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PROMOTION OF INVESTMENTS ACT 1986

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PROMOTION OF INVESTMENTS ACT 1986

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LAWS OF MALAYSIA

Act 327

PROMOTION OF INVESTMENTS ACT 1986

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SCHEDULE

LAWS OF MALAYSIA**Act 327****PROMOTION OF INVESTMENTS ACT 1986**

An act to make provision for promoting by way of relief from income tax the establishment and development in Malaysia of industrial, agricultural and other commercial enterprises, for the promotions of exports and for incidental and related purposes.

[1 January 1986]

BE IT ENACTED by the 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****Short title, construction and commencement**

1. (1) This Act may be cited as the Promotion of Investments Act 1986.

(2) Subject to section 2, this Act shall be read and construed as one with the Income Tax Act 1967 [*Act 53*] (hereinafter referred to as the “principal Act”).

(3) This Act shall be deemed to have come into force on 1 January 1986 and shall have effect for the year of assessment 1987 and subsequent years of assessment:

Provided that where approval in respect of any application, whether made before or after the commencement of this Act, is granted under this Act retrospectively from a date prior to 1 January 1986, this Act shall have effect from such date.

(4) Notwithstanding subsection (3), sections 36 and 39 shall have effect only in respect of manufactured products and agricultural produce exported on or after the 1 January 1986.

Interpretation

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

“accounting period” means a period for which accounts have been made in accordance with paragraph 15(1)(c);

“agro-based co-operative society” shall have the meaning assigned to it in the Farmers’ Organization Act 1973 [*Act 109*];

“approved standard”, in relation to a hotel, means the standard as determined by the defined authority;

“Area Farmers’ Association”, “Federal Farmers’ Association” and “State Farmers’ Association” shall have the meanings assigned to them in the *Farmers’ Association Act 1967 [*Act 22 of 1967*];

“Area Fishermen’s Association”, “Federal Fishermen’s Association” and “State Fishermen’s Association” shall have the meanings assigned to them in the Fishermen’s Association Act 1971 [*Act 44*];

***“company” means a company—

(a) incorporated in Malaysia under the Companies Act 1965 [*Act 125*]; and

(b) resident in Malaysia in the basis year for a year of assessment;

“contract research and development company” means a company which provides research and development services in Malaysia only to a company other than its related company;

“defined authority” means the Minister with the concurrence in writing of the Minister of Finance;

*NOTE—The Farmers’ Association Act [*Act 22 of 1967*] has since been repealed by the Farmers’ Organization Act 1973 [*Act 109*].

**NOTE— See subsection 51(2) of the Promotion of Investments (Amendment) Act 2014 [*Act A1468*].

“*halal* food product” means a product which has obtained certification for recognised quality systems and standards, and *halal* certification evidenced by a certificate issued by a certification body as determined by the Minister of Finance;

“high technology company” means a company engaged in a promoted activity or in the production of a promoted product in areas of new and emerging technologies;

“hotel” means any accommodation, which includes a hotel, a motel, chalet or hostel, of the approved standard registered with the Ministry of Culture, Arts and Tourism;

“hotel business” means the carrying on of a business in a hotel where such business provides sleeping accommodation and may include providing of food, drinks and other services or facilities and the granting of concessions of any part of such hotel for purposes connected with and incidental to the promotion of tourism;

“incurred” has the same meaning assigned to it in paragraphs 46 and 55 of Schedule 3 to the principal Act;

“in-house research” means research and development carried on in Malaysia within a company for the purposes of its own business;

“input tax” has the meaning assigned to it in the Goods and Services Tax Act 2014 [*Act 762*];

“integrated agricultural activity” means an activity which comprises the production of agricultural produce and the manufacturing of such produce and includes any activity which is related and incidental to such activity;

“Minister”, except where there is a specific reference to the Minister of Finance, means the Minister of International Trade and Industry;

“output tax” has the meaning assigned to it in the Goods and Services Tax Act 2014;

“pioneer business” means the business of a pioneer company relating to a promoted activity or promoted product of the company which is carried on by it in its tax relief period;

“pioneer certificate” means a pioneer certificate given under section 7 or any such certificate as amended;

“pioneer company” means a company certified by a pioneer certificate to be a pioneer company in relation to a promoted activity or promoted product in respect of which the tax relief period has not ended or has not ceased;

“pioneer factory” means a factory certified by a pioneer certificate to be a pioneer factory;

“post-pioneer business” means the business of a pioneer company deemed under section 15 to have been set up and commenced on the day following the end of its tax relief period;

“pre-pioneer business” means the business of a pioneer company relating to the promoted activity or promoted product of the company which is carried on by it before the beginning of the tax relief period;

“private higher educational institution” has the same meaning as defined in the Private Higher Educational Institutions Act 1996 [Act 555];

“production day” means the day specified as such in the pioneer certificate in accordance with section 7;

“promoted activity” means a manufacturing, agricultural, integrated agricultural, hotel, tourist or other industrial or commercial activity determined by the Minister in accordance with section 4 and includes the activity referred to in section 4A, 4B, 4D, 4E, 4F or subsection 5(1A);

“promoted product” means any product determined by the Minister in accordance with section 4 and includes the product referred to in section 4A, 4B, 4D, 4E, 4F or subsection 5(1A);

“reinvestment” means—

- (a) in relation to manufacturing activity, capital expenditure incurred in Malaysia as prescribed under paragraph 29(7)(a) and subsection 29(8) for the purposes of expansion, modernisation or automation of production facilities of the same promoted activity or promoted product;

- (b) in relation to hotel business, capital expenditure incurred in Malaysia as prescribed under paragraph 29(7)(c) and subsection 29(8) for the purposes of expansion, modernisation or renovation of the same hotel business;
- (c) in relation to tourist project, capital expenditure incurred in Malaysia as prescribed under paragraph 29(7)(d) and subsection 29(8) for the purposes of expansion or modernisation of the same tourist project;
- (d) in relation to research and development activity or services, capital expenditure incurred in Malaysia as prescribed under subsections 29D(6) and (7), 29E(6) and (7), and 29F(6) and (7) for the purposes of expansion or modernisation for the same promoted activity; and
- (e) in relation to manufacturing related services, capital expenditure incurred in Malaysia as prescribed under paragraph 29(7)(e) and subsection 29(8) for the purposes of expansion or modernisation for the same promoted activity.

“related company”, in relation to a company, means a company —

- (a) the operations of which are or can be controlled, either directly or indirectly, by the first-mentioned company;
- (b) which controls or can control, either directly or indirectly, the operations of the first-mentioned company; or
- (c) the operations of which are or can be controlled, either directly or indirectly, by a person who control or can control, either directly or indirectly, the operations of the first-mentioned company:

Provided that a company shall be deemed to be a related company of another company if—

- (i) at least twenty percent of its issued share capital is beneficially owned, either directly or indirectly, by that other company; or

- (ii) at least twenty percent of its issued share capital of that other company is beneficially owned, either directly or indirectly, by the first mentioned company;

“research and development” means any systematic or intensive study carried out in the field of science or technology with the object of using the results of the study for the production or improvement of materials, devices, products, produce or processes, but does not include —

- (a) quality control or routine testing of materials, devices, products or produce;
- (b) research in the social sciences or the humanities;
- (c) routine data collections;
- (d) efficiency surveys or management studies; and
- (e) market research or sales promotion;

“research and development company” means a company which provides research and development services in Malaysia to its related company or to any other company;

“research and development findings” means research and development findings in resource-based industry wholly owned by a public research institute or a public institute of higher learning in Malaysia;

“shareholders’ funds” means the aggregate amount of a company’s paid up capital (in respect of preference shares and ordinary shares and not including any amount in respect of bonus shares to the extent they were issued out of capital reserve created by revaluation of fixed assets), reserves (other than any capital reserve which was created by revaluation of fixed assets and provisions for depreciation, renewals or replacements and diminution in value of assets), balance of share premium account (not including any amount credited therein at the instance of issuing bonus shares at premium out of capital reserve created by revaluation of fixed assets), and balance of profit and loss appropriation account;

“small company” unless expressly provided otherwise, means a company —

- (a) incorporated in Malaysia pursuant to the Companies Act 1965; and
- (b) resident in Malaysia in the basis year for a year of assessment,

whose shareholders' funds as at the date of grant of pioneer status and issue of pioneer certificate do not exceed an amount as may be declared, from time to time, by the Minister in a statutory order published in the *Gazette*;

“tax relief period”, in relation to a pioneer company, means the period ascertained in accordance with section 14 and any extension of that period under section 14A;

“technical or vocational training company” means a company which provides technical or vocational training in Malaysia;

“tourist project” means a project, other than a hotel business, exclusively carried out for purposes connected with the promotion of tourism and registered with the Ministry of Culture, Arts and Tourism.

(2) Notwithstanding subsection (1), in the case of an industry other than a manufacturing industry, this Act shall apply with such modifications as may be necessary; and, in relation to any such industry, without prejudice to the generality of the foregoing —

- (a) references to construction may be disregarded where they are not appropriate;
- (b) references to a product may be construed as references to the activity or activities appropriate to the industry in question;
- (c) references to producing a product may be construed as references to carrying on that activity or those activities (references to producing the relevant promoted product may be construed accordingly);
- (d) references to production day may be construed as references to the day on which a pioneer company commences to produce its relevant promoted product in

marketable quantities or to carry on that activity or those activities on a commercial scale; and

(e) references to a factory may be construed as references to the premises at which a promoted activity is carried on or, where such a construction is inappropriate, may be disregarded.

(3) Section 136 of the principal Act shall apply to the Director General's functions under this Act as it applies to his functions under the principal Act.

(4) Where this Act provides for any income to be exempt from tax under the principal Act, the income in question shall be disregarded for the purposes of the principal Act.

(5) Subject to subsections (1) to (4), where a word or expression used in this Act has its meaning defined (or has a meaning assigned to it) by any provision of the principal Act, either for the purposes of that Act as a whole or for the purposes of any particular provision thereof, then, unless the context otherwise requires, that word or expression shall have in this Act the meaning so defined or assigned.

Application of incentives only to companies

3. Subject to sections 5 and 6, the provisions of this Act shall only apply to a company.

Determination of promoted activities or promoted products

4. (1) The Minister, with the concurrence in writing of the Minister of Finance shall from time to time determine such activities or products as he may deem fit to be promoted activities or promoted products.

(2) A list of the promoted activities and promoted products determined under subsection (1) shall be published by statutory order in the *Gazette*.

(3) In exercising his powers under subsection (1), the Minister may take into consideration the following:

- (a) whether or not any activity is being carried out or any product is being produced in Malaysia on a commercial scale suitable to the economic requirements or development of Malaysia or at all; or
- (b) whether there are —
 - (i) favourable prospects for further development of the activity or product; or
 - (ii) insufficient facilities in Malaysia to enable the activity to be carried out or a product to be produced on a commercial scale suitable to the economic requirements.
- (c) *(Deleted by Act A862).*

(4) The Minister may consult any person or organization as he may deem fit in the exercise of his powers under subsection (1).

(5) The Minister may from time to time review the list of promoted activities or promoted products determined under subsection (1) and may make additions, variations or amendments to or deletions from the list of the promoted activities or promoted products.

Activity or product deemed to be promoted activity or promoted product

4A. Notwithstanding section 4, the Minister, with the concurrence in writing of the Minister of Finance, may on a case to case basis deem any activity or product which is of national and strategic importance to Malaysia to be a promoted activity or promoted product.

Activity or product deemed to be promoted activity or promoted product for purposes of subsections 5(1C), sections 26C, 26D, 26E and 26G

4B. Notwithstanding section 4, the Minister, with the concurrence in writing of the Minister of Finance, may deem any activity or product

to be a promoted activity or promoted product for the purposes of subsections 5(1C), sections 26C, 26D, 26E and 26G.

*4C. (*Deleted by Act A1468*).

Determination of promoted activities or promoted products for selected industries

4D. (1) The Minister, with the concurrence in writing of the Minister of Finance, may from time to time determine such activity or product as he may deem fit to be a promoted activity or promoted product for selected industries.

