act and to make all due enquiries in relation thereto.

(4) Every person employed on any duty or service relating to the tourism tax by the order or with the concurrence of the Director General, whether previously or subsequently expressed, shall be deemed to be the proper officer for that duty or service.

### **Public servants**

4. All public officers while discharging any duty or providing any service relating to tourism tax shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

### **Authority cards, etc., to be produced**

5. (1) Every officer of customs when discharging his duties shall, if not in uniform, on demand made by any person, declare his office and produce to the person the authority card or badge prescribed under section 8A of the Customs Act 1967.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any officer of customs acting or purporting to act under this Act if such officer is not in uniform and refuses to declare his office and produce his authority card or badge on demand being made by the person.

## **PART III**

### **IMPOSITION OF TOURISM TAX**

#### **Imposition of tourism tax**

6. (1) A tax to be known as tourism tax shall be charged and levied on a tourist staying at any accommodation premises made available by an operator at the rate fixed by the Minister in accordance with section 8.

(2) Subject to subsection (3), it shall be the duty of the tourist to pay the tourism tax to the operator.

(3) Where more than one tourist are staying in the same accommodation at the same time and the tourism tax for that accommodation has been paid by any one of the tourists, the other tourists staying in the same accommodation at the same time shall not be liable to pay tourism tax for that accommodation.

**Duty of operator to collect tourism tax and pay tourism tax collected to Director General**

7. (1) Subject to subsection 6(3), it shall be the duty of every operator who provides accommodation to a tourist in an accommodation premises to collect the tourism tax from the tourist.

(2) Every operator shall pay the tourism tax collected or liable to be collected under this Act to the Director General.

**Rate of tourism tax**

\*8. (1) The Minister may, with the concurrence of the minister charged with the responsibility for tourism, by order published in the *Gazette*, fix the rate of the tourism tax to be charged and levied under this Act.

(2) For the purpose of subsection (1), “fix” includes “increase” or “reduce”.

(3) Any order made under subsection (1) shall be laid before the Dewan Rakyat.

(4) *(Deleted by Act 851).*

(5) *(Deleted by Act 851).*

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\*NOTE—For application of section 8 Tourism Tax Act 2017 [Act 791]—see subsection 1(3) and section 21 of Tourism Tax (Amendment) Act 2021 [Act A1633] w.e.f. 1 July 2021.

**Power of Minister to exempt**

**9.** (1) The Minister may, by order published in the *Gazette*, in any particular case and subject to such conditions as he deems fit to impose—

- (a) exempt any tourist or class of tourist from the payment of the whole or any part of the tourism tax;
- (b) exempt any operator, class of operator, digital platform service provider or class of digital platform service provider from collecting the whole or any part of the tourism tax; or
- (c) exempt any operator, class of operator, digital platform service provider or class of digital platform service provider from the requirement to register under Part IV or Part VA.

(2) The Minister may, in any particular case and subject to such conditions as he deems fit to impose, exempt any person from all or any of the provisions of this Act.

**PART IV****REGISTRATION****Liability of operator to be registered**

**10.** (1) Every operator shall be liable to be registered under this Act and for such purpose shall apply to the Director General to be registered, in the form and manner as determined by the Director General.

(2) The application referred to in subsection (1) shall be made within thirty days from the date the operator operates the accommodation premises.

(3) Any operator who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Liability of operator operating accommodation premises before commencement of the Act to be registered**

**11.** (1) Every operator who immediately before the coming into operation of this Part operates accommodation premises shall, within thirty days from the date of the coming into operation of this Part, apply to the Director General to be registered, in the form and manner as determined by the Director General.

(2) Any operator who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Registration of operator**

**12.** (1) The Director General shall register any operator who makes an application under section 10 or 11 with effect from the first day of the following month after the application is submitted to the Director General.

(2) Notwithstanding sections 10 and 11, the Director General shall have the power to register—

- (a) any operator who is not registered under subsection (1); or
- (b) any operator who operates any accommodation premises whether or not registered as tourist accommodation premises under section 31C of the Tourism Industry Act 1992,

with effect from the first day of the following month after the information relating to paragraph (a) or (b) became known or is made known to the Director General.

(3) The Director General shall notify the person registered of his or its registration under this section in the manner as the Director General deems fit.

### **Cancellation of registration**

**13.** (1) An operator who ceases to operate an accommodation premises or is exempted under section 9 shall notify the Director General in writing of the fact and the date thereof within thirty days from the date of cessation or exemption, as the case may be.

(2) Upon receipt of the notification under subsection (1), the Director General may cancel the operator's registration from such date as the Director General may determine.

(3) Where there is no notification made under subsection (1) and the Director General is satisfied that the operator has ceased to operate an accommodation premises or is exempted under section 9, the Director General may cancel the operator's registration from the date the operator ceased to operate the accommodation premises or from the date the operator is exempted or from such later date as the Director General may determine, as the case may be.

## **PART V**

### **INVOICES, RECORDS, RETURNS AND ASSESSMENT**

#### **Invoice, receipt or other document**

**14.** (1) Every operator shall, within thirty days from the date the accommodation is provided or such extended period as may be approved by the Director General, issue an invoice, receipt or other document in the national language or in the English language to a tourist in respect of the accommodation provided and shall state the



rate and amount of tourism tax payable separately from the charges for the accommodation provided by the operator.

(1A) Notwithstanding subsection (1), the Director General may, upon request in writing and subject to such conditions as he thinks fit to impose, approve any one or more of the prescribed particulars not to be contained in an invoice.

(2) No invoice, receipt or other document showing an amount which purports to be tourism tax shall be issued by a person who is not an operator.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) For the purposes of this section, and sections 15 and 30, the reference to other document includes local order and statement of account.

### **Production of invoice, receipt or other document by computer**

**15.** For the purposes of any provision in this Act in relation to an invoice, receipt or other document, an operator or a digital platform service provider shall be treated as having issued an invoice, receipt or other document to a tourist if the requisite particulars are recorded in a computer and are—

- (a) transmitted or made available to the tourist by electronic means; or
- (b) produced on any material and the material is delivered to the tourist.

**Credit note and debit note**

**16.** Where an operator issues a credit note or debit note containing the prescribed particulars under the prescribed circumstances and conditions, the operator shall make adjustments in his returns accordingly.

**Duty to keep records**

**17.** (1) Every operator shall keep full, true and up-to-date records of all transactions which affect or may affect his liability to collect tourism tax in such books of account or other records as the Director General may direct.

(2) Any record kept under this section shall be—

- (a) preserved for a period of seven years from the latest date to which the record relates;
- (b) in the national language or English language; and
- (c) kept in Malaysia, except as otherwise approved by the Director General and subject to the conditions as he deems fit.

(3) Where the record is in an electronically readable form, the record shall be kept in such manner as to enable the record to be readily accessible and convertible into writing.

(4) Where the record is originally in a manual form and is subsequently converted into an electronic form, the record shall be retained in its original form prior to the conversion.

(5) Any person who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Taxable period**

**18.** (1) The taxable period for tourism tax shall be a period of three months ending on the last day of any month of any calendar year.

(2) Notwithstanding subsection (1), an operator who has been assigned with a taxable period for the purposes of the \*Goods and Services Tax Act 2014 [Act 762] shall be assigned with the same taxable period for the purposes of this Act.

(3) Notwithstanding subsection (1), an operator may apply in writing to the Director General for another taxable period.

