



LAWS OF MALAYSIA

Act 797

SABAH PORTS AUTHORITY (CONSEQUENTIAL PROVISIONS) ACT 1968

(Revised—2017)

REVISED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
2017

**SABAH PORTS AUTHORITY (CONSEQUENTIAL
PROVISIONS) ACT 1968**

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LAWS OF MALAYSIA

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SABAH PORTS AUTHORITY (CONSEQUENTIAL PROVISIONS) ACT 1968

An Act to make provision for enabling the Sabah Ports Authority to carry out its statutory functions of providing, maintaining and managing efficient port services and facilities in Sabah, and for that purpose to confer upon the Authority all necessary protection and powers in relation to matters about which Parliament, but not the Legislature of the State of Sabah, has power to make laws.

[11 July 1968]

Short title and application

1. This Act may be cited as the Sabah Ports Authority (Consequential Provisions) Act 1968, and shall apply to the State of Sabah only.

Interpretation

2. (1) The provisions of this Act are in addition to, and not in derogation of, the provisions of the Sabah Ports Authority Enactment 1981 [*Sabah No. 17 of 1981*] (hereinafter referred to in this Act as “the Enactment”).

(2) Words and expressions used in this Act which are defined in the Enactment shall have the same meaning as in the Enactment.

Protection from personal liability

3. No matter or thing done and no contract of any kind entered into by the Authority and no matter or thing done by any member of the Authority or by any employee of the Authority or any other person acting under the direction of the Authority shall, if

the matter or thing was done or the contract was entered into in good faith for the purpose of carrying out the provisions of the Enactment, subject any such member or employee or any other person acting under the direction of the Authority personally to any action, liability, claim or demand whatsoever in respect of the matter or thing done or the contract entered into.

Members and employees deemed to be public servants

4. The members of the Authority and the employees of the Authority of every description shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

Apparatus, etc., not to be subject to distress, etc.

5. When any apparatus, fixture or fitting belonging to the Authority is placed in or upon any premises not being in the possession of the Authority for the purposes of carrying out the functions of the Authority, such apparatus, fixture or fitting shall not be subject to distress nor be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession the same is.

Damage to property

6. (1) Any person may apprehend any other person if such other person within his view commits an offence against subsection 55(1) of the Enactment and shall on such apprehension, without unreasonable delay, hand over the person so apprehended to a police officer.

(2) Any person who carelessly or accidentally removes, destroys or damages any property belonging to the Authority or hinders or prevents such property from being used or operated in the manner in which it is intended to be used or operated shall pay by way of compensation to the Authority such sum of money not exceeding five hundred ringgit as a Magistrate's Court thinks reasonable.

Damage to the Authority's property to be made good in addition to penalty

7. (1) If, through any act, neglect or default on account of which any person has incurred any penalty imposed under the Enactment, any damage to the property of the Authority has been committed by such person, he shall be liable to make good such damage as well as pay such penalty.

(2) The amount of such damage shall, in case of dispute, be determined by the court by which the party incurring such penalty has been convicted, and may be recovered as if it were a fine imposed by the court.

Lien on goods for recovery of rates

8. (1) For the amount of all rates leviable under the Enactment in respect of any goods, the Authority shall have a lien on such goods and shall be entitled to seize and detain the goods until such rates are fully paid.

(2) The lien referred to in subsection (1) shall have priority over all other liens and claims except claims for money payable to the Government of Malaysia or Government of Sabah.

(3) Rates in respect of goods to be landed shall become payable immediately on the landing of such goods.

(4) Rates in respect of goods to be shipped shall be payable before such goods are shipped.

(5) Rates in respect of goods to be removed from the premises of the Authority shall be payable on demand.

(6) If any goods which are subject to a lien as mentioned in subsection (1) are of a perishable nature, the Authority may at its discretion sell or dispose of them at any time.