(2) A list of the activities or products under subsection (1) and the commencement dates of such activities or products as promoted activities or promoted products shall be prescribed in the statutory order published in the *Gazette*.

(3) The Minister, with the concurrence in writing of the Minister of Finance, may from time to time review the list of promoted activities or products under subsection (1) and may make additions, variations or amendments to or deletions from that list of promoted activities or promoted products.

Determination of promoted activities or promoted products for automotive component modules industry

4E. (1) The Minister, with the concurrence in writing of the Minister of Finance, may from time to time determine such activity or product as he may deem fit to be a promoted activity or promoted product for automotive component modules industry.

(2) A list of the activities or products under subsection (1) and the commencement dates of such activities or products as promoted activities or promoted products shall be prescribed in the statutory order published in the *Gazette*.

* NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [*Act A1468*].

(3) The Minister, with the concurrence in writing of the Minister of Finance, may from time to time review the list of promoted activities or promoted products under subsection (1) and may make additions, variations or amendments to or deletions from that list of promoted activities or promoted products.

Determination of promoted activities or promoted products for reinvestment

4F. (1) The Minister, with the concurrence in writing of the Minister of Finance, may from time to time determine such activity or product as he may deem fit to be a promoted activity or promoted product for reinvestment.

(2) A list of the activities or products under subsection (1) and the commencement dates of such activities or products as promoted activities or promoted products shall be prescribed in the statutory order published in the *Gazette*.

(3) The Minister, with the concurrence in writing of the Minister of Finance, may from time to time review the list of promoted activities or products under subsection (1) and may make additions, variations or amendments to or deletions from that list of the promoted activities or promoted products.

PART II

RELIEF FROM INCOME TAX

Chapter 1—Pioneer Status

Application for pioneer status

5. (1) Any company or person proposing to register a company, being desirous of establishing or participating in a promoted activity or of producing a promoted product and intending that a factory be constructed, or where the factory is already in existence, be occupied in Malaysia for that purpose, may make an application in writing to the Minister for pioneer status, or for pioneer status to be given when the

proposed company has been registered, in relation to that activity or product and that factory:

Provided that where an application is made by a company desirous of establishing or participating in a promoted activity or of producing a promoted product and that company is controlled directly or indirectly by —

- (a) a pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under section 27 participating in the same promoted activity or promoted product as that company;
- (b) a company granted pioneer status in relation to the same promoted activity or promoted product as that company; or
- (c) a post-pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under section 27 and the period as prescribed under paragraph 29(2)(b) or 29(2)(c) has ended,

the application shall be considered if it fulfills such conditions as may be prescribed by the Minister in a statutory order to be published in the *Gazette*.

(1A) Any company or person proposing to register a company, being desirous of establishing or participating in an activity or of participating in producing a product which is of national and strategic importance to Malaysia and intending that a factory be constructed, or where the factory is already in existence, be occupied in Malaysia for that purpose, may make an application in writing to the Minister for pioneer status, or for pioneer status to be given when the proposed company has been registered, in relation to that activity or product and that factory:

Provided that a company which is already operating in Malaysia may, if it fulfills such conditions as may be determined by the Minister, make an application in writing to the Minister for pioneer status.

* (1B) (*Deleted by Act A1468*).

* NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

(1C) Any company or person proposing to register a contract research and development company, being desirous of establishing or participating in an activity relating to research and development and intending that a factory be constructed, or where the factory is already in existence, be occupied in Malaysia for that purpose, may make an application in writing to the Minister for pioneer status, or for pioneer status to be given when the proposed company has been registered, in relation to that activity and that factory.

(1D) (a) Any company or person proposing to register a high technology company, being desirous of establishing or participating in a promoted activity or of producing a promoted product in areas of new and emerging technologies and intending that a factory be constructed, or where the factory is already in existence, be occupied in Malaysia for that purpose, may make an application in writing to the Minister for pioneer status, or for pioneer status to be given when the proposed company has been registered, in relation to that activity or product and that factory.

(b) A pioneer company or a company which has been granted pioneer status under subsection 6(1) in respect of an application under subsection 5(1) or an approval under subsection 27(1) shall be eligible to apply for pioneer status under paragraph (1D)(a) in respect of the same promoted activity or promoted product:

Provided that the tax relief period for the pioneer company or the period as prescribed under paragraph 29(2)(b) or 29(2)(c) has ended.

(c) Any company or person proposing to register a company in Malaysia, being desirous of establishing a medical devices testing laboratory in Malaysia, may make an application in writing to the Minister for pioneer status provided that such application is received from 8 September 2007 until 31 December 2012.

^{*}(1DA) (*Deleted by Act A1468*).

(1DB) Any company or person proposing to register a company in Malaysia, being desirous of establishing or participating in a promoted activity or of producing a promoted product in selected industries and intending that a factory be constructed or where the factory is already in existence, be occupied in Malaysia for that purpose, may make an application in writing to the Minister for pioneer status for the promoted activity or the promoted product as prescribed under section 4D, provided that such application is received on or after the date as published by statutory order in the *Gazette*:

Provided that where an application is made by a company participating or intending to participate in Malaysia in the generation of renewable energy or provision of energy conservation services, which has been prescribed as a promoted activity under section 4D, other than for its own consumption, and that company is controlled directly or indirectly by —

- (i) a pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under section 27I participating in the same promoted activity as that company;
- (ii) a company granted pioneer status in relation to the same promoted activity as that company; or
- (iii) a post-pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under section 27I and the period as prescribed under section 29J has ended,

such application shall be considered by the Minister if the application is received from 8 September 2007 until 31 December 2015.

(1DC) Any company or person proposing to register a company in Malaysia, being desirous of establishing or participating in a promoted activity or of producing a promoted product in the automotive component modules industry and intending that a factory be constructed, or where the factory is already in existence, be occupied in Malaysia for that purpose, may make an application in writing to the

^{*}NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

Minister for pioneer status for the promoted activity or the promoted product as prescribed under section 4E, provided that such application is received on or after the date as published by statutory order in the *Gazette*.

(1DD) (a) Any company being desirous of undertaking reinvestment in Malaysia, in relation to a promoted activity or of producing a promoted product, may make an application in writing to the Minister for pioneer status for the same promoted activity or the same promoted product as prescribed under section 4F:

Provided that—

- (i) such application is received on or after the date as published by statutory order in the *Gazette*; and
- (ii) for a pioneer company, the tax relief period for that company in relation to that promoted activity or the production of that promoted product under section 14, 14A or 14C or the period as prescribed under section 29, 29A, 29AA, 29B, 29G, 29J, 29K or 29N has ended.

(b) Any contract research and development company being desirous of undertaking reinvestment in Malaysia, in relation to a research and development activity, may make an application in writing to the Minister for pioneer status for the same promoted activity:

Provided that—

- (i) such application is received on or after 21 May 2003; and
- (ii) for a pioneer company, the tax relief period for that company under section 14 or the period as prescribed under section 29D has ended.

*(1DE) (*Deleted by Act A1468*).

(1DF) Any company being desirous of commercialising research and development findings, and intending that a factory be constructed

* NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

or where the factory is already in existence, be occupied in Malaysia for that purpose, may make an application in writing to the Minister for pioneer status, provided that such application is received on or after 11 September 2004.

**(1DG) (Deleted by Act A1400).*

(1E) Where a company has been granted approval for the purpose of an investment tax allowance under subsection 27(1), 27(1A), 27C(1), 27F(1), 27I(1), 27I(1A), 27J(1), 27K(1) or section 27N in relation to a promoted activity or promoted product, the company may be eligible to apply for pioneer status under subsection (1), (1A), (1C), (1D), (1DB), (1DC), (1DD) or (1DF) upon giving notice in writing to the Minister to surrender that approval in relation to that promoted activity or promoted product:

Provided that as at the date of the notice of the surrender, the company has not incurred capital expenditure for the purposes of subsection 27(1), 27(1A), 27C(1), 27F(1), 27I(1), 27I(1A), 27J(1), 27K(1) or section 27N and the Minister is satisfied with the reason for the surrender of that approval in relation to that promoted activity or promoted product.

(2) Every application under this section shall be in accordance with the regulations made under this Act.

Grant of pioneer status

6. (1) On receipt of an application under subsection 5(1) or 5(1D), the Minister may, subject to subsections (2) to (6), grant pioneer status if he is satisfied that it is expedient in the public interest to do so, having regard in particular —

(a) to the number of pioneer companies already established or about to be established in relation to the promoted activity or the promoted product mentioned in the application;

(b) to the production or anticipated production of those companies mentioned in paragraph (a);

* NOTE—see section 54 of the Promotion of Investments (Amendment) Act 2011 [Act A1400].

- (c) to the favourable prospects of further development of the promoted activity or promoted product;
- (d) where the application is by a company, to the persons who are directors of the company and the description of persons who are members of the company; and
- (e) where the application is by persons proposing to register a company in connection with that application, to the persons who are proposed to be directors of the company and to the description of persons to whom the share capital or any part thereof is proposed to be offered for subscription.

(1A) On receipt of an application under subsection 5(1) the Minister may, subject to subsections (2) to (6), grant pioneer status to a small company or make a decision to grant pioneer status following the registration of a small company, if he is satisfied that the applicant has fulfilled or will fulfill such criteria as may be prescribed in a statutory order to be published in the *Gazette*.

(1AB) On receipt of an application under subsection 5(1A) the Minister may, subject to subsections (2) to (6), grant pioneer status if he is satisfied that the activity or product qualifies to be deemed as a promoted activity or promoted product under section 4A.

(1AC) On receipt of an application under subsection 5(1C) the Minister may, subject to subsections (2) and (6), grant pioneer status to a contract research and development company.

*(1AD) (*Deleted by Act A1468*).

(1AE) On receipt of an application under subsection 5(1DB) the Minister may, subject to subsections (2) to (6), grant pioneer status if he is satisfied that the activity or product qualifies to be deemed as a promoted activity or promoted product under section 4D.

(1AF) On receipt of an application under subsection 5(1DC) the Minister may, subject to subsections (2) to (6), grant pioneer status if he is satisfied that the activity or product qualifies to be deemed as a promoted activity or promoted product under section 4E.

* NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

(1AG) On receipt of an application under subsection 5(1DD) the Minister may, subject to subsections (2), (5) and (6), grant pioneer status if he is satisfied that the activity or product qualifies to be deemed as a promoted activity or promoted product under section 4F.

**(1AH) (Deleted by Act A1468).*

(1AI) On receipt of an application under subsection 5(1DF), the Minister may, subject to subsections (2) to (6), grant pioneer status to a company commercialising research and development findings.

*** (1AJ) (Deleted by Act A1400).*

(1B) The Minister may, from time to time, review the list of criteria prescribed under subsection (1A) and may make additions, variations or amendments to or deletions from the list as he may deem fit.

(2) Pioneer status may be granted in the terms of the application or may be granted subject to such variation of those terms, and subject to such conditions as the Minister thinks fit.

(3) Where an application for pioneer status is made by persons proposing to register a company in connection with that application, the Minister may decide to grant pioneer status under this section following the registration of the company, and where he so decides—

- (a) his grant of pioneer status under subsection (1), may be expressed to be subject to such conditions relating to any of the matters mentioned in paragraph (1)(e), as he may specify, or in respect of a grant of pioneer status under subsection (1A), (1AB), (1AC), (1AE), (1AF), (1AG) or (1AI) may be expressed to be subject to any conditions as he may specify;
- (b) he shall give notice in writing of that decision and of any such conditions to those persons; and
- (c) if the company is registered within three months of the date of the notice or such further period as the Minister may allow, and the Minister is satisfied that those conditions, if

* NOTE—see subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

** NOTE—see section 54 of the Promotion of Investments (Amendment) Act 2011 [Act A1400].

any, have been or will be complied with, pioneer status may be granted accordingly.

(4) Where a company is not registered within the time or such further period as prescribed in paragraph (3)(c), the Minister shall revoke the notice referred to in paragraph (3)(b).

(5) No pioneer status shall be granted by the Minister, and no decision to grant such pioneer status shall be taken by him, unless the decision to grant and the terms and conditions have had the concurrence in writing of the Minister of Finance.

