



# LAWS OF MALAYSIA

REPRINT

**Act 613**

## **ANTI-MONEY LAUNDERING ACT 2001**

*Incorporating all amendments up to 1 January 2006*

PUBLISHED BY  
THE COMMISSIONER OF LAW REVISION, MALAYSIA  
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968  
IN COLLABORATION WITH  
PERCETAKAN NASIONAL MALAYSIA BHD  
2006

**ANTI-MONEY LAUNDERING ACT 2001**

Date of Royal Assent... ..	25 June 2001
Date of publication in the <i>Gazette</i> ...	5 July 2001

*PREVIOUS REPRINT*

*First Reprint* ... .. 2002

# LAWS OF MALAYSIA

## Act 613

### ANTI-MONEY LAUNDERING ACT 2001

---

#### ARRANGEMENT OF SECTIONS

---

##### Part I

#### PRELIMINARY

Section

1. Short title and commencement
2. Application
3. Interpretation

##### Part II

#### MONEY LAUNDERING OFFENCES

4. Offence of money laundering
5. Protection of informers and information
6. Restriction on revealing disclosure under section 5

##### Part III

#### FINANCIAL INTELLIGENCE

7. Functions of the competent authority
8. Provisions relating to the competent authority
9. Authorization to release information
10. Communication to a foreign State
11. Prohibited disclosure
12. Permitted disclosure

## PART IV

## REPORTING OBLIGATIONS

## Section

13. Record-keeping by reporting institutions
14. Report by reporting institutions
15. Centralization of information
16. Identification of account holder
17. Retention of records
18. Opening account in false name
19. Compliance programme
20. Secrecy obligations overridden
21. Obligations of supervisory or licensing authority
22. Powers to enforce compliance
23. Currency reporting at border
24. Protection of persons reporting
25. Examination of a reporting institution
26. Examination of person other than a reporting institution
27. Appearance before examiner
28. Destruction of examination records

## PART V

## INVESTIGATION

29. Investigation by competent authority and enforcement agencies
30. Appointment of investigating officer
31. Powers of an investigating officer
32. Power to examine persons
33. Search of a person
34. Obstruction to exercise of powers by an investigating officer
35. Tipping-off
36. Requirement to provide translation
37. Delivery of property, record, report or document
38. Seizing of property, record, report or document

Section

39. Release of property, record, report or document seized
40. Statement to be admissible
41. Investigating officer may arrest without warrant
42. Arrested person to be made over to police officer
43. Investigating officer deemed to be public servant and public officer

PART VI

FREEZING, SEIZURE AND FORFEITURE

44. Freezing of property
45. Seizure of movable property
46. Further provisions relating to seizure of movable property
47. Advocates and solicitors to disclose information
48. Investigation powers in relation to a financial institution
49. Public Prosecutor's powers to obtain information
50. Seizure of movable property in financial institution
51. Seizure of immovable property
52. Special provisions relating to seizure of a business
53. Prohibition of dealing with property outside Malaysia
54. Dealing with property after seizure to be void
55. Forfeiture of property upon prosecution for an offence
56. Forfeiture of property where there is no prosecution
57. Validity of freeze, seizure or sale
58. Vesting of forfeited property in the Federal Government
59. Pecuniary orders
60. Release of property seized
61. *Bona fide* third parties
62. Disposition of forfeited property
63. Absconded person
64. Forfeiture order where person has absconded
65. Effect of death on proceedings
66. Service of documents on absconders

## PART VII

## MISCELLANEOUS

## Section

67. Property tracking
68. Additional powers of competent authority and enforcement agency
69. Agent provocateur
70. Standard of proof
71. Admissibility of documentary evidence
72. Admissibility of statements by accused persons
73. Admissibility of statements and documents of persons who are dead or cannot be traced, *etc.*
74. Admissibility of translation of documents
75. Evidence of corresponding law or foreign law
76. Proof of conviction and acquittal
77. Indemnity
78. Service of notices
79. Preservation of secrecy
80. Exemptions
81. Modifications
82. Jurisdiction
83. Power to issue guidelines, *etc.*
84. Regulations
85. Amendment of Schedules
86. General offence
87. Offence committed by any person acting in an official capacity
88. Offence by an individual
89. Falsification, concealment and destruction of document, *etc.*
90. Seizable offence
91. Joinder of offences
92. Power of competent authority to compound offences
93. Prosecution

FIRST SCHEDULE

SECOND SCHEDULE

## LAWS OF MALAYSIA

### Act 613

#### ANTI-MONEY LAUNDERING ACT 2001

An Act to provide for the offence of money laundering, the measures to be taken for the prevention of money laundering and to provide for forfeiture of property derived from, or involved in, money laundering, and for matters incidental thereto or connected therewith.

[15 January 2002; P.U. (B) 15/2002]

#### Part I

#### PRELIMINARY

##### **Short title and commencement**

1. (1) This Act may be cited as the Anti-Money Laundering Act 2001.

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

##### **Application**

2. (1) This Act shall apply to any serious offence, foreign serious offence or unlawful activity whether committed before or after the commencement date.

(2) This Act shall apply to any property, whether it is situated in or outside Malaysia.

(3) Nothing in this Act shall impose any duty or confer any power on any court in or in connection with any proceedings under this Act against a person for a serious offence in respect of which he has been convicted by a court before the commencement date.

## Interpretation

3. (1) In this Act, unless the context otherwise requires—

“enforcement agency” includes a body or agency that is for the time being responsible in Malaysia for the enforcement of laws relating to the prevention, detection and investigation of any serious offence;

“unlawful activity” means any activity which is related, directly or indirectly, to any serious offence or any foreign serious offence;

“Bank Negara Malaysia” means the Central Bank of Malaysia established by the Central Bank of Malaysia Act 1958 [Act 519];

“thing” includes material;

“specify” means specify in writing, and a power to specify includes the power to specify differently for different persons or different classes of persons and to amend any specification;

“prescribed” means prescribed by regulations made under this Act, and a power to prescribe includes the power to make different provisions in the regulations for different persons or classes of persons;

“document” has the same meaning as in the Evidence Act 1950 [Act 56];

“constituent document”, in relation to an institution, means the statute, charter, memorandum of association and articles of association, rules and by-laws, partnership agreement, or other instrument, under or by which the institution is established and its governing and administrative structure and the scope of its functions and business are set out, whether contained in one or more documents;

“proceeds of an unlawful activity” means any property derived or obtained, directly or indirectly, by any person as a result of any unlawful activity;

“property” means movable or immovable property of every description, whether situated in or outside Malaysia and whether tangible or intangible and includes an interest in any such movable or immovable property;

“financial institution” means—

- (a) an institution licensed under the Islamic Banking Act 1983 [Act 276], the Takaful Act 1984 [Act 312], the Banking and Financial Institutions Act 1989 [Act 372], the Insurance Act 1996 [Act 553] and the Money-Changing Act 1998 [Act 577];
- (b) a person licensed under the Securities Industry Act 1983 [Act 280], the Securities Commission Act 1993 [Act 498] and the Futures Industry Act 1993 [Act 499]; or
- (c) an offshore financial institution;

“offshore financial institution” has the same meaning as in the Labuan Offshore Financial Services Authority Act 1996 [Act 545];

“reporting institution” means any person, including branches and subsidiaries outside Malaysia of that person, who carries on any activity listed in the First Schedule;

“serious offence” means—

- (a) any of the offences specified in the Second Schedule;
- (b) an attempt to commit any of those offences; or
- (c) the abetment of any of those offences;

“foreign serious offence” means an offence—

- (a) against the law of a foreign State stated in a certificate purporting to be issued by or on behalf of the government of that foreign State; and
- (b) that consists of or includes an act or activity which, if it had occurred in Malaysia, would have constituted a serious offence;

“client” includes a customer;

“Labuan Offshore Financial Services Authority” means the Authority established by the Labuan Offshore Financial Services Authority Act 1996;

“material” includes any book, document or other record in any form and any container or article relating to it;

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

“Minister of Finance” means the Minister charged with the responsibility for finance;

“foreign State” means any country or territory outside Malaysia;

“controller”, in relation to an institution, means—

- (a) the chief executive officer of the institution or of a body corporate of which the institution is a subsidiary;
- (b) a person, either alone or with any associate—
  - (i) has interest in one third or more of its voting shares;
  - (ii) has the power to appoint, or cause to be appointed, a majority of its directors; or
  - (iii) has the power to make a decision, or cause a decision to be made, in respect of its business or administration;

“money laundering” means the act of a person who—

- (a) engages, directly or indirectly, in a transaction that involves proceeds of any unlawful activity;
- (b) acquires, receives, possesses, disguises, transfers, converts, exchanges, carries, disposes, uses, removes from or brings into Malaysia proceeds of any unlawful activity; or
- (c) conceals, disguises or impedes the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity;

where—

- (aa) as may be inferred from objective factual circumstance, the person knows or has reason to believe, that the property is proceeds from any unlawful activity; or
- (bb) in respect of the conduct of a natural person, the person without reasonable excuse fails to take reasonable steps to ascertain whether or not the property is proceeds from any unlawful activity;

“competent authority” means the person appointed under subsection 7(1);

“premises” includes—

- (a) a structure (whether or not movable or offshore), building, tent, vehicle, vessel, hovercraft or aircraft;
- (b) a place (whether or not enclosed or built upon); and
- (c) part of any premises (including premises of a kind referred to in paragraph (a) or (b));

“process” means any summons, warrant, order or other document in respect of a criminal matter that is issued—

- (a) out of any court; or
- (b) out of any court of a foreign State;

or by any judge, magistrate or officer of such a court, as the case may be;

“criminal proceedings” means a trial of a person for a serious offence or foreign serious offence, as the case may be, and includes any proceedings to determine whether a particular person should be tried for the offence;

“relative”, in relation to a person, means—

- (a) a spouse of that person;
- (b) a brother or sister of that person;
- (c) a brother or sister of the spouse of that person; or
- (d) any lineal ascendant or descendant of that person;

“associate”, in relation to a person, means—

- (a) any person who is a nominee or an officer of that person;
- (b) any person who manages the affairs of that person;
- (c) any firm of which such person, or any nominee of his, is a partner or a person in charge or in control of its business or affairs;
- (d) any corporation within the meaning of the Companies Act 1965 [*Act 125*], of which such person, or any nominee of his, is a director or is in charge or in control of its business or affairs, or in which such person, alone or together with any nominee of his, has or have a controlling interest, or shares to the total value of not less than thirty per centum of the total issued capital of that corporation; or
- (e) the trustee of any trust, where—
  - (i) the trust has been created by that person; or
  - (ii) the total value of the assets contributed by that person to the trust at any time, whether before or after the creation of the trust, amounts, at any time, to not less than twenty per centum of the total value of the assets of the trust;

“Securities Commission” means the Securities Commission established under the Securities Commission Act 1993;

“transaction” includes an arrangement to open an account involving two or more persons and any related transaction between any of the persons concerned and another;

“dealing”, in relation to any property, includes—

- (a) receiving or acquiring the property;
- (b) concealing or disguising the property (whether by concealing, or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it or otherwise);
- (c) disposing of or converting the property;

- (d) bringing the property into or removing the property from Malaysia;
  - (e) using the property to borrow money, or as security (whether by way of charge, mortgage or pledge or otherwise); or
  - (f) where a debt is owed to the person holding the property, making a payment to any person in reduction of the amount of the debt.
- (2) For the purposes of this Act—
- (a) a reference to a foreign State includes a reference to—
    - (i) a territory of that foreign State; and
    - (ii) a ship or aircraft of, or registered in, that foreign State; and
  - (b) a reference to the law of a foreign State includes a reference to the law in force in any part of that foreign State.

## PART II

### MONEY LAUNDERING OFFENCES

#### **Offence of money laundering**

4. (1) Any person who—

- (a) engages in, or attempts to engage in; or
- (b) abets the commission of,

money laundering, commits an offence and shall on conviction be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both.

(2) A person may be convicted of an offence under subsection (1) irrespective of whether there is a conviction in respect of a serious offence or foreign serious offence or that a prosecution has been initiated for the commission of a serious offence or foreign serious offence.

**Protection of informers and information**

**5.** (1) Where a person discloses to an enforcement agency his knowledge or belief that any property is derived from or used in connection with money laundering or any matter on which such knowledge or belief is based—

- (a) if he does any act in contravention of subsection 4(1) and the disclosure relates to the arrangement concerned, he does not commit an offence under that subsection if the disclosure is made—
  - (i) before he does the act concerned, being an act done with the consent of the enforcement agency; or
  - (ii) after he does the act, but the disclosure is made on his initiative and as soon as it is reasonable for him to make it;
- (b) notwithstanding any other written law, the disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by any law, contract or rules of professional conduct; and
- (c) he shall not be liable for damages for any loss arising out of—
  - (i) the disclosure; or
  - (ii) any act done or omitted to be done in relation to the property in consequence of the disclosure.

(2) Where any information relating to an offence under this Act is received by an officer of the competent authority or reporting institution, the information and the identity of the person giving the information shall be secret between the officer and that person and everything contained in such information, the identity of that person and all other circumstances relating to the information, including the place where it was given, shall not be disclosed except for the purposes of subsection 8(1) or section 14.

