

LAW OF MALAYSIA

Act 311

EXCLUSIVE ECONOMIC ZONE ACT 1984

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LAW OF MALAYSIA

Act 311

EXCLUSIVE ECONOMIC ZONE ACT 1984

An Act pertaining to the exclusive economic zone and certain aspects of the continental shelf of Malaysia and to provide for the regulation of activities in the zone and on the continental shelf and for matters connected therewith.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

**PART I
PRELIMINARY**

1. (1) This Act may be cited as the Exclusive Economic Zone Act 1984 and shall apply to the exclusive economic zone and continental shelf of Malaysia. Short title, application and commencement.

(2) The provisions of this Act pertaining to the continental shelf shall be in addition to, and not in derogation of, the provisions of the Continental Shelf Act 1966. Act 83.

(3) In the event of any conflict or inconsistency between the provisions of this Act and of any applicable written law, the provisions of this Act shall supersede the conflicting or inconsistent provisions of that applicable written law and the latter shall be construed as so superseded.

(4) The provisions of any applicable written law which are not in conflict or inconsistent with the provisions of this Act shall otherwise continue to apply.

(5) This Act shall come into force on such date as the Yang di-Pertuan Agong may appoint by notification in the *Gazette* and he may appoint different dates for the coming into force of different provisions of this Act in different areas of the exclusive economic zone and continental shelf.

Interpretation.

2. In this Act, unless the context otherwise requires-
"applicable written law" means any written law-

- (a) provided to be applicable in respect of the exclusive economic zone, continental shelf or both, as the case may be, by an order made under section 42 or otherwise specifically provided to be so applicable; or
- (b) applicable in respect of the continental shelf under the provisions of the Continental Shelf Act 1966,

and includes the Continental Shelf Act 1966;

Act 210.
Ord. 70/52.

Act 41/67.
Act 235.
Act 77.

"authorized officer" means any fishery officer as defined in section 2 of the Fisheries Act 1963, any port officer as defined in section 2 of the Merchant Shipping Ordinance 1952, any police officer not below the rank of sergeant as defined in section 2 of the Police Act 1967, any customs officer as defined in section 2 of the Customs Act 1967, any officer of the armed forces as defined in section 2 of the Armed Forces Act 1972, any public officer, irrespective of rank, in command or a vessel belonging to the Government or any other person or class of persons appointed to be an authorized officer or authorized officers under section 39;

"continental shelf" means the continental shelf of Malaysia as defined in section 2 of the Continental Shelf Act 1966;

Act 127.

"Director-General" means the Director-General of Environmental Quality as defined in section 2 of the Environmental Quality Act 1974;

"dumping" means-

- (a) any deliberate disposal of waters or other matter from vessels, aircraft, platforms or other man-made structures at sea; or
- (b) any deliberate disposal of vessels, aircraft or other man-made structure at sea,

but "dumping" does not include-

- (i) the disposal of wastes or other matter incidental to, or derived from, the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose

of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures ; or

- (ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Act, any applicable written law or international law;

"exclusive economic zone" or "zone" means the exclusive economic zone of Malaysia determined in accordance with section 3;

"Government" means the Government of Malaysia and includes any Minister charged with responsibility by an order made under the Ministerial Functions Act 1969 for the matter in relation to which the reference to the Government is made under this Act, and any other Minister exercising temporarily the functions of such Minister; Act 2.

"Malaysian fisheries waters" means all waters comprising the internal waters, the territorial sea and the exclusive economic zone of Malaysia in which Malaysia exercises sovereign and exclusive rights over fisheries;

"maritime casualty" means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo;

"master", in relation to a vessel, includes every person (except a pilot or port officer as defined in section 2 of the Merchant Shipping Ordinance 1952) having for the time being command or charge of the vessel, or lawfully acting as the master thereof;

"mixture containing oil" means-

- (a) a mixture with an oil content of one hundred parts or more in one million parts of the mixture; or
- (b) a mixture with such oil content as is prescribed by the Minister charged with responsibility for the environment by order in the *Gazette* to be a mixture containing oil for the purposes of this Act;