(4) The Director General may, upon receiving any application under subsection (3)—

- (a) allow the application and the taxable period shall be the period as applied for;
- (b) refuse the application and the taxable period shall remain as determined under subsection (1); or
- (c) vary the length of the taxable period or the date on which the taxable period begins or ends.

(5) Notwithstanding subsection (1) or (4), the Director General may, as he deems fit, reassign any other taxable period for the operator.

**Furnishing of returns and payment of tourism tax**

**19.** (1) Every operator shall, in respect of his taxable period, account for the tourism tax received in a return in the form and manner as determined by the Director General not later than the last

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\*NOTE—The Goods and Services Tax Act 2014 [Act 762] has been repealed with effect from 1 September 2018 —see section 3 of the Goods and Services Tax (Repeal) Act 2018 [Act 805].

day of the month following after the end of the operator's taxable period to which the return relates.

(2) Where the whole or any part of the tourism tax is not received by the operator from the tourist within a period of twelve calendar months from the date of the invoice for the accommodation provided, the operator shall account for the tourism tax in a return in the form and manner as determined by the Director General in the taxable period following after the end of that period of twelve calendar months.

(3) Any operator who ceases to be registered under section 12 shall, not later than thirty days after so ceasing or such later date as the Director General may allow, furnish a return containing particulars as the Director General may determine in respect of that part of the last taxable period during which the operator was registered.

(4) Any operator who is required to furnish a return under this section shall pay to the Director General the amount of tourism tax due and payable by the operator in respect of the taxable period to which the return relates not later than the last day on which the operator is required to furnish the return.

(5) The return referred to in subsections (1), (2) and (3) shall be furnished whether or not there is tourism tax to be paid.

(6) Any operator who fails to furnish the return as required under subsection (1), (2) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(7) Any operator who fails to pay to the Director General the amount of tourism tax due and payable under subsection (4) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(8) Where any tourism tax due and payable is not paid wholly or partly by any operator after the last day on which it is due and

payable under subsection (4) and no prosecution is instituted, the operator shall pay—

- (a) for the first thirty-day period that the tourism tax is not paid wholly or partly after the expiry of the period specified in subsection (4), a penalty of ten per cent of the amount of tourism tax remain unpaid;
- (b) for the second thirty-day period that the tourism tax is not paid wholly or partly after the expiry of the period specified in subsection (4), an additional penalty of ten per cent of the amount of tourism tax remain unpaid; and
- (c) for the third thirty-day period that the tourism tax is not paid wholly or partly after the expiry of the period specified in subsection (4), an additional penalty of ten per cent of the amount of tourism tax remain unpaid.

(9) Subject to subsection (11), a prosecution for an offence under subsection (7) may be instituted after the expiry of the period specified in paragraph (8)(c).

(10) The court may order an operator who is convicted for an offence under subsection (7) to pay the penalty specified in subsection (8).

(11) No prosecution for an offence under subsection (7) shall be instituted against the operator who has paid the amount of tourism tax due and payable and the penalty specified in subsection (8) within the period specified in subsection (8).

### **Power to assess**

**20.** (1) Where any operator or digital platform service provider—

- (a) fails to apply for registration under section 10, 11 or 20C;
- (b) fails to furnish a return under section 19 or 20I; or

- (c) furnishes a return which to the Director General appears incomplete or incorrect,

the Director General may assess to the best of the Director General's judgment the amount of tourism tax due from and payable by, and the penalty payable under subsection 19(8) or 20I(6), if any, by, the operator or digital platform service provider and shall forthwith notify the operator or digital platform service provider of the assessment in writing.

(2) The assessment under subsection (1) shall not be made more than six years from the date on which the tourism tax was due and payable.

(3) Notwithstanding subsection (2), where in the opinion of the Director General any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tourism tax, the Director General may, for the purposes of making good any loss of tourism tax attributable to the fraud or wilful default, make an assessment at any time.

(4) Where—

- (a) the Director General makes an assessment under subsection (1);
- (b) the tourism tax assessed has been paid but no return has been furnished for the period to which the assessment relates; and
- (c) the operator or digital platform service provider fails to furnish a return for any subsequent taxable period,

the Director General may assess the tourism tax at such greater amount as he deems fit.

(5) Where the Director General assesses the tourism tax at such greater amount under subsection (4), the Director General may make a supplementary assessment and shall notify the operator or digital platform service provider in writing accordingly.

(6) Where the amount of tourism tax and penalty, if any, have been assessed and notified to any operator or digital platform service provider under subsection (1) or (5), the amount assessed shall be deemed to be the amount of tourism tax due and payable and penalty, if any, payable and such amount shall be paid by the operator or digital platform service provider, except to the extent that the assessment has been withdrawn or reduced.

(7) The amount of tourism tax due and payable and penalty payable under subsection (6) shall be paid by the operator or digital platform service provider whether or not that operator or digital platform service provider appeals against the assessment.

(8) The Director General may make any alteration in or any addition to the assessment made under this section as he deems fit to ensure the correctness of the assessment and shall forthwith notify the operator or digital platform service provider in writing.

## PART VA

### DIGITAL PLATFORM SERVICE PROVIDER

#### **Imposition of tourism tax**

**20A.** (1) Notwithstanding section 6, tourism tax shall be charged and levied on a tourist staying at any accommodation premises made available through service relating to online booking accommodation premises provided by a digital platform service provider at the rate fixed in accordance with section 8.

(2) It shall be the duty of the tourist to pay the tourism tax to the digital platform service provider.

(3) Where tourism tax for an accommodation premises made available through service relating to online booking accommodation premises has been paid by the tourist to the digital platform service provider, the operator shall not collect the tourism tax from the tourist, provided that the tourist shall submit proof of such payment.

**Duty of digital platform service provider to collect tourism tax and pay tourism tax collected to Director General**

**20B.** (1) Every digital platform service provider who made available an accommodation premises through service relating to online booking accommodation premises shall collect the tourism tax from the tourist.

(2) Every digital platform service provider shall pay the tourism tax collected or liable to be collected under this Act to the Director General.

**Liability of digital platform service provider to be registered**

**20c.** (1) Every digital platform service provider shall be liable to be registered under this Part and for such purpose shall apply to the Director General to be registered, in the form and manner as determined by the Director General.

(2) The application for registration referred to in subsection (1) shall be made within thirty days from the date the digital platform service provider provides the service relating to online booking accommodation premises in which the accommodation premises is in Malaysia.

(3) Every digital platform service provider who provides service relating to online booking accommodation premises in which the accommodation premises is in Malaysia before the coming into operation of this Part, shall not later than three months before the date of the coming into operation of this Part, apply to the Director General to be registered in the form and manner as determined by the Director General.

(4) Every digital platform service provider who contravenes subsection (1) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.



**Registration of digital platform service provider**

**20D.** (1) The Director General shall register any digital platform service provider who makes an application for registration under subsection 20C(1) or (3) with effect from the first day of the following month after the application is submitted to the Director General.

(2) Notwithstanding subsection (1), the Director General shall have the power to register any digital platform service provider who is not registered under subsection (1) with effect from the first day of the following month after the information relating to the operation of the digital platform service provider became known or is made known to the Director General.

**Cancellation of registration**

**20E.** (1) Any digital platform service provider who ceases to provide service relating to online booking accommodation premises in Malaysia or is exempted under section 9 from the requirement to register under Part VA shall notify the Director General in writing of the fact and the date thereof within thirty days from the date of cessation.