**Restriction on revealing disclosure under section 5**

**6.** (1) No person shall, subject to subsection (2)—

- (a) reveal that a disclosure was made under section 5;
- (b) reveal the identity of any person as the person making the disclosure; or

- (c) answer any question if the answer would lead, or would tend to lead, to the revealing of any fact or matter referred to in paragraph (a) or (b).

(2) Subsection (1) shall not apply to a witness in any civil or criminal proceedings—

- (a) for an offence under subsection 4(1) or subsection (3) of this section; or
- (b) where the court is of the opinion that justice cannot fully be done between the parties without revealing the disclosure or the identity of any person as the person making the disclosure.

(3) No person shall publish in writing or broadcast any information, including a report of any civil or criminal proceedings but excluding information published for statistical purposes by a competent authority or the Government, so as to reveal or suggest—

- (a) that a disclosure was made under section 5; or
- (b) the identity of any person as the person making the disclosure.

(4) Subsection (3) shall not apply in respect of proceedings against the person making the disclosure for an offence under subsection 4(1) or subsection (1).

(5) If information is published or broadcast in contravention of subsection (3), each of the following persons, namely—

- (a) in the case of publication as part of a newspaper or periodical publication, any proprietor, editor, publisher and distributor of the newspaper or periodical publication;
- (b) in the case of a publication otherwise than as part of a newspaper or periodical publication, any person who publishes it and any person who distributes it;
- (c) in the case of a broadcast, any person who broadcasts the information and, if the information is contained in a programme, any person who transmits or provides the programme and any person having functions in relation to the programme corresponding to those of the editor of a newspaper or periodical publication,

commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(6) In this section, “broadcast” includes any broadcast by radio, film, videotape, television or electronic media.

### PART III

#### FINANCIAL INTELLIGENCE

##### **Functions of the competent authority**

7. \*(1) The Minister of Finance may, by order published in the *Gazette*, appoint a person to be the competent authority and such person shall have all the functions conferred on the competent authority by this Act.

(2) The competent authority may authorize any of its officers or any other person to perform any or all of its functions or render such assistance in the performance of its functions under this Act as it may specify.

##### **Provisions relating to the competent authority**

8. (1) The Minister of Finance may, upon the recommendation of the competent authority, who shall consult the relevant supervisory authority of a reporting institution, by order published in the *Gazette*, invoke any or all of the provisions of Part IV in respect of that reporting institution.

(2) For the avoidance of doubt, it is declared that a competent authority may exercise its powers under this section in respect of reporting institutions carrying on any or all of the activities listed in the First Schedule, and shall—

- (a) receive and analyze information and reports from any person, including reports issued by reporting institutions under section 14;

---

\*NOTE—The Minister appoints Bank Negara Malaysia as the competent authority for the purposes of the Act with effect from 15 January 2002—see P.U. (A) 19/2002.

- (b) send any report received under paragraph (a) or any information derived from any such report to an enforcement agency if it is satisfied or has reason to believe or suspect that a transaction involves proceeds of an unlawful activity or a serious offence is being, has been or is about to be committed; and
    - (c) send any information derived from an examination carried out under Part IV to an enforcement agency if it has reason to suspect that a transaction involves proceeds of an unlawful activity or a serious offence is being, has been or is about to be committed.
- (3) The competent authority may—
  - (a) compile statistics and records;
  - (b) give instructions to a reporting institution in relation to any report or information received under section 14;
  - (c) make recommendations to the relevant supervisory authority, enforcement agency and reporting institutions arising out of any report or information received under subsection (2); and
  - (d) create training requirements and provide training for any reporting institutions in respect of their transactions and reporting and record-keeping obligations under Part IV.

### **Authorization to release information**

**9.** (1) Subject to subsection (2), the competent authority may, in writing, authorize any enforcement agency or its designated officers to have access to such information as the competent authority may specify for the purposes of performing the enforcement agency's functions.

(2) In respect of any information received from a reporting institution carrying on any business activity listed under Part II of the First Schedule, the competent authority shall authorize Labuan Offshore Financial Services Authority or its designated officers to have access to that information.

(3) The competent authority may, in writing, authorize the Attorney General or his designated officer to have access to

such information as the competent authority may specify for the purpose of dealing with a foreign State's request in relation to mutual assistance in criminal matters.

### **Communication to a foreign State**

**10.** (1) Notwithstanding any other written law or rule of law, the competent authority may communicate any thing disclosed to it under section 14 to a corresponding authority of a foreign State if—

- (a) there exists an arrangement between Malaysia and a foreign State under which the corresponding authority of the foreign State has agreed to communicate to Malaysia, upon Malaysia's request, information received by the corresponding authority that corresponds to any thing required to be disclosed to the competent authority under section 14; and
- (b) the competent authority is satisfied that the corresponding authority has given appropriate undertakings—
  - (i) for protecting the confidentiality of any thing communicated to it; and
  - (ii) for controlling the use that will be made of it, including an undertaking that it will not be used as evidence in any proceedings.

(2) In this section, "corresponding authority", in relation to a foreign State, means the authority of that foreign State responsible for receiving information that corresponds to any thing required to be disclosed to a competent authority under section 14.

### **Prohibited disclosure**

**11.** Subject to section 12, no person who has obtained information from competent authority under Part IV shall—

- (a) while he is authorized under section 9, disclose or communicate the information except to another officer authorized under that section, for the purposes of, or in connection with, the performance of his duties; and

- (b) when he is no longer authorized under section 9, make a record of the information, or disclose or communicate the information in any circumstances.

### **Permitted disclosure**

**12.** (1) Nothing in section 11 shall prevent the communication of the competent authority's information under this Part with respect to a prosecution or legal proceedings in connection with the commission of a serious offence, a foreign serious offence or an offence under subsection 4(1).

(2) Nothing in section 11 shall prevent the communication of the competent authority's information under this Part in respect of the affairs of a person by the person authorized under section 9 to—

- (a) if the person is not a company, that person;
- (b) if the person is a company—
  - (i) any person who is, or has been, a director or an officer of the company; or
  - (ii) any person who is, or has been directly involved in, or responsible for, the preparation of information furnished on behalf of the company; or
- (c) the person who furnished the information to the competent authority.

(3) No person to whom the competent authority or person authorized under section 9 communicates any information under this Part and the information does not relate to the affairs of the person shall make a record of the information or disclose, or communicate the information to any person in any circumstances.

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

(5) Except where it is necessary to do so for the purposes of carrying into effect the provisions of this Act, a person who obtains information from the competent authority under this Part

shall not be required to produce in court any document containing any of the information or to disclose or communicate to any court such information.

#### PART IV

#### REPORTING OBLIGATIONS

##### **Record-keeping by reporting institutions**

**13.** (1) A reporting institution shall keep a record of any transaction involving the domestic currency or any foreign currency exceeding such amount as the competent authority may specify.

(2) The record referred to in subsection (1) shall be in such form as the competent authority may specify.

(3) The record referred to in subsection (1) shall include the following information for each transaction:

- (a) the identity and address of the person in whose name the transaction is conducted;
- (b) the identity and address of the beneficiary or the person on whose behalf the transaction is conducted, where applicable;
- (c) the identity of the accounts affected by the transaction, if any;
- (d) the type of transaction involved, such as deposit, withdrawal, exchange of currency, cheque cashing, purchase of cashier's cheques or money orders or other payment or transfer by, through, or to such reporting institution;
- (e) the identity of the reporting institution where the transaction occurred; and
- (f) the date, time and amount of the transaction,

and shall also include such other information as the competent authority may specify in writing.

(4) For the purposes of this Part, multiple cash transactions in the domestic or foreign currency which, in aggregate, exceeds the amount specified by the competent authority pursuant to

subsection (1) shall be treated as a single transaction if they are undertaken by or on behalf of any one person during any one day or such other period as the competent authority may specify.

### **Report by reporting institutions**

**14.** A reporting institution shall promptly report to the competent authority any transaction—

(a) exceeding the amount specified by the competent authority under subsection 13(1); and

\*(b) where the identity of the persons involved, the transaction itself or any other circumstances concerning that transaction gives any officer or employee of the reporting institution reason to suspect that the transaction involves proceeds of an unlawful activity.

### **Centralization of information**

**15.** A reporting institution shall provide for the centralization of the information collected pursuant to this Part.

### **Identification of account holder**

**16.** (1) A reporting institution—

(a) shall maintain accounts in the name of the account holder; and

(b) shall not open, operate or maintain any anonymous account or any account which is in a fictitious, false or incorrect name.

(2) A reporting institution shall—

(a) verify, by reliable means, the identity, representative capacity, domicile, legal capacity, occupation or business purpose of any person, as well as other identifying information on that person, whether he be an occasional or usual client, through the use of documents such as

---

\*NOTE—The Minister invokes paragraph 14(b) and sections 20 and 24 of the Act on institutions carrying on banking business, finance company business, merchant banking business and Islamic banking business—see P.U. (A) 20/2002.

identity card, passport, birth certificate, driver's licence and constituent document, or any other official or private document, when establishing or conducting business relations, particularly when opening new accounts or passbooks, entering into any fiduciary transaction, renting of a safe deposit box, or performing any cash transaction exceeding such amount as the competent authority may specify; and

(b) include such details in a record.

(3) A reporting institution shall take reasonable measures to obtain and record information about the true identity of the person on whose behalf an account is opened or a transaction is conducted if there are any doubts that any person is not acting on his own behalf, particularly in the case of a person who is not conducting any commercial, financial, or industrial operations in the foreign State where it has its headquarters or domicile.

(4) For purposes of this section, "person" shall include any person who is a nominee, agent, beneficiary or principal in relation to a transaction.

### **Retention of records**

**17.** (1) Notwithstanding any provision of any written law pertaining to the retention of documents, a reporting institution shall maintain any record under this Part for a period of not less than six years from the date an account has been closed or the transaction has been completed or terminated.

(2) A reporting institution shall also maintain records to enable the reconstruction of any transaction in excess of such amount as the competent authority may specify, for a period of not less than six years from the date the transaction has been completed or terminated.

(3) Subsections (1) and (2) will not apply where a reporting institution has transmitted the record to the competent authority or an enforcement agency.

(4) Any reporting institution which contravenes subsection (1) or (2) commits an offence and shall on conviction be liable to a

fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both.

**Opening account in false name**

**18.** (1) No person shall open, operate or authorize the opening or the operation of an account with a reporting institution in a fictitious, false or incorrect name.

(2) Where a person is commonly known by two or more different names, the person shall not use one of those names in opening an account with a reporting institution unless the person has previously disclosed the other name or names to the reporting institution.

(3) Where a person using a particular name in his dealings with a reporting institution discloses to it a different name or names by which he is commonly known, the reporting institution shall make a record of the disclosure and shall, upon request in writing from the competent authority, give the competent authority a copy of that record.

(4) For the purposes of this section—

(a) a person opens an account in a false name if the person, in opening the account, or becoming a signatory to the account, uses a name other than a name by which the person is commonly known;

(b) a person operates an account in a false name if the person does any act or thing in relation to the account (whether by way of making a deposit or withdrawal or by way of communication with the reporting institution concerned or otherwise) and, in doing so, uses a name other than a name by which the person is commonly known; and

(c) an account is in a false name if it was opened in a false name, whether before or after the commencement date of this Act.

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

### Compliance programme

**19.** (1) A reporting institution shall adopt, develop and implement internal programmes, policies, procedures and controls to guard against and detect any offence under this Act.

(2) The programmes in subsection (1) shall include—

- (a) the establishment of procedures to ensure high standards of integrity of its employees and a system to evaluate the personal, employment and financial history of these employees;
- (b) on-going employee training programmes, such as “know-your-customer” programmes, and instructing employees with regard to the responsibilities specified in sections 13, 14, 15, 16 and 17; and
- (c) an independent audit function to check compliance with such programmes.

(3) A reporting institution shall implement compliance programmes under subsection (1) on its branches and subsidiaries in and outside Malaysia.

(4) A reporting institution shall also designate compliance officers at management level in each branch and subsidiary who will be in charge of the application of the internal programmes and procedures, including proper maintenance of records and reporting of suspicious transactions.

(5) A reporting institution shall develop audit functions to evaluate such policies, procedures and controls to test compliance with the measures taken by the reporting institution to comply with the provisions of this Act and the effectiveness of such measures.

### Secrecy obligations overridden

**\*20.** The provisions of this Part shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by any written law or otherwise.

---

*\*NOTE*—The Minister invokes paragraph 14(b) and sections 20 and 24 of the Act on institutions carrying on banking business, finance company business, merchant banking business and Islamic banking business—see P.U. (A) 20/2002.

**Obligations of supervisory or licensing authority**

**21.** (1) The relevant supervisory authority of a reporting institution or such other person as the relevant supervisory authority may deem fit may—

- (a) adopt the necessary measures to prevent or avoid having any person who is unsuitable from controlling, or participating, directly or indirectly, in the directorship, management or operation of the reporting institution;
- (b) examine and supervise reporting institutions, and regulate and verify, through regular examinations, that a reporting institution adopts and implements the compliance programmes in section 19;
- (c) issue guidelines to assist reporting institutions in detecting suspicious patterns of behaviour in their clients and these guidelines shall be developed taking into account modern and secure techniques of money management and will serve as an educational tool for reporting institutions' personnel; and
- (d) cooperate with other enforcement agencies and lend technical assistance in any investigation, prosecution or proceedings relating to any unlawful activity or offence under this Act.