"oil" means-

- (a) crude oil, diesel oil, fuel oil or lubricating oil, or
- (b) any other description of oil which is prescribed by the Minister charged with responsibility for the environment by order in the *Gazette* to be oil for the purposes of this Act;

"owner", in relation to a vessel, means any person or body of persons, whether incorporated or not, by whom the vessel is owned and includes any charterer, subcharterer, lessee or sub-lessee of the vessel;

"pollutant" means any substance which, if introduced into the sea, is liable to create hazards to human health or to harm living resources in the sea or other marine life, or to damage amenities or interfere with other legitimate uses of the sea and, without limiting the generality of the foregoing includes and substance that is prescribed by the Minister charged with responsibility for the environment by order in the *Gazette* to be a pollutant for the purposes of this Act;

"State" shall have the meaning assigned to that expression under international law;

P.U. (A)
307A/69

"territorial sea" means the territorial waters of Malaysia determined in accordance with the Emergency (Essential Powers) Ordinance, No. 7/1969;

"this Act" includes regulations and other subsidiary legislation made under this Act and anything done under this Act or under such regulations or other subsidiary legislation;

"vessel" includes every description of ship or floating or submarine craft or structure;

"waste" includes-

- (a) any matter, whether liquid, solid, gaseous or radioactive, which is discharged, emitted, deposited or dumped in the marine environment in such volume, composition or manner as to cause an alteration of the environment; or

- (b) any matter which is prescribed by the Minister charged with responsibility for the environment by order in the *Gazette* to be waste for the purposes of this Act.

PART II
EXCLUSIVE ECONOMIC ZONE

3. (1) The exclusive economic zone of Malaysia, as proclaimed by the Yang di-Pertuan Agong vide P.U. (A) 115/80, is an area beyond and adjacent to the territorial sea of Malaysia and, subject to subsections (2) and (4), extends to a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea is measured.

The exclusive economic zone of Malaysia.

(2) Where there is an agreement in force on the matter between Malaysia and a State with an opposite or adjacent coast, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

(3) The Yang di-Pertuan Agong may cause the limits of the exclusive economic zone to be published in maps or charts from time to time.

(4) Where, having regard to international law, State practice or an agreement referred to in subsection (2), the Yang di-Pertuan Agong considers it necessary so to do, he may by order published in the *Gazette* alter the limits of the exclusive economic zone determined in accordance with subsection (1).

4. In the exclusive economic zone Malaysia has-

Sovereign right in, and jurisdiction over, the exclusive economic zone.

- (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, or the sea-bed and subsoil and the superjacent waters, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;
- (b) jurisdiction with regard to-

- (i) the establishment and use of artificial islands installations and structures;
 - (ii) marine scientific research;
 - (iii) the protection and preservation of the marine environment; and
- (c) such other rights and duties as are provided for by international law.

Prohibition of activities in the exclusive economic zone or on the continental shelf except where authorized.

5. Except where authorized in accordance with the provisions of this Act or any applicable written law, no person shall in the exclusive economic zone or on the continental shelf-

- (a) explore or exploit any natural resources, whether living or non-living;
- (b) carry out any search, excavation or drilling operations;
- (c) conduct any marine scientific research; or
- (d) construct or authorize and regulate the construction, operation and use of-
 - (i) any artificial island;
 - (ii) any installation or structure for any or the purposes provided for in section 4 or for any other economic purpose; or
 - (iii) any installation or structure which may interfere with the exercise of the rights of Malaysia in the zone or on the continental shelf.

PART III FISHERIES

Seas in the zone to be part of Malaysian fisheries waters

6. The seas comprised in the exclusive economic zone shall be part of Malaysian fisheries waters.

7. The Minister charged with responsibility for fisheries shall also be responsible for fisheries in the exclusive economic zone.

Minister responsible for fisheries in the zone.