(7) If the goods are sold, the Authority shall have a lien on the proceeds of the sale and subsections (1) and (2) shall apply to such lien.

Power to distrain for non-payment of dues, rates, etc.

9. (1) If the master or owner of any vessel in respect of which any dues, rates or penalties are payable under the Enactment or any regulations made under the Enactment refuses or neglects to pay the dues, rates or penalties or any part thereof on demand, the Authority may, in addition to any other remedy which it may be entitled to use, distrain or arrest of its own authority such vessel and the tackle, apparel or furniture belonging to the vessel or any part thereof, and detain the vessel, tackle, apparel or furniture until the amount so due is paid.

(2) In case any part of the dues, rates or penalties, or of the costs of the distress or arrest, or of the keeping of the vessel, tackle, apparel or furniture remains unpaid for fourteen days next after any such distress or arrest has been so made, the Authority may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, rates or penalties and costs, including costs of sale remaining unpaid, rendering the surplus, if any, to the master or owner of such vessel on demand.

(3) Where a port clearance is withheld in accordance with section 47 of the Enactment, the Authority shall pay to the Government of Malaysia or Government of Sabah, or both of them, as the case may be, any damages, compensation, costs or any expenses arising out of the withholding of such port clearance.

Limitation of Authority's liability for loss or damage to or on board any vessel

10. (1) The Authority shall not, where without its actual fault or privity any loss or damage is caused to any vessel or to any train, vehicle, goods or other things on board any vessel, be liable to damages beyond an aggregate amount not exceeding in the currency of Malaysia the equivalent of eight pounds sterling for each ton of the tonnage of the largest British registered vessel which during the period of five years next before the happening of such loss or damage has been habitually within the area over which the Authority performs any duty or exercises any power.

- (2) A vessel shall not be deemed to have been—
- (a) habitually within such area referred to in subsection (1) unless it has been within such area referred to in subsection (1) not less than three times annually during such period of five years; and
 - (b) within such area referred to in subsection (1) by reason only that—
 - (i) it has been built or fitted out within such area;
 - (ii) it has taken shelter within or passed through such area on a voyage between two places both situate outside that area; or
 - (iii) it has loaded or discharged mail or passengers within that area.

How tonnage ascertained

11. For the purposes of section 10, the tonnage of vessels shall be ascertained in accordance with the law relating to merchant shipping providing for the ascertaining of tonnage of vessels for the purpose of registration and the register of any vessel shall be sufficient evidence that the gross tonnage and the deductions from the gross and the registered tonnage are as stated in the register.

Limitation of liability in respect of one occasion

12. The limitation of liability under section 10 shall relate to the whole of any losses and damages which may arise upon any one distinct occasion, although such losses or damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any written law and notwithstanding anything contained in such written law.

Power of Court to consolidate claims

13. Where any liability is alleged to have been incurred by the Authority in respect of loss of life, personal injury or loss of, or damage to, vessels, trains, vehicles, goods or other things,

and several claims are made or apprehended in respect of that liability, then the Authority may apply to the High Court, and that Court may—

- (a) determine the amount of the Authority's liability and distribute that amount rateably among the several claimants;
- (b) stay any proceeding pending in any other court in relation to the same matter; and
- (c) proceed in such manner and subject to such regulations as to making persons interested parties to the proceedings, as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the Authority, and as to payment of any costs as the court thinks just.

Minister may appoint places to be used for the collection of revenue duties

14. (1) The Minister may, notwithstanding anything in the Enactment, appoint any part of the wharves or premises vested in the Authority as a place for the collection of import or other revenue duties payable to the Government.

(2) Whenever any wharf or part of the premises of the Authority has been so appointed as a place for the collection of import or other revenue duties, the Authority shall set apart and maintain such place, in such manner as the Minister requires, for the use of the persons entitled to collect such duties.

Bonded ware-houses

15. When any security has been given by the Authority under subsection 67(1) of the Enactment, no further security shall be required by the Government from any other person to the same effect.