(2) The licensing authority of a reporting institution may, upon the recommendation of the competent authority, revoke or suspend the reporting institution's licence if it has been convicted of an offence under this Act.

(3) The relevant supervisory authority shall report promptly to the competent authority any information received from any reporting institutions relating to transactions or activities that could be related to any unlawful activity or offence under this Act.

**Powers to enforce compliance**

**22.** (1) An officer of a reporting institution shall take all reasonable steps to ensure the reporting institution's compliance with its obligations under this Part.

(2) The competent authority, upon application to the High Court and satisfying the Court that a reporting institution has failed without reasonable excuse to comply in whole or in part with any obligations in this Act, shall obtain an order against any or all of the officers or employees of that reporting institution on such terms as the Court deems necessary to enforce compliance with such obligations.

(3) Notwithstanding subsection (2), the competent authority may direct or enter into an agreement with any reporting institution that has without reasonable excuse failed to comply in whole or in part with any obligations in this Part to implement any action plan to ensure compliance with its obligations under this Part.

(4) Any person who contravenes subsection (1) or fails to comply with a directive under subsection (3) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

### **Currency reporting at border**

**23.** (1) A person leaving or entering Malaysia with an amount in cash, negotiable bearer instruments or both, exceeding such value as the competent authority may prescribe by order published in the *Gazette*, shall declare to the competent authority such amount in such form as the competent authority may specify.

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

(3) Notwithstanding the Exchange Control Act 1953 [*Act 17*] and the Central Bank of Malaysia Act 1958, the Controller of Foreign Exchange shall have authority to submit to the competent authority information received under section 24 or 25 of the Exchange Control Act 1953.

(4) Any declaration required to be made or given under subsection (1) shall for the purposes of the Customs Act 1967 [*Act 235*] be deemed to be a declaration in a matter relating to customs.

**Protection of persons reporting**

**\*24.** (1) No civil, criminal or disciplinary proceedings shall be brought against a person who—

- (a) discloses or supplies any information in any report made under this Part; or
- (b) supplies any information in connection with such a report, whether at the time the report is made or afterwards;

in respect of—

- (aa) the disclosure or supply, or the manner of the disclosure or supply, by that person, of the information referred to in paragraph (a) or (b); or
- (bb) any consequences that follow from the disclosure or supply of that information,

unless the information was disclosed or supplied in bad faith.

(2) In proceedings against any person for an offence under this Part, it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

**Examination of a reporting institution**

**25.** (1) For the purposes of monitoring a reporting institution's compliance with this Part, the competent authority may authorize an examiner to examine—

- (a) any of the reporting institution's records or reports that relate to its obligations under this Part, which are kept at, or accessible from, the reporting institution's premises; and
- (b) any system used by the reporting institution at its premises for keeping those records or reports.

---

*\*NOTE*—The Minister invokes paragraph 14(b) and sections 20 and 24 of the Act on institutions carrying on banking business, finance company business, merchant banking business and Islamic banking business—see P.U. (A) 20/2002.

(2) In carrying out the examination under subsection (1), the examiner may—

- (a) ask any question relating to any record, system or report of a reporting institution; and
- (b) make any note or take any copy of the whole or part of any business transaction of the reporting institution.

### **Examination of person other than a reporting institution**

**26.** (1) An examiner authorized under section 25 may examine—

- (a) a person who is, or was at any time, a director or an officer of a reporting institution or of its agent;
- (b) a person who is, or was at any time, a client, or otherwise having dealings with a reporting institution; or
- (c) a person whom he believes to be acquainted with the facts and circumstances of the case, including an auditor or an advocate and solicitor of a reporting institution,

and that person shall give such document or information as the examiner may require within such time as the examiner may specify.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(3) Notwithstanding any other written law, an agent, including an auditor or an advocate and solicitor of a reporting institution, shall not be liable for breach of a contract relating to, or a duty of, confidentiality for giving any document or information to the examiner.

### **Appearance before examiner**

**27.** (1) A director or an officer of a reporting institution examined under subsection 25(1), or a person examined under subsection 26(1), shall appear before the examiner at his office upon being

called to do so by the examiner at such time as the examiner may specify.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

### **Destruction of examination records**

**28.** The competent authority may destroy any document or copy of such document made or taken pursuant to an examination under sections 25 and 26 within six years of the examination except where a copy of the document has been sent to an enforcement agency.

## **PART V**

### **INVESTIGATION**

#### **Investigation by competent authority and enforcement agencies**

**29.** (1) Where—

- (a) the competent authority has reason to suspect the commission of an offence under Part III or IV; or
- (b) an enforcement agency having the power to enforce the law under which a related serious offence is committed has reason to suspect the commission of an offence under any other provisions of this Act,

the competent authority or the relevant enforcement agency shall cause an investigation to be made and for such purpose may exercise all the powers of investigation provided for under this Act.

(2) The competent authority or the relevant enforcement agency, as the case may be, may instruct any person to take such steps as may be necessary to facilitate an investigation under subsection (1).

(3) The competent authority and the relevant enforcement agency shall coordinate and cooperate with any other enforcement agency in and outside Malaysia, with respect to an investigation into any serious offence or foreign serious offence, as the case may be.

### **Appointment of investigating officer**

**30.** (1) For purposes of an investigation under this Part, the competent authority or relevant enforcement agency, as the case may be, may appoint its employee or any other person to be an investigating officer.

(2) An investigating officer who is not an employee of the competent authority or the relevant enforcement agency shall be subject to, and enjoy such rights, protection, and indemnity as may be specified in this Act or other written law applicable to an employee of the competent authority or the relevant enforcement agency, as the case may be.

(3) An investigating officer shall be subject to the direction and control of the competent authority or the relevant enforcement agency, which has authorized him to act on its behalf, as the case may be.

### **Powers of an investigating officer**

**31.** (1) Where an investigating officer is satisfied, or has reason to suspect, that a person has committed an offence under this Act, he may, without a search warrant—

- (a) enter any premises belonging to or in the possession or control of the person or his employee, and in the case of a body corporate, its director or manager;
- (b) search the premises for any property, record, report or document;
- (c) inspect, make copies of or take extracts from any record, report or document so seized and detained;
- (d) take possession of, and remove from the premises, any property, record, report or document so seized and detained and detain it for such period as he deems necessary;

- (e) search any person who is in, or on, such premises, if the investigating officer has reason to suspect that that person has on his person any property, record, report or document, including personal document, necessary, in the investigating officer's opinion, for the purpose of investigation into an offence under this Act;
  - (f) break open, examine and search any article, container or receptacle; or
  - (g) stop, detain or search any conveyance.
- (2) An investigating officer may, if it is necessary to do so—
  - (a) break open any outer or inner door of such premises or conveyance and enter such premises or conveyance;
  - (b) remove by force any obstruction to such entry, search, seizure, detention or removal as he is empowered to effect; or
  - (c) detain any person found on such premises, or in such conveyance, until the search is completed.
- (3) An investigating officer may seize, take possession of, and detain for such duration as he thinks necessary, any property, record, report or document produced before him in the course of his investigation or found on the person who is being searched by him.
- (4) An investigating officer, in the course of his investigation or search, shall—
  - (a) prepare and sign a list of every property, record, report or document seized; and
  - (b) state in the list the location in which, or the person on whom, the property, record, report or document is found.
- (5) The occupant of the premises entered in the course of investigation, or any person on his behalf, shall be present during the search, and a copy of the list prepared under subsection (4) shall be delivered to such person at his request.

**Power to examine persons**

**32.** (1) Notwithstanding any written law, or oath, undertaking or requirement of secrecy or confidentiality to the contrary, or an obligation under an agreement or arrangement, express or implied, to the contrary, an investigating officer conducting an investigation shall have the power to administer an oath or affirmation to the person being examined.

(2) An investigating officer may order, orally or in writing, any person whom he believes to be acquainted with the facts and circumstances of the case—

(a) to attend before him for examination;

(b) to produce before him any property, record, report or document; or

(c) to furnish to him a statement in writing made on oath or affirmation setting out such information as he may require.

(3) Any person who contravenes subsection (2) commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(4) The person examined under subsection (2) shall be legally bound to answer all questions relating to such case put to him by the investigating officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(5) A person making a statement under paragraph (2)(c) shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to the questions of the investigating officer.

(6) An investigating officer examining a person under subsection (2) shall first inform that person of the provisions of subsections (4) and (5).

(7) A statement made by any person under paragraph (2)(c) shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb print—

- (a) after it has been read to him in the language in which he made it; and
- (b) after he has been given an opportunity to make any correction he may wish.

(8) Any person who—

- (a) fails to appear before an investigating officer as required under paragraph (2)(a);
- (b) refuses to answer any question put to him by an investigating officer under subsection (4); or
- (c) furnishes to an investigating officer any information or statement that is false or misleading in any material particular,

commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

### **Search of a person**

**33.** (1) An investigating officer searching any person under paragraph 31(1)(e) may detain the person for such period as may be necessary to have the search carried out, which shall not in any case exceed twenty-four hours without the authorization of a magistrate, and may, if necessary, remove the person in custody to another place to facilitate such search.

(2) No person shall be searched under this Part except by an investigating officer of the same gender and such search shall be carried out with strict regard to decency.

**Obstruction to exercise of powers by an investigating officer**

**34.** Any person who—

- (a) refuses any investigating officer access to any premises, or fails to submit to the search of his person;
- (b) assaults, obstructs, hinders or delays an investigating officer in effecting any entrance which he is entitled to effect;
- (c) fails to comply with any lawful demands of any investigating officer in the execution of his duties under this Part;
- (d) refuses to give to an investigating officer any property, document or information which may reasonably be required of him and which he has in his power to give;
- (e) fails to produce to, or conceal or attempt to conceal from, an investigating officer, any property, record, report or document, which the investigating officer requires;
- (f) rescues or attempts to rescue any thing which has been duly seized;
- (g) furnishes to an investigating officer as true any information which he knows or has reason to believe to be false; or
- (h) before or after any search or seizure, breaks or otherwise destroys any thing to prevent its seizure, or the securing of the property, record, report or document,

commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

**Tipping-off**

**35.** (1) Any person who—

- (a) knows or has reason to suspect that an investigating officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted under or for the purposes of this Act or any

subsidiary legislation made under it and discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation; or

- (b) knows or has reason to suspect that a disclosure has been made to an investigating officer under this Act and discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure,

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

(2) Nothing in subsection (1) makes it an offence for an advocate and solicitor or his employee to disclose any information or other matter—

- (a) to his client or the client's representative in connection with the giving of advice to the client in the course and for the purpose of the professional employment of the advocate and solicitor; or
- (b) to any person in contemplation of, or in connection with and for the purpose of, any legal proceedings.

(3) Subsection (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any illegal purpose.

(4) In proceedings against a person for an offence under this section, it is a defence to prove that—

- (a) he did not know or suspect that the disclosure made under paragraph (1)(b) was likely to prejudice the investigation; or
- (b) he had lawful authority or reasonable excuse for making the disclosure.

(5) An investigating officer or other person does not commit an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other written law relating to a serious offence.

**Requirement to provide translation**

**36.** (1) Where an investigating officer finds, seizes, detains, or takes possession of any property, record, report or document which, wholly or partly, is in a language other than the national language or English language, or is in any sign or code, the investigating officer may, orally or in writing, require the person who had the possession, custody or control of the property, record, report or document to furnish to him a translation in the national language or English language within such period as he may specify.

(2) No person shall knowingly furnish a translation under subsection (1) which is not an accurate, faithful and true translation of the document.

(3) Any person who fails to comply with the requirement in subsection (1) or contravenes subsection (2) commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(4) Where the person required to furnish a translation under subsection (1) is not the person who is suspected to have committed the offence, the competent authority or the relevant enforcement agency, as the case may be, may pay him reasonable fees and reimburse him for such reasonable expenses as he may have incurred in furnishing the translation.

**Delivery of property, record, report or document**

**37.** (1) An investigating officer may, by a notice in writing, require any person to deliver to him any property, record, report or document which he has reason to suspect has been used in the commission of an offence under this Act or is able to assist in the investigation of an offence under this Act that is in the possession or custody of, or under the control of, that person or within the power of that person to furnish.

(2) An investigating officer may grant permission to any person to inspect the property, record, report or document he had detained and taken possession of under subsection (1) if the person is entitled to inspect such property, record, report or document under this Act.

- (3) A person who—
- (a) fails to deliver any property, record, report or document that is required by an investigating officer; or
  - (b) obstructs or hinders an investigating officer while exercising any of his powers under subsection (1),

commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

### **Seizing of property, record, report or document**

**38.** An investigating officer may seize, take possession of and retain for such duration as he deems necessary, any property, record, report or document produced before him in the course of an examination under paragraph 32(2)(a) or (b), or search of the person under subsection 33(1), for ascertaining whether anything relevant to the investigation is concealed, or is otherwise, upon such person.