(2) Upon receipt of the notification under subsection (1), the Director General may cancel the digital platform service provider's registration from such date as the Director General may determine.

(3) Where there is no notification made under subsection (1) and the Director General is satisfied that a digital platform service provider has ceased to provide service relating to online booking accommodation premises in Malaysia or is exempted under section 9 from the requirement to register under Part VA, the Director General may cancel his registration from the date the digital platform service provider ceased to provide service relating to online booking accommodation premises in Malaysia or from the date the digital platform service provider is exempted from the requirement to register or from such later date as the Director General may determine, as the case may be.

**Invoice, receipt or other document**

**20F.** (1) Every digital platform service provider shall, within thirty days from the date the accommodation premises is made available or such extended period as may be approved by the Director General, issue an invoice, a receipt or other document in the national language or in the English language to a tourist in respect of the accommodation premises made available through service relating to online booking accommodation premises and shall state the amount of tourism tax payable separately from any other charges imposed on the tourist.

(2) The invoice, receipt or other document referred to in subsection (1) may be issued electronically or in physical form.

(3) Any digital platform service provider who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Credit note and debit note**

**20G.** Where a digital platform service provider issues a credit note or debit note containing the prescribed particulars under the prescribed circumstances and conditions, the digital platform service provider shall make adjustment in his returns accordingly.

**Taxable period**

**20H.** (1) The taxable period for a digital platform service provider shall be a period of three months ending on the last day of any month of any calendar year.

(2) The digital platform service provider may apply in writing to the Director General for a taxable period other than a period as determined under subsection (1).

(3) The Director General may, upon receiving any application

under subsection (2)—

- (a) allow the application and the taxable period shall be the period as applied for;
- (b) refuse the application and the taxable period shall remain as determined under subsection (1); or
- (c) vary the length of the taxable period or the date on which the taxable period begins or ends.

(4) The Director General may, as he deems fit, reassign the digital platform service provider to any taxable period other than the period to which has been previously determined under subsection (1) or (3).

### **Furnishing of returns and payment of tourism tax**

**20I.** (1) Every digital platform service provider shall, in respect of his taxable period, account for the tourism tax received in a return in the form and manner as determined by the Director General not later than the last day of the month following after the end of the digital platform service provider's taxable period to which the return relates.

(2) Every digital platform service provider who is required to furnish a return under this section shall pay to the Director General the amount of tourism tax due and payable by the digital platform service provider in respect of the taxable period to which the return relates not later than the last day on which the digital platform service provider is required to furnish the return.

(3) Any digital platform service provider who ceases to be registered under section 20D shall, not later than thirty days after so ceasing or such later date as the Director General may allow, furnish a return containing particulars as the Director General may determine in respect of that part of the last taxable period during which the digital platform service provider was registered.

(4) The return referred to in subsection (1) shall be furnished

whether or not there is tourism tax to be paid.

(5) Any digital platform service provider who fails to furnish the return as required under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(6) Any digital platform service provider who fails to pay to the Director General the amount of tourism tax due and payable under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(7) Where any tourism tax due and payable is not paid wholly or partly by any digital platform service provider after the last day on which it is due and payable under subsection (2) and no prosecution is instituted, the digital platform service provider shall pay—

- (a) for the first thirty-day period that the tourism tax is not paid wholly or partly after the expiry of the period specified in subsection (2), a penalty of ten percent of the amount of tourism tax remain unpaid;
- (b) for the second thirty-day period that the tourism tax is not paid wholly or partly after the expiry of the period specified in subsection (2), an additional penalty of ten percent of the amount of tourism tax remain unpaid; and
- (c) for the third thirty-day period that the tourism tax is not paid wholly or partly after the expiry of the period specified in subsection (2), an additional penalty of ten per cent of the amount of tourism tax remain unpaid.

(8) Subject to subsection (10), prosecution for an offence under subsection (6) may be instituted after the expiry of the period specified in paragraph (7)(c).

(9) The court may order a digital platform service provider who is convicted for an offence under subsection (6) to pay the penalty as

specified in subsection (7).

(10) No prosecution for an offence under subsection (6) shall be instituted against the digital platform service provider who has paid the amount of tourism tax due and payable and the penalty specified in subsection (7) within the period specified in subsection (7).

### **Duty to keep record**

**20J.** (1) Every digital platform service provider shall keep full, true and up-to-date records of all transaction which affect or may affect his liability to collect tourism tax in such books of account or other records as the Director General may direct.

(2) Any record kept under this section shall be preserved for a period of seven years from the latest date to which the records relates and shall be made available for inspection by any senior officer of customs.

(3) Where the record is in an electronically readable form, the records shall be kept in such manner as to enable the records to be readily accessible and convertible into writing.

(4) Any digital platform service provider who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

### **Service of notices, etc.**

**20K.** Every notice, direction or any other document required by this Act to be served on a digital platform service provider may be served by electronic service under section 62.

**PART VI****REMISSION, REFUND AND RECOVERY****Remission**

**21.** (1) The Minister may remit the whole or any part of the tourism tax due and payable under this Act where he deems fit.

(2) The Director General may remit the whole or any part of the penalty, surcharge or other money payable under this Act where he deems fit.

(3) Where a person who has been granted remission under subsection (1) or (2) has paid any tourism tax, penalty, surcharge or other money to which the remission relates, he shall be entitled to a refund of the amount of the tourism tax, penalty, surcharge or other money paid.

**Refund of tourism tax, etc., overpaid or erroneously paid**

**22.** (1) Any person who has overpaid or erroneously paid any tourism tax, penalty, surcharge or any other money may make a claim thereof in the form and manner as determined by the Director General within six years from the time the overpayment or erroneous payment occurred.

(2) Upon receipt of the claim under subsection (1), the Director General may refund the tourism tax, penalty, surcharge or any other money, as the case may be, after being satisfied that the person has properly established the claim.

(3) The Director General may reduce or disallow any refund claimed under this section to the extent that the refund would unjustly enrich the person referred to in subsection (1).

(4) A claim under this section shall be supported by such evidence as required by the Director General.

(5) This section shall not apply to a claim for refund under section 8.

### **Refund for bad debt**

**23.** (1) Subject to subsection (2), any operator who ceases or has ceased to operate accommodation premises may make a claim to the Director General for a refund of the whole or any part of the tourism tax paid by the operator if—

- (a) the whole or any part of the payment for accommodation payable to such operator has been written off in the operator's accounts as bad debts; and
- (b) the Director General is satisfied that all reasonable efforts have been made by such operator to recover the payment for accommodation.

(2) Subsection (1) shall not apply where part of payment for accommodation payable received by the operator is equal to or more than the tourism tax paid.

(3) Where the operator referred to in subsection (1) has not received any payment for accommodation payable to the operator, the Director General may allow such refund to be made to the operator.

(4) Where a claim for refund is made in relation to part of payment for accommodation being written off, the amount of tourism tax refundable shall be the difference between the tourism tax paid and the payment for accommodation received.

(5) Where a refund of tourism tax has been made under this section by the Director General to an operator and any payment for accommodation for which the tourism tax is payable is subsequently received by the operator, the operator shall repay to the Director General—

- (a) the whole of the tourism tax refunded if the amount subsequently received in respect of the accommodation

provided is equal to or more than the amount of the tourism tax refunded; or

- (b) an amount equal to the amount subsequently received in respect of the accommodation provided if the amount received is less than the amount of the tourism tax refunded.