(6) The Minister may vary any condition imposed under subsection (2) or (3) but shall not do so without the concurrence in writing of the Minister of Finance.

Pioneer certificate

7. (1) Any company which has been granted pioneer status under section 6 shall within twenty four months from the date of such grant or such extended period as the Minister may allow, request for a pioneer certificate.

(1A) An application for an extension under subsection (1) shall be made before the expiry of the period of twenty-four months or such extended period as the Minister may allow.

(2) A company requesting for a pioneer certificate shall state —

(a) the marketable quantities of the relevant promoted product produced by its factory prior to the request for the pioneer certificate;

(b) the date on which the factory commenced the production of the promoted product in marketable quantities and the rate of production thereof;

(c) that the conditions imposed under subsection 6(2) have been complied with, or where any of the conditions have not been complied with, the reasons therefore.

(3) The Minister may call for such further particulars or proof of the date specified in paragraph (2)(b) and subject thereto and if satisfied that the conditions have been complied with or with the reasons given under paragraph (2)(c), he may issue a pioneer certificate certifying —

(a) the company to be a pioneer company;

(b) the factory at which the promoted activity is carried on or the promoted product is produced to be a pioneer factory; and

(c) the production day of the pioneer company.

(4) The Minister, with the concurrence in writing of the Minister of Finance, may impose such conditions as he deems fit when issuing a pioneer certificate.

(5) The Minister, with the concurrence in writing of the Minister of Finance, may vary the conditions in the pioneer certificate.

(6) The Minister may where necessary amend the pioneer certificate issued under subsection (3).

Withdrawal of pioneer status

8. (1) Where a company, which has been granted pioneer status under section 6, fails to comply with the requirements of subsections 7(1) to (3), the Minister shall by notice in writing require the company within thirty days from the date of service of the notice, to remedy the failure or to establish to his satisfaction that the failure was due to some cause beyond the control of the company.

(2) The Minister may withdraw the pioneer status granted to a company —

(a) where the company has failed to comply with a notice served on it under subsection (1); or

(b) where he is satisfied that the company has contravened any provision of this Act or any condition imposed under

subsection 6(2) or (3) and that in all the circumstances it is expedient to do so.

Cancellation of pioneer certificate

9. (1) Where a pioneer company fails to comply with any of the conditions imposed under section 7 or with any other provisions of this Act, the Minister shall by notice in writing require the company within thirty days from the date of service of the notice to show cause why the pioneer certificate should not be cancelled.

(2) The Minister may cancel the pioneer certificate of a pioneer company —

(a) where the company has failed to comply with a notice served on it under subsection (1); or

(b) where he is not satisfied with the reasons for the non-compliance with the conditions imposed under section 7 or with any other provisions of this Act.

(3) Where the pioneer certificate of a pioneer company is cancelled under this section, the cancellation shall be declared to be effective —

(a) from the date when the pioneer certificate first became operative; or

(b) if the Minister thinks fit, from such date after the date when the pioneer certificate first became operative as the Minister may appoint.

(4) Where paragraph (3)(a) applies in relation to the cancellation of the pioneer certificate of a pioneer company —

(a) subsection 11(2) and sections 14 to 25 shall be deemed never to have had effect in relation to the company;

(b) any tax repaid to the company by virtue of subsection 11(2) shall be due and payable by the company on the date of cancellation and the provisions of the principal Act relating to recovery of tax shall apply; and

(c) where subsection 11(2) had effect before the date of cancellation, any time running under the principal Act at the date when subsection 11(2) first had effect in relation to the company shall be deemed to have commenced to run from the date of cancellation.

(5) Where paragraph (3)(b) applies in relation to the cancellation of the pioneer certificate of a pioneer company —

(a) the tax relief period of the company shall be treated for the purposes of sections 14 to 25 as having ended on the date from which the cancellation is declared to be effective; and

(b) where no accounts of the company's pioneer business have been made up to that date, the figures in the first accounts of the company made up after that date, being accounts —

(i) made up for the purpose of preparing the last accounts of the pioneer business and the first accounts of the post-pioneer business of the company; and

(ii) relating to an accounting period which includes the date of cancellation,

shall for the purposes of sections 14 to 25 be apportioned by reference to the number of days of that period which fall before that date.

(6) Where the pioneer certificate of a company is cancelled under this section the pioneer status granted to that company shall be deemed to have been revoked.

(7) This section shall apply notwithstanding any other provision of this Act.

Surrender of pioneer status or pioneer certificate

9A. (1) Any company which has been granted pioneer status or issued a pioneer certificate under this Act in respect of a promoted activity or promoted product, may be eligible to apply for reinvestment allowance under Schedule 7A to the principal Act upon the surrender of such

status or certificate in respect of that promoted activity or promoted product by giving a notice in writing to the Minister of such surrender.

(2) Notwithstanding subsection (1), any company granted pioneer status under section 6, or issued a pioneer certificate under section 7, may at any time surrender such status or certificate by giving a notice in writing to the Minister:

Provided that this subsection shall not apply for the purpose of an application for an investment tax allowance under this Act.

(3) Where the Minister is satisfied with the reasons for the surrender of such status or certificate under subsection (1) or (2), the Minister may grant it retrospectively, and the surrender shall have effect—

(a) from the date the pioneer status is granted; or

(b) in the case of a pioneer company—

(i) on the date the application for such surrender is received by the Minister; or

(ii) on the first day in the basis period for the year of assessment of which the application for such surrender is received by the Minister.

Application for additional promoted activity or promoted product

10. A pioneer company or a company which for has been granted pioneer status in respect of a promoted activity or promoted product may make an application for pioneer status in respect of any additional promoted activity or promoted product in accordance with section 5.

Retrospective operations

11. (1) The determination of any promoted activity or promoted product under section 4 or the grant of pioneer status under section 6 or the issue of a pioneer certificate under section 7 may be made to operate retrospectively from a date not earlier than the 1 January 1986.

(2) Where by virtue of this section a pioneer certificate is to be operative retrospectively from a date before it was given—

- (a) any act or thing which has been done or which has happened for the purposes of the principal Act since that date and which would not have been done or happened if that certificate had been in force at that date shall whenever necessary for the purposes of this Act and the principal Act be treated as not having been done or not having happened; and
- (b) if the act consists of the payment of any tax by a pioneer company, that tax shall be repaid in the manner provided in the principal Act as soon as may be after the expiration of ninety days from the production day of that company.

12. (*Deleted by Act A1318*).

Meaning of company in relation to agriculture

13. For the purposes of this Chapter, in the case of an application for pioneer status in respect of a promoted activity or promoted product in relation to agriculture, “company” includes an agro-based co-operative society, an Area Farmers’ Association, a Federal Farmers’ Association, a State Farmers’ Association, an Area Fishermen’s Association, a Federal Fishermen’s Association, a State Fishermen’s Association and a sole proprietorship, partnership or association solely engaged in agriculture:

Provided that section 23 shall only apply to a company incorporated under any written law.

Tax relief period

14. The tax relief period of a pioneer company shall begin on its production day and continue for a period of five years.

Extension of tax relief period

14A. (1) Subject to section 14B, the Minister may, with the concurrence in writing of the Minister of Finance, extend the tax relief period under section 14 of a pioneer company carrying on a manufacturing activity or an activity relating to the treatment of water where he is satisfied that the company has, by the end of the tax relief period under that section, met the requirements under subsection (2).

(2) The Minister with the concurrence in writing of the Minister of Finance shall prescribe in a statutory order published in the *Gazette* the promoted activity or promoted product and any other requirements for the purposes of obtaining the extension of the tax relief period.

(3) The extended tax relief period granted under this section shall begin from the date following the end of the tax relief period under section 14 and continue for a period of five years.

(4) A pioneer company shall make an application in writing to the Minister for an extension of its tax relief period within thirty days or such further period as the Minister may allow after the end of its tax relief period under section 14.

(5) On receipt of an application under subsection (4), the Minister may call for further particulars or any proof of the information given in the application which he considers necessary and —

(a) if he is satisfied that the company has complied with the requirements of this section, then, with the concurrence in writing of the Minister of Finance, grant the extension of the tax relief period; or

(b) if he is not so satisfied, shall cause a notice of his refusal to grant the extension to be sent to the company.

(6) The extension of a tax relief period shall be granted subject to the terms and conditions imposed in the pioneer certificate or the variation of those terms and conditions in the certificate.

(7) The Minister with the concurrence in writing of the Minister of Finance may vary the terms and conditions imposed under subsections 7(4) and (5) in the pioneer certificate issued under that section.

No extension of tax relief period for application for pioneer status received on or after the 1 November 1991

14B. Section 14A shall not apply to a pioneer company where the application for pioneer status is received on or after the 1 November 1991.

Extension of tax relief period for pioneer status granted under subsection 6(1AB), 6(1AE), 6(1AG) or 6(1AI)

14C. (1) Notwithstanding section 14B, a company which has been granted pioneer status under subsection 6(1AB), (1AE), (1AG) or (1AI) may apply in writing for an extension of the tax relief period which has been granted under section 14:

Provided that for the purpose of subsection 6(1AG), this section shall only apply to a company undertaking reinvestment for the purpose of producing value-added products utilising oil palm biomass.

(2) The Minister with the concurrence in writing of the Minister of Finance may extend the tax relief period granted under section 14.

(3) Subsections 14A (3) to (7) relating to an extension of the tax relief period shall apply, *mutatis mutandis*, to an application made under subsection (1).

Pioneer and post-pioneer business

15. (1) If the business of a pioneer company is carried on by it before and after the end of its tax relief period, then, for the purposes of the principal Act and this Act—

(a) that business shall be deemed to have permanently ceased at the end of the tax relief period of the pioneer company;

(b) in respect of that business, the pioneer company shall be deemed to have set up and commenced a new business (hereinafter referred to as “post-pioneer business”) on the day following the end of its tax relief period;

- (c) the pioneer company shall make up accounts of its pioneer business—
 - (i) for a period not exceeding one year commencing at the date when that pioneer business of the company commenced;
 - (ii) for successive periods of one year thereafter; and
 - (iii) for the period not exceeding one year ending at the date when its tax relief period ends; and
- (d) in making up the first accounts of its post-pioneer business the pioneer company shall take as the opening figures for those accounts the closing figures in respect of its assets and liabilities as shown in its last accounts in respect of its tax relief period; and its next accounts of its post-pioneer business shall be made up by reference to the closing figures in those first accounts, and any subsequent accounts shall be similarly made up by reference to the closing figures of the preceding accounts of its post-pioneer business.

(2) Where a pioneer company has been deemed to have set up and commenced a post-pioneer business and the accounts of the post-pioneer business are made up to a day corresponding to the day on which the annual accounts of the pioneer business were made up —

- (a) the basis period (for the year of assessment of the pioneer business) in which the day of commencement of the post-pioneer business falls shall constitute for the post-pioneer business the basis period for that year of assessment; and
- (b) there shall be no basis period for the post-pioneer business for any year of assessment preceding that first-mentioned year.

16. *(Deleted by Act A656).*

Power to direct in certain events

17. For the purposes of the principal Act and this Act, the Director General may direct that —

(a) any sums payable to a pioneer company in any accounting period which, but for this Act, might reasonably and properly have been expected to have been payable in the normal course of business after the end of that period shall be treated —

(i) as not having been payable in that period but as having been payable on such date after that period as the Director General thinks fit; and

(ii) where that date is after the end of the tax relief period of the pioneer company, as having been so payable on that date as a sum payable in respect of its post-pioneer business; and

(b) any expense incurred by a pioneer company within one year after the end of its tax relief period which, but for this Act, might reasonably and properly have been expected to have been incurred in the normal course of business during its tax relief period shall be treated as not having been incurred within that year but as having been incurred —

(i) for the purposes of its pioneer business; and

(ii) on such a date during its tax relief period as the Director General thinks fit.