### **Release of property, record, report or document seized**

- 39.** (1) An investigating officer shall, unless otherwise ordered by any court—
- (a) at the close of an investigation or any proceedings arising from the investigation; or
  - (b) with the prior written consent of the competent authority or the relevant enforcement agency, as the case may be, or of any investigating officer superior to him in rank, at any time before the close of an investigation,

release any property, record, report or document seized, detained or removed by him or any other investigating officer, to such person as he determines to be lawfully entitled to the property, record, report or document if he is satisfied that it is not required for the purpose of any prosecution or proceedings under this Act, or for the purpose of any prosecution under any other written law.

(2) The investigating officer effecting the release under subsection (1) shall record in writing the circumstances of, and the reason for, such release.

(3) Where the investigating officer is unable to determine the person who is lawfully entitled to the property, record, report or document or where there is more than one claimant to the property, record, report or document, or where the investigating officer is unable to locate the person under subsection (1) who is lawfully entitled to the property, record, report or document, the investigating officer shall report the matter to a magistrate who shall then deal with the property, record, report or document as provided for under subsections 413(ii), (iii) and (iv) and sections 414, 415 and 416 of the Criminal Procedure Code [*Act 593*].

### **Statement to be admissible**

**40.** The record of an examination under paragraph 32(2)(a), any property, record, report or document produced under paragraph 32(2)(b) or any statement under paragraph 32(2)(c) shall, notwithstanding any written law or rule of law to the contrary, be admissible as evidence in any proceedings in any court for, or in relation to, an offence or any other matter under this Act or any offence under any other written law, regardless whether such proceedings are against the person who was examined, or who produced the property, record, report or document, or who made the written statement on oath or affirmation, or against any other person.

### **Investigating officer may arrest without warrant**

**41.** An investigating officer appointed under section 30 may arrest without warrant a person whom he reasonably suspects to have committed or to be committing any offence under this Act.

### **Arrested person to be made over to police officer**

**42.** An investigating officer, other than a police officer, making an arrest under section 41 shall make over the person so arrested to the nearest police officer or, in the absence of a police officer, take such person to the nearest police station, and the person

arrested shall be dealt with according to the law relating to criminal procedure for the time being in force as if he had been arrested by a police officer.

**Investigating officer deemed to be public servant and public officer**

**43.** An investigating officer shall be deemed to be a public servant for the purposes of the Penal Code [*Act 574*], and to be a public officer for the purposes of the Criminal Procedure Code.

PART VI

FREEZING, SEIZURE AND FORFEITURE

**Freezing of property**

**44.** (1) Subject to section 50, where an enforcement agency, having the power to enforce the law under which a serious offence is committed, has reasonable grounds to suspect that an offence under subsection 4(1) has been, is being or is about to be committed by any person, it may issue an order freezing any property of that person, wherever the property may be, or in his possession, under his control or due from any source to him.

(2) An order under subsection (1) may include—

- (a) an order to direct that the property, or such part of the property as is specified in the order, is not to be disposed of, or otherwise dealt with, by any person, except in such manner and in such circumstances, if any, as are specified in the order; and
- (b) an order to authorize any of its officers to take custody and control of the property, or such part of the property as is specified in the order if the enforcement agency is satisfied that the circumstances so require.

(3) The enforcement agency in making the order under subsection (1) may give directions to the person named or described in the order as to—

- (a) the duration of the order;

- (b) the disposal of that property, for the purpose of—
- (i) determining any dispute as to the ownership of or other interest in the property or any part of it;
  - (ii) its proper administration during the period of the order;
  - (iii) the payment of debts incurred in good faith due to creditors prior to the order;
  - (iv) the payment of money to that person for the reasonable subsistence of that person and his family; or
  - (v) the payment of the costs of that person to defend criminal proceedings against him; or
- (c) the manner in which the property should be administered or dealt with.

(4) An order made under subsection (1) may direct that the person named or described in the order shall—

- (a) be restrained, whether by himself or by his nominees, relatives, employees or agents, from selling, disposing of, charging, pledging, transferring or otherwise dealing with or dissipating his property;
- (b) not remove from or send out of Malaysia any of his money or property; and
- (c) not leave or be permitted to leave Malaysia and shall surrender any travel documents to the Director General of Immigration within one week of the publication of the order.

(5) An order made under subsection (1) shall cease to have effect after ninety days from the date of the order, if the person against whom the order was made has not been charged with an offence under this Act.

(6) An enforcement agency shall not be liable for any damages or cost arising directly or indirectly from the making of an order under this section unless it can be proved that the order under subsection (1) was not made in good faith.

(7) Where an enforcement agency directs that frozen property be administered or dealt with, the person charged with the administration of the property shall not be liable for any loss or damage to the property or for the cost of proceedings taken to establish a claim to the property or to an interest in the property unless the court before which the claim is made finds that the person charged with the administration of the property has been negligent in respect of the administration of the property.

### **Seizure of movable property**

**45.** (1) In the course of an investigation into an offence under subsection 4(1), an investigating officer may, upon obtaining approval from an investigating officer senior in rank to him, seize any movable property which he has reasonable grounds to suspect to be the subject matter of such offence or evidence relating to such offence.

(2) A list of all movable property seized pursuant to subsection (1) and of the places in which they are respectively found shall be prepared by the investigating officer effecting the seizure and signed by him.

(3) A copy of the list referred to in subsection (2) shall be served as soon as possible on the owner of such property or on the person from whom the property was seized.

(4) This section shall not apply to any movable property liable to seizure under subsection (2) which is in the possession, custody or control of a financial institution.

### **Further provisions relating to seizure of movable property**

**46.** (1) Where any movable property is seized under this Act, the seizure shall be effected by removing the movable property from the possession, custody or control of the person from whom it is seized and placing it under the custody of such person, and at such place, as the investigating officer may determine.

(2) Where it is not practicable, or it is otherwise not desirable, to remove any property under subsection (1), the investigating officer may leave it at the premises in which it is seized under the custody of such person as he may determine for the purpose.

(3) Notwithstanding subsection (1), when any movable property, including any movable property referred to in subsection (6), has been seized under this Act, an investigating officer, other than the investigating officer who effected the seizure, upon obtaining approval from an investigating officer senior in rank to him, may—

- (a) temporarily return the movable property to its owner, or to the person from whose possession, custody or control it was seized, or to such person as may be entitled to it, subject to such terms and conditions as may be imposed, and subject in any case, to sufficient security being furnished to ensure that the movable property shall be surrendered on demand being made by the investigating officer who authorized the release and that such terms and conditions, if any, shall be complied with; or
- (b) return the movable property to the owner, or to the person from whose possession, custody or control it was seized, or to such person as may be entitled to the movable property, with liberty for the person to whom the movable property is so returned to dispose of the movable property, such return being subject to security being furnished in an amount which is not less than an amount which represents the open market value of that property on the date on which it is so returned.

(4) Where any person to whom movable property is temporarily returned under paragraph (3)(a) fails to surrender the movable property on demand or comply with any term or condition imposed under that paragraph—

- (a) the security furnished in respect of such movable property shall be forfeited; and
- (b) that person commits an offence and shall on conviction be liable to a fine of not less than two times the amount of the security furnished by him or to imprisonment for a term not exceeding two years or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(5) Where an order of forfeiture is made by the court in respect of movable property returned under paragraph (3)(b), such

forfeiture shall be effected by forfeiting the security furnished by the person to whom the property was returned.

(6) When any movable property seized under this Act consists of money, shares, securities, stocks, debentures or any chose-in-action in the possession or under the custody or control of any person other than the person against whom the prosecution is intended to be taken, the seizure shall be effected by an investigating officer serving an order on such person—

- (a) prohibiting him from using, transferring, or dealing with such property; or
- (b) requiring him to surrender the property to an investigating officer in the manner and within the time specified in the order.

(7) Where any movable property seized is liable to speedy decay or deterioration, or is property which cannot be maintained without difficulty, or which is not practicable to maintain, and which cannot be dealt with under subsection (3), an investigating officer may sell or cause the property to be sold and shall hold the proceeds of the sale, after deducting the costs and expenses of the maintenance and sale of the movable property, to abide by the result of any proceedings under this Act.

### **Advocates and solicitors to disclose information**

**47.** (1) Notwithstanding any other law, a Judge of the High Court may, on application being made to him in relation to an investigation into any offence under subsection 4(1), order an advocate and solicitor to disclose information available to him in respect of any transaction or dealing relating to any property which is liable to seizure under this Act.

(2) Nothing in subsection (1) shall require an advocate and solicitor to comply with any order under that subsection to the extent that such compliance would disclose any privileged information or communication which came to his knowledge for the purpose of any pending proceedings.

### **Investigation powers in relation to a financial institution**

**48.** (1) Notwithstanding the provisions of any other written law or any rule of law, the Public Prosecutor, if he is satisfied that it

is necessary for the purpose of any investigation into an offence under subsection 4(1), may authorize in writing an investigating officer to exercise in relation to any financial institution specified in the authorization all the powers of investigation set out in Part V and in subsection (2).

(2) An investigating officer authorized under subsection (1) may, in relation to the financial institution in respect of which he is so authorized—

- (a) inspect and take copies of any book, record, report or document belonging to or in the possession, custody or control of the financial institution;
- (b) inspect and take copies of any share account, purchase account, expense account or any other account of any person kept in the financial institution;
- (c) inspect the contents of any safe deposit box in the financial institution; or
- (d) request for any other information relating to any record, report, document, account or article referred to in paragraphs (a), (b) and (c).

(3) Notwithstanding anything in subsection (2), an investigating officer authorized under subsection (1) may take possession of any account, book, record, report, document, title, securities or cash to which he has access under that subsection where in his opinion—

- (a) the inspection of them, the copying of them, or the taking of extracts from them, cannot reasonably be undertaken without taking possession of them;
- (b) they may be interfered with or destroyed unless he takes possession of them; or
- (c) they may be needed as evidence in any prosecution for an offence under subsection 4(1) or any other written law.

(4) Any person who wilfully fails or refuses to disclose any information or to produce any account, book, record, report, document or article under subsection (2) to the investigating officer authorized under subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one million

ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(5) Where any person discloses any information or produces any account, book, record, report, document or article to an investigating officer authorized under subsection (1), neither the first-mentioned person nor any other person on whose behalf or direction or as whose agent or officer the first-mentioned person may be acting shall, on account of such disclosure or production, be liable to any prosecution for any offence under any law, or to any proceedings or claim by any person under any law, or under any contract, agreement or arrangement, or otherwise.

### **Public Prosecutor's powers to obtain information**

**49.** (1) Notwithstanding any law or rule of law to the contrary, the Public Prosecutor, if he has reasonable grounds to believe, based on the investigation carried out under this Act, that an offence under subsection 4(1) has been committed, may by written notice—

- (a) require any person suspected of having committed such offence;
- (b) any relative or associate of the person referred to in paragraph (a); or
- (c) any other person whom the Public Prosecutor has reasonable grounds to believe is able to assist in the investigation,

to furnish a statement in writing on oath or affirmation—

- (aa) identifying every property, whether movable or immovable, whether in or outside Malaysia, belonging to him or in his possession, or in which he has any interest, whether legal or equitable, and specifying the date on which each of the properties so identified was acquired and the manner in which it was acquired, whether by way of any dealing, bequest, devise, inheritance, or any other manner;
- (bb) identifying every property sent out of Malaysia by him or on his behalf during such period as may be specified in the notice;

- (cc) setting out the estimated value and location of each of the properties identified under paragraphs (aa) and (bb), and if any of such properties cannot be located, the reason for it;
- (dd) stating in respect of each of the properties identified under paragraphs (aa) and (bb) whether the property is held by him or by any other person on his behalf, whether it has been transferred, sold to, or kept with any person, whether it has been diminished in value since its acquisition by him, and whether it has been commingled with other property which cannot be separated or divided without difficulty;
- (ee) setting out all other information relating to his property, business, travel, or other activities as may be specified in the notice; and
- (ff) setting out all his sources of income, earnings or property.

(2) An officer of any financial institution, or any person who is in any manner or to any extent responsible for the management and control of the affairs of any financial institution, shall furnish a copy of all accounts, books, records, reports or documents relating to any person to whom a notice may be issued under subsection (1).

(3) Every person to whom a notice is sent by the Public Prosecutor under subsection (1) shall, notwithstanding any law or rule of law to the contrary, comply with the terms of the notice within such time as may be specified in the notice, and any person who wilfully neglects or fails to comply with the terms of the notice commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(4) Every person to whom a notice or direction is sent by the Public Prosecutor under this section shall be legally bound to state the truth and shall disclose all information which is within his knowledge, or which is available to him, or which is capable of being obtained by him.

(5) Where any person discloses any information or produces any accounts, books, records, reports or documents in response to a notice under subsection (1), such person, his agent or employee, or any other person acting on his behalf or under his direction, shall not, by reason only of such disclosure or production, be liable to prosecution for any offence under any law, or to any proceedings or claim by any person under any law or under any contract, agreement or arrangement, or otherwise.

