



LAWS OF MALAYSIA

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Act 638

NATIONAL ANTI-DRUGS AGENCY ACT 2004

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NATIONAL ANTI-DRUGS AGENCY ACT 2004

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LAWS OF MALAYSIA**Act 638*****NATIONAL ANTI-DRUGS AGENCY ACT 2004**

An Act to establish the National Anti-Drugs Agency to vest powers on the officers of the Agency to perform preventive, treatment, rehabilitation, enforcement, investigation, special preventive measures, forfeiture of property and administrative functions with respect to offences under the Dangerous Drugs Act 1952 [Act 234], Drug Dependants (Treatment and Rehabilitation) Act 1983 [Act 283], Dangerous Drugs (Special Preventive Measures) Act 1985 [Act 316], Dangerous Drugs (Forfeiture of Property) Act 1988 [Act 340] and for matters necessary thereto or connected therewith.

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ENACTED by the Parliament of Malaysia as follows:

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

1. (1) This Act may be cited as the National Anti-Drugs Agency Act 2004.

(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 provisions of this Act.

Interpretation

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

“Agency” means the National Anti-Drugs Agency established under section 3;

*NOTE—This Act is not yet in force.

“Director General” means the Director General of the Agency appointed under subsection 4(1);

“Minister” means the Minister charged with the responsibility for internal security;

“officer of the Agency” includes the Director General and any officer appointed under section 5.

PART II

ESTABLISHMENT OF AGENCY AND APPOINTMENTS

Establishment of the National Anti-Drugs Agency

3. (1) For the purpose of this Act, the National Anti-Drugs Agency is established.

(2) The Agency shall, subject to this Act, be employed for the prevention, detection, apprehension, enforcement, investigation and prosecution of offenders involving dangerous drugs offences, treatment and rehabilitation of drug dependants, special preventive detention of persons associated with any activity relating to or involving the trafficking in dangerous drugs, forfeiture of property connected with any activity related to dangerous drugs offences and the collection of security intelligence relating to dangerous drugs activity.

Appointment of the Director General of the Agency

4. (1) The Yang di-Pertuan Agong shall, on the advice of the Prime Minister, appoint a Director General of the National Anti-Drugs Agency, who shall head the Agency, from amongst members of the public services for such period and on such terms and conditions as may be specified in the instrument of appointment.

(2) The period of appointment of the Director General shall not extend beyond the date of his compulsory retirement from the public service, but where he attains the age of compulsory retirement he may be re-appointed as Director General by the Yang di-Pertuan Agong, on the advice of the Prime Minister, on contract for such period and on such terms and conditions as may be specified in the instrument of appointment.

(3) The Director General shall, during the period of his appointment as set out in the instrument of appointment, hold office at the pleasure of the Yang di-Pertuan Agong, subject to the advice of the Prime Minister.

(4) The Director General shall, during his term of office as such, be deemed to be a member of the general public service of the Federation for purposes of discipline.

(5) The Director General shall be responsible for the direction, command, control and supervision of all matters relating to the Agency.

(6) The Director General shall, before assuming the duties and responsibilities of his office, make, in such manner as he may declare to be most binding on his conscience before the Yang di-Pertuan Agong, such declaration as may be prescribed by the Minister by regulations made under section 13.

(7) There shall be issued to the Director General a certificate of appointment in the form of an authority card as evidence of his appointment.

Appointment of other officers of the Agency

5. (1) There shall be appointed such number of officers of the Agency to hold the office of Deputy Director General, Director, Senior Assistant Director, Assistant Director, Investigator, Senior Assistant Officer, Assistant Officer and such number of other officers of the Agency as may be necessary for the purpose of carrying into effect the provisions of this Act.

(2) An officer appointed under subsection (1) shall have such powers as may be provided for him under this Act and shall be subject to the direction, command, control and supervision of the Director General or any other officer of the Agency superior to him in rank, and shall exercise his powers, perform his functions, and discharge his duties in compliance with such directions or instructions as may be specified orally or in writing by the Director General or any other officer of the Agency superior to him in rank.