8. Except as otherwise provided in this Act, any written law relating to fisheries shall be applicable in the exclusive economic zone and on the continental shelf with such necessary modifications or exceptions as may be provided in an order made under section 42.

Written law relating to fisheries to be applicable in the zone and on the continental shelf.

**PART IV
PROTECTION AND PRESERVATION OF THE
MARINE
ENVIRONMENT**

9. Malaysia has the sovereign right to exploit her natural resources in the exclusive economic zone pursuant to her environmental policies and in accordance with her duty to protect and preserve the marine environment in the zone.

Sovereign right to Malaysia to exploit her natural resources.

10. (1) If any oil, mixture containing oil or pollutant is discharged or escapes into the exclusive economic zone from any vessel, land-based source, installation, device or aircraft, from or through the atmosphere or by dumping-

Offence in respect of the discharge or escape of certain substances.

- (a) the owner or master of the vessel, if the discharge or escape is from a vessel;
- (b) the owner or occupier of the place on land, if the discharge or escape is from land;
- (c) the owner or person in charge of the installation or device, if the discharge or escape is from an installation or a device; or
- (d) the owner or pilot of the aircraft, if the discharge or escape is from an aircraft,

shall each be guilty of an offence and shall be liable to a fine not exceeding one million ringgit.

(2) Where the act or omission of a person other than any of the persons mentioned in subsection (1) caused the discharge or escape mentioned in that subsection, then such other person shall also be guilty of an offence and shall be liable to a fine not exceeding one million ringgit.

(3) Subsection (2) shall not operate to absolve or relieve the persons mentioned in subsection (1) from liability for an offence under subsection (1).

(4) Notwithstanding the provisions of this section, dumping of wastes or other matter may be carried out under a licence issued by the Director-General and subject to such conditions as he may impose.

Defence to a charge under section 10.

11. Where a person is charged with an offence under section 10, it shall be a defence to prove that the discharge or escape of the substance mentioned in subsection (1) of that section was caused for the purpose of securing the safety of the vessel, the place on land, the installation, device or aircraft concerned, or for the purpose of saving life but a defence under this section shall not operate if the court is satisfied that the discharge or escape was not necessary for the alleged purpose or was not a reasonable step to take in the circumstances.

Requirement for discharge or escape or certain substances to be reported.

12. (1) If any oil, mixture containing oil or pollutant is discharged or escapes into the exclusive economic zone from any vessel, land-based sources, installation, device or aircraft, the owner or master of the vessel, the owner or occupier of the place on land, the owner or person in charge of the installation or device or the owner or pilot of the aircraft, as the case may be, shall immediately report the occurrence of such discharge or escape to the Director-General.

(2) Any person who fails to comply with this section shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand ringgit.

Measures relating to a maritime casualty.

13. (1) The Government may specify measures in relation to the exclusive economic zone which are necessary to protect Malaysia's coastline or any segment or element of the environment or related interests, including fishing, from pollution or threat of pollution following upon a maritime casualty or acts relating to such casualty, which may reasonably be expected to result in major harmful consequences.

(2) The measures referred to in subsection (1) shall be proportionate to the actual or threatened damage to the coastline or segment or element of the environment or related interests, including fishing.

14. (1) Where Malaysia's coastline or any segment or element of the environment or related interests, including fishing, in the exclusive economic zone is damaged or threatened to be damaged as a result of any discharge or escape of any substance mentioned in section 10, the Director-General may issue such directions as are, or take such action as is,

Directions and action to remove, disperse, destroy or mitigate damage.

necessary to remove, disperse, destroy or mitigate the damage or threat of damage.

(2) Any person who fails to comply with any direction given by the Director-General under subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand ringgit.

(3) The owner and the master of the vessel, the owner and the occupier of the place on land, the owner and the person in charge of the installation or device, or the owner and the pilot of the aircraft, as the case may be, from which the substance mentioned in section 10 was discharged or escaped shall be liable jointly and severally for all costs and expenses incurred in carrying out all or any of the work required under subsection (1) to remove, disperse, destroy or mitigate the damage or threat of damage, and such costs and expenses shall be a first charge on any property or interest held by such person.