Capital allowances

18. (1) The income of a pioneer company in respect of its pioneer business falling to be ascertained in accordance with this Act for any accounting period shall be so ascertained (after making any necessary adjustments in consequence of a direction under section 17) after deducting allowances which fall to be made under Schedule 3 to the principal Act notwithstanding that no claim for such allowances have been made:

Provided that where plant or machinery is used directly or indirectly for the purposes of storage, treatment or disposal of scheduled wastes as defined in the Environmental Quality (Scheduled Wastes) Regulations 1989 [*P.U. (A) 139/1989*] by a pioneer company for the purposes of its pioneer business, any capital expenditure incurred during the tax relief period by the pioneer company in respect of that plant or machinery shall for the purposes of Schedule 3 of the principal Act be deemed to have been incurred on the day following the end of the tax relief period.

(2) (*Deleted by Act A751*).

(3) Subject to paragraph (6)(b) —

(a) where an asset is used for the purposes of the pre-pioneer business of a pioneer company and continues to be used for the purposes of the pioneer business of that pioneer company —

(i) the residual expenditure as at the end of the basis period for the year of assessment immediately prior to the year of assessment in the basis period in which the day of commencement of the pioneer business falls shall, in respect of that pioneer business and for the purposes of Schedule 3 to the principal Act, be deemed to be the residual expenditure of that asset on the day of commencement of that pioneer business; and

(ii) any capital expenditure incurred by that pioneer company in respect of that asset during the basis period in which the date of cessation of that pre-pioneer business falls shall, for the purposes of Schedule 3 to the principal Act, be deemed to have been incurred on the day of commencement of that pioneer business;

(b) where an asset is used for the purposes of the pioneer business of a pioneer company and continues to be used for the purposes of the post-pioneer business of that pioneer company —

(i) the residual expenditure as at the end of the basis period for the year of assessment immediately prior to the year of assessment in the basis period in which the day of commencement of the post-pioneer business falls shall, in respect of that post-pioneer business and for the purposes of Schedule 3 to the principal Act, be deemed to be the residual expenditure of that asset on the day of commencement of that post-pioneer business; and

(ii) any capital expenditure incurred by that pioneer company in respect of that asset during the basis period in which the date of cessation of that pioneer business falls shall, for the purposes of Schedule 3 to the principal Act, be deemed to have been incurred on the day of commencement of that post-pioneer business.

(4) (*Deleted by Act A751*).

(5) Notwithstanding paragraph 75 of Schedule 3 to the principal Act, where an asset is used for the purposes of the pre-pioneer business of a pioneer company and by reason of an insufficiency or absence of adjusted income from that pre-pioneer business for the year of assessment immediately prior to the year of assessment in the basis period in which the day of commencement of the pioneer business falls, effect cannot be given or cannot be given in full to any allowance or to the aggregate amount of any allowances in respect of the asset falling to be made to the company for that year in relation to that pre-pioneer business, that allowance or that aggregate amount, as the case may be, shall be deemed to be an allowance to be made to the company in relation to its pioneer business for the year of assessment in the basis

period in which the day of commencement of the pioneer business falls.

(6) Where in a case to which subsections (1) and (3) apply, an asset used for the purposes of a promoted activity or producing a promoted product is also used for the purposes of an activity or producing a product which activity or product is not a promoted activity or promoted product or which activity or product is a promoted activity or promoted product in respect of which the company has been granted pioneer status and whose tax relief period has expired—

(a) there shall be made under Schedule 3 to the principal Act in respect of any capital expenditure on the asset such a deduction as is reasonable having regard to the extent to which the asset is used for the purposes of that second-mentioned activity or product; and

(b) the residual expenditure arrived at under paragraph (3)(a) or (3)(b) shall be reduced by the amounts of any deduction made under paragraph (a).

(7) For the avoidance of doubt, it is hereby declared that where an asset is used for the purposes of the pioneer business of a pioneer company and by reason of an insufficiency or absence of adjusted income from that pioneer business for the year of assessment immediately prior to the year of assessment in the basis period in which the day of commencement of the post-pioneer business falls, effect cannot be given or cannot be given in full to any allowance or to the aggregate amount of any allowances in respect of the asset falling to be made to the company for that year in relation to that pioneer business, that allowance or that aggregate amount, as the case may be, shall not be deemed to be an allowance to be made to the company in relation to its post-pioneer business for the year of assessment in the basis period in which the day of commencement of the post-pioneer business falls or any subsequent year of assessment:

Provided that where the tax relief period of that pioneer business ceases on or after 1 October 2005, that allowance or that aggregate

amount, as the case may be, shall be deemed to be an allowance to be made to the company in relation to its post-pioneer business for the year of assessment in the basis period in which the day of commencement of the post-pioneer business falls or any subsequent year of assessment.

***19.** (*Deleted by Act A1468*).

Returns of income

20. So much of Part V of the principal Act as is applicable in the case of a company shall apply in all respects as if the income of a pioneer company in respect of its pioneer business was chargeable to tax.

Computation of income during tax relief period

21. (1) The income of a pioneer company for each accounting period of its pioneer business shall be computed in accordance with the principal Act by—

- (a) treating each such accounting period as the basis period for the year of assessment which includes the last day of the accounting period in question; and
- (b) ascertaining the income in question as if it were the statutory income from the pioneer business for that year of assessment.

(2) The amount of the income of a company ascertained under subsection (1) shall be subject to —

- (a) any condition which may be specified in the pioneer certificate of the company issued under section 7;
- (b) any restriction under section 21A.

(3) Where an amount is found under subsection (1) or under subsections (1) and (2), as the case may be, or where such amount is

* *NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].*

reduced by an adjusted loss from a pioneer business of that company pursuant to subsection 25(2), the company shall maintain a statement showing that amount in question or reduced amount in question, as the case may be.

(4) *(Deleted by Act A1400).*

(5) This section shall apply to —

(a) a company which has been granted pioneer status prior to 1 November 1991 pursuant to an application for pioneer status received prior to the 1 November 1991; and

(b) a company which has been granted pioneer status on or after 1 November 1991 but whose application for pioneer status was received prior to 1 November 1991.

Restriction of income computed during tax relief period

21A. (1) Where a pioneer company is ascertained to have an adjusted loss for the basis period for a year of assessment in respect of a business relating to —

(a) an activity or the manufacture of a product which is not a promoted activity or promoted product;

(b) an activity or the manufacture of a product which is a promoted activity or promoted product for which it has not been granted approval for pioneer status or an approval under section 27,

so much of the statutory income of the pioneer company in respect of its pioneer business or pioneer businesses, as the case may be, as ascertained under section 21 for that year of assessment shall be reduced by such loss.

(2) Where a pioneer company is ascertained to have an adjusted loss for the basis period for a year of assessment in respect of a business relating to an activity or the manufacture of a product which is a promoted activity or promoted product which has been granted pioneer status or an approval under section 27 but whose tax relief period or period prescribed under paragraph 29(2)(b), (c) or (d) has expired, so

much of the statutory income of the pioneer company in respect of its other pioneer business or pioneer businesses, as the case may be, as ascertained under section 21 for that year of assessment shall be reduced by such loss.

(3) So much of the loss that was utilized to reduce the statutory income of the pioneer company in respect of its pioneer business or pioneer businesses, as the case may be, for that year of assessment shall be disregarded for purposes of subsections 43(2) and 44(2) of the principal Act.

(4) Notwithstanding any other provisions of this Chapter, where in a year of assessment, there is an adjustment to the loss referred to in subsections (1) and (2) for any year of assessment resulting in a decrease or increase of that loss, subject to subsection 91(4) of the principal Act, the Director General may in the first mentioned year of assessment or within six years after its expiration make —

- (a) an adjustment to the statutory income of the pioneer company ascertained under section 21 for that year of assessment; or
- (b) an assessment for that year of assessment as appears to him to be necessary in order to counteract any benefit of exemption obtained before the adjustment of that loss.

Computation of income during tax relief period in respect of application received on or after 1 November 1991

21B. (1) This section shall apply to a company which has been granted pioneer status pursuant to an application for pioneer status received on or after 1 November 1991 other than to a company which has been granted pioneer status under subsection 6(1AB).

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, the income of a pioneer company for each accounting period of its pioneer business shall be computed in accordance with the principal Act by —

- (a) treating each such accounting period as the basis period for the year of assessment which includes the last day of the accounting period in question; and

(b) ascertaining the income in question as if it were the statutory income from the pioneer business for that year of assessment.

(3) Seventy per cent of the amount of income found under subsection (2) shall be subject to —

(a) any restriction under section 21A; and

(b) any reduction by an adjusted loss from the pioneer business of that company pursuant to subsection 25(2).

(4) For the purposes of the principal Act, thirty per cent of the amount of income found under subsection (2) shall be deemed to be the total income or part of the total income, as the case may be, of the pioneer company for the relevant year of assessment.

(5) The company shall maintain a statement showing the amount of income found under subsection (3).

(6) (*Deleted by Act A1400*).

Computation of income during tax relief period in respect of pioneer status granted to a small company under subsection 6(1A)

21BA. (1) This section shall apply to a small company which has been granted pioneer status under subsection 6(1A), provided that an application under subsection 5(1) is received on or after 21 May 2003.

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, for the purpose of computation of income during the tax relief period in respect of subsection (1), subsections 21E(2), (3) and (4) shall apply *mutatis mutandis*.

Computation of income during tax relief period in respect of pioneer status granted under subsection 6(1AB)

21C. (1) This section shall apply to a company which has been granted pioneer status under subsection 6(1AB).

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, the income of a pioneer company for each accounting period of its pioneer business shall be computed in accordance with the principal Act by —

- (a) treating each such accounting period as the basis period for the year of assessment which includes the last day of the accounting period in question; and
- (b) ascertaining the income in question as if it were the statutory income from the pioneer business for that year of assessment:

Provided that in the case of a company that is already operating in Malaysia, the income of the company for each accounting period of its pioneer business shall be the value-added income of the company.

(2A) For the purpose of this section —

- (a) “value-added income” means the statutory income for the basis period for the year of assessment less the inflation-adjusted base income; and
- (b) “inflation-adjusted base income” shall be determined in accordance with the formula —

(i) for the first year, from the production day:

$$A(1+B)$$

where:

A is the average statutory income for up to three years prior to the production day; and

B is the rate of inflation for the basis year;

(ii) for the second year, from the production day onwards:

$$C(1+B)$$

where:

C is the inflation-adjusted income for the preceding year; and

B is the rate of inflation for the basis year.

(3) The amount of income of the company found under subsection (2) shall be subject to —

(a) any restriction under section 21A; and

(b) any reduction by an adjusted loss from the pioneer business of that company pursuant to subsection 25(2).

(4) The company shall maintain a statement showing the amount of income found under subsection (2) or (3), as the case may be.

(5) *(Deleted by Act A1400).*

***21D.** *(Deleted by Act A1468).*

***21DA.** *(Deleted by Act A1468).*

Computation of income during tax relief period in respect of pioneer status granted under subsection 6(1AC)

21E. (1) This section shall apply to a company which has been granted pioneer status under subsection 6(1AC).

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, the income of a pioneer company for each accounting period of its pioneer business shall be computed in accordance with the principal Act by—

(a) treating each such accounting period as the basis period for the year of assessment which includes the last day of the accounting period in question; and

* *NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].*

(b) ascertaining the income in question as if it were the statutory income from the pioneer business for that year of assessment.

(3) The amount of the income of the company found under subsection (2) shall be subject to—

(a) any restriction under section 21A; and

(b) any reduction by an adjusted loss from the pioneer business of that company pursuant to subsection 25(2).

(4) The company shall maintain a statement showing the amount of income found under subsection (2) or (3), as the case may be.

(5) (*Deleted by Act A1400*).

Computation of income during tax relief period in respect of pioneer status granted under subsection 6(1) for an application under subsection 5(1D)

21F. (1) This section shall apply to a high technology company or a company establishing a medical devices testing laboratory or upgrading an existing medical devices testing laboratory in Malaysia, which has been granted pioneer status under subsection 6(1) for an application under subsection 5(1D).

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, the income of a pioneer company for each accounting period of its pioneer business shall be computed in accordance with the principal Act by —

(a) treating each such accounting period as the basis period for the year of assessment which includes the last day of the accounting period in question; and

(b) ascertaining the income in question as if it were the statutory income from the pioneer business for that year of assessment:

Provided that in the case of a company that is already in operation and carries out activities in relation to the upgrading of a medical devices testing laboratory in Malaysia, the income of the company for each

accounting period of its pioneer business shall be the value-added income of the company and subsections 21C(2A), (3) and (4) shall apply *mutatis mutandis*.