16. (*Deleted by Act A25*).

Powers of arrest

17. (1) Any police officer may arrest any person committing within his view or who he has reason to believe has committed any offence punishable under the Enactment or any regulations made under the Enactment—

- (a) if the name and address of the person are unknown to him;
- (b) if the person declines to give his name and address; or
- (c) if there is reason to doubt the accuracy of the name and address given.

(2) A person arrested under this section or under subsection 71(1) of the Enactment may be detained at the nearest police station until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a court unless the order of a court for his continued detention is obtained.

Compensation, damages and costs to be determined by Magistrate's Court

18. (1) Except as otherwise provided in this Act, in all cases where compensation, damages, costs or expenses are by this Act directed to be paid, the amount and, if necessary, the apportionment of the amount and any question of liability shall in case of dispute be summarily ascertained and determined by a Magistrate's Court.

(2) If the amount of compensation, damages, costs or expenses is not paid by the party liable to pay the amount within seven days after demand, such amount may be reported to a Magistrate's Court and recovered in the same way as if it were a fine imposed by a Magistrate's Court.

(3) An appeal shall lie to the High Court from any decision of a Magistrate's Court under this section, and the provisions of the Criminal Procedure Code [Act 593] shall *mutatis mutandis* apply to all such appeals.

Disposal of matters and things removed by the Authority

19. (1) Any matter or thing removed by the Authority in executing any work which it is entitled to execute under the Enactment or any regulations made under the Enactment shall except as otherwise provided be the property of the Authority and may be sold by public auction or if the Authority thinks the circumstances of the case require, may be sold otherwise or be disposed of without sale.

(2) The moneys arising from the sale may be retained by the Authority and applied in or towards the expenses incurred and the surplus, if any, shall be paid on demand to the owner of such matter or thing.

(3) If such surplus is not claimed within one year, it shall be paid into the funds of the Authority.

(4) If any matters or things belonging to several persons are removed by the Authority in executing any such work, it shall cause such matters or things, if sold, to be sold separately.

Proceedings against companies and firms

20. (1) For the purposes of—

- (a) any prosecution for an offence against the Enactment or any regulations made under the Enactment; or
- (b) any claim for compensation, damages, costs or expenses under this Act,

it shall be sufficient, in any complaint or summons made to or issued by a Magistrate's Court against any company or firm of partners, to state the alleged offence as if it had been committed by the company or firm and to direct the summons to the company or any officer of the company or to the firm or any partner of the firm.

(2) Service of the summons at the principal place of business in Malaysia of the company or firm or at any branch office of the company or firm in Sabah shall be good and sufficient service.

(3) For the purposes of recording a conviction against, imposing a fine upon or ordering any compensation, damages, costs or expenses to be paid by, any company or firm under the Enactment or any regulations made under the Enactment, or under this Act, it shall be sufficient for the court to describe the company or firm by its business name without naming any individual.

(4) Any fine imposed upon a company or firm for an offence against the Enactment or any regulations made under the Enactment and any compensation, damages, costs or expenses ordered to be paid under this Act may be recovered by the warrant of a Magistrate's Court made out and issued in the business name of the company or firm, and may be levied and recovered by distress and sale of the goods of the company or, in the case of a firm, of the goods of the firm or any partner of the firm.

Validation

21. If any provision of the Enactment purports to make law with respect to any matter enumerated in the Federal List, that provision shall have effect as if it had been made with the authority of Parliament given under Clause (1) of Article 76A of the Federal Constitution.