(4) Where the Act or omission of a person other than any of the persons mentioned in subsection (3) caused such discharge or escape, then such other person shall also be liable jointly and severally with the persons mentioned in that subsection for all costs and expenses incurred in carrying out all or any of the work required under subsection (1) to remove, disperse, destroy or mitigate the damage or threat of damage, and such costs and expenses shall be a first charge on any property or interest held by such other person.

Power to
detain and
sell vessel.

15. (1) The Director-General may detain any vessel from which the oil, mixture containing oil or pollutant escaped or was discharged in the circumstances mentioned in subsection (1) of section 14.

(2) The Director-General may release any vessel detained under subsection (1) upon the owner depositing with the Government such sum of money or furnishing such security as, in the opinion of the Director-General, would be adequate to meet all costs and expenses incurred in carrying out the work required to remove, disperse, destroy or mitigate the damage or threat of damage caused by such escape or discharge.

(3) If any vessel which has been detained proceeds to sea without being released under subsection (2), the owner or master of the vessel or any other person who causes the vessel to proceed to sea shall be guilty of an offence and shall be liable to a fine not exceeding one million ringgit.

(4) Where the owner or master of such vessel or any other person found guilty of an offence under this section is unable to pay the fine or the costs and expenses incurred in carrying out the work required under subsection (1) of section 14, the court may, on the application of the Director-General, order the sale of such vessel and application of the proceeds of the sale towards the payment of the fine and the costs and expenses incurred.

PART V MARINE SCIENTIFIC RESEARCH

Government consent required for conduct of marine scientific research.

16. (1) No marine scientific research may be conducted in the exclusive economic zone or on the continental shelf without the express consent of the subject to conditions imposed by the Government.

Duty to provide information.

(2) Subject to section 17, the Government shall give its consent where the marine scientific research would be carried out by any State or competent international organization for peaceful purposes and to increase scientific knowledge of the marine environment.

17. The Government may withhold its consent to the conduct of a marine scientific research project by any State or competent international organization in the exclusive economic zone or one the continental shelf if it has reason to believe that the project-

Right to withhold consent.

- (a) is of direct significance to the exploration and exploitation of natural resources, whether living or non-living;
- (b) involves drilling into the continental shelf, the use of explosives or the introduction of pollutants into the marine environment;
- (c) involves the construction, operation or use of artificial islands, installations or structures;
- (d) contains information communicated pursuant to section 18 regarding the nature and objectives of the project which is inaccurate or if the researching State or competent international organization has outstanding obligations to Malaysia from a prior research project; or

- (e) would interfere with activities under taken by Malaysia in the exercise of its sovereign rights and jurisdiction provided for under this Act, any applicable written law or international law.

18. Any State or competent international organization which intends to undertake marine scientific research in the exclusive economic zone or on the continental shelf shall, not less than six months in advance of the expected starting date of the marine scientific research project, provide the Government with a full description of-

- (a) the nature and objective of the project;
- (b) the method and means to be used, including name, tonnage, type and class of vessels and a description of scientific equipment;
- (c) the precise geographical areas in which the project is to be conducted;
- (d) the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;
- (e) the name of the sponsoring institution, its director, and the person in charge of the project; and
- (f) the extent to which it is considered that Malaysia should be able to participate or to be represented in the project.

Duty to
comply with
certain
conditions

19. (1) Every State or competent international organization undertaking marine scientific research in the exclusive economic zone or on the continental shelf shall comply with the following conditions:

- (a) ensure the right of the Government, if it so desires, to participate or be represented in the marine scientific research project, especially on board research vessels and other craft or scientific research installations, when practicable, without payment of any remuneration to the scientists of Malaysia and

without obligation to contribute towards the costs of the project;

- (b) provide the Government with preliminary reports, as soon as practicable, and with the final results and conclusions after the completion of the research;
- (c) undertake to provide access for the Government, at its request, to all data and samples derived from the project and likewise to furnish it with data which may be copied and samples which may be divided without detriment to their scientific value;
- (d) if requested, provide the Government with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation;
- (e) ensure, unless otherwise specified by the Government, that the research results are made internationally available through appropriate national or international channels, as soon as practicable;
- (f) inform the Government immediately of any major change in the research programme;
- (g) unless otherwise agreed, remove the scientific research installations or equipment once the research is completed.