(6) Subsection (5) shall not bar, prevent or prohibit the institution of any prosecution for any offence as provided by this section or the giving of false information in relation to any statement on oath or affirmation furnished to the Public Prosecutor pursuant to this section.

### **Seizure of movable property in financial institution**

**50.** (1) Where the Public Prosecutor is satisfied on information given to him by an investigating officer that any movable property, including any monetary instrument or any accretion to it, which is the subject matter of an offence under subsection 4(1) or evidence in relation to the commission of such offence, is in the possession, custody or control of a financial institution, he may, notwithstanding any other law or rule of law, after consultation with Bank Negara Malaysia, the Securities Commission or the Labuan Offshore Financial Services Authority, as the case may be, by order direct the financial institution not to part with, deal in, or otherwise dispose of such property or any part of it until the order is revoked or varied.

(2) A financial institution or any agent or employee of a financial institution shall not, on account of complying with an order of the Public Prosecutor under subsection (1), be liable to any prosecution under any law or to any proceedings or claim by any person under any law or under any contract, agreement, or arrangement, or otherwise.

(3) Any person who fails to comply with an order of the Public Prosecutor under subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding two times the amount which was parted with, dealt in or otherwise disposed of in contravention of the Public Prosecutor's order or one million

ringgit, whichever is the higher, or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(4) In this section, “monetary instrument” includes the domestic currency or any foreign currency, travellers’ cheque, personal cheque, bank cheque, money order, investment security or negotiable instrument in bearer form or otherwise in such form that title to it passes upon delivery or upon delivery and endorsement.

### **Seizure of immovable property**

**51.** (1) Where the Public Prosecutor is satisfied on information given to him by an investigating officer that any immovable property is the subject matter of an offence under subsection 4(1) or evidence of the commission of such offence, such property may be seized, and the seizure shall be effected—

- (a) by the issue of a Notice of Seizure by the Public Prosecutor setting out the particulars of the immovable property which is seized in so far as such particulars are within his knowledge, and prohibiting all dealings in such immovable property;
- (b) by publishing a copy of such Notice in two newspapers circulating in Malaysia, one of which shall be in the national language and the other in the English language; and
- (c) by serving a copy of such Notice on the Land Administrator or the Registrar of Titles, as the case may be, in Peninsular Malaysia, or on the Registrar of Titles or Collector of Land Revenue, as the case may be, in Sabah, or on the Director of Lands and Surveys or the Registrar responsible for land titles, as the case may be, in Sarawak, of the area in which the immovable property is situated.

(2) The Land Administrator, the Collector of Land Revenue, the Director of Lands and Surveys, the Registrar of Titles or the Registrar responsible for land titles, as the case may be, referred to in subsection (1) shall immediately upon being served with

a Notice of Seizure under that subsection endorse the terms of the Notice of Seizure on the document of title in respect of the immovable property in the Register at his office.

(3) Where an endorsement of a Notice of Seizure has been made under subsection (2), the Notice shall have the effect of prohibiting all dealings in respect of the immovable property, and after such endorsement has been made no dealing in respect of the immovable property shall be registered, regardless whether it was effected before or after the issue of such Notice or the making of such endorsement.

(4) Subsection (3) shall not apply to a dealing effected by an officer of a public body in his capacity as such officer, or otherwise by or on behalf of the Federal Government of Malaysia or the Government of a State, or a local authority or other statutory authority.

(5) Any person who contravenes subsection (2) or (3) or does any act which results in, or causes, a contravention of subsection (2) or (3) commits an offence and shall on conviction be liable to a fine not exceeding twice the value of the property in respect of which the Public Prosecutor's order had been contravened, or one million ringgit, whichever is the higher, or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

(6) Where a Notice of Seizure has been issued under subsection (1), a registered proprietor of the immovable property which is seized under such Notice, or any other person having any interest in such immovable property, who has knowledge of such Notice, and who knowingly enters into any agreement with any person to sell, transfer, or otherwise dispose of or deal with, the whole or any part of such immovable property, commits an offence and shall on conviction be liable to a fine not exceeding twice the value of such property, or one million ringgit, whichever is the higher, or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

**Special provisions relating to seizure of a business**

**52.** (1) Where an enforcement agency has reason to believe that any business—

- (a) is being carried on by or on behalf of any person against whom prosecution for an offence under subsection 4(1) is intended to be commenced;
- (b) is being carried on by or on behalf of a relative or an associate of such person;
- (c) is a business in which such person, or a relative or associate of his, has an interest which amounts to or carries a right to not less than thirty per centum of the entire business; or
- (d) is a business over which such person or his relative or associate has management or effective control, either individually or together,

the enforcement agency may seize the business in the manner provided under this Part or by an order in writing—

- (aa) direct the extent and manner in which the business may be carried on;
- (bb) specify any person to supervise, direct or control the business, including its accounts, or to carry on the business or such part of it as may be specified;
- (cc) direct that all or any proportion of the proceeds or profits of the business be paid to the Accountant General and retained by him pending further directions in respect of it by the enforcement agency;
- (dd) prohibit any director, officer or employee or any other person from being in any manner involved in the business with effect from the date of the letter of prohibition; or
- (ee) direct that the premises where the business was carried on to be closed and, if necessary or expedient, placed under guard or custody.

(2) Where an order is made by an enforcement agency under subsection (1), it may include in the order, or may subsequently give any further direction orally or in writing of an ancillary or consequential nature, or which may be necessary, for giving effect to, or for the carrying out of, the order.

(3) An order under subsection (1) may at any time be varied or revoked by an enforcement agency and where it so varies or revokes the order, it may give any direction of an ancillary or consequential nature, or which may be necessary, for giving effect to, or for the carrying out of, such variation or revocation.

(4) Subject to subsection (5), neither the Federal Government nor any person shall, in consequence of any order under subsection (1) be responsible for the payment of any money, dues, debts, liabilities or charges payable to any person in respect of the business, or in respect of any movable or immovable property owned, possessed, occupied or used, by any person in relation to the business.

(5) Where a person is carrying on any activities of the business in pursuance of an order under subsection (1), he shall be responsible for the payment of the wages of such employees of the business as are engaged in performing any work in relation to those activities for the period during which such person carries on those activities and such wages shall be paid out of the profits derived from such activities or, if there are no such profits or if such profits are insufficient, from the assets and the properties of the business.

(6) In this section—

- (a) “wages” means the wages payable under the contract of employment between the employee and the business;
- (b) “business” means any business registered under any written law providing for the registration of businesses and includes a corporation incorporated or registered under the Companies Act 1965 and an associate of that company as defined in section 3.

### **Prohibition of dealing with property outside Malaysia**

**53.** Where the Public Prosecutor is satisfied that any property is the subject matter of an offence under subsection 4(1) or was used in the commission of the offence, and such property is held or deposited outside Malaysia, he may make an application by way of an affidavit to a Judge of the High Court for an order prohibiting the person by whom the property is held or with whom it is deposited from dealing with the property.

**Dealing with property after seizure to be void**

**54.** (1) Where any property has been seized under this Act, and so long as such seizure remains in force, any dealing effected by any person or between any persons in respect of such property, except any dealing effected under this Act by an officer of a public body in his capacity as such officer, or otherwise by or on behalf of the Federal Government, or the Government of a State, or a local authority or other statutory authority, shall be null and void, and shall not be registered or otherwise be given effect to by any person or authority.

(2) Subsection (1) shall be in addition to and not in derogation of subsections 51(3) and (4).

(3) For so long as a seizure of any property under this Act remains in force, no action, suit or other proceedings of a civil nature shall be instituted, or if it is pending immediately before such seizure, be maintained or continued in any court or before any other authority in respect of the property which has been so seized, and no attachment, execution or other similar process shall be commenced, or if any such process is pending immediately before such seizure, be maintained or continued, in respect of such property on account of any claim, judgment or decree, regardless whether such claim was made, or such judgment or decree was given, before or after such seizure was effected, except at the instance of the Federal Government or the Government of a State, or at the instance of a local authority or other statutory authority, or except with the prior consent in writing of the Public Prosecutor.

**Forfeiture of property upon prosecution for an offence**

**55.** (1) Subject to section 61, in any prosecution for an offence under subsection 4(1), the court shall make an order for the forfeiture of any property which is proved to be the subject matter of the offence or to have been used in the commission of the offence where—

- (a) the offence is proved against the accused; or
- (b) the offence is not proved against the accused but the court is satisfied—
  - (i) that the accused is not the true and lawful owner of such property; and

- (ii) that no other person is entitled to the property as a purchaser in good faith for valuable consideration.

(2) Where the offence is proved against the accused but the property referred to in subsection (1) has been disposed of, or cannot be traced, the court shall order the accused to pay as a penalty a sum which is equivalent to, in the opinion of the court, the value of the property, and any such penalty shall be recoverable as a fine.

(3) In determining whether the property is the subject matter of an offence or has been used in the commission of an offence under subsection 4(1) the court shall apply the standard of proof required in civil proceedings.

### **Forfeiture of property where there is no prosecution**

**56.** (1) Subject to section 61, where in respect of any property frozen or seized under this Act there is no prosecution or conviction for an offence under subsection 4(1), the Public Prosecutor may, before the expiration of twelve months from the date of the freeze or seizure, apply to a judge of the High Court for an order of forfeiture of that property if he is satisfied that such property had been obtained as a result of or in connection with an offence under subsection 4(1).

(2) The judge to whom an application is made under subsection (1) shall make an order for the forfeiture of the property if he is satisfied—

- (a) that the property is the subject matter of or was used in the commission of an offence under subsection 4(1); and
- (b) that there is no purchaser in good faith for valuable consideration in respect of the property.

(3) Any property that has been seized and in respect of which no application is made under subsection (1) shall, at the expiration of twelve months from the date of its seizure, be released to the person from whom it was seized.

(4) In determining whether or not the property has been obtained as a result of or in connection with an offence under subsection

4(1), the court shall apply the standard of proof required in civil proceedings.

### **Validity of freeze, seizure or sale**

**57.** Where the freeze, seizure or sale of any property has been effected under this Act, the validity of such freeze, seizure or sale, or other form of disposal of such property, or of any destruction of the property in accordance with the provisions of this Act, in consequence of such freeze, seizure or sale, shall not be affected by any objection to it relating to the manner in which the freeze, seizure or sale was effected, or the place at which it was effected, or the person from whom it was effected, or the person to whom any notice of the freeze, seizure or sale was given, or omitted to be given, or any failure to conform to any procedural provision of this Act or of any other written law in effecting the freeze, seizure or sale.

### **Vesting of forfeited property in the Federal Government**

**58.** (1) Where any property is forfeited under this Act, the property shall vest in the Government free from any right, interest or encumbrance of any person except a right, interest or encumbrance which is held by a purchaser in good faith for valuable consideration and which is not otherwise null and void under any provision of this Act.

(2) Where any person who holds any encumbrance to which the property is subject claims that he holds the encumbrance as a purchaser in good faith for valuable consideration and that the encumbrance is not otherwise null and void under any provision of this Act, and the Federal Government disputes such claim, the Public Prosecutor may apply to the Sessions Court to determine the question and the court shall determine the question after giving an opportunity to be heard to the person holding the encumbrance and hearing the reply of the Public Prosecutor to any representations which may be made before that court by the person holding the encumbrance.

(3) Where any property is vested in the Federal Government under subsection (1), the vesting shall take effect without any transfer, conveyance, deed or other instrument and where any registration of such vesting is required under any law, the authority

empowered to effect the registration shall do so in the name of such public officer, authority, person or body as the Public Prosecutor may specify.

(4) Where the property vested in the Federal Government under subsection (1) is immovable property, the vesting shall upon production to the Registrar of Titles or the Land Administrator, in Peninsular Malaysia, or to the Registrar of Titles or the Collector of Land Revenue, in Sabah or the Registrar of Titles or the Director of Lands and Surveys, as the case may be, in Sarawak of the order of the court forfeiting the immovable property, or in the case of property forfeited under subsection 55(1), a certificate of the Public Prosecutor certifying that it has been forfeited, be registered in the name of the Federal Lands Commissioner.

### **Pecuniary orders**

**59.** (1) Upon application by an enforcement agency to a Sessions Court, a pecuniary penalty order may be made against a person from whom property is forfeited in respect of benefits derived by the person from the commission of an offence under subsection 4(1).

(2) Where—

- (a) an application is made to a court for an order under subsection (1) in respect of benefits derived by a person from the commission of an offence under subsection 4(1); and
- (b) the court is satisfied that the person derived benefits from the commission of that offence,

the court may, if it considers it appropriate, assess in accordance with the manner prescribed by the Minister of Home Affairs by order published in the *Gazette*, the value of the benefits so derived and order that person to pay to the Federal Government a pecuniary penalty equal to the amount.

(3) Where a forfeiture order has been made under sections 55 and 56 against any property that is proceeds of an offence under subsection 4(1), the pecuniary penalty to be paid under subsection (2) shall be reduced by an amount equal to the value of the property as at the time of making the order under subsection (2).

(4) In determining whether or not any benefit is derived from an offence under subsection 4(1) the court shall apply the standard of proof required in civil proceedings.