(3) The amount of the income of the company found under subsection (2) shall be subject to —

(a) any restriction under section 21A; and

(b) any reduction by an adjusted loss from the pioneer business of that company pursuant to subsection 25(2).

(4) The company shall maintain a statement showing the amount of income found under subsection (2) or (3), as the case may be.

(5) (*Deleted by Act A1400*).

***21G.** (*Deleted by Act A1468*).

Computation of income during tax relief period in respect of pioneer status granted to a company participating in selected industries under subsection 6(1AE)

21H. (1) This section shall apply to a company which has been granted pioneer status under subsection 6(1AE), provided that an application under subsection 5(1DB) is received on or after a date as prescribed in the statutory order published in the *Gazette*.

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, for the purpose of computation of income during the tax relief period in respect of subsection (1), subsections 21E (2), (3) and (4) shall apply *mutatis mutandis*.

* *NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].*

Computation of income during tax relief period in respect of pioneer status granted to a company participating in production of automotive component modules industry under subsection 6(1AF)

21I. (1) This section shall apply to a company which has been granted pioneer status under subsection 6(1AF), provided that an application under subsection 5(1DC) is received on or after a date as prescribed in the statutory order published in the *Gazette*.

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, for the purpose of computation of income during the tax relief period in respect of subsection (1), subsections 21E(2), (3) and (4) shall apply *mutatis mutandis*.

Computation of income during tax relief period in respect of pioneer status granted to a company undertaking reinvestment for the same promoted activity or same promoted product under subsection 6(1AG)

21J. (1) This section shall apply to a company which has been granted pioneer status under subsection 6(1AG), provided that an application under subsection 5(1DD) is received on or after a date as prescribed in the statutory order published in the *Gazette*.

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, for the purpose of computation of income during the tax relief period in respect of subsection (1), for a company undertaking reinvestment in resource-based industry, food processing activity, hotel business and tourist project, subsections 21B(2), (3), (4) and (5) shall apply *mutatis mutandis*.

(3) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, for the purpose of computation of income during the tax relief period in respect of subsection (1), for a contract research and development company, subsections 21E(2), (3) and (4) shall apply *mutatis mutandis*.

(4) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, for the purpose of

computation of income during the tax relief period in respect of subsection (1), for producing value-added products utilizing oil palm biomass, subsections 21C(2), (2A), (3) and (4) shall apply *mutatis mutandis*.

(5) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, for the purpose of computation of income during the tax relief period in relation to an application made under subsection (1), for activities or products other than those specified in subsections (2), (3) and (4), shall be seventy per cent of the value added income of the company for that year of assessment, and subsections 21C(2), (2A), (3) and (4) shall apply *mutatis mutandis*.

***21K.** (*Deleted by Act A1468*).

Computation of income during tax relief period in respect of pioneer status granted to a company commercializing research and development findings under subsection 6(1A1)

21L. (1) This section shall apply to a company which has been granted pioneer status under section 6(1A1), provided that an application under subsection 5(1DF) is received on or after 11 September 2004.

(2) Subject to any condition which may be specified in the pioneer certificate of a company issued under section 7, for the purpose of computation of income during the tax relief period in respect of subsection (1), subsections 21E (2), (3) and (4) shall apply *mutatis mutandis*.

****21M.** (*Deleted by Act A1400*).

22. (*Deleted by Act A1400*).

* *NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].*

** *NOTE—see section 54 of the Promotion of Investments (Amendment) Act 2011 [Act A1400].*

Company shall maintain statement for income computed during tax relief period

22A. A company shall maintain a statement for the income computed during the tax relief period under section 21, 21B, 21BA, 21C, 21E, 21F, 21H, 21I, 21J or 21L.

Certain dividends exempted from income tax

23. (1) As soon as any amount of income of a pioneer company has become exempted under section 22A, that amount shall be credited to an account to be kept by the pioneer company for the purposes of this section (that account and company being in this section and section 24 referred to as the exempt account and the relevant company respectively).

(2) Where the exempt account is in credit at the date on which any dividends are paid by the relevant company out of income which has been exempted under section 22A, an amount equal to those dividends or that credit, whichever is the lesser, shall be debited to the exempt account.

(3) So much of the amount of any dividends debited to the exempt account under subsection (2) as is received by a shareholder in the relevant company shall be exempt from tax under the principal Act in the hands of that shareholder.

(4) Any dividends debited to the exempt account under subsection (2) shall be treated as having been distributed to the shareholders (or any particular class of shareholders) of the relevant company in the same proportions as those in which the shareholders in question were entitled to payment of the dividends giving rise to the debit.

(5) The company shall keep a copy of the exempt account until the Director General is satisfied that there is no further need to maintain the exempt account.

(6) Where —

(a) an amount is received by way of dividend from the relevant company by a shareholder;

(b) that amount is exempt from tax under the foregoing subsections; and

(c) that shareholder is a company,

any dividends paid by that shareholding company to its shareholders shall be exempt from tax in the hands of those shareholders.

(7) Section 108 of the principal Act shall not apply in respect of any dividend or part thereof which is debited to the exempt account or in respect of any dividend or part thereof which is exempt under subsection (6).

Income wrongly exempted, etc.

24. (1) Notwithstanding any other provision of this Act, where it appears to the Director General that any income of the relevant company exempted under section 22A or any dividend exempted in the hands of a shareholder under section 23 ought not to have been exempted by reason of —

(a) a direction under section 17 having been given with respect to a pioneer company after any income of the company has been exempted under section 22A;

(b) the cancellation of a pioneer certificate; or

(c) any other adjustment to the statutory income of the pioneer company ascertained under section 21, 21B, 21BA, 21C, 21E, 21F, 21H, 21I, 21J or 21L,

he may, at any time within six years after the date of the direction, cancellation or adjustment, make such additional assessments upon any company as appear to him to be necessary in order to counteract any benefit obtained from the exemption, or direct the relevant company to debit the exempt account with such amount as the circumstances require.

(2) A direction given under subsection (1) shall, for the purposes of section 99 of the principal Act, be deemed to be a notice of assessment not relating to an assessment made under section 92 of that Act.

Loss incurred in tax relief period

25. (1) The amount of any loss incurred in any accounting period of the pioneer business of a pioneer company shall be computed in like manner as any income falling to be computed under subsection 21(1), 21B(2), 21BA(2), 21C(2), 21E(2), 21F(2), 21H(2), 21I(2), 21J(2), (3), (4), (5) or 21L(2).

(2) Where —

(a) the amount of any loss of a pioneer company has been computed for an accounting period; and

(b) in accordance with subsection 21(1), 21B(2), 21BA(2), 21C(2), 21E(2), 21F(2), 21H(2), 21I(2), 21J(2), (3), (4), (5) or 21L(2) the accounting period has been treated for the purposes of the computation as the basis period for a year of assessment,

the amount of the loss shall be deducted in the manner provided by subsections 43(2) and 44(1) of the principal Act from any statutory income from the pioneer business or the aggregate of the statutory income from the pioneer businesses, as the case may be, of the company after any restriction under section 21A, for that year of assessment.

(3) Where by reason of an insufficiency or absence of statutory income from the pioneer business or pioneer businesses of a pioneer company other than a contract research and development company for a year of assessment effect cannot be given or cannot be given in full to any deduction falling to be made for that year pursuant to subsection (2), that deduction which has not been so made (or so much thereof as has not been so made) for that year shall not be made in computing the total income of the company for the year of assessment in the basis period in which the day of commencement of the post-pioneer business falls or any subsequent year of assessment.

(4) Where, by reason of an insufficiency or absence of statutory income from the pioneer business or pioneer businesses for a year of assessment, effect cannot be given or cannot be given in full to any deduction falling to be made for that year pursuant to subsection (2), that deduction which has not been so made (or so much thereof as has not been so made) for that year shall be made in computing the total income of the company in accordance with subsections 43(2) and 44(2)

of the principal Act for the year of assessment in the basis period in which the day of commencement of the post pioneer business falls or any subsequent year of assessment:

Provided that the tax relief period ends on —

- (a) its expiry date; or
- (b) the date of surrender of the pioneer status or pioneer certificate under section 9A,

and such date shall not be earlier than 1 October 2005.

Chapter 2—Investment Tax Allowance

Application for approval for investment tax allowance

26. (1) Subject to subsections (2) and (3), any company participating or intending to participate in Malaysia in a promoted activity or in the production of a promoted product may make an application in writing to the Minister for approval for purposes of an investment tax allowance:

Provided that where an application is made by a company participating or intending to participate in Malaysia in a promoted activity or in the production of a promoted product and that company is controlled directly or indirectly by —

- (a) a pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under section 27 participating in the same promoted activity or promoted product as that company;
- (b) a company granted pioneer status in relation to the same promoted activity or promoted product as that company; or
- (c) a post-pioneer company or a company which has been granted approval for the purposes of an investment tax

allowance under section 27 and the period as prescribed under paragraph 29(2)(b) or (c) has ended,

the application shall be considered if it fulfils such conditions as may be prescribed by the Minister in a statutory order to be published in the *Gazette*.

(2) A pioneer company or a company which has been granted pioneer status or an approval under section 27, shall only be eligible to apply for investment tax allowance under subsection (1) in respect of a promoted activity or promoted product other than the promoted activity or promoted product for which a pioneer certificate has been issued or pioneer status or investment tax allowance has been granted.

(3) Where a company has been granted pioneer status, in respect of a promoted activity or promoted product, it may be eligible to apply for approval for the purpose of an investment tax allowance under subsection (1) upon giving a notice in writing to the Minister to surrender the grant of pioneer status in relation to that promoted activity or promoted product:

Provided that this subsection shall only apply where the Minister is satisfied with the reasons for the surrender of the pioneer status in respect of that promoted activity or promoted product.

(4) An application made under subsection (1) shall be in accordance with such regulations as may be made under this Act.

Application for approval for investment tax allowance in respect of an activity or a product which is deemed under section 4A to be a promoted activity or promoted product

26A. (1) Any company intending to establish or participate in an activity or to participate in producing a product in Malaysia which is deemed under section 4A to be a promoted activity or promoted product may make an application in writing to the Minister for approval for purposes of an investment tax allowance:

Provided that a company which is already operating in Malaysia may, if it fulfils such conditions as may be determined by the Minister,

make an application in writing to the Minister for the approval for purposes of an investment tax allowance.

(2) An application made under subsection (1) shall be in accordance with such regulations as may be made under this Act.

***26B.** (*Deleted by Act A1468*).

Application for approval for investment tax allowance to contract research and development company

26C. (1) Subject to subsection (2), any contract research and development company participating or intending to participate in Malaysia in an activity relating to research and development may make an application in writing to the Minister for approval for purposes of an investment tax allowance.

(2) Where a company has been granted pioneer status, in respect of an activity relating to research and development, it may be eligible to apply for approval for the purpose of an investment tax allowance under subsection (1) upon giving a notice in writing to the Minister to surrender the grant of pioneer status in relation to that activity:

Provided that this subsection shall only apply where the Minister is satisfied with the reasons for the surrender of the pioneer status in respect of that activity.

(3) An application made under subsection (1) shall be in accordance with such regulations as may be made under this Act.

Application for approval for investment tax allowance to research and development company

26D. (1) Any research and development company participating or intending to participate in Malaysia in an activity relating to research and development may make an application in writing to the Minister for approval for purposes of an investment tax allowance.

* *NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].*

(2) An application made under subsection (1) shall be in accordance with such regulations as may be made under this Act.

Application for approval for investment tax allowance to company carrying on in-house research

26E. (1) Any company participating or intending to participate in Malaysia in an activity relating to in-house research may make an application in writing to the Minister for approval for purposes of an investment tax allowance.

(2) An application made under subsection (1) shall be in accordance with such regulations as may be made under this Act.