(6) Subsection (5) shall apply to any part payment received after the repayment made pursuant to paragraph (5)(b) so long as the total payment subsequently received does not exceed the amount of tourism tax refunded and the reference to the amount of the tourism tax refunded in paragraphs (5)(a) and (b) shall be construed as the reference to the remaining amount of the tourism tax refunded.

(7) For the purpose of this section, “bad debt” means the outstanding amount for the payment for accommodation including tourism tax which is payable to the operator but has not been paid to, and is irrecoverable by, the operator.

### **Deduction from return of refunded tourism tax**

**24.** (1) The Director General may approve, subject to such conditions as he deems fit to impose, an application by any operator or digital platform service provider to deduct from time to time from the operator’s return or digital platform service provider’s return referred to in subsection 19(1) or subsection 20(1) the amount of tourism tax paid but subsequently refunded to the tourist by reason of—

- (a) cancellation of accommodation; or
- (b) such other reason as may be approved by the Director General.

(2) The operator or digital platform service provider shall make the deduction referred to in subsection (1) within one year after the refund of the tourism tax was made, or such extended period as may be approved by the Director General.



**Power to collect tourism tax, etc., from persons owing money to operator or digital platform service provider**

**25.** (1) Where any tourism tax is due and payable, or any penalty, surcharge or other money is payable, by an operator or a digital platform service provider, the Director General may, by notice in writing, require—

- (a) any person by whom any money is due or accruing or may become due to the operator or digital platform service provider;
- (b) any person who holds or may subsequently hold money for or on account of the operator or digital platform service provider; or
- (c) any person having authority from some other person to pay money to the operator or digital platform service provider,

to pay to the Director General forthwith or within such period as the Director General may allow, the money not being salary or wages due to the operator or digital platform service provider or so much thereof as is sufficient to pay the tourism tax due and payable, and penalty, surcharge or other money payable, if any, by the operator or digital platform service provider.

(2) A copy of the notice referred to in subsection (1) shall be forwarded to the operator or digital platform service provider at his last known address.

(3) All payments made pursuant to a notice under this section shall be deemed to have been made on behalf of the operator or digital platform service provider and with the operator or digital platform service provider's authority and the authority of all other persons concerned.

**Payment by instalments**

**26.** (1) The Director General may allow any tourism tax or penalty to be paid by instalments, under the prescribed circumstances in such amounts and on such dates as the Director General may determine.

(2) Where tourism tax is allowed to be paid by instalments, the penalty under subsection 19(8) shall cease to be calculated from the date the Director General allows the payment by instalments.

(3) Where there is a default in the payment of any one instalment on its due date for the payment of the balance of the amount due and payable, the whole outstanding balance shall become due and payable on that date and shall, without any further notice being served on the person liable to pay the amount due, be subject to a surcharge equal to ten per cent of that balance and the surcharge shall be recoverable as if the surcharge were payable under this Act.

**Recovery of tourism tax, etc., from persons leaving Malaysia**

**27.** (1) Where the Director General has reason to believe that any person is about or is likely to leave Malaysia without paying—

- (a) any tourism tax payable by him;
- (b) any penalty payable by him under section 19;
- (c) any surcharge payable by him under section 26; or
- (d) any other money recoverable from him under this Act,

the Director General may issue to any Director of Immigration a certificate containing particulars of the tourism tax, penalty, surcharge or other money so payable with a request that such person be prevented from leaving Malaysia unless and until the person pays the tourism tax, penalty, surcharge or other money so payable, or furnishes security to the satisfaction of the Director General for its payment.

(2) Subject to any order issued or made under any written law for the time being in force relating to banishment or immigration, any Director of Immigration who receives a request under subsection (1) in respect of a person shall exercise all measures which may include the removal and retention of any certificate of identity, passport, exit permit or other travel documents in relation to that person as may be necessary to give effect to the request.

(3) The Director General shall cause a notice of the issue of a certificate under subsection (1) to be served personally or by registered post on the person to whom the certificate relates.

(4) The non-receipt of the notice referred to in subsection (3) shall not invalidate anything done under this section.

(5) Where the person in respect of whom a certificate has been issued under subsection (1) produces on or after the date of the certificate a written statement signed by the Director General stating that all the tourism tax, penalty, surcharge or other money specified in the certificate have been paid, or that security has been furnished for its payment, that statement shall be sufficient authority for allowing that person to leave Malaysia.

(6) No legal proceedings shall be instituted or maintained against the Federal Government, a State Government or any other public officer in respect of anything lawfully done under this section.

(7) In this section, "Director of Immigration" means the Director of Immigration appointed under subsection 3(1A) of the Immigration Act 1959/1963 [*Act 155*].

### **Recovery of tourism tax, etc., erroneously refunded**

**28.** (1) Where any tourism tax, penalty, surcharge or any other money after having been paid has been erroneously refunded to any person, the person shall pay the tourism tax, penalty, surcharge or any other money erroneously refunded to him upon a demand made by the Director General.

(2) The demand referred to in subsection (1) shall be made by the Director General within six years from the date the refund was made.

### **Recovery of tourism tax, etc., as civil debt**

**29.** (1) Without prejudice to any other remedy, any tourism tax due and payable, and any penalty, surcharge or any other money payable, by an operator or a digital platform service provider under this Act may be recovered as a civil debt due to the Government.

(2) In any proceedings to recover the tourism tax, penalty, surcharge or other money, if any, under subsection (1), the production of a certificate signed by the Director General giving the name and address of the operator or digital platform service provider and the amount of the tourism tax due and payable, and penalty, surcharge or other money payable, if any, by the operator or digital platform service provider shall be sufficient evidence of the amount so due by him and sufficient authority for the court to give judgment for the said amount.

(3) Any penalty or surcharge payable under this Act shall, for the purposes of this Act and the Limitation Act 1953 [*Act 254*], the Limitation Ordinance of Sabah [*Sabah Cap. 72*] or the Limitation Ordinance of Sarawak [*Sarawak Cap. 49*], as the case may be, be recoverable as if the penalty or surcharge were tourism tax due and payable under this Act and accordingly subsection 6(4) of the Limitation Act 1953, section 3 of the Limitation Ordinance of Sabah or section 3 of the Limitation Ordinance of Sarawak, as the case may be, shall not apply to that penalty or surcharge.

### **Recovery of tourism tax in other circumstances**

**30.** (1) Where an invoice, receipt or other document shows a provision of accommodation as having taken place with tourism tax chargeable on it, there shall be recoverable from the person who issued the invoice, receipt or other document an amount equal to that which is shown in the invoice, receipt or other document as tourism tax for the provision of such accommodation.

(2) Subsection (1) shall apply notwithstanding that—

- (a) the invoice, receipt or other document, in which is stated an amount which purports to be tourism tax as chargeable, is not an invoice, receipt or other document issued under section 14 or section 20F;
- (b) the invoice, receipt and other document was issued by a person who was not—
  - (i) an operator registered under section 12; or
  - (ii) a digital platform service provider registered under section 20D,

for which an amount which purports to be tourism tax was chargeable; or

- (c) the invoice, receipt or other document was issued by a person who had provided a product or service other than accommodation for which an amount which purports to be tourism tax was chargeable,

and any amount which purports to be tourism tax shall be paid immediately by that person to the Director General and, in default of payment, such amount may be recovered as a civil debt due to the Government.