### **Release of property seized**

**60.** (1) Where property has been seized under this Act, an investigating officer other than the investigating officer who effected the seizure, may at any time before it is forfeited under this Act, release such property to such person as he determines to be lawfully entitled to the property if he is satisfied that such property is not liable to forfeiture under this Act or otherwise required for the purpose of any proceedings under the Act, or for the purpose of any prosecution under any other law, and in such event neither the officer effecting the seizure, nor the Federal Government, or any person acting on behalf of the Federal Government, shall be liable to any proceedings by any person if the seizure and release had been effected in good faith.

(2) The officer effecting any release of any property under subsection (1) shall make a record in writing in respect of such release, specifying in the record in detail the circumstances of, and the reason for, such release, and he shall send a copy of such record to the Public Prosecutor.

### ***Bona fide* third parties**

**61.** (1) The provisions in this Part shall apply without prejudice to the rights of *bona fide* third parties.

(2) The court making the order of forfeiture under section 55 or the judge to whom an application is made under subsection 56(1) shall cause to be published a notice in the *Gazette* calling upon any third party who claims to have any interest in the property to attend before the court on the date specified in the notice to show cause as to why the property shall not be forfeited.

(3) A third party's lack of good faith may be inferred, by the court or an enforcement agency, from the objective circumstances of the case.

(4) The court or enforcement agency shall return the property to the claimant when it is satisfied that—

- (a) the claimant has a legitimate legal interest in the property;
- (b) no participation, collusion or involvement with respect to the offence under subsection 4(1) which is the object of the proceedings can be imputed to the claimant;
- (c) the claimant lacked knowledge and was not intentionally ignorant of the illegal use of the property, or if he had knowledge, did not freely consent to its illegal use;
- (d) the claimant did not acquire any right in the property from a person proceeded against under circumstances that give rise to a reasonable inference that any right was transferred for the purpose of avoiding the eventual subsequent forfeiture of the property; and
- (e) the claimant did all that could reasonably be expected to prevent the illegal use of the property.

### **Disposition of forfeited property**

**62.** Whenever property that is not required to be destroyed and that is not harmful to the public is forfeited under section 55 or 56, the court or an enforcement agency may, in accordance with the law—

- (a) retain it for official use, or transfer it to the Federal Government; or
- (b) sell it and transfer the proceeds from such sale to the Federal Government.

### **Absconded person**

**63.** (1) For the purposes of this Act, a person shall be treated as if he had been convicted of a serious offence if the person absconds in connection with a serious offence and any reference in this Part to the defendant shall include a reference to such person.

(2) For the purposes of subsection (1), a person shall be treated as if he had absconded in connection with a serious offence if, before or after the commencement date—

- (a) an investigation for a serious offence has been commenced against the person; and
- (b) the person—
  - (i) dies before proceedings in respect of the offence were instituted, or if such proceedings were instituted, the person dies before he is convicted of the offence; or
  - (ii) at the end of the period of six months from the date on which the investigation referred to in paragraph (a) was commenced against him, cannot be found, apprehended or extradited.

#### **Forfeiture order where person has absconded**

**64.** Where a person is, by reason of section 63, treated as if he had been convicted of a serious offence, a court may make a forfeiture order under this Part if the court is satisfied—

- (a) on the evidence adduced before it that, on the balance of probabilities, the person has absconded; and
- (b) having regard to all the evidence before the court, that such evidence if unrebutted would warrant his conviction for the offence.

#### **Effect of death on proceedings**

**65.** (1) Proceedings under section 64 shall be instituted or continued against the personal representatives of a deceased defendant or, if there are no personal representatives, such beneficiary of the estate of the deceased defendant as may be specified by the court upon the application of the Public Prosecutor.

(2) Where the power conferred by this Act to make an order is to be exercised in relation to a deceased defendant, the order shall be made against the estate of the deceased defendant.

(3) In this section, “deceased defendant” means a person who dies—

- (a) after an investigation into a serious offence has been commenced against him; and
- (b) before proceedings in respect of the offence have been instituted, or if such proceedings have been instituted, before he is convicted of the offence.

(4) In this section, a reference to property or interest in property shall include a reference to income accruing from such property or interest.

### **Service of documents on absconders**

**66.** Where any document is required under this Act to be served on a person who cannot be found or who is outside Malaysia and cannot be compelled to attend before a court in respect of proceedings under this Act, the court may dispense with service of the document upon him and the proceedings may be continued to their final conclusion in his absence.

## PART VII

### MISCELLANEOUS

#### **Property tracking**

**67.** (1) Where the competent authority or an enforcement agency, as the case may be, has reason to believe that a person is committing, has committed or is about to commit an offence under this Act, the competent authority or enforcement agency, as the case may be, may order—

- (a) that any document relevant to identifying, locating or quantifying any property, or identifying or locating any document necessary for the transfer of the property, belonging to, or in the possession or under the control of that person or any other person, be delivered to it; or
- (b) any person to produce information on any transaction conducted by or for that person with the first-mentioned person.

(2) Any person who does not comply with an order under subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

### **Additional powers of competent authority and enforcement agency**

**68.** (1) For the avoidance of doubt, the functions conferred on the competent authority or an enforcement agency under this Act shall be in addition to its functions under any other written law.

(2) Where an enforcement agency enforcing the law under which a related serious offence is committed gathers evidence with respect to any investigation relating to that offence, such evidence shall be deemed to be evidence gathered in accordance with this Act.

### **Agent provocateur**

**69.** (1) Notwithstanding any law or rule of law to the contrary, in any proceedings against any person for an offence under this Act, no agent provocateur, whether he is an officer of an enforcement agency or not, shall be presumed to be unworthy of credit by reason only of his having attempted to commit or to abet, or having abetted or having been engaged in a criminal conspiracy to commit, such offence if the main purpose of such attempt, abetment or engagement was to secure evidence against such person.

(2) Notwithstanding any law or rule of law to the contrary, a conviction for any offence under this Act solely on the uncorroborated evidence of any agent provocateur shall not be illegal and no such conviction shall be set aside merely because the court which tried the case has failed to refer in the grounds of its judgment to the need to warn itself against the danger of convicting on such evidence.

### **Standard of proof**

**70.** (1) Any question of fact to be decided by a court in proceedings under this Act shall be decided on the balance of probabilities.

(2) Subsection (1) shall not apply in relation to any question of fact that is for the prosecution to prove in any proceedings for an offence under this Act or any subsidiary legislation under it.

### **Admissibility of documentary evidence**

**71.** Where the Public Prosecutor or any enforcement agency has obtained any document or other evidence in exercise of his powers under this Act or by virtue of this Act, such document or copy of the document or other evidence, as the case may be, shall be admissible in evidence in any proceedings under this Act, notwithstanding anything to the contrary in any written law.

### **Admissibility of statements by accused persons**

**72.** (1) In any trial or inquiry by a court into an offence under this Act, any statement, whether the statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of an investigation or not and whether or not wholly or partly in answer to questions, by an accused person to or in the hearing of an officer of any enforcement agency, whether or not interpreted to him by any other officer of such enforcement agency or any other person, whether concerned or not in the arrest of that person, shall, notwithstanding any law or rule of law to the contrary, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement made under subsection (1) shall be admissible or used as provided for in that subsection if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person, proceeding from a person in the enforcement agency and sufficient in the opinion of the court to give that person

grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested or is informed that he may be prosecuted for any offence under this Act, he shall be served with a notice in writing, which shall be explained to him, to the following effect:

“You have been arrested/informed that you may be prosecuted for ... (the possible offence under this Act). Do you wish to say anything? If there is any fact on which you intend to rely in your defence in court, you are advised to mention it now. If you hold it back till you go to court, your evidence may be less likely to be believed and this may have an adverse effect on your case in general. If you wish to mention any fact now, and you would like it written down, this will be done.”

(4) Notwithstanding subsection (3), a statement by any person accused of any offence under this Act made before there is time to serve a notice under that subsection shall not be rendered inadmissible in evidence merely by reason of no such notice having been served on him if such notice has been served on him as soon as is reasonably possible after the statement is made.

(5) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (3) shall be construed as a statement caused by any inducement, threat or promise as is described in subsection (2), if it is otherwise voluntary.

(6) Where in any criminal proceedings against a person for an offence under this Act, evidence is given that the accused, on being informed that he might be prosecuted for it, failed to mention any such fact, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention when so informed, the court, in determining whether the prosecution has made out a *prima facie* case against the accused and in determining whether the accused is guilty of the offence charged, may draw such inferences from the failure as appear proper; and the failure may, on the basis of those inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

(7) Nothing in subsection (6) shall in any criminal proceedings—

- (a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence of it would be admissible apart from that subsection; or
- (b) be taken to preclude the drawing of any inference from any such silence or other reaction of the accused which could be drawn apart from that subsection.

**Admissibility of statements and documents of persons who are dead or cannot be traced, *etc.***

**73.** Notwithstanding any written law to the contrary, in any proceedings against any person for an offence under this Act—

- (a) any statement made by any person to an officer of any enforcement agency in the course of an investigation under this Act; and
- (b) any document, or copy of any document, seized from any person by an officer of any enforcement agency in exercise of his powers under this Act,

shall be admissible in evidence in any proceedings under this Act before any court, where the person who made the statement or the document or the copy of the document is dead, or cannot be traced or found, or has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which appears to the court unreasonable.

**Admissibility of translation of documents**

**74.** (1) 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 such 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 it is an accurate, faithful and true translation and the translation had been done by such person at the instance of the Public Prosecutor or an officer of any enforcement agency.

(2) Subsection (1) shall apply to a document which is translated, regardless whether the document was made in or outside Malaysia, or whether the translation was done in or outside Malaysia, or whether possession of such document was obtained by the Public Prosecutor or an officer of any enforcement agency in or outside Malaysia.

### **Evidence of corresponding law or foreign law**

**75.** (1) A document purporting to be issued by or on behalf of the government of a foreign State and purporting to state the terms of—

- (a) a corresponding law in force in that foreign State; or
- (b) a law in relation to a foreign serious offence in force in that foreign State,

shall be admissible in evidence for the purpose of proving the matters referred to in subsection (2) in any proceedings under this Act on its production by the Attorney General or by any person duly authorized by him in writing.

(2) A document shall be sufficient evidence—

- (a) if issued by or on behalf of the government of the foreign State stated in the document;
- (b) that the terms of the corresponding law or the law of the foreign State are as stated in the document; and
- (c) that any fact stated in the document as constituting an offence under that law does constitute such offence.

### **Proof of conviction and acquittal**

**76.** (1) For the purposes of any proceedings under this Act, the fact that a person has been convicted or acquitted of an offence by or before any court in Malaysia or by a foreign court shall be admissible in evidence for the purpose of proving, where relevant to any issue in the proceedings, that he committed or did not commit that offence, whether or not he is a party to the proceedings, and where he was convicted whether he was so convicted upon plea of guilt or otherwise.

(2) The court shall accept the conviction referred to in subsection (1) as conclusive unless—

- (a) it is subject to review or appeal that has not yet been determined;
- (b) it has been quashed or set aside; or
- (c) the court is of the view that it is contrary to the interests of justice or the public interest to accept the conviction as conclusive.

(3) A person proved to have been convicted of an offence under this section shall be taken to have committed the act and to have possessed the state of mind, if any, which at law constitute that offence.

(4) Any conviction or acquittal admissible under this section may be proved—

- (a) in the case of a conviction or acquittal before a court in Malaysia, by a certificate of conviction or acquittal, signed by the Registrar of that court; or
- (b) in the case of a conviction or acquittal before a foreign court, by a certificate or certified official record of proceedings issued by that foreign court and duly authenticated by the official seal of a Minister of that foreign State,

giving the substance and effect of the charge and of the conviction or acquittal.

### **Indemnity**

**77.** No action, suit, prosecution or other proceedings shall lie or be brought, instituted, or maintained in any court or before any other authority against—

- (a) the competent authority or the relevant enforcement agency;
- (b) any director or officer of the competent authority or the relevant enforcement agency, either personally or in his official capacity; or

- (c) any person lawfully acting in compliance with any direction, instruction or order of a director or officer of the competent authority or the relevant enforcement agency,

for or on account of, or in respect of, any act done or statement made or omitted to be done or made, or purporting to be done or made or omitted to be done or made, in pursuance of or in execution of, or intended pursuance of or execution of, this Act or any order in writing, direction, instruction or other thing issued under this Act if such act or statement was done or made, or was omitted to be done or made, in good faith.

### **Service of notices**

**78.** A letter containing a notice or other document to be served by an enforcement agency under this Act shall be deemed to be addressed to the proper place if it is addressed to the last known address of the addressee.

### **Preservation of secrecy**

**79.** (1) Except for the purpose of the performance of his duties or the exercise of his functions under this Act or when lawfully required to do so by any court or under the provisions of any written law, no person shall disclose any information or matter which has been obtained by him in the performance of his duties or the exercise of his functions under this Act.

(2) No person who has any information or matter which to his knowledge has been disclosed in contravention of subsection (1) shall disclose that information or matter to any other person.

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

### **Exemptions**

**80.** The Minister of Finance may, upon the recommendation of the competent authority, if he considers it consistent with the purposes of this Act or in the interest of the public, by order

published in the *Gazette*, exempt a person or class of persons from all or any of the provisions of Part III or IV for such duration and subject to such condition as the Minister may specify.