(2) This section is without prejudice to the conditions established by the Government for the exercise of its discretion to give or withhold consent pursuant to section 16 or 17, as the case may be, including requiring prior agreement for making internationally available the research results of a project of direct significance for the exploration and exploitation of natural resources.

20. (1) The Government may order the suspension of any marine scientific research activities in progress within the exclusive economic zone or on the continental shelf if-

- (a) the research activities are not being conducted in accordance with the information provided under section 18 upon which the consent of the Government was based; or

Suspension
or cessation
of marine
scientific
research
activities.

- (b) the State or competent international organization conducting the research activities fails to comply with the provisions of section 19.

(2) The Government may order the cessation of any marine scientific research activities-

- (a) which in deviating form the information provided under section 18 have amounted to a major change in the research project or the research activities; or
- (b) if any of the situations contemplated in subsection(1) are to rectified within a reasonable period of time, as determined by the Government.

(3) Following notification by the Government of the order of suspension or cessation, the State or competent international organization shall immediately terminate all or any of the marine scientific research activities that are the subject of such a notification.

(4) An order of suspension under subsection (1) may be lifted by the Government and the marine scientific research activities allowed to continue if the researching State or competent international organization complies with the conditions required under sections 18 and 19 within a reasonable period of time, as determined by the Government.

PART VI ARTIFICIAL ISLANDS, INSTALLATIONS AND STRUCTURES

Prohibition of construction, operation or use of artificial island, etc., except with authorization

21. (1) No person shall construct, operate or use any artificial island, installation or structure in the exclusive economic zone or on the continental shelf except with the authorization of the Government and subject to such conditions as it may impose.

(2) The Government shall have exclusive jurisdiction over artificial islands, installations and structures in the zone and on the continental shelf, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws.

(3) The Government may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

(4) The breadth of the safety zones shall be determined by the Government, taking into account applicable international standards, Due notice shall be given of the extent of the safety zones.

(5) All vessels must respect these safety zones and shall comply with any directions which the Government may give in accordance with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures and safety zones.

PART VII SUBMARINE CABLES AND PIPELINES

Consent of Government necessary for delineation of course for laying of submarine cables and pipelines.

22. (1) No person shall lay submarine cables or pipelines in the exclusive economic zone or on the continental shelf without the consent of the Government as to the delineation of the course for the laying of such cables and pipelines.

(2) Without prejudice to subsection (1), the Government may impose such conditions as it may consider necessary for the laying or maintenance of such cables and pipelines in the exercise of its right to take reasonable measures for the exploration of the continental shelf, the exploitation of natural resources and the prevention, reduction and control of pollution from such cables or pipelines.

23. The owner of any submarine cable or pipeline which has fallen into disuse or is beyond repair shall forthwith inform the Government thereof and shall, if so directed by the Government, remove such cable or pipeline within such period of time as the Government may direct.

Duty of owner of submarine cable or pipeline.

PART VIII ENFORCEMENT

24. (1) For the purpose of ensuring compliance with the provisions of this Act or any applicable written law, any authorized officer may, where he has reason to believe that an offence has been committed under this Act or such written law, with out a warrant-

Powers of authorized officer.