### **Joint and several liability of partners, officials, committee members or directors**

**31.** (1) Notwithstanding anything to the contrary in this Act or in any other written law, where tourism tax is due and payable, and penalty, surcharge or other money is payable, by a firm, a society, an association, a company and any other body of persons, the partners of such firm, officials or committee members of such society or association, the directors of such company or such other body of persons, as the case may be, shall, together with such firm, society, association, company or other body of persons be jointly and

severally liable for the tourism tax, penalty, surcharge or other money.

(2) In relation to a company that is being wound up, the directors of such company shall only be liable where the assets of the company are insufficient to meet the amount due, after paying any sum having priority under the Companies Act 2016 [*Act 777*] in relation to the application of the assets of the company in such winding up over the tourism tax, penalty, surcharge or other money.

## PART VIA

### RULING

#### **Public ruling**

**31A.** (1) The Director General may, at any time, make a public ruling on the application of any provision of this Act in relation to any person or class of persons, or any type of business activities.

(2) The Director General may amend or withdraw, either wholly or partly, any public ruling made under this section.

(3) Notwithstanding any provision of this Act, where a public ruling under subsection (1) applies to any person in relation to a business activity and the person applies the provision in the manner stated in the ruling, the Director General shall apply the provision in relation to the person and the business activities in accordance with the ruling.

## PART VII

### ENFORCEMENT

#### **Powers of enforcement, inspection and investigation**

**32.** For the purposes of this Act, a senior officer of customs shall have all the powers of a police officer of whatever rank as provided

for in the Criminal Procedure Code [Act 593] in relation to enforcement, inspection and investigation, and such powers shall be in addition to the powers provided for in this Act and not in derogation thereof.

**Access to place, premises, etc.**

**33.** (1) Any senior officer of customs shall for the purposes of this Act at all times have full and free access to any place or premises where any person carries on the business relating to the operation of accommodation premises or the provision of service relating to online booking accommodation premises.

(2) Where any senior officer of customs exercises his powers under subsection (1), the person who operates the accommodation premises, provides service relating to online booking accommodation premises or any other person present at such place or premises at that time of entry shall provide to the senior officer of customs all reasonable facilities and assistance for the exercise of his duties under this section.

(3) Where any senior officer of customs enters upon any place or premises in accordance with this section, he may—

- (a) require the operator, digital platform service provider or any other person to produce any book, data, document or other record or thing which relates to the operator or digital platform service provider's business and any record which is required to be kept under section 17 or 20j;
- (b) examine any book, data, document or other record or thing;
- (c) seize and detain any book, data, document or other record or thing if in his opinion it may afford evidence of the commission of any offence under this Act;
- (d) require the person to answer any question relating to any book, data, document or other record or thing; or

- (e) make copies or extracts of any document, if he deems necessary.

(4) Any person who refuses to permit any senior officer of customs to enter upon any place or premises in accordance with this section commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

### **Access to recorded information or computerized data**

**34.** (1) Any officer of customs exercising his powers under this Part shall be given access to any recorded information or computerized data, whether stored in a computer or otherwise.

(2) In addition, an officer of customs exercising his powers under this Part—

- (a) may inspect and check the operation of any computer and any associated apparatus or material which the officer of customs has reasonable cause to suspect is or has been used in connection with that information or data; and
- (b) may require—
  - (i) the person by whom or on whose behalf the officer of customs has reasonable cause to suspect the computer is or has been so used; or
  - (ii) the person having charge of, or is otherwise concerned with, the operation of the computer, apparatus or material,

to provide the officer of customs with such reasonable assistance as he may require for the purposes of this section.

(3) For the purposes of subsection (1), “access” includes being provided with the necessary password, encryption code, decryption



code, software or hardware and any other means required to enable comprehension of recorded information or computerized data.

**Magistrate may issue search warrant**

**35.** (1) Whenever it appears to any Magistrate, upon written information upon oath and after any inquiry which he may think necessary, that there is reasonable cause to believe that in any place or premises, there is concealed or deposited any book, data, document or other record or thing which may afford evidence of the commission of an offence under this Act, the Magistrate may issue a warrant authorizing any officer of customs named therein, at any time and with or without assistance—

- (a) to enter the place or premises and to search for and seize the books, data, documents or other records or thing; or
- (b) to arrest any person being in the place or premises in whose possession the books, data, documents or other records or thing are found or who may reasonably be suspected as having concealed or deposited such books, data, documents or other records or thing.

(2) The officer of customs authorized under subsection (1) may, if it is necessary so to do—

- (a) break open any outer or inner door of the place or premises and enter every part thereof, if necessary forcibly;
- (b) remove by force any obstruction to the entry to search or to seize as he is empowered to effect; and
- (c) detain every person found in the place or premises until the search has been completed.

**Search may be made without warrant**

**36.** Whenever it appears to the senior officer of customs that there is reasonable cause to believe that in any place or premises, there is concealed or deposited any book, data, document or other record or thing which may afford evidence of commission of an offence under this Act and if he has reasonable grounds for believing that by reason of the delay in obtaining a search warrant the book, data, document or other record or thing is likely to be removed, he may exercise in, upon and in respect, of the place or premises all the powers in section 35 in the same manner as if he were empowered so to do by a warrant issued under that section.

**Seizure of books, documents, etc.**

**37.** (1) All books, data, documents or other records or thing in respect of which the officer of customs has reasonable cause to suspect that there has been committed any offence under this Act or any violation of any of the provisions of this Act and any receptacle, package or conveyance in which the books, data, documents or other records or thing may have been found or which has been used in connection with the offence or violation, and any other book, data, document, record or thing which may reasonably be believed to have a bearing on the case, may be seized by any officer of customs.

(2) Whenever any book, data, document or other record or thing is seized under this Act, the officer of customs shall forthwith give notice in writing of the seizure and the grounds thereof to the owner of the book, data, document or other record or thing, if known, either by delivering the notice to him personally or by posting the notice at his place of abode, if known.

(3) The provision of this section relating to the seizure of any book, data, document or other record or thing shall apply to all the content of any receptacle, package or conveyance in which the book, data, document or other record or thing is found and to any article used to conceal the book, data, document or other record or thing.

**Power of arrest**

**38.** (1) Any officer of customs may arrest without warrant—

- (a) any person found committing or attempting to commit or employing or aiding any person to commit or abetting the commission of an offence under this Act;
- (b) any person whom he may reasonably suspect to have in his possession any book, data, document or other record or thing liable to seizure under this Act; or
- (c) any person whom he may reasonably suspect to have committed an offence under this Act,

and the officer of customs may search or cause to be searched any person so arrested.

(2) Notwithstanding subsection (1)—

- (a) any person so arrested by an officer of customs who requests that his person be searched in the presence of a senior officer of customs shall not be searched except in the presence of and under the supervision of a senior officer of customs, but that person may be detained until the arrival of the senior officer of customs, or taken to any office or police station where the senior officer of customs may be found;
- (b) the belonging of any person who requests to be present when it is searched and so presents himself within a reasonable time shall not be searched except in his presence; and
- (c) no person shall be searched except by another person of the same gender, and such search shall be conducted with strict regard to decency.

(3) Any officer of customs making an arrest under subsection (1) shall, without unnecessary delay, bring the person arrested to the

nearest police station, and thereafter the person shall be dealt with in accordance with the law relating to criminal procedure for the time being in force.

(4) If any person liable to be arrested under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time thereafter be arrested and dealt with as if he had been arrested at the time of committing the offence.