Application for approval for investment tax allowance to a high technology company or a company establishing or upgrading medical devices testing laboratory

26F. (1) Subject to subsections (2) and (3), any company participating or intending to participate in Malaysia in a promoted activity or in the production of a promoted product in areas of new and emerging technologies may make an application in writing to the Minister for approval for purposes of an investment tax allowance.

(2) A pioneer company or a company which has been granted pioneer status under subsection 6(1) in respect of an application under subsection 5(1) or an approval under subsection 27(1) shall only be eligible to apply for investment tax allowance under subsection (1) in respect of a promoted activity or promoted product other than the promoted activity or promoted product for which a pioneer certificate has been issued or pioneer status or investment tax allowance has been granted.

(2A) Any company intending to establish a medical devices testing laboratory or upgrade an existing medical devices testing laboratory in Malaysia may make an application in writing to the Minister for approval for purposes of an investment tax allowance provided that such application is received from 8 September 2007 until 31 December 2012.

(3) Where a company has been granted pioneer status, in respect of a promoted activity or promoted product, it may be eligible to apply for approval for the purpose of an investment tax allowance under subsection (1) upon giving a notice in writing to the Minister to surrender the grant of pioneer status in relation to that promoted activity or promoted product:

Provided that this subsection shall only apply where the Minister is satisfied with the reasons for the surrender of the pioneer status in respect of that promoted activity or promoted product.

(4) An application made under subsection (1) shall be in accordance with such regulations as may be made under this Act.

Application for approval for investment tax allowance to a technical or vocational training company and private higher educational institutions

26G. (1) Any technical or vocational training company participating or intending to for participate in Malaysia may make an application in writing to the Minister for approval for purposes of an investment tax allowance.

(2) Any existing or new private higher educational institution that provides or intends to provide qualifying science courses in Malaysia as approved by the Minister of Finance, may make an application in writing to the Minister for approval for purposes of an investment tax allowance, provided that such application is received on or after 1 October 2005;

(3) An application made under subsection (1) or (2) shall be in accordance with such regulations as may be made under this Act.

***26H.** (*Deleted by Act A1468*).

* *NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].*

Application for approval for investment tax allowance in respect of an activity or product in selected industries as prescribed under section 4D

26I. (1) Any company participating or intending to participate in Malaysia in a promoted activity or in the production of a promoted product in selected industries as prescribed under section 4D, may make an application in writing to the Minister for approval for purposes of an investment tax allowance, provided that such application is received on or after the date as prescribed in the statutory order published in the *Gazette*.

(1A) Notwithstanding subsection (1), where an application is made by a company participating or intending to participate in Malaysia in the generation of renewable energy, which has been prescribed as a promoted activity under section 4D, and that company is controlled directly or indirectly by—

- (a) a pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under subsection 27I(1) participating in the same promoted activity as that company;
- (b) a company granted pioneer status in relation to the same promoted activity as that company; or
- (c) a post-pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under subsections 27I(1), (2) and (3) and the period as prescribed under subsections 29J(1), (2), (3) and (4) has ended,

such application shall be considered by the Minister if the application is received from 8 September 2007 until 31 December 2015.

(1B) Notwithstanding subsections (1) and (1A), where an application is made by a company participating or intending to participate in Malaysia in the generation of renewable energy for own consumption, which has been prescribed as a promoted activity under section 4D, and that company is controlled directly or indirectly by—

- (a) a pioneer company or a company which has been granted approval for the purposes of an investment tax allowance

under subsection 27I(1A) participating in the same promoted activity as that company;

(b) a company granted pioneer status in relation to the same promoted activity as that company; or

(c) a post-pioneer company or a company which has been granted approval for the purposes of an investment tax allowance under subsections 27I(1A), (2) and (3) and the period as prescribed under subsections 29J(2A), (3A) and (4) has ended,

such application shall be considered by the Minister if the application is received from 8 September 2007 until 31 December 2015.

(2) A pioneer company or a company which has been granted pioneer status or an approval under section 27I, shall only be eligible to apply for investment tax allowance under subsection (1) in respect of a promoted activity or promoted product other than the promoted activity or promoted product for which a pioneer certificate has been issued, or pioneer status or investment tax allowance has been granted.

(3) Where a company has been granted pioneer status in respect of promoted activity or promoted product in selected industries as prescribed under section 4D, it may be eligible to apply for approval for purposes of an investment tax allowance under subsection (1) upon giving notice in writing to the Minister to surrender the pioneer status in relation to that promoted activity or promoted product:

Provided that this subsection shall only apply where the Minister is satisfied with the reasons for the surrender of the pioneer status in respect of that promoted activity or promoted product.

(4) An application made under this section shall be in accordance with such regulations as may be made under this Act.

Application for approval for investment tax allowance in respect of an activity or product in automotive component modules industry as prescribed under section 4E

26J. (1) Any company participating or intending to participate in Malaysia in a promoted activity or in the production of a promoted product in the automotive component modules industry as prescribed

under section 4E, may make an application in writing to the Minister for approval for purposes of an investment tax allowance, provided that such application is received on or after the date as prescribed in the statutory order published in the *Gazette*.

(2) A pioneer company or a company which has been granted pioneer status or an approval under section 27J shall only be eligible to apply for investment tax allowance under subsection (1) in respect of a promoted activity or promoted product other than the promoted activity or promoted product for which a pioneer certificate has been issued, or pioneer status or investment tax allowance has been granted.

(3) Where a company has been granted pioneer status in respect of promoted activity or promoted product under section 4E, it may be eligible to apply for approval for purposes of an investment tax allowance under subsection (1) upon giving notice in writing to the Minister to surrender the pioneer status in relation to that promoted activity or promoted product:

Provided that this subsection shall only apply where the Minister is satisfied with the reasons for the surrender of the pioneer status in respect of that promoted activity or promoted product.

(4) An application made under this section shall be in accordance with such regulations as may be made under this Act.

Application for approval for investment tax allowance in respect of reinvestment in an activity or product as prescribed under section 4F

26K. (1) Any company undertaking or intending to undertake reinvestment in an activity or in the production of product in Malaysia as prescribed under section 4F, may make an application in writing to the Minister for approval for purposes of an investment tax allowance:

Provided that—

- (a) such application is received on or after the date as prescribed in the statutory order published in the *Gazette*;
and

- (b) the tax relief period for that company in relation to the promoted activity or promoted product under section 14, 14A or 14C or the period as prescribed under section 29, 29A, 29AA, 29B, 29G, 29J, 29K or 29N has ended.

(2) A pioneer company or a company which has been granted pioneer status or an approval under section 27K shall only be eligible to apply for investment tax allowance under subsection (1) in respect of a promoted activity or promoted product other than the promoted activity or promoted product for which a pioneer certificate has been issued or pioneer status or investment tax allowance has been granted.

(3) Any contract research and development company, research and development company or a company carrying out in-house research, undertaking or intending to undertake reinvestment in Malaysia, in relation to a research and development activity, may make an application in writing to the Minister for approval for purposes of an investment tax allowance for the same promoted activity:

Provided that—

- (a) such application is received on or after 21 May 2003; and
- (b) the tax relief period for that company in relation to the promoted activity under section 14, 14A or 14C or the period as prescribed under section 29D, 29E or 29F has ended.

(4) Where a company has been granted pioneer status, in respect of promoted activity or promoted product under section 4F, it may be eligible to apply for approval for purposes of an investment tax allowance under subsection (1) upon giving notice in writing to the Minister to surrender the pioneer status in relation to that promoted activity or promoted product:

Provided that this subsection shall only apply where the Minister is satisfied with the reasons for the surrender of the pioneer status in respect of that promoted activity or promoted product.

(5) An application made under this section shall be in accordance with such regulations as may be made under this Act.

*26L. (Deleted by Act A1468).

Application for approval for investment tax allowance to a company undertaking the production of *halal* food product

26M. (1) Any company participating or intending to participate in Malaysia in the production of *halal* food product may make an application in writing to the Minister for approval for purposes of an investment tax allowance, provided that such application is received on or after 11 September 2004.

(2) A pioneer company or a company which has been granted pioneer status or an approval under section 27M shall only be eligible to apply for investment tax allowance under subsection (1) in respect of a promoted activity or promoted product other than the promoted activity or promoted product for which a pioneer certificate has been issued, or pioneer status or investment tax allowance has been granted.

(3) An application made under subsection (1) shall be in accordance with such regulations as may be made under this Act.

Application for approval for investment tax allowance to a company conserving energy for own consumption

26N. (1) Any company incurring or intending to incur capital expenditure for conserving energy for own consumption may make an application in writing to the Minister for approval for purposes of an investment tax allowance, provided that such application is received from 1 October 2005 until 31 December 2015.

(2) An application made under subsection (1) shall be in accordance with such regulations as may be made under this Act.

**26O. (Deleted by Act A1400).

* NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

** NOTE—see section 54 of the Promotion of Investments (Amendment) Act 2011 [Act A1400].

Grant of approval for purpose of investment tax allowance

27. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26 (1) subject to such terms and conditions as he deems fit, and such approval may be granted retrospectively from a date not earlier than the date from which the activity or the product has been determined to be a promoted activity or a promoted product under section 4:

Provided that —

- (i) where the Minister is satisfied that the company was engaged in a promoted activity or in the production of a promoted product, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity or product was determined as a promoted activity or promoted product under section 4, the approval may be granted retrospectively from a date not earlier than the date from which the company has been engaged in the promoted activity or in the production of the promoted product, or the capital expenditure had been incurred in relation thereto; and
- (ii) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26 (1) is received by the Minister.

(1A) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26(1) to a small company, subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or in the production of a product, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from such activity or product was deemed as a promoted activity or promoted product under section 4, the approval may be granted

retrospectively from a date not earlier than 21 May 2003;
and

(b) no approval shall be granted retrospectively under subsection (1A) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26(1) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsections (1) and (1A).

(3) In exercising his powers under subsections (1), (1A) and (2), the Minister shall act with the concurrence in writing of the Minister of Finance.

(4) A company granted approval under this subsection may, at any time during the period specified in paragraph 29(2)(b) or (c), surrender the approval by giving notice in writing to the Minister and where the Minister is satisfied with the reasons for the surrender of such approval or that the company has complied with the terms and conditions imposed under subsection (1), (1A) or (2) or with any other provisions of this Act, the surrender shall have effect from a date specified by the Minister in the notice approving such surrender and such date shall not be earlier than the date the notice is received by the Minister.

Grant of approval of application for investment tax allowance made under subsection 26A(1)

27A. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26A(1) subject to such terms and conditions as he deems fit:

Provided that—

(i) where the Minister is satisfied that the company was engaged in an activity or in producing a product, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity or product was deemed as a promoted activity or promoted product, as the case may be, under section 4A, the approval may be granted retrospectively from a date not earlier than

the date from which the company has been engaged in the activity or in producing the product, or the capital expenditure had been incurred in relation thereto; and

- (ii) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26A(1) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsection (1).

(3) In exercising his powers under subsections (1) and (2), the Minister shall act with the concurrence in writing of the Minister of Finance.

***27B.** (*Deleted by Act A1468*).

Grant of approval of application for investment tax allowance made under subsection 26c(1)

27c. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26c(1) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity was deemed as a promoted activity under section 4B, the approval may be granted retrospectively from a date not earlier than the date from which the company has been engaged in that activity or the capital expenditure had been incurred in relation thereto; and
- (b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date

*NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

which is earlier than three years from the date the application under subsection 26C(1) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsection (1).

(3) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

Grant of approval of application for investment tax allowance made under subsection 26D(1)

27D. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26D(1) subject to such terms and conditions as he deems fit, and such approval may be granted retrospectively from a date not earlier than the date from which the activity has been deemed to be a promoted activity under section 4B:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity was deemed as a promoted activity under section 4B, the approval may be granted retrospectively from a date not earlier than the date from which the company has been engaged in that activity or the capital expenditure had been incurred in relation thereto; and
- (b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26D(1) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsection (1).

(3) In exercising his powers under subsections (1) and (2), the Minister shall act with the concurrence in writing of the Minister of Finance.

Grant of approval of application for investment tax allowance made under subsection 26E(1)

27E. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26E(1) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity was deemed as a promoted activity under section 4B, the approval may be granted retrospectively from a date not earlier than the date from which the company has been engaged in that activity or the capital expenditure had been incurred in relation thereto; and
- (b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26E(1) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsection (1).