### **Modifications**

**81.** (1) The Minister of Finance may, upon the recommendation of the competent authority who shall consult with the Labuan Offshore Financial Services Authority, by order published in the *Gazette*, provide that any provisions of this Act or part of the provision, specified in the order, shall not apply in relation to an offshore financial institution or shall apply with such modifications as may be set out in the order.

(2) The terms of the order made under subsection (1) must be consistent with the intent and purpose of this Act.

(3) In this section, “modification” includes amendment, adaptation, alteration, variation, addition, division, substitution or exclusion.

### **Jurisdiction**

**82.** (1) Any offence under this Act—

- (a) on the high seas on board any ship or on any aircraft registered in Malaysia;
- (b) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or
- (c) by any citizen or any permanent resident in any place outside and beyond the limits of Malaysia,

may be dealt with as if it had been committed at any place within Malaysia.

(2) Notwithstanding anything in this Act, no charge as to any offence shall be inquired into in Malaysia unless a diplomatic officer of Malaysia, if there is one, in the territory in which the offence is alleged to have been committed certifies that, in his opinion, the charge ought to be brought in Malaysia; and where there is no such diplomatic officer, the sanction of the Public Prosecutor shall be required.

(3) Any proceedings taken against any person under this section which would be a bar to subsequent proceedings against that person for the same offence if the offence had been committed in Malaysia shall be a bar to further proceedings against him under any written law relating to extradition or the surrender of fugitive criminals in force in Malaysia in respect of the same offence in any territory beyond the limits of Malaysia.

(4) For the purposes of this section, the expression “permanent resident” has the meaning assigned by the Courts of Judicature Act 1964 [Act 91].

### **Power to issue guidelines, etc.**

**83.** The competent authority may, upon consultation with the relevant supervisory authority, issue to a reporting institution such guidelines, circulars, or notices as are necessary or expedient to give full effect to or for carrying out the provisions of this Act and in particular for the detection or prevention of money laundering.

### **Regulations**

**84.** (1) The Minister of Finance or the Minister of Home Affairs, as the case may be, may make such regulations as are necessary or expedient to give full effect to or for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made—

- (a) to prescribe anything that is required or permitted to be prescribed under this Act;
- (b) to provide that any act or omission in contravention of any provision of such regulations shall be an offence;
- (c) to provide for the imposition of penalties for such offences which shall not exceed a fine of one million ringgit or imprisonment for a term not exceeding one year or both; and

- (d) to provide for the imposition of an additional penalty for a continuing offence which shall not exceed one thousand ringgit for each day that the offence continues after conviction.

### **Amendment of Schedules**

**85.** The Minister of Finance may, by order published in the *Gazette*, amend the First and Second Schedules.

### **General offence**

**86.** Any person who contravenes—

- (a) any provision of this Act or regulations made under it; or
- (b) any specification or requirement made, or any order in writing, direction, instruction, or notice given, or any limit, term, condition or restriction imposed, in the exercise of any power conferred under or pursuant to any provision of this Act or regulations made under it,

commits an offence and shall on conviction, if no penalty is expressly provided for the offence under this Act or the regulations, be liable to a fine not exceeding two hundred and fifty thousand ringgit.

### **Offence committed by any person acting in an official capacity**

**87.** (1) Where an offence is committed by a body corporate or an association of persons, a person—

- (a) who is its director, controller, officer, or partner; or
- (b) who is concerned in the management of its affairs,

at the time of the commission of the offence, is deemed to have committed that offence unless that person proves that the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his function in that capacity and to the circumstances.

(2) An individual may be prosecuted for an offence under subsection (1) notwithstanding that the body corporate or association of persons has not been convicted of the offence.

(3) Subsection (1) shall not affect the criminal liability of the body corporate or association of persons for the offence referred to in that subsection.

(4) Any person who would have committed an offence if any act had been done or omitted to be done by him personally commits that offence and shall on conviction be liable to the same penalty if such act had been done or omitted to be done by his agent or officer in the course of that agent's business or in the course of that officer's employment, as the case may be, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable precautions to prevent the doing of, or omission to do, such act.

### **Offence by an individual**

**88.** Where a person is liable under this Act to a penalty for any act, omission, neglect or default, he shall be liable to the same penalty for the act, omission, neglect or default of his employee, director, controller, or agent if the act, omission, neglect or default was committed by—

- (a) his employee in the course of the employee's employment;
- (b) his director in carrying out the function of a director;
- (c) his controller in carrying out the function of a controller;  
or
- (d) his agent when acting on his behalf.

### **Falsification, concealment and destruction of document, etc.**

**89.** A person, with intent to deceive, in respect of a document to be produced or submitted under any provision of this Act, who makes or causes to be made a false entry, omits to make, or causes to be omitted, any entry, or alters, abstracts, conceals or destroys, or causes to be altered, abstracted, concealed or destroyed, any entry, forges a document, or makes use of or holds in his possession a false document, purporting to be a valid

document, alters any entry made in any document, or issues or uses a document which is false or incorrect, wholly or partially, or misleading commits an offence and on conviction shall be liable to a fine not exceeding one million ringgit or to a term of imprisonment not exceeding one year or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

### **Seizable offence**

**90.** Every offence punishable under this Act shall be a seizable offence.

### **Joinder of offences**

**91.** Notwithstanding anything contained in any other written law, where a person is accused of more than one offence under this Act, he may be charged with and tried at one trial for any number of the offences committed within any length of time.

### **Power of competent authority to compound offences**

**92.** (1) The competent authority or relevant enforcement agency, as the case may be, may, with the consent of the Public Prosecutor, compound any offence under this Act or under regulations made under this Act, by accepting from the person reasonably suspected of having committed the offence such amount not exceeding fifty per centum of the amount of the maximum fine for that offence, including the daily fine, if any, in the case of a continuing offence, to which that person would have been liable if he had been convicted of the offence, within such time as may be specified in its written offer.

(2) Any money paid to the competent authority or relevant enforcement agency pursuant to subsection (1) shall be paid into and form part of the Federal Consolidated Fund.

(3) An offer under subsection (1) may be made at any time after the offence has been committed, and where the amount specified in the offer is not paid within the time specified in the

offer, or such extended time as the competent authority or relevant enforcement agency 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 (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made.

### **Prosecution**

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

---

FIRST SCHEDULE

[Section 3, definition of “reporting institution”]

Part I

1. Banking business, finance company business, merchant banking business, discount house business and money-broking business as defined in the Banking and Financial Institutions Act 1989.
2. Islamic banking business as defined in the Islamic Banking Act 1983.
3. Building credit business, development finance business, factoring business and leasing business as defined in the Banking and Financial Institutions Act 1989.
4. Insurance business, insurance broking business and adjusting business as defined or provided in the Insurance Act 1996.
5. Takaful business as defined in the Takaful Act 1984.
6. Dealing in securities, as defined in the Securities Industry Act 1983, but not including the activity of providing investment advice by an investment adviser as defined in the Securities Industry Act 1983.
7. Money-changing business as defined in the Money-Changing Act 1998.
8. Futures broking business and futures fund management business as defined in the Futures Industry Act 1993.
9. Business activities carried out by the prescribed institutions as defined in the Development Financial Institutions Act 2002 [*Act 618*].
10. Activities carried out by Lembaga Tabung Haji established under the Tabung Haji Act 1995 [*Act 535*].
11. Postal financial services as provided under subsection 24(3) in the Postal Services Act 1991 [*Act 465*].
12. Gaming carried out in common gaming houses as defined in the Common Gaming Houses Act 1953 [*Act 289*].
13. Issuance of designated payment instrument and operation of payment system as provided under the Payment Systems Act 2003 [*Act 627*].
14. Activities carried out by a member as defined in the Accountants Act 1967 [*Act 94*].
15. Activities carried out by an advocate and solicitor as defined in the Legal Profession Act 1976 [*Act 166*].

16. Activities carried out by a person admitted as an advocate pursuant to the Advocate Ordinance Sabah 1953 [*Sabah Cap. 2*].
17. Activities carried out by a person admitted as an advocate pursuant to the Advocate Ordinance Sarawak 1953 [*Sarawak Cap. 110*].
18. Activities carried out by a person prescribed by the Minister or licensed by the Registrar of Companies to act as a secretary of a company pursuant to section 139A of the Companies Act 1965 [*Act 125*].
19. Activities carried out by a licensee as defined in the Pool Betting Act 1967 [*Act 384*].
20. Activities carried out by a totalizator agency as defined in the Racing (Totalizator Board) Act 1961 [*Act 494*].
21. Activities carried out by a racing club as defined in the Racing Club (Public Sweepstakes) Act 1965 [*Act 404*].
22. Activities carried out by a notary public as defined in the Notaries Public Act 1959 [*Act 115*].
23. Activities carried out by a listing sponsor and a trading agent as defined in the Labuan Offshore Securities Industry Act 1998 [*Act 579*].

## Part II

Offshore financial services as defined in the Labuan Offshore Financial Services Authority Act 1996.

---

## SECOND SCHEDULE

[Section 3, definition of “serious offence”]

<i>Offences</i>		<i>Description*</i>
1.	Subsection 4(1) of this Act	Offence of money laundering
<b>Anti-Corruption Act 1997 [Act 575]</b>		
2.	Section 10	Offence of accepting gratification
3.	Section 11	Offence in giving or accepting gratification by agent
4.	Section 12	Accepter or giver of gratification to be guilty notwithstanding that purpose was not carried out or matter not in relation to principal's affairs or business
5.	Section 13	Corruptly procuring withdrawal of tender
6.	Section 14	Bribery of officer of public body
7.	Section 15	Misuse of position
8.	Section 18	Dealing with, using, holding, receiving or concealing gratification or advantage in relation to any offence
9.	Section 20	Attempts, preparations, abetments and criminal conspiracies punishable as offences
<b>Banking and Financial Institutions Act 1989 [Act 372]</b>		
9A.	Section 4	Carrying on banking, finance company, merchant banking, discount house and money-broking business without a valid licence
10.	Section 25	Receiving, taking or acceptance of deposits prohibited except under and in accordance with a valid licence granted under subsection 6(4)
10A.	Section 26	Unsolicited calls
10B.	Section 27	Advertisements for deposits by person other than licensed institutions

<i>Offences</i>		<i>Description*</i>
10C.	Section 28	Fraudulent inducement in relation to deposits
10D.	Section 112	Attempts, preparations, abetments and conspiracies punishable as offences
10E.	Section 115	Prohibition on receipt of gifts, commissions, <i>etc.</i>
<b>Betting Act 1953 [Act 495]</b>		
11.	Section 4	Common betting-houses and betting information centres
12.	Subsection 6(3)	Betting in a common betting-house, and book-making
<b>Child Act 2001 [Act 611]</b>		
12A.	Section 43	Offences relating to selling, procuring, detention, <i>etc.</i> , or any attempts thereto, of a child for prostitution
12B.	Section 48	Unlawful transfer of possession, custody or control of child
12C.	Section 49	Importation of child by false pretences
<b>Common Gaming Houses Act 1953 [Act 289]</b>		
13.	Section 4	Common gaming houses
14.	Section 4A	Assisting in carrying on a public lottery, <i>etc.</i>
<b>Companies Act 1965 [Act 125]</b>		
15.	Section 27	Invitation to public by private companies
16.	Section 38	Invitation to public to lend or deposit money with a corporation
17.	Section 366	Inducing persons to invest money
<b>Copyright Act 1987 [Act 332]</b>		
18.	Section 41	Infringement of copyright

<i>Offences</i>		<i>Description*</i>
<b>Corrosive and Explosive Substances and Offensive Weapons Act 1958 [Act 357]</b>		
19.	Section 3	Possession of corrosive or explosive substance for the purpose of causing hurt
<b>Customs Act 1967 [Act 235]</b>		
19A.	Section 133	Making incorrect declarations and falsifying documents
20.	Section 135	Smuggling offences
20A.	Subsections 137(1) and (2)	Offering or receiving bribes
<b>Dangerous Drugs Act 1952 [Act 234]</b>		
21.	Section 4	Restriction on importation of raw opium, coca leaves, poppy-straw and cannabis
22.	Section 5	Restriction on exportation of raw opium, coca leaves, poppy-straw and cannabis
23.	Section 12	Restriction on import and export of certain dangerous drugs
24.	Subsection 19(4)	Export of dangerous drugs
25.	Subsection 20(5)	Import of dangerous drugs
26.	Section 39B	Trafficking in dangerous drugs
<b>Dangerous Drugs (Forfeiture of Property) Act 1988 [Act 340]</b>		
27.	Section 3	Use of property for activity constituting certain offences
28.	Section 4	Dealing with, or using, holding, receiving or concealing illegal property
29.	Section 56	Attempts, abetments and criminal conspiracies punishable as offences
<b>Development Financial Institutions Act 2002 [Act 618]</b>		
29A.	Section 108	Falsification, concealment and destruction of documents