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(Revised—2017)

*Particulars under paragraphs 7(ii) and (iii) of the Revision of
Laws Act 1968 [Act 1]*

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A25	Sabah Ports Authority (Consequential Provisions) (Amendment) Act 1969	01-12-1968
Act A1393	Merchant Shipping (Amendment and Extension) Act 2011	01-03-2014

LIST OF LAWS OR PARTS THEREOF SUPERSEDED

No.	Title
Act No. 25 of 1968	Sabah Ports Authority (Consequential Provisions) Act 1968

LAWS OF MALAYSIA**Act 797****SABAH PORTS AUTHORITY (CONSEQUENTIAL
PROVISIONS) ACT 1968**

(Revised—2017)

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
11	Act A1393	01-03-2014
16	Act A25	01-12-1968

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SABAH PORTS AUTHORITY (CONSEQUENTIAL PROVISIONS) ACT 1968

(Revised—2017)

LIST OF AMENDMENTS MADE BY THE COMMISSIONER OF LAW REVISION UNDER SECTION 6 OF THE REVISION OF LAWS ACT 1968 [ACT 1]

Provisions	Particulars of amendments	Authority for amendment
Table of contents	Table of contents altered	paragraphs 6(1)(vii) and (xvi)
Title of the Act	Comma after the word “Act” omitted	paragraph 6(1)(xvi)
Effective date	Words “ <i>11 July 1968</i> ” substituted for “ <i>11th July, 1968.</i> ”	paragraph 6(1)(iii)
Enacting clause	Omitted	subparagraph 6(1)(i)(f)
Throughout the Act	1. Shoulder note substituted for marginal note	paragraph 6(1)(xxiv)
	2. Full stop at the end of shoulder notes omitted	paragraph 6(1)(xv)
	3. Word “subsection” substituted for “sub-section”	paragraph 6(1)(xvi)
	4. Words “Sabah Ports Authority Enactment 1981” substituted for “the Enactment”	paragraph 6(1)(iii)
section 1	Comma before the word “1968” omitted	paragraph 6(1)(xvi)
subsection 2(1)	1. Words “Sabah Ports Authority Enactment 1981 [<i>Sabah No. 17 of 1981</i>]” substituted for “Sabah Ports Authority 1967 [<i>Sabah No. 9 of 1967</i>]”	paragraph 6(1)(xx)

Provisions	Particulars of amendments	Authority for amendment
section 3	2. Words “in this Act” substituted for “as”	paragraph 6(1)(iii)
	1. Words “of the Authority” substituted for “thereof”	paragraph 6(1)(iii)
	2. Words “of the matter or thing done or the contract entered into” substituted for “thereof”	paragraph 6(1)(iii)
section 4	1. Words “of the Authority,” substituted for “thereof”	paragraph 6(1)(iii)
	2. Comma after the word “the Authority” omitted	paragraph 6(1)(xvi)
	3. Words “Penal Code [Act 574]” substituted for “Penal Code of Sabah”	subparagraph 6(1)(i)(aa) and paragraph 6(1)(iii)
subsection 6(1)	1. Words “the provisions of” omitted	paragraph 6(1)(xxi)
	2. Words “subsection 55(1)” substituted for “section 45(1)”	paragraph 6(1)(xix)
subsection 7(1)	1. Comma inserted after the word “if”	paragraph 6(1)(xvi)
	2. Words “of which” substituted for “whereof”	paragraph 6(1)(iii)
subsection 8(1)	Rearranged and divided into subsections (1) and (2) with consequential alterations made	paragraphs 6(1)(xii), (xiii) and (xxiv)
subsections 8(2), (3) and (4)	Renumbered as subsection (3), (4) and (5)	paragraph 6(1)(xii)
subsections 8(5)	1. Rearranged and divided into subsections (6) and (7) with consequential alterations made	paragraphs 6(1)(xii), (xiii), (xxi) and (xxiv)
	2. Words “mentioned in subsection (1)” substituted for “aforesaid”	paragraphs 6(1)(xii), (xiii), (xxi) and (xxiv)
subsection 9(1)	1. Words “under the Enactment” substituted for “thereunder”	paragraph 6(1)(iii)