(3) A certificate of appointment in the form of an authority card shall be issued to every officer of the Agency appointed under

subsection (1), and such card shall be signed by the Director General and shall be *prima facie* evidence of the appointment under this Act.

PART III

FUNCTIONS AND POWERS OF THE AGENCY

Functions of the Agency

6. The functions of the Agency shall be—

- (a) to enforce, carry out and give effect to the provisions of the Dangerous Drugs Act 1952 except for sections 4, 5, 7, paragraph 9(1)(a), section 11, subsection 12(1) and sections 16 and 17;
- (b) to enforce, exercise, discharge and perform the powers, duties and functions under the Drug Dependants (Treatment and Rehabilitation) Act 1983;
- (c) to enforce, exercise, discharge and perform the powers, duties and functions under the Dangerous Drugs (Special Preventive Measures) Act 1985;
- (d) to enforce, administer, carry out and give effect to the provisions of the Dangerous Drugs (Forfeiture of Property) Act 1988;
- (e) to prevent and suppress illicit trafficking and misuse of dangerous drugs;
- (f) to lend assistance in any misuse of dangerous drugs matters on a request by a foreign State as provided under the Mutual Assistance in Criminal Matters Act 2002 [Act 621];
- (g) to educate the public against misuse of dangerous drugs;
- (h) to enlist and foster public support in combating misuse of dangerous drugs;
- (i) to advise the Minister on policies relating to prevention of misuse of dangerous drugs, treatment and rehabilitation of drug dependants, special preventive measures of persons

associated with trafficking in dangerous drugs and the forfeiture of property connected with dangerous drugs offences; and

- (j) generally to perform any other duty for combating misuse of dangerous drugs or do all matters incidental thereto.

Powers of the Agency

7. (1) The Agency shall have powers to carry out the purposes mentioned in subsection 3(2) and to do all things reasonably necessary for or incidental to the performance of its functions under section 6.

(2) Without prejudice to the generality of subsection (1), an officer of the Agency shall have, for the purposes of this Act, all the powers and immunities of a police officer as provided for under the Dangerous Drugs Act 1952, Drug Dependants (Treatment and Rehabilitation) Act 1983, Dangerous Drugs (Special Preventive Measures) Act 1985 and Dangerous Drugs (Forfeiture of Property) Act 1988.

(3) Without prejudice to the generality of subsection (2)—

- (a) a Deputy Director General, a Director, a Senior Assistant Director and an Assistant Director of the Agency shall have all the powers of a police officer of and above the rank of Assistant Superintendent of Police;
- (b) an Investigator of the Agency shall have all the powers of a police officer of the rank of Inspector;
- (c) a Senior Assistant Officer of the Agency shall have all the powers of a police officer of the rank of Sub-Inspector;
- (d) an Assistant Officer of the Agency shall have all the powers of a police officer of the rank of Sergeant; and
- (e) an officer of the Agency below the rank of an Assistant Officer shall have all the powers of a police officer of the rank of Corporal and below.

PART IV

GENERAL

Report on status of investigation

8. (1) Any person who has given information to the Agency under the Dangerous Drugs Act 1952, Drug Dependents (Treatment and Rehabilitation) Act 1983, Dangerous Drugs (Special Preventive Measures) Act 1985 or Dangerous Drugs (Forfeiture of Property) Act 1988 may request for a report on the status of the investigation of the offence complained of in his information from the Agency.

(2) The Agency shall give a status report on the investigation of such offence to the informant not later than two weeks from the receipt of the request made under subsection (1).

(3) Notwithstanding subsection (2), the Agency shall not be required to provide a status report on an investigation of an offence—

- (a) unless a period of four weeks has lapsed from the date of the giving of the information; and
- (b) which contains any matter that is likely to adversely affect the investigation into the offence or the prosecution of the offence.