<i>Offences</i>		<i>Description*</i>
29B.	Paragraph 114(1)(b) in relation to offences under sections 108 and 118	Attempts, preparations, abetments and conspiracies punishable as offences
29C.	Section 118	Prohibition on receipt of gifts, commission <i>etc.</i>
<b>Explosives Act 1957 [Act 207]</b>		
30.	Subsection 4(2)	Power to prohibit the manufacture, possession or importation of specially dangerous explosives
31.	Section 5	Acts causing explosions or fire
32.	Section 6	Causing explosion likely to endanger life or property
33.	Section 7	Attempt to cause explosion, or making or keeping explosive with intent to endanger life or property
34.	Section 8	Making or possessing explosives under suspicious circumstances
<b>Firearms (Increased Penalties) Act 1971 [Act 37]</b>		
34A.	Section 7	Trafficking in firearms
<b>Futures Industry Act 1993 [Act 499]</b>		
35.	Section 3	Establishment of futures markets
36.	Section 16	Futures brokers to be licensed
37.	Section 16A	Futures fund managers to be licensed
37A.	Section 52A	Segregation of clients' money and property
37B	Section 52D	Operation of trust accounts
37C	Section 52E	Application of client's money or property
38.	Section 79	False trading

<i>Offences</i>		<i>Description*</i>
39.	Section 80	Bucketing
40.	Section 82	Manipulation of price of futures contract and cornering
41.	Section 83	Employment of devices, <i>etc.</i> , to defraud
42.	Section 86	Prohibition or abuse of information obtained in official capacity
<b>Insurance Act 1996 [Act 553]</b>		
42A.	Section 9	Carrying on insurance, insurance broking or adjusting business without a licence
42B.	Section 10	Holding out as an insurer, insurance broker or adjuster without a licence
42C.	Section 184	Acting as agent or insurance broker for an unlicensed person without the approval of the Bank
42D.	Section 205	Falsifying, omitting, altering, <i>etc.</i> , entries in documents with intent to deceive
42E.	Section 212	Attempts, abetments and conspiracies
<b>Internal Security Act 1960 [Act 82]</b>		
42F.	Section 5	Prohibition of quasi-military organizations
42G.	Section 6	Illegal drilling
<b>Islamic Banking Act 1983 [Act 276]</b>		
42H.	Subsection 3(1)	Carrying on of Islamic banking business without licence
42I.	Section 49	Prohibition on receipt of commission by staff
<b>Kidnapping Act 1961 [Act 365]</b>		
43.	Section 3	Abduction, wrongful restraint or wrongful confinement for ransom
44.	Section 5	Knowingly receiving ransom
45.	Section 6	Knowingly negotiating to obtain, or for payment of, ransom

<i>Offences</i>		<i>Description*</i>
<b>Money-Changing Act 1998 [Act 577]</b>		
45A.	Section 4	Carrying on money-changing business without a licence
<b>Optical Discs Act 2000 [Act 606]</b>		
46.	Section 4	Manufacturing without a valid licence
47.	Section 21	Applying false manufacturer's code
<b>Payment Systems Act 2003 [Act 627]</b>		
47AA.	Subsection 5(1)	Operating payment systems without written notification from Central Bank of Malaysia
47AB.	Subsection 25(1)	Issuing designated payment instruments without written approval from Central Bank of Malaysia
<b>Penal Code [Act 574]</b>		
47A.	Section 125	Waging war against any power in alliance with the Yang di-Pertuan Agong
47B.	Section 125A	Harbouring or attempting to harbour any person in Malaysia or person residing in a foreign State at war or in hostility against the Yang di-Pertuan Agong
47C.	Section 121	Waging or attempting to wage war or abetting the waging of war against the Yang di-Pertuan Agong, a Ruler or Yang di-Pertua Negeri
47D.	Section 121A	Offences against the person of the Yang di-Pertuan Agong, Ruler or Yang di-Pertua Negeri
47E.	Section 121B	Offences against the authority of the Yang di-Pertuan Agong, Ruler or Yang di-Pertua Negeri
47F.	Section 121C	Abetting offences under section 121A or 121B

<i>Offences</i>		<i>Description*</i>
48.	Section 161	Public servant taking a gratification, other than legal remuneration, in respect of an official act
49.	Section 162	Taking a gratification in order, by corrupt or illegal means, to influence a public servant
50.	Section 163	Taking a gratification, for the exercise of personal influence with a public servant
51.	Section 164	Abetment by public servant of the offences under section 163
52.	Section 165	Public servant obtaining any valuable thing, without consideration from person concerned in any proceeding or business transacted by such public servant
53.	Section 207	Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree
54.	Section 213	Taking gifts, <i>etc.</i> , to screen an offender from punishment
55.	Section 214	Offering gift or restoration of property in consideration of screening offender
56.	Section 215	Taking gift to help to recover stolen property, <i>etc.</i>
57.	Section 216A	Harbouring robbers or gang-robbers, <i>etc.</i>
58.	Section 217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture
59.	Section 218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture
59A.	Section 300	Murder
60.	Section 327	Voluntarily causing hurt to extort property or to constrain to an illegal act
61.	Section 329	Voluntarily causing grievous hurt to extort property or to constrain to an illegal act

<i>Offences</i>		<i>Description*</i>
62.	Section 330	Voluntarily causing hurt to extort confession or to compel restoration of property
63.	Section 331	Voluntarily causing grievous hurt to extort confession or to compel restoration of property
64.	Section 347	Wrongful confinement for the purpose of extorting property or constraining to an illegal act
65.	Section 348	Wrongful confinement for the purpose of extorting confession or of compelling restoration of property
66.	Section 363	Kidnapping
67.	Section 364	Kidnapping or abducting in order to murder
68.	Section 365	Kidnapping or abducting with intent to secretly and wrongfully to confine a person
69.	Section 366	Kidnapping or abducting a woman to compel her marriage, <i>etc.</i>
70.	Section 367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, <i>etc.</i>
71.	Section 368	Wrongfully concealing or keeping in confinement a kidnapped person
72.	Section 369	Kidnapping or abducting child under 10 years with intent to steal movable property from the person of such child
73.	Section 370	Buying or disposing of any person as a slave
74.	Section 371	Habitual dealing in slaves
75.	Section 372	Exploiting any person for purposes of prostitution
75A.	Section 372A	Persons living on or trading in prostitution
75B.	Section 372B	Soliciting for purposes of prostitution

<i>Offences</i>		<i>Description*</i>
76.	Section 373	Suppression of brothels
77A.	Section 374	Unlawful compulsory labour
78.	Section 379	Theft
79.	Section 379A	Theft of a motor vehicle
80.	Section 380	Theft in dwelling house, <i>etc.</i>
81.	Section 381	Theft by clerk or servant of property in possession of master
82.	Section 382	Theft after preparation made for causing death or hurt in order to commit theft
83.	Section 384	Extortion
84.	Section 385	Putting person in fear of injury in order to commit extortion
85.	Section 386	Extortion by putting a person in fear of death or grievous hurt
86.	Section 387	Putting person in fear of death or of grievous hurt in order to commit extortion
87.	Section 389	Putting person in fear of accusation of offence, in order to commit extortion
88.	Section 392	Robbery
89.	Section 394	Voluntary causing hurt in committing robbery
90.	Section 395	Gang-robbery
91.	Section 396	Gang-robbery with murder
92.	Section 399	Making preparation to commit gang-robbery
93.	Section 400	Belonging to gang of robbers
94.	Section 402	Assembling for purpose of committing gang-robbery
95.	Section 403	Dishonest misappropriation of property

<i>Offences</i>		<i>Description*</i>
96.	Section 404	Dishonest misappropriation of property possessed by a deceased person at the time of his death
97.	Section 406	Criminal breach of trust
98.	Section 407	Criminal breach of trust by carrier, <i>etc.</i>
99.	Section 408	Criminal breach of trust by clerk or servant
100.	Section 409	Criminal breach of trust by public servant, or by banker, merchant or agent
101.	Section 411	Dishonestly receiving stolen property
102.	Section 412	Dishonestly receiving property stolen in the commission of a gang-robbery
103.	Section 413	Habitually dealing in stolen property
104.	Section 414	Assisting in concealment of stolen property
104A.	Section 415	Cheating
104B.	Section 416	Cheating by personation
104C.	Section 418	Cheating with the knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect
105.	Section 420	Cheating and dishonestly inducing delivery of property
106.	Section 421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors
107.	Section 422	Dishonest or fraudulently preventing from being made available for his creditors a debt or demand due to the offender
107A.	Section 423	Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration

<i>Offences</i>		<i>Description*</i>
108.	Section 424	Dishonest or fraudulent removal or concealment of consideration
109.	Section 465	Forgery
109A.	Section 466	Forgery of a record of a Court, or a public Register of Births, <i>etc.</i>
109B.	Section 467	Forgery of a valuable security or will
110.	Section 468	Forgery for the purpose of cheating
110A.	Section 471	Using as genuine a forged document
110B.	Section 472	Making or possessing a counterfeit seal, plate, <i>etc.</i> , with intent to commit a forgery punishable under section 467
110C.	Section 473	Making or possessing a counterfeit seal, plate, <i>etc.</i> , with intent to commit a forgery punishable otherwise
110D.	Section 474	Having possession of a valuable security or will known to be forged, with intent to use it as genuine
110E.	Section 475	Counterfeiting a device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material
110F.	Section 476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material
110G.	Section 477	Fraudulent cancellation, destruction, <i>etc.</i> , of a will
110H.	Section 477A	Falsification of accounts
111.	Section 489A	Forging or counterfeiting currency notes or bank notes
111A.	Section 489B	Using as genuine, forged or counterfeit currency notes or bank notes
112.	Section 489C	Possession of forged or counterfeit currency notes or bank notes

	<i>Offences</i>	<i>Description*</i>
112A.	Section 489D	Making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes
<b>Securities Commission Act [Act 498]</b>		
112AA.	Section 32B	False or misleading statements
112AB.	Section 55	Criminal liability for false statements, <i>etc.</i> in prospectus
<b>Securities Industry Act 1983 [Act 280]</b>		
113.	Section 7	Establishment of stock markets
114.	Section 12	Dealer's licence
115.	Section 15A	Fund manager's licence
115A.	Section 44	Certain money received by dealers to be paid into a trust account
115B.	Section 47C	Operation of trust account
115C.	Section 47D	Client's monies
116.	Section 84	Market rigging
117.	Section 85	Market manipulation
118.	Section 87A	Use of manipulative and deceptive devices
119.	Section 89E	Insider trading
119A.	Section 122B	False reports to Commission, stock exchange or recognised clearing house
<b>Takaful Act 1984 [Act 312]</b>		
120.	Section 4	Carrying on business as takaful operator without a licence
120A.	Section 5	Holding out as a registered takaful operator

<i>Offences</i>		<i>Description*</i>
121.	Section 35	Carrying on takaful business as an agent or broker for a person other than a licensed takaful operator
121A.	Subsection 37(1)	Acting or holding out as a takaful broker without licence
121B.	Subsection 38(1)	Acting or holding out as an adjuster unless the holder of a licence

---

\*NOTE—The short description of offences in this Schedule is for reference only.

---

**LAWS OF MALAYSIA**  
**Act 613**  
**ANTI-MONEY LAUNDERING ACT 2001**

LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U. (A) 18/2002	Anti-Money Laundering (Amendment of Second Schedule) Order 2002	15-01-2002
P.U. (A) 13/2003	Anti-Money Laundering (Amendment of First Schedule) Order 2003	15-01-2003
P.U. (A) 14/2003	Anti-Money Laundering (Amendment of Second Schedule) Order 2003	15-01-2003
P.U. (A) 338/2004	Anti-Money Laundering (Amendment of First Schedule) Order 2004	30-09-2004
P.U. (A) 339/2004	Anti-Money Laundering (Amendment of Second Schedule) Order 2004	30-09-2004
P.U. (A) 111/2005	Anti-Money Laundering (Amendment of First Schedule) Order 2005	31-03-2005
P.U. (A) 112/2005	Anti-Money Laundering (Amendment of Second Schedule) Order 2005	31-03-2005
P.U. (A) 416/2005	Anti-Money Laundering (Amendment of First Schedule)(No. 2) Order 2005	20-10-2005
P.U. (A) 417/2005	Anti-Money Laundering (Amendment of Second Schedule)(No 2) Order 2005	20-10-2005
Act A1208	Anti-Money Laundering (Amendment) Act 2003	Not yet in force

---

**LAWS OF MALAYSIA**  
**Act 613**  
**ANTI-MONEY LAUNDERING ACT 2001**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
FIRST SCHEDULE	P.U. (A) 13/2003	15-01-2003
	P.U. (A) 338/2004	30-09-2004
	P.U. (A) 111/2005	31-03-2005
	P.U. (A) 416/2005	20-10-2005
SECOND SCHEDULE	P.U. (A) 18/2002	15-01-2002
	P.U. (A) 14/2003	15-01-2003
	P.U. (A) 339/2004	30-09-2004
	P.U. (A) 112/2005	31-03-2005
	P.U. (A) 417/2005	20-10-2005

---



0270040122:  
 PERSEKUTUAN NEGARA MALAYSIA BERHAD  
 KUALA LUMPUR  
 60100 Kuala Lumpur, Malaysia