(3) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

Grant of approval of application for investment tax allowance made under subsection 26F(1) or (2A)

27F. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26F(1) or (2A) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity was deemed as a promoted activity under section 4, the approval may be granted retrospectively from a date not earlier than the date from which the company has been engaged in that activity or the capital expenditure had been incurred in relation thereto; and
- (b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26F(1) is received by the Minister.

(1A) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26F(2A) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company had established a medical devices testing laboratory or had upgraded an existing medical devices testing laboratory, or had otherwise incurred capital expenditure in relation thereto, the approval may be granted retrospectively from a date not earlier than 8 September 2007; and
- (b) no approval shall be granted retrospectively under subsection (1A) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26F(2A) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsections (1) and (1A).

(3) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

Grant of approval of application for investment tax allowance made under subsection 26G(1) or (2)

27G. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26G(1) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity was deemed as a promoted activity under section 4B, the approval may be granted retrospectively from a date not earlier than the date from which the company has been engaged in that activity or the capital expenditure had been incurred in relation thereto; and
- (b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26G(1) is received by the Minister.

(2) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26G(2) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the institution was engaged in an activity or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity was deemed as a promoted activity under section 4B, the approval may be granted retrospectively from a date not earlier than 1 October 2005; and
- (b) no approval shall be granted retrospectively under subsection (2) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26G(2) is received by the Minister.

(3) The Minister may vary the terms and conditions imposed under subsection (1) or (2).

(4) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

***27H.** (*Deleted by Act A1468*).

Grant of approval of application for investment tax allowance made under subsections 26I(1), 26I(1A) and (1B)

27I. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsections 26I(1) and (1A) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or in the production of a promoted product, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity or product was deemed as a promoted activity or promoted product under section 4D, the approval may be granted retrospectively from a date not earlier than the date as prescribed by the Minister under section 4D; and
- (b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsections 26I(1) and (1A) is received by the Minister.

(1A) The Minister may grant an approval in respect of an application for an investment tax allowance made under subsection 26I(1B) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or in the production of a promoted product, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which

*NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

the activity or product was deemed as a promoted activity or promoted product under section 4D in relation to renewable energy for own consumption, the approval may be granted retrospectively from a date not earlier than the date such activity or product is prescribed by the Minister as a promoted activity or promoted product under section 4D; and

- (b) no approval shall be granted retrospectively under subsection (1A) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26I(1B) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsections (1) and (1A).

(3) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

Grant of approval of application for investment tax allowance made under subsection 26J(1)

27J. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26J(1) subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or in the production of a promoted product, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity or product was deemed as a promoted activity or promoted product under section 4E, the approval may be granted retrospectively from a date not earlier than the date as prescribed by the Minister under section 4E; and
- (b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26J(1) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsection (1).

(3) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

Grant of approval of application for investment tax allowance made under subsection 26K(1)

27K. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26K(1) subject to such terms and conditions as he deems fit:

Provided that where the Minister is satisfied that the company was engaged in an activity or in the production of a promoted product, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity or product was deemed as a promoted activity or promoted product under section 4F, the approval may be granted on the first day capital expenditure is incurred and that date shall not be earlier than the date the application is received by the Minister.

(2) In relation to hotel business and tourist project, approval shall be granted retrospectively under subsection (1) from a date not earlier than the date from which the company has incurred capital expenditure in relation thereto, but not earlier than three years from the date the application under subsection 26K(1) is received by the Minister.

(3) The Minister may vary the terms and conditions imposed under subsections (1) and (2).

(4) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

***27L.** (*Deleted by Act A1468*).

* *NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].*

Grant of approval of application for investment tax allowance made under subsection 26M(1)

27M. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26M(1) to a company undertaking the production of *halal* food product subject to such terms and conditions as he deems fit:

Provided that—

- (a) where the Minister is satisfied that the company was engaged in an activity or in the production of a promoted product, or had otherwise incurred capital expenditure in relation thereto, the approval may be granted retrospectively from a date not earlier than 11 September 2004; and
- (b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26M(1) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsection (1).

(3) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

Grant of approval of application for investment tax allowance made under subsection 26N(1)

27N. (1) The Minister may grant approval in respect of an application for an investment tax allowance made under subsection 26N(1) subject to such terms and conditions as he deems fit:

Provided that —

- (a) where the Minister is satisfied that the company was engaged in an activity, or had otherwise incurred capital expenditure in relation thereto, from a date prior to the date from which the activity was deemed as a promoted activity, the approval may be granted retrospectively from a date not earlier than 1 October 2005;

(aa) where an application is received from 8 September 2007 until 31 December 2015 and the Minister is satisfied that the company was engaged in an activity or had otherwise incurred capital expenditure in relation thereto, the approval may be granted retrospectively from the date of the receipt of the application but not earlier than 8 September 2007; and

(b) no approval shall be granted retrospectively under subsection (1) or under the foregoing proviso from a date which is earlier than three years from the date the application under subsection 26N(1) is received by the Minister.

(2) The Minister may vary the terms and conditions imposed under subsection (1).

(3) In exercising his powers under this section, the Minister shall act with the concurrence in writing of the Minister of Finance.

***27O.** (*Deleted by Act A1400*).

Determination of effective date and compliance for investment tax allowance

27P. (1) Any company which has been granted approval for an investment tax allowance under sections 27, 27A, 27C, 27D, 27E, 27F, 27G, 27I, 27J, 27K, 27M and 27N shall, within twenty-four months from the date of such grant or such extended period as the Minister may allow, request for the determination of the effective date of its investment tax allowance.

(2) An application for an extension under subsection (1) shall be made before the expiry of the period of twenty-four months or such extended period as the Minister may allow.

(3) A company requesting for the determination of the effective date for its investment tax allowance under subsection (1) shall state the capital expenditure incurred by the company.

* *NOTE—see section 54 of the Promotion of Investments (Amendment) Act 2011 [Act A1400].*

(4) The capital expenditure referred to in subsection (3) is as defined in subsections 29(7) and 29(8).

(5) Where a company has been granted the determination of the effective date for its investment tax allowance under subsection (1), the company shall, within the period of the investment tax allowance approved by the Minister of Finance, provide the Minister of Finance with particulars as may be determined for the purposes of compliance of any of the conditions imposed.

Withdrawal of approval of investment tax allowance

28. (1) Where a company which has been granted an approval under section 27, 27A, 27C, 27D, 27E, 27F, 27G, 27I, 27J, 27K, 27M or 27N fails to comply with any of the terms or conditions imposed under subsection 27(1), (1A), (2), 27A(1), (2), 27C(1), (2), 27D(1), (2), 27E(1), (2), 27F(1), (1A), (2), 27G(1), (2), (3), 27I(1), (2), 27J(1), (2), 27K(1), (2), (3), 27M(1), (2), 27N(1), (2) or with any other provisions of this Act, the Minister shall by notice in writing require the company within thirty days from the date of service of the notice to show cause why the approval should not be withdrawn.

(2) The Minister may withdraw the approval granted under subsection 27(1), (1A), 27A(1), 27C(1), 27D(1), 27E(1), 27F(1), (1A), 27G(1), (2), 27I(1), 27J(1), 27K(1), (2), 27M(1) or 27N(1) —

(a) where the company has failed to comply with a notice served on it under subsection (1);

(b) where he is not satisfied with the reasons for the non-compliance with the terms and conditions imposed under subsection 27(1), (1A), (2), 27A(1), (2), 27C(1), (2), 27D(1), (2), 27E(1), (2), 27F(1), (1A), (2), 27G(1), (2), (3), 27I(1), (2), 27J(1), (2), 27K(1), (2), (3), 27M(1), (2), 27N(1), (2) or with any other provisions of this Act.

Surrender of the grant of approval of investment tax allowance

28A. (1) Any company which has been granted approval for investment tax allowance under this Act in respect of a promoted activity or promoted product, may be eligible to apply for reinvestment allowance under Schedule 7A to the principal Act upon the surrender of such grant

by giving a written notice to the Minister of such surrender.

(2) Notwithstanding subsection (1), a company granted investment tax allowance under this Act may at any time surrender the grant of approval by giving a notice in writing to the Minister:

Provided that this subsection shall not apply for the purpose of an application for pioneer status under this Act.

(3) Where the Minister is satisfied with the reasons for the surrender of such grant under subsection (1) or (2), the Minister in the notice approving such surrender may grant it retrospectively, and the surrender shall have effect —

- (a) from the date of the grant of approval of investment tax allowance; or
- (b) or in the case of a company which has incurred capital expenditure, on the first day in the basis period for the year of assessment the application is received by the Minister.

Investment tax allowance

29. (1) Where a company which has been granted approval under section 27 has incurred in the basis period for a year of assessment in respect of the promoted activity or promoted product capital expenditure for the purposes of that promoted activity or promoted product, there shall be given to the company for that year of assessment an investment tax allowance of an amount approved by the Minister of Finance, such allowance not being more than one hundred per cent of that expenditure.

(2) An allowance for expenditure given under subsection (1) —

- (a) subject to subsection (5), shall be given only for the year of assessment in the basis period for which that expenditure was incurred;
- (b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect;

(c) subject to subsection (3), shall be given in respect of the manufacturing activity in an integrated agricultural activity for any expenditure incurred within another period of five years from a date to be determined by the Minister, being a date within or after the period mentioned in paragraph (2)(b); and

(d) shall, in the case of a surrender of approval under subsection 27(4), be given in respect of expenditure incurred from the date from which the approval is to take effect up to the date of surrender:

Provided that—

(i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (2)(b) in relation to a business which it is about to carry on in respect of a promoted activity or promoted product, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and

(ii) where a company incurs capital expenditure prior to its application under section 27 and where the approval under section 27 is granted retrospectively from a date earlier than the date on which the application is made, the allowance under this section in respect of that expenditure shall be given, subject to subsection (5), only for the year of assessment in the basis period in which the company is notified of the approval of the application.

(3) Where a company has been granted approval under section 27 in respect of an integrated agricultural activity, such company shall within six years from the date of such approval, provide the Minister with such particulars as may be prescribed for the purposes of determination of the date under paragraph (2)(c).

(4) Where an allowance is given to a company under subsection (1) for a year of assessment, so much of the adjusted income of the company from the business of that company in respect of a promoted activity or a promoted product for the basis period for that year as is equal to the amount of the allowance (or to the aggregate amount of

any such allowance, as the case may be shall be exempt from tax under the principal Act for that year of assessment.

(5) Where, by reason of an insufficiency or absence of adjusted income of a company from a business of the company in respect of a promoted activity or a promoted product for the basis period for a year of assessment, effect cannot be given or cannot be given in full to any allowance to which the company is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (1), (2) and (4), so much of the allowance in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for the basis period for which there is adjusted income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance to which it is so entitled.

(6) Where any income is exempted from tax by virtue of subsection (4), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(7) For the purposes of this section, and subject to subsection (8), “capital expenditure”—

- (a) in relation to manufacturing, means capital expenditure incurred on a factory or on any plant and machinery used in Malaysia in connection with and for the purposes of the promoted activity or promoted product;
- (b) in relation to agriculture, means capital expenditure incurred in respect of —
 - (i) the clearing and preparation of land;
 - (ii) the planting of crops;
 - (iii) the provision of irrigation or drainage systems;
 - (iv) the provision of plant and machinery used in Malaysia for the purposes of crop cultivation, animal farming, aquaculture, inland or deep-sea fishing and other agricultural or pastoral pursuits;

- (v) the construction of access roads including bridges; and
- (vi) the construction or purchase of buildings (including those provided for the welfare of persons or as living accommodation for persons) and structural improvements on land or other structures which are used for the purposes of crop cultivation, animal farming, aquaculture, inland fishing and other agricultural or pastoral pursuits:

Provided that for the purposes of subparagraphs (*e*) and (*f*), such roads, bridges, buildings, structural improvements on land and other structures are on land forming part of the land used for the purposes of such crop cultivation, animal farming, aquaculture, inland fishing and other agricultural or pastoral pursuits;

- (*c*) in relation to hotel business, means capital expenditure incurred on the purchase of a building or construction of an hotel building of the approved standard in Malaysia, including any alteration, extension and renovation or on the provision of plant and machinery or other facilities used in connection with the hotel business;
- (*d*) in relation to a tourist project, means capital expenditure incurred in respect of a tourist project in Malaysia and includes capital expenditure on—
 - (i) clearing of land for purposes of a tourist project;
 - (ii) planting of trees and plants;
 - (iii) construction of road and other infrastructure facilities provided they are on land forming part of the land used for the purposes of a tourist project;
 - (iv) the provision of birds, animals and other exhibits;
 - (v) the provision of plant and machinery;
 - (vi) the provision of buildings (including those provided for the welfare of persons or as living accommodation for persons), structural improvements on land and other

structures on land forming part of the land used for purposes of a tourist project;

- (e) in relation to manufacturing related services, means capital expenditure incurred on any asset used in Malaysia in connection with and for the purpose of such promoted services as may be determined from time to time by the Minister with concurrence of the Minister of Finance by statutory order to be published in the *Gazette*.