(5) Every person so arrested may be released from custody—

- (a) on his depositing such reasonable sum of money as the senior officer of customs may require;
- (b) on his executing a bond with such surety as the senior officer of customs may require; or
- (c) on his depositing such reasonable sum of money as the senior officer of customs may require and his executing a bond with such surety as the senior officer of customs may require.

(6) Any person who has been released from custody under subsection (5) may be arrested without warrant by any officer of customs—

- (a) if the officer of customs has reasonable grounds for believing that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be breached; or
- (b) on being notified in writing by the surety of such person that such person is likely to breach any condition on or subject to which such person was released and that the surety wishes to be relieved of his obligation as surety.

PART VIII

OFFENCES AND PENALTIES

**Penalty for obstructing, etc., officer of customs**

**39.** Any person who—

- (a) in any way assaults, hinders or obstructs the officer of customs in the performance of his duties under this Act; or
- (b) fails to give reasonable facilities or assistance to any officer of customs in the performance of his duties under this Act,

commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding fifty thousand ringgit or to both.

**Penalty for incorrect return**

**40.** Any person who makes an incorrect return or gives any incorrect information in relation to any matter affecting his liability to collect tourism tax or the tourism tax collected commits an offence and shall, on conviction, be liable—

- (a) to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both; and
- (b) where the offence relates to tourism tax undercharged, to a penalty equal to the amount of tourism tax which has been undercharged or would have been so undercharged if the return or information had been accepted as correct.

**Penalty for collecting tourism tax by person not liable to collect tourism tax**

**41.** (1) No person shall collect from any person any sum of money for the purpose of paying tourism tax charged and levied under this Act in respect of any accommodation provided by him or on his behalf or any accommodation made available through service relating to online booking accommodation premises unless he is liable under this Act to collect the tourism tax.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Penalty for evasion of tourism tax, fraud**

**42.** (1) Any person who with intent to evade or to assist any other person to evade tourism tax—

- (a) omits from a return any information in relation to any matter affecting his liability to collect tourism tax or the amount of the tourism tax collected;
- (b) makes any false statement or false entry in any return furnished, or claim or application made, under this Act or the regulations made under this Act;
- (c) gives any false answer whether in writing or otherwise to any question asked or request for information made in accordance with the provisions of this Act or the regulations made under this Act;
- (d) prepares or maintains, or authorizes the preparation or maintenance of, any false book of account, false invoice or other false record, or falsifies or authorizes the falsification of any book of account, invoice or record; or

- (e) makes, uses or authorizes the use of any fraud, artifice or contrivance,

commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) Where in any proceedings under this section it is proved that a false statement or false entry, whether by omission or otherwise, has been made in any return furnished, or claim or application made, under this Act or the regulations made under this Act, by or on behalf of any person or in any book of account, invoice or other record maintained by or on behalf of any person, that person shall be presumed until the contrary is proved to have made that false statement or false entry with intent to evade tourism tax.

(3) Any reference in this section to a person who makes, uses or authorizes the use of any fraud, artifice or contrivance to evade tourism tax includes a reference to a person who, without the authority of the Director General or a senior officer of customs—

- (a) destroys, damages, erases, alters or manipulates data stored in, or used in connection with, a computer;
- (b) introduces into, or records or stores in, a computer by any means data for the purpose of—
  - (i) destroying, damaging, erasing, altering or manipulating data stored in, or used in connection with, a computer; or
  - (ii) interfering with, interrupting or obstructing the lawful use of the computer, or the data stored in, or used in connection with, a computer; or
- (c) otherwise uses a computer,

the purpose or effect of which is to evade tourism tax.

(4) For the purposes of subsection (3), “data” includes any computer programme or part of a computer programme.

### **Penalty for refusing to answer question or giving false information**

**43.** (1) Any person who, being required under this Act to give any information which may reasonably be required by the officer of customs which it is in his power to give, refuses to give the information or furnishes as true the information which he knows or has reason to believe to be false commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) When any of the information is proved to be untrue or incorrect in whole or in part, it shall be no defence to allege that the information or any part of the information was furnished inadvertently or without criminal or fraudulent intent, or was misinterpreted or not fully interpreted by an interpreter provided by the informant.

### **Attempts and abetments**

**44.** Any person who attempts to commit an offence punishable under this Act, or abets the commission of the offence, shall be punishable with the punishment provided for the offence.

### **General penalty**

**45.** Any person who commits an offence under this Act or the regulations made under this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.



**Offence by body of persons, etc.**

**46.** Where an offence under this Act or the regulations made under this Act has been committed by a company, a firm, a society, an association or other body of persons, any person who at the time of the commission of the offence was a director, partner, manager, secretary or other similar officer of the company, firm, society, association or other body of persons or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the company, firm, society, association or other body of persons or was assisting in such management, shall be deemed to be guilty of the offence unless he proves that the offence was committed without his knowledge, consent or connivance and that he had exercised due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

**Offence by employee or agent**

**47.** (1) Where any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his or of the employee of such agent, if such act, omission, neglect or default was committed by the employee of the person in the course of his employment, or by the agent when acting on behalf of the person, or by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

(2) Nothing in subsection (1) shall absolve an agent, officer or employee from any liability for an offence.

**Tourism tax, etc., to be payable notwithstanding any proceedings, etc.**

**48.** The institution of proceedings or the imposition of a penalty, fine or term of imprisonment under this Act or the compounding of an

offence under section 56 shall not relieve any person from the liability to pay for tourism tax, penalty, surcharge or other money under this Act.

## PART IX

### TRIALS AND PROCEEDINGS

#### **Prosecution**

**49.** No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

#### **Jurisdiction to try offences**

**50.** Notwithstanding any written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Act and to impose the full punishment for the offence.

#### **Conviction under other laws**

**51.** Nothing in this Act shall prevent the prosecution, conviction and punishment of any person according to the provisions of any other written law for the time being in force.

#### **Evidential provisions**

**52.** (1) In any proceedings under this Act any statement purporting to be signed by the Director General or an officer authorized by the Director General which forms part of or is annexed to any information, complaint or statement of claim, shall be *prima facie* evidence of any fact stated therein.

(2) A transcript of any particulars contained in a return or other document relating to tourism tax, if it is certified under the hand of the Director General or an officer authorized by the Director General

to be a true copy of the particulars, shall be *prima facie* evidence of the facts stated therein.

(3) No statement made or document produced by or on behalf of any person shall be inadmissible in evidence against the person in any proceedings against him to which this section applies, by reason only of the fact that he was or may have been induced to make the statement or produce the document by any inducement, promise or threat made by any person having any official duty under, or being appointed for the due administration of, this Act.

(4) Nothing in this Act shall affect the operation of Chapter IX of Part III of the Evidence Act 1950.

(5) Where in any proceedings it is proved that any false statement or entry has been made in any return furnished under this Act by or on behalf of any person or in any book of account or record of any person—

- (a) the person shall be presumed, until the contrary is proved, to have made the false statement or entry, or to have caused the false statement or entry to be made, or to have allowed the false statement or entry to be made, with intent to evade the payment of tourism tax or to obtain a refund of tourism tax to which the person is not entitled, as the case may be; and
- (b) any other person who made any false statement or entry shall be presumed, until the contrary is proved, to have made the false statement or entry with intent to assist the first-mentioned person to evade the payment of tourism tax or to obtain a refund of tourism tax to which he is not entitled, as the case may be.