- (a) stop, board and search any vessel within the exclusive economic zone and inspect any licence, permit, record, certificate or any other document required to be carried on board such vessel under this Act, such written law or any generally accepted international rules and standards, and make copies of the same;
- (b) make such further enquiries and physical inspection of the vessel, its crew, equipment, gear, furniture, appurtenances, stores and cargo as may be necessary to ascertain whether or not a suspected violation of the provisions of this Act or such written law has been committed;
- (c) enter and search any place in which he has reason to believe that an offence under this Act or such written law is about to be or has been committed;
- (d) arrest any person who he has reason to believe has committed any offence under this Act or such written law;
- (e) detain any article which he has reason to believe has been used in the commission of any offence under this Act or such written law;
- (f) detain any vessel, including its equipment, gear, furniture, appurtenances, stores and cargo, which he has reason to believe has been used in the commission of any offence or in relation to which any offence has been committed under this Act or such written law.

(2) A written acknowledgment shall be given for any article, vessel or thing detained under subsection (1).

Hot Pursuit.

25. (1) Where any authorized officer has reason to believe that a foreign vessel has contravened any provision of this Act or any applicable written law, he may undertake the hot pursuit of such vessel with a view to stopping and arresting it and bringing it within the exclusive economic zone in accordance with international law.

(2) The powers conferred on an authorized officer under section 24 shall be exercisable pursuant to this section in respect of such vessel beyond the limits of the exclusive economic zone to the extent allowed by international law.

(3) Except as otherwise provided by any regional or bilateral agreement to which Malaysia is a party, the right of hot pursuit shall cease as soon as the vessel pursued enters the territorial sea or exclusive economic zone of its own State or any third State.

How person
arrested to be
dealt with.

26. (1) An authorized officer making an arrest under this Act or any applicable written law shall without unnecessary delay produce the person arrested before a Magistrate.

(2) No authorized officer shall keep in custody a person arrested for a longer period than under all the circumstances of the case is reasonable.

F. M. S.
Cap. 6.

(3) Such period shall not in the absence or after the expiry of a special order of a Magistrate under section 117 of the Criminal Procedure Code exceed twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

27. Any vessel detained under this Part and the crew thereof shall be taken to the nearest or most convenient port and dealt with in accordance with the provisions of this Act or any applicable written law.

How detain-
ed vessel to
be dealt with.

28. Any person who-

- (a) wilfully obstructs any authorized officer in the exercise of any of the powers conferred on him by this Act or any applicable written law;
- (b) fails to comply with any lawful order or requirement under this Act or such written law; or
- (c) fails to comply with any of the provisions of this Act or such written law for which no punishment is provided for failure to comply therewith,

Obstruction
of authorized
officer, etc.

shall be guilty of an offence.

PART IX
OFFENCES, PENALTIES, LEGAL PROCEEDINGS
AND COMPENSATIONS

29. Any person who is guilty of an offence under this Act for which no punishment is provided shall be liable to a fine not exceeding one million ringgit.

General
Penalty.

30. Where any offence under this Act or any applicable written law has been committed by a company, partnership, firm or business, every director and every officer of that company directly connected with the activity resulting in the commission of the offence, every member of that partnership and every person concerned with the management of that firm or business shall each be guilty of that offence and shall be liable to the punishment provided in section 29.

Offences by
companies,
partnerships,
etc.

31. Where an offence under this Act or any applicable written law has been committed by any person on board a vessel, the master of such vessel shall also be guilty of that offence and shall be liable to the punishment provided in section 29.

Master liable
for offence
committed on
his vessel.

Detention
and forfeiture
of vessel. etc.

32. (1) Any article, vessel or thing detained under the provisions of this Act or any applicable written law shall, unless otherwise provided under this Act, be held pending the outcome of any proceedings under this Act or such written law:

Provided, however, that an authorized officer or the court may release the article, vessel or thing so detained upon the furnishing of a bond or other security to the satisfaction of the authorized officer or the court by any person claiming ownership, or acting on behalf of the owner, of the article, vessel or thing to produce the same when required so to do.