Provisions	Particulars of amendments	Authority for amendment
	2. Words “dues, rates or penalties” substituted for “same”	paragraph 6(1)(iii)
	3. Words “to the vessel” substituted for “thereto”	paragraph 6(1)(iii)
	4. Words “vessel, tackle, apparel or furniture” substituted for “same”	paragraph 6(1)(iii)
subsection 9(2)	1. Words “the space of” omitted	paragraph 6(1)(xxi)
	2. Words “the dues, rates or penalties,” substituted for “the said dues, rates or penalties,”	paragraph 6(1)(iii)
	3. Words “or of the keeping of the vessel, tackle, apparel or furniture” substituted for “or of the keeping of the said vessel, tackle, apparel or furniture”	paragraph 6(1)(iii)
subsection 9(3)	1. Word “the” omitted	paragraph 6(1)(xxi)
	2. Words “provisions of” omitted before the word “section 47”	paragraph 6(1)(xxi)
	3. Words “Government of Malaysia or Government of Sabah” substituted for “Government of the Federation or of Sabah”	paragraph 6(1)(iii)
	4. Words “whatsoever” omitted	paragraph 6(1)(xxi)
section 10	Rearranged, divided and renumbered as subsection 10(1) and paragraphs (2)(a) and (b) with consequential alterations made	paragraphs 6(1)(xii), (xiii), (xxi) and (xxiv)
section 11	1. Words “in accordance with the law relating to merchant shipping providing for the ascertaining of tonnage of vessels for the purpose of registration” substituted for “as provided by sub-section (2) of section 360 of the Merchant Shipping Ordinance, 1952 [Ord. No. 70 of 1952],”	paragraphs 6(1)(vii), (xvi) and (xix)

Provisions	Particulars of amendments	Authority for amendment
	2. Words “from the gross” substituted for “therefrom”	paragraph 6(1)(iii)
	3. Words “in the register” substituted for “therein”	paragraph 6(1)(iii)
section 13	Rearranged, divided into paragraphs (a), (b) and (c) with consequential alterations made	paragraphs 6(1)(xii), (xiii), (xxi) and (xxiv)
section 15	Words “subsection 67(1) of the Enactment ” substituted for “section 57(1) of the Enactment”	paragraph 6(1)(xix)
subsection 17(1)	Words “under the Enactment” substituted for “thereunder”	paragraph 6(1)(iii)
subsection 17(2)	Words “subsection 71(1)” substituted for “section 61(1)”	paragraph 6(1)(iii)
subsection 18(1)	Word “amount” substituted for “same”	paragraph 6(1)(iii)
subsection 18(2)	Word “amount” substituted for “same”	paragraph 6(1)(iii)
subsection 18(3)	Words “Criminal Procedure Code [Act 593]” substituted for “Criminal Procedure Code of Sabah”	paragraphs 6(1)(iii) and (xix)
subsection 20(1)	1. Words “under the Enactment” substituted for “thereunder”	paragraph 6(1)(iii)
	2. Words “of the company” substituted for the word “thereof” after the words “or any officer”	paragraph 6(1)(iii)
	3. Words “of the firm” substituted for the word “thereof” after the words “or any partner”	paragraph 6(1)(iii)
subsection 20(2)	Words “at any branch office of the company or firm” substituted for “at any of their branch office thereof”	paragraph 6(1)(iii)
subsection 20(3)	Words “under the Enactment” substituted for “thereunder”	paragraph 6(1)(iii)

Provisions	Particulars of amendments	Authority for amendment
subsection 20(4)	1. Words “under the Enactment” substituted for “thereunder”	paragraph 6(1)(iii)
	2. Words “of the firm” substituted for “thereof”	paragraph 6(1)(iii)
section 21	Words “Federal Constitution” substituted for “Constitution”	paragraphs 6(1)(iii) and (xxi)
Date of Royal Assent	Omitted	paragraph 6(1)(xxiv)