(4) Where a request has been made under subsection (1) and the Agency has failed to furnish the informant with a status report within the period specified in subsection (2), but subject to subsection (3), the informant may make a report to the Public Prosecutor of the failure.

(5) Upon receipt of the report under subsection (4), the Public Prosecutor shall direct the Agency to furnish him with a detailed status report on the investigation that has been conducted by the Agency in relation to the offence in the information given by the informant.

(6) The Public Prosecutor shall cause to be furnished to the informant, or direct the Agency to furnish to the informant, a status report containing such information as may be directed by the Public Prosecutor.

(7) Any officer of the Agency who fails to comply with a directive of the Public Prosecutor under this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one month or to fine not exceeding one thousand ringgit or to both.

Report of an officer of the Agency

9. (1) Every investigation under the Dangerous Drugs Act 1952, Drug Dependants (Treatment and Rehabilitation) Act 1983, Dangerous Drugs (Special Preventive Measures) Act 1985 or Dangerous Drugs (Forfeiture of Property) Act 1988 shall be completed without unnecessary delay, and the officer of the Agency making the investigation shall, unless the offence is of a character which the Public Prosecutor has directed need not be reported to him, submit to the Public Prosecutor a report of his investigation together with the investigation papers in respect of such investigation within one week of the expiry of the period of three months from the date the information was given.

(2) Notwithstanding subsection (1), the Public Prosecutor may at any time, regardless that the period of three months mentioned in subsection (1) has not expired, direct the officer of the Agency making the investigation to submit to the Public Prosecutor a report in the form in the Schedule and the investigation papers in respect of the investigation.

(3) An officer of the Agency who fails to submit the report and investigation papers under this section commits an offence and shall, on conviction, be liable to imprisonment for a term which may extend to one month or to fine which may extend to one thousand ringgit or to both.

Officer deemed to be always on duty

10. Every officer of the Agency shall, for the purposes of this Act, be deemed to be always on duty when required to perform his duty or functions and may perform the duties and exercise the powers conferred on him under this Act or under any other written law at any place within or outside Malaysia.

Identification

11. Every officer of the Agency when acting under this Act shall, on demand, declare his office and produce to the person against whom he is acting or from whom he seeks any information the authority card issued to him under this Act.

Standing orders

12. The Director General may issue administrative orders to be, called “Standing Orders”, not inconsistent with the provisions of this Act, on the general control, training, duties and responsibilities of officers of the Agency, and for such other matters as may be necessary or expedient for the good administration of the Agency or for the prevention of the abuse of power or neglect of duty, and generally for ensuring the efficient and effective functioning of the Agency.

Regulations

13. The Minister may make such regulations as are necessary or expedient to give full effect to or for carrying out the provisions of this Act.

SCHEDULE

[Section 9]

REPORT OF AN OFFICER OF AN AGENCY

To the Public Prosecutor.

1. At _____ o'clock on the _____ day of _____ 20____, I received information by _____ from _____ that a _____ had taken place at _____ and that _____ persons were concerned or suspected of being concerned therein, and that the total amount of property concerned in the report was RM _____ .
2. I proceeded thereupon to take action as detailed in the enclosed investigation diaries.
3. I ascertained the following facts _____ .
4. I examined the following witnesses whose statements accompany this report: persons marked "B" are under a Bond to appear in Court.
5. The following documents accompany this report in addition to the statements of the witnesses:

Investigation Diary No.

6. I am of opinion that the offence of _____ is disclosed and that the following persons are concerned therein _____ .
7. I have reason to believe that the following persons apart from those accused persons not yet arrested can throw light upon the case but I have been unable to examine them for the reasons here stated:
8. The under-mentioned articles have been secured or recovered and are to serve as exhibits.

Signature

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Act 638

NATIONAL ANTI-DRUGS AGENCY ACT 2004

LIST OF AMENDMENTS

Amending law

Short title

In force from

– NIL –