(2) Where an article, vessel, or thing is detained under the provisions of this Act or any applicable written law, the authorized officer who detains the article, vessel or thing shall, as soon as may be cause notice thereof to be given in writing to the owner; and where the owner cannot be found, a notice to that effect shall be published in the *Gazette* and, if the article, vessel or thing is foreign-owned, the authorized officer shall cause the diplomatic representative in Malaysia of the flag State of the vessel concerned or of the country of which the owner of the article or thing is a national to be informed of such fact through the Ministry responsible for foreign affairs.

(3) If the owner of the article, vessel or thing cannot be found in spite of all courses of action taken under subsection

(2) and by reason of the owner not being found proceedings under this Act or any applicable written law cannot be instituted, the article, vessel or thing detained shall be held for a period of one month from the date of the last course of action taken under subsection (2) at the end of which period the article, vessel or thing shall be forfeited to the Government unless a claim is received in respect thereof within the aforesaid period, in which event an enquiry shall be held by a court of competent jurisdiction to determine the validity of the claim and the article, vessel or thing shall be disposed of in such manner as the court may direct.

Power of court to order forfeiture.

33. Where any person is found guilty of an offence under this Act or any applicable written law, the court shall, in addition to any other penalty that may be imposed, order that any article, vessel or thing which was the subject-matter of, or was used in the commission of, the offence be forfeited and that any licence or permit issued or consent given under this Act or such written law be suspended for such period of time as the court may think fit or be cancelled or withdrawn, as the case may be.

34. Any article, vessel or thing ordered to be forfeited under section 33 shall be disposed of in such manner as the court may direct.

Disposal of article, vessel or thing ordered to be forfeited.

35. Where it is proved to the satisfaction of a court that any article, vessel or thing detained under the provisions of this Act or any applicable written law was the subject-matter of, or was used in the commission of, an offence under this Act or such written law, the court may order the forfeiture of such article, vessel or thing notwithstanding that no person may have been found guilty of such offence.

Court may order forfeiture in certain circumstances.

36. (1) Notwithstanding any written law to the contrary, any offence committed under this Act or any applicable written law shall be deemed to have been committed in Malaysia for the purpose of conferring jurisdiction on a court to try that offence, and a Sessions Court or a Court of a Magistrate of the First Class shall each have full jurisdiction and powers for all purposes under this Act or such written law.

Sessions Courts and Court of Magistrate of First Class to have full jurisdiction and powers under Act or applicable written law.

(2) Subsection (1) shall not be construed as derogating in any way from the jurisdiction and powers of the High Court to try any offence under any written law.

(3) Any proceedings in respect of an offence under this Act or any applicable written law shall be brought before the Sessions Court or the Court of a Magistrate of the First

Class which is nearest the place where the offence was committed, or which is located in the most convenient place for trial in the circumstances of the case as determined by the Public Prosecutor.

(4) This section shall be without prejudice to the provisions of the Criminal Procedure Code relating to the transfer of cases.

Presumption as to maps, plans or charts made by authority of Governments.

37. For the purposes of this Act or any applicable written law, the court shall presume that maps, plans or charts purporting to be made by the authority of-

- (a) the Federal Government;
- (b) the Government of any State in Malaysia; or
- (c) the Government of a State as defined in section 2 and approved by the Federal Government or the Government of any State in Malaysia for use,

were so made and are accurate.

Prosecution of offence.

38. (1) A prosecution for an offence under this Act or any applicable written law shall not be instituted except by or with the consent of the Public Prosecutor:

Provided that a person who is to be charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any person so arrested may be remanded in custody or released on bail, notwithstanding that the consent of the Public Prosecutor to the institution of a prosecution for the offence has not been obtained, but the case shall not be further prosecuted until that consent has been obtained.

(2) When a person is brought before a court under this section before the Public Prosecutor has consented to the prosecution, the charge shall be read and explained to him but he shall not be called upon to plead thereto, and the provisions of the Criminal Procedure Code shall be modified accordingly.

Yang di-Pertuan Agong may appoint other persons to be authorized officers

39. Without prejudice to the definition of "authorized officer" in section 2, the Yang di-Pertuan Agong may, by order in the *Gazette*, appoint such other person or class or persons as he may consider necessary to be an authorized officer or

authorized officers for the purposes of this Act or any applicable written law.