(6) Where any officer of customs has obtained any document or other evidence in exercise of his powers under this Act, the document or copy of the document or other evidence, as the case may be, shall be *prima facie* evidence of the facts stated therein, notwithstanding anything to the contrary in any written law.

(7) Where any document which is to be used in any proceedings against any person for an offence under this Act is in a language other than the national language or English language, a translation of the document into the national language or English language shall be admissible in evidence where the translation is accompanied by a certificate of the person who translated the document setting out that the translation is an accurate, faithful and true translation and the translation had been done by the person at the instance of any officer of customs.

(8) Subsection (7) shall apply to a document which is translated, regardless of whether the document was made in or outside Malaysia, or whether the translation was done in or outside Malaysia, or whether possession of the document was obtained by any officer of customs in or outside Malaysia.

### **Evidentiary value of copies of electronic notice**

**53.** (1) For the avoidance of doubt, any electronic notice or any electronic record of an electronic notice or any copy or print out thereof shall not be inadmissible in evidence merely on the basis that it was filed, lodged or transmitted through the electronic service, without the delivery of any equivalent document or counterpart in paper form.

(2) Notwithstanding any other written law, in any proceedings under this Act, any electronic notice or any electronic record of an electronic notice or any copy or print out thereof which is—

- (a) certified by the Director General to contain all or any information filed, lodged or transmitted through the electronic service in accordance with this Act; and
- (b) duly authenticated in the manner specified in section 63 or is otherwise authenticated in the manner provided for in the Evidence Act 1950 for the authentication of document produced by computer,

shall be *prima facie* evidence of the facts stated therein.

**Imprisonment for non-payment of fine**

**54.** Notwithstanding the provisions of the Criminal Procedure Code, the period of imprisonment imposed by any court in respect of the non-payment of any fine under this Act, or in respect of the default of a sufficient distress to satisfy any such fine, shall be such period of such description as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum period as follows:

- (a) where the fine does not exceed five thousand ringgit, the maximum period shall be two months;
- (b) where the fine exceeds five thousand ringgit but does not exceed ten thousand ringgit, the maximum period shall be four months; or
- (c) where the fine exceeds ten thousand ringgit but does not exceed twenty thousand ringgit, the maximum period shall be six months,

with two additional months for every ten thousand ringgit after the first twenty thousand ringgit of the fine.

**No costs or damages arising from seizure to be recoverable unless seizure without reasonable or probable cause**

**55.** No person shall, in any proceedings before any court in respect of the seizure of any thing seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the thing or the payment of the value unless the seizure was made without reasonable or probable cause.

**Compounding of offences**

**56.** (1) The Minister may, with the approval of the Public Prosecutor, make regulations prescribing—

- (a) any offence under this Act and any regulations made under this Act that may be compounded;
- (b) the criteria for compounding such offence; and
- (c) the method and procedure for compounding such offence.

(2) The Director General or a senior officer of customs may, with the written consent of the Public Prosecutor, compound any offence committed by any person under this Act and prescribed to be a compoundable offence by making a written offer to the person suspected of committing the offence to compound the offence on payment to the Director General of an amount of money not exceeding fifty per cent of the amount of the maximum fine for that offence within the time specified in the offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the time specified in the offer or within any extended period 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 was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall after that be instituted in respect of the offence against the person to whom the offer to compound was made.

### **Court order**

**57.** (1) Where any person is found guilty of an offence under this Act, the court before which the person is found guilty shall order the person to pay to the Director General the amount of tourism tax due and payable or any penalty payable under this Act, if any, as certified by the Director General and the tourism tax or penalty shall be recoverable in the same manner as a fine as provided for in section 283 of the Criminal Procedure Code.

(2) In addition to subsection (1), the court has civil jurisdiction to the extent of the amount and the order is enforceable in all respects as a final judgment of the court in favour of the Director General.

(3) Where any person is found not guilty of an offence under this Act, and if he has paid the amount of tourism tax due and payable or penalty payable under this Act pursuant to section 48, in respect of the offence charged, the court may order the amount paid to be refunded to such person unless a notice of appeal against the decision is filed within the specified time.

### **Obligation of secrecy**

**58.** (1) Except as provided for in section 59, the name, identification card number, passport number, address of an informer or any other information which can lead to the identity of an informer and the substance of the information received from an informer shall be kept secret and shall not be disclosed by any officer of customs or any person who in the ordinary course of his duties comes into possession of or has control of or access to the information to any person except the officer of customs authorized by the Director General.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

### **Protection of informers from discovery**

**59.** (1) Except as hereinafter provided, no witness in any civil or criminal proceedings shall be obliged or permitted to disclose the name, address or any information of an informer or the substance of the information received from him or to state any matter which might lead to his discovery.

(2) If any book, document or paper which is produced in evidence or liable to inspection in any civil or criminal proceeding contain any

entry in which any informer is named or described or which might lead to his discovery, the court shall cause all the passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If in the trial for any offence under this Act, the court, after full enquiry into the case, believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit enquiry, and require full disclosure, concerning the informer.

## PART X

### MISCELLANEOUS

#### **Persons bound to produce books, etc., or give information, etc.**

**60.** (1) Every person having information about any matter into which it is the duty of an officer of customs to inquire shall, upon being required by the officer of customs to do so, give the information.

(2) Every person required by an officer of customs to produce any book, data, document or other record or thing which is within the power of the person to produce, and which is book, data, document or other record or thing required under this Act or book, data, document or other record or thing used in any transaction or other matter relating to tourism tax or book, data, document or other record or thing into which it is the duty of the officer of customs to enquire under this Act, shall produce the book, data, document or other record or thing.

(3) Where any information, book, data, document or other record or thing is not in the national language or English language, the Director General or any officer of customs may by notice in writing



require the operator or, on the operator's default, any other person, to produce, within a reasonable period, a translation thereof in the national language or English language as may be determined by the Director General or the officer of customs.

(4) Any person who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

### **Service of notices, etc.**

**61.** (1) Every notice, direction or any other document required by this Act to be served on any person may be served—

- (a) personally upon the person;
- (b) by sending it to the person by registered post; or
- (c) by electronic service.

(2) A notice, direction or other document sent to a person by registered post shall be deemed to have been served on that person at the time at which it would have been delivered to that person in the ordinary course of the post if the notice, direction or other document was addressed—

- (a) in the case of a company, a firm, a society, an association or other body of persons—
  - (i) to its registered office;
  - (ii) to its last-known address; or
  - (iii) to any person authorized by it to accept service of process; and
- (b) in the case of an individual, to his last-known address.

(3) Where a person has given his consent for a notice to be served on him through the electronic service, the notice shall be deemed to have been served at the time when the electronic notice is transmitted to his account through the electronic service.

### **Use of electronic service**

**62.** (1) Notwithstanding any other provision of this Act and subject to regulations made under this Act, the Director General may provide an electronic service to any registered user for—

- (a) the filing or furnishing of any application, return, declaration or any other document; and
- (b) the service of any notice, direction, order, permit, receipt or any other document.

(2) Where an electronic notice is made and transmitted to the Director General, the Director General shall not be liable for any loss or damage suffered by the registered user by reason of any error or omission of whatever nature or however arising appearing in any electronic notice obtained by the registered user under the electronic service if the error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Director General or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the provision of the service.

(3) Any electronic notice made and transmitted by the registered user shall be deemed to have been filed, furnished or served at the time the electronic notice is received by the Director General.

(4) For the purposes of this section, “registered user” means any person who is authorized in writing by the Director General to gain access to and use the electronic service.

**Authentication of notices, etc.**

**63.** (1) Subject to subsection (2), every notice or any other document served for the purposes of this Act by the Director General or an officer authorized by the Director General shall be sufficiently authenticated if the name and office of the Director General is printed, stamped or otherwise written thereon.

(2) Where this Act provides for a notice or any other document to be under the hand of any officer of customs, the notice or the other document shall be signed in manuscript by the officer of customs.

(3) A notice or any other document served for the purposes of this Act and purporting to be signed in manuscript by the Director General or an officer authorized by the Director General shall be presumed, until the contrary is proved, to have been so signed.

**64.** *(Deleted by Act A1633).*

**Transaction of business on behalf of operator or digital platform service provider**

**65.** (1) No person shall transact any business in relation to this Act on behalf of an operator or a digital platform service provider, except on matters with regard to—

- (a) refund;
- (b) remission;
- (c) exemption; or
- (d) any other matters as may be approved by the Director General.

(2) The person who transacts business on any of the matters stated in subsection (1) on behalf of an operator or a digital platform service provider shall—

- (a) produce a letter of authorization from the operator or digital platform service provider whom the person represents; and
- (b) produce any thing in the form and manner as determined by the Director General which is required to be submitted for the purposes of the matter being transacted.

**66.** *(Deleted by Act 851).*

### **Disputes and appeal**

**67.** Where any person disputes the decision of an officer of customs, he may appeal to the Director General whose decision on such dispute shall be final.

### **Liquidator of company to give notice of winding up and set aside tourism tax**

**68.** (1) Where after the passing of this Act an effective resolution is passed or an order is made for the winding up of a company registered under section 12, the liquidator of the company shall give notice thereof to the Director General within fourteen days after the passing of the resolution or the making of the order, and shall before disposing of any of the assets of the company set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any tourism tax that is or will thereafter become payable in respect of the accommodation that has been provided by the company, and shall pay such tourism tax.

(2) A liquidator of any such company who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the tourism tax as required under that subsection shall be personally liable for any tourism tax that is or becomes payable as aforesaid.

(3) Any liquidator who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) Where two or more persons are appointed as liquidators or are required by law to carry out the winding up of any such company, the obligations and liabilities attaching to a liquidator in this section shall attach to all such persons jointly and severally, subject to a right of contribution between themselves as in cases of contract.

### **Appointment of receiver to be notified to the Director General**

**69.** (1) Where a receiver is appointed of the property of an operator registered under section 12 or a digital platform service provider registered under section 20D, the receiver shall give notice thereof to the Director General within fourteen days after the appointment being made, and shall before disposing of any of the assets of that operator or digital platform service provider set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any tourism tax that is or will thereafter become payable in respect of the accommodation that has been provided by that operator or digital platform service provider before the appointment of the receiver, and shall pay such tourism tax.

(2) A person appointed as receiver who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the tourism tax as required under that subsection shall be personally liable for any tourism tax that is or becomes payable as aforesaid.

(3) Any receiver who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) Where two or more persons are appointed in as receivers, the obligations and liabilities attaching to a receiver in this section shall

attach to all such persons jointly and severally, subject to a right of contribution between themselves as in cases of contract.

### **Power to extend period**

**69A.** Where, by this Act, a period is specified within which an act or thing is to be done by a person, and the Minister is satisfied that the act or thing could not be completed in that period due to the occurrence of public emergency or public health crisis, the Minister may, upon such terms and conditions as the Minister thinks fit, extend the period for the completion of the act or thing before the expiration of the period.

### **Power to modify terms and conditions**

**69B.** (1) Where terms and conditions are imposed pursuant to this Act, the Minister may, on the advice of the Director General, from time to time modify the terms and conditions for the purpose of carrying out the objects of this Act.

(2) Before modifying the terms and conditions, notice must be given to the person bound by the terms and conditions stating—

(a) the terms and conditions as modified; and

(b) the date the terms and conditions as modified take effect.

(3) The modified terms and conditions shall not take effect in less than fourteen days from the date the notice is issued under subsection (2).

(4) For the purposes of this section, “modify” means add to, delete or vary.

**Power to make regulations**

**70.** (1) The Minister may make regulations as may be necessary or expedient for the purposes of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made for the following purposes:

- (a) to prescribe matters relating to registration of operator;
  - (b) to prescribe the offices for the administration of the tourism tax and for the days and times during which the offices may be opened for business;
  - (c) *(Deleted by Act 851)*;
  - (ca) to prescribe the particulars in an invoice or a receipt to be used under and for purposes connected with this Act;
  - (d) to provide for offences and penalties not exceeding a fine of thirty thousand ringgit or imprisonment not exceeding one year or both for the contravention of any provision of the regulations;
  - (e) to prescribe matters relating to electronic service; and
  - (f) to prescribe matters relating to digital platform service provider.
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**LAWS OF MALAYSIA****Act 791****TOURISM TAX ACT 2017****LIST OF AMENDMENTS**

Amending law	Short title	In force from
A1633	Tourism Tax (Amendment) Act 2021	1. 01-04-2021; except s.10 (20A, 20B, 20C(1), (2) and (4), 20D, 20E, 20F, 20G, 20H, 20I, 20J and 20K): 2. 01-07-2021; s.10 (except 20C(3)) and 21
A1673	Tourism Tax (Amendment) Act 2022	01-01-2023
Act 851	Finance (No. 2) Act 2023	See section 97 of Act 851

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# LAWS OF MALAYSIA

## Act 791

### TOURISM TAX ACT 2017

#### LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
1A	Act A1633	01-04-2021
2	Act A1633	01-04-2021
8	Act 851	30-12-2023
9	Act A1633	01-04-2021
10	Act 851	01-01-2024
11	Act 851	01-01-2024
13	Act A1633	01-04-2021
14	Act A1633	01-04-2021
	Act 851	01-01-2024
15	Act A1633	01-04-2021
18	Act A1633	01-04-2021
19	Act 851	01-01-2024
20	Act A1633	01-04-2021
Part VA	Act A1633	01-04-2021
20A	Act A1633	01-07-2021
20B	Act A1633	01-07-2021
20C	Act A1633	1. 01-07-2021—Subpara. 20C(1), (2) dan (4) 2. 01-04-2021—Subpara. 20C(3)
	Act 851	01-01-2024
20D	Act A1633	01-07-2021
20E	Act A1633	01-07-2021
20F	Act A1633	01-07-2021

Section	Amending authority	In force from
20G	Act A1633	01-07-2021
20H	Act A1633	01-07-2021
20I	Act A1633 Act 851	01-07-2021 01-01-2024
20J	Act A1633	01-07-2021
20K	Act A1633	01-07-2021
22	Act 851	01-01-2024
24	Act A1633	01-04-2021
25	Act A1633	01-04-2021
29	Act A1633	01-04-2021
30	Act A1633	01-04-2021
Part VIA	Act 851	01-01-2024
31A	Act 851	01-01-2024
33	Act A1633	01-04-2021
41	Act A1633	01-04-2021
64	Act A1633	01-04-2021
65	Act A1633 Act 851	01-04-2021 01-01-2024
66	Act A1673 Act 851	01-01-2023 01-01-2024
69	Act A1633	01-04-2021
69A	Act A1673	01-01-2023
69B	Act A1673	01-01-2023
70	Act A1633 Act A1673 Act 851	01-04-2021 01-01-2023 01-01-2024

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