Damage caused to any person or property or to environment in exclusive economic zone or on continental shelf.

40. (1) Where, by reason of any act or omission in contravention of this Act or any applicable written law, damage, is caused to any person or property in or on, or to any segment or element of the environment or related interests within, the exclusive economic zone or continental shelf, the owner and the master of the vessel, the owner and the occupier of the place on land, the owner and the person in charge of the installation or device, or the owner and the pilot of the aircraft, as the case may be, causing the damage, or the owner and the master of the vessel, the owner and the occupier of the place on land, the owner and the person in charge of the installation or device, or the owner and the pilot of the aircraft from which any oil, mixture containing oil or pollutant was discharged or escaped resulting in the damage, shall be liable jointly and severally for such damage unless otherwise provided under this Act or such written law.

(2) Where the act or omission of a person other than any of the persons mentioned in subsection (1) caused such damage, discharge or escape, then such other person shall also be liable jointly and severally with the person mentioned in that subsection for such damage, unless otherwise provided under this Act or such written law.

(3) Without prejudice to the generality of subsections (1) and (2) such liability shall extend to the payment of compensation for any damage caused to a person, vessel, gear, facility or structure used in any activity, including fishing and related activities, connected with the exercise of the rights of the Government and Malaysian nationals, and of other persons where such rights are exercised with the consent of the Government, in the exclusive economic zone or on the continental shelf, and compensation shall also be paid for policing and surveillance activities and activities for the protection of the environment and shipping necessitated by the damage referred to in subsection (1).

(4) Any claim for compensation under this section may be brought before any High Court, Sessions Court or Court of a Magistrate of the First Class in Malaysia, as the case may be, according to the value or amount of the claim; and where a claim is so brought, the court concerned shall have full jurisdiction and powers to adjudicate thereon.

PART X

MISCELLANEOUS

41. (1) The Yang di-Pertuan Agong may make regulations for carrying out the provisions of this Act. Power to make regulations.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for any of the following matters:

- (a) regulating the conduct of marine scientific research within the exclusive economic zone and on the continental shelf;
- (b) prescribing measures for the protection and preservation of the marine environment of the exclusive economic zone, including conditions to be complied with by foreign vessels before entering any port or the internal waters of Malaysia or calling at any offshore terminal;
- (c) regulating the construction, operation and use of artificial islands and of other installations and structures within the exclusive economic zone or on the continental shelf, including the establishment of safety zones around such islands, installations and structures;
- (d) regulating the exploration and exploitation of the exclusive economic zone for the production of energy from the water, currents and winds and for other economic purposes;
- (e) providing for such other matters as are necessary or expedient for giving full effect to Malaysia's rights in and jurisdiction over the exclusive economic zone and the continental shelf.

Written laws to be applicable in exclusive economic zone or on continental shelf or both by order.

42. (1) The Yang di-Pertuan Agong may, by order in the *Gazette*, provide for any written law to be applicable in the exclusive economic zone, on the continental shelf or both.

(2) Any order made by the Yang di-Pertuan Agong under this section may provide for such written law to be applicable with such modifications or exceptions thereto as he considers necessary and where he so does, such written law shall be construed accordingly in its application in the exclusive economic zone, on the continental shelf or both.

(3) The modifications mentioned in subsection (2) may include amendments to such written law which the Yang di-Pertuan Agong may consider necessary-

- (a) to make such written law effective in its application in the exclusive economic zone, on the continental shelf or both;
- (b) to avoid any conflict or inconsistency between the provisions of such written law and this Act or any other applicable written law; or
- (c) to bring the provisions of such written law into accord with the provisions of this Act or any other applicable written law.

(4) Any order made under this section shall be laid before the House of Representatives as soon as may be after it is made, and if a motion is moved and carried by that House, within three months of the date on which the order is laid before it, disallowing the order, the order shall thereafter be void but without prejudice to the validity of anything done under the order or to the making of any new order.