(8) For the purposes of this section, capital expenditure shall not include capital expenditure incurred on buildings used as living accommodation, plant and machinery where such buildings, plant or machinery are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.

(9) This section shall apply to —

- (a) a company which has been granted approval under section 27 prior to 1 November 1991; and
- (b) a company which has been granted approval under section 27 on or after 1 November 1991 but whose application under section 26 was received prior to 1 November 1991.

(10) Notwithstanding paragraphs 9(a) and (b), subsections 29(7) and (8) shall be applicable to a company whose application under section 26 is received on or after 1 November 1991.

Investment tax allowance in respect of application received on or after 1 November 1991

29A. (1) This section shall apply to a company which has been granted approval for the purposes of investment tax allowance pursuant to an application received on or after 1 November 1991 other than to a company which has been granted approval for the purposes of an investment tax allowance under section 27A.

(2) Where a company which has been granted approval under section 27 has incurred in the basis period for a year of assessment in respect of a promoted activity or promoted product capital expenditure for the

purposes of that promoted activity or promoted product, there shall be given to the company for that year of assessment an investment tax allowance of sixty per cent of that expenditure.

(3) An allowance for expenditure given under subsection (2) —

- (a) subject to subsection (6), shall be given only for the year of assessment in the basis period for which that expenditure was incurred;
- (b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect;
- (c) subject to subsection (4), shall be given in respect of the manufacturing activity in an integrated agricultural activity for any expenditure incurred within another period of five years from a date to be determined by the Minister, being a date within or after the period mentioned in paragraph (3)(b); and
- (d) shall, in the case of a surrender of approval under subsection 27(4), be given in respect of expenditure incurred from the date from which the approval is to take effect up to the date of surrender:

Provided that—

- (i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (3)(b) in relation to a business which it is about to carry on in respect of a promoted activity or promoted product, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and
- (ii) where a company incurs capital expenditure prior to its application under subsection 26(1) and where the approval under section 27 is granted retrospectively from a date earlier than the date on which the application is made, the allowance under this section in respect of that expenditure shall be given, subject to subsection (6), only for the year

of assessment in the basis period in which the company is notified of the approval of the application.

(4) Where a company has been granted approval under section 27 in respect of an integrated agricultural activity, such company shall, within six years from the date of such approval, provide the Minister with such particulars as may be prescribed for the purposes of determination of the date under paragraph (3)(c).

(5) Where an allowance is given to a company under subsection (2) for a year of assessment, so much of the statutory income of the business of the company in respect of a promoted activity or promoted product for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment.

(6) Where, by reason of an insufficiency or absence of statutory income of the business of the company in respect of a promoted activity or promoted product for a year of assessment, effect cannot be given or cannot be given in full to any allowance to which the company is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (2), (3) and (5), so much of the allowance in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for which there is statutory income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance to which it is so entitled.

(7) Where any income is exempt from tax by virtue of subsection (5), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(8) For the purposes of this section and subject to subsection (9), the term “capital expenditure” has the meaning assigned to it under subsection 29(7) and shall include capital expenditure incurred in respect of assets to be determined by the Minister with the concurrence in writing of the Minister of Finance by statutory order published in the *Gazette*.

(9) Notwithstanding subsection (8), “capital expenditure” shall not include capital expenditure incurred on buildings (which are used as living accommodation for persons), plant and machinery where such buildings, plant or machinery are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.

Investment tax allowance for application under subsection 26(1) which has been approved under subsection 27(1A) for a small company

29AA. (1) This section shall apply to a company which has been granted approval for the purposes of investment tax allowance under subsection 27(1A) provided that such application is received on or after 21 May 2003.

(2) Where a company which has been granted approval under subsection 27(1A) has —

- (a) incurred capital expenditure in a basis period for a year of assessment for the purposes of the promoted activity or promoted product; and
- (b) fulfilled such criteria as may be prescribed in a statutory order to be published in the *Gazette*,

there shall be given to the company for that year of assessment an investment tax allowance of sixty per cent of that expenditure.

(3) An allowance for expenditure given under subsection (2) —

- (a) subject to subsection (5), shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and
- (b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that —

- (i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (3)(b) in relation to a business which it is about to

carry on in respect of an activity and the company has fulfilled such criteria as referred to in paragraph (2)(b), that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and

- (ii) where the company incurs capital expenditure prior to its application under subsection 26(1) and the approval under subsection 27(1A), the allowance is granted retrospectively from the date of application received by the Minister but such retrospective date shall not be earlier than 21 May 2003.

(4) Where an allowance is given to a company under subsection (2) for a year of assessment, so much of the statutory income of the business of the company in respect of a promoted activity or promoted product for that year of assessment as is equal to the amount of that allowance (or the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act.

(5) Where, by reason of an insufficiency or absence of statutory income of the business of the company in respect of a promoted activity or promoted product for a year of assessment, effect cannot be given or cannot be given in full to any allowance or allowances to which the company is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (2), (3) and (4), so much of the allowance or allowances in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for which there is statutory income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance or allowances to which it is so entitled.

(6) Where any income is exempt from tax by virtue of subsection (4), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(7) Subsections 29(7) and (8) relating to capital expenditure shall apply, *mutatis mutandis*, for the purposes of this section.

Investment tax allowance for application under section 26A which has been approved under section 27A

29B. (1) Where a company which has been granted approval under section 27A has incurred in the basis period for a year of assessment in respect of an activity or of producing a product which is deemed under section 4A to be a promoted activity or promoted product capital expenditure for the purposes of that activity or the production of that product, there shall be given to the company for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

(2) An allowance for expenditure given under subsection (1) —

(a) subject to subsections (4) and (5), shall be given only for the year of assessment in the basis period for which that expenditure was incurred;

(b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that—

(i) where a company incurs capital expenditure from the date from which the approval is to take effect in relation to a business which it is about to carry on in respect of the activity or of producing the product, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and

(ii) where a company incurs capital expenditure prior to its application under section 26A and where the approval under section 27A is granted retrospectively from a date earlier than the date on which the application is made, the allowance under this section in respect of that expenditure shall be given, subject to subsection (4), only for the year of assessment in the basis period in which the company is notified of the approval of the application.

(2A) Notwithstanding subsection (2), the expenditure incurred prior to the grant of approval on the basis of an application made under the proviso to subsection 26A(1) shall not be deemed as having been incurred in the basis period the approval is to take effect whether or not the assets acquired by that expenditure are subsequently owned by the same company or a new entity.

(3) Where an allowance is given to a company under subsection (1) for a year of assessment, so much of the statutory income of the business of the company in respect of the activity or of producing the product which is deemed under section 4A to be a promoted activity or promoted product as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act for that year of assessment.

(4) Subject to subsection (5) where, by reason of an insufficiency or absence of statutory income of the business of the company in respect of the activity or of producing the product which is deemed under section 4A to be a promoted activity or promoted product for a year of assessment, effect cannot be given or cannot be given in full to any allowance to which the company is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (1), (2) and (3), so much of the allowance in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for which there is statutory income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance to which it is so entitled.

(5) Where a company fails to comply with any of the terms or conditions under section 27A at the end of the five years from the date from which the approval is to take effect, subsection (4) shall not apply to the allowance to which effect has not been given under this section for the year of assessment for which its basis period includes the last day of the period under paragraph (2)(b).

(6) Where any income is exempt from tax by virtue of subsection (3), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(7) For the purposes of this section and subject to subsection (8), the term “capital expenditure” has the meaning assigned to it under

subsection 29(7) and shall include capital expenditure incurred in respect of assets to be determined by the Minister with the concurrence in writing of the Minister of Finance by statutory order published in the *Gazette*.

(8) Notwithstanding subsection (7), “capital expenditure” shall not include capital expenditure incurred on buildings (which are used as living accommodation for persons), plant and machinery where such buildings, plant or machinery are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.

*29C. (*Deleted by Act A1468*).

Investment tax allowance for application under section 26C which has been approved under section 27C

29D. (1) Where a contract research and development company which has been granted approval under section 27C has incurred in the basis period for a year of assessment in respect of an activity relating to research and development capital expenditure for the purposes of that activity, there shall be given to the company for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

(2) An allowance for expenditure given under subsection (1) —

(a) subject to subsection (4), shall be given only for the year of assessment in the basis period for which that expenditure was incurred;

(b) shall be given in respect of expenditure incurred within ten years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (2)(b) in relation to a business which it is about to carry on in respect

* NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

of an activity relating to research and development, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business.

(3) Where an allowance is given to a company under subsection (1) for a year of assessment, so much of the statutory income of the business of the company in respect of an activity relating to research and development for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment.

(4) Where, by reason of an insufficiency or absence of statutory income of the business of the company in respect of an activity relating to research and development for a year of assessment, effect cannot be given or cannot be given in full to any allowance to which the company is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (1), (2) and (3), so much of the allowance in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for which there is statutory income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance to which it is so entitled.

(5) Where any income is exempt from tax by virtue of subsection (3), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(6) For the purposes of this section and subject to subsection (7), “capital expenditure”—

(a) in relation to manufacturing based research, means capital expenditure incurred on a factory or on any plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to research and development; and

(b) in relation to agriculture based research, means capital expenditure incurred in respect of —

- (i) the clearing and preparation of land;
- (ii) the planting of trial crops;
- (iii) the provision of irrigation or drainage systems;
- (iv) the provision of plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to research and development;
- (v) the construction of access roads including bridges; and
- (vi) the construction or purchase of buildings (excluding those provided for the welfare of persons or as living accommodation for persons) and structural improvements on land for the purposes of an activity relating to research and development.

(7) Notwithstanding subsection (6), “capital expenditure” shall not include capital expenditure incurred on buildings (which are used as living accommodation for persons), plant and machinery where such buildings, plant or machinery are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.

Investment tax allowance for application under section 26D which has been approved under section 27D

29E. (1) Where a research and development company which has been granted approval under section 27D has incurred in the basis period for a year of assessment in respect of an activity relating to research and development capital expenditure for the purposes of that activity, there shall be given to the company for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

(2) An allowance for expenditure given under subsection (1) —

- (a) subject to subsection (4), shall be given only for the year of assessment in the basis period for which that expenditure was incurred;
- (b) shall be given in respect of expenditure incurred within ten years from the date from which the approval is to take effect:

Provided that—

- (i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (2)(b) in relation to a business which it is about to carry on in respect of an activity relating to research and development, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and
- (ii) where a company incurs capital expenditure prior to its application under section 26D and where the approval under section 27D is granted retrospectively from a date earlier than the date on which the application is made, the allowance under this section in respect of that expenditure shall be given, subject to subsection (4), only for the year of assessment in the basis period in which the company is notified of the approval of the application.

(3) Where an allowance is given to a company under subsection (1) for a year of assessment, so much of the statutory income of the business of the company in respect of an activity relating to research and development for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment.

(4) Where, by reason of an insufficiency or absence of statutory income of the business of the company in respect of an activity relating to research and development for a year of assessment, effect cannot be given or cannot be given in full to any allowance to which the company

is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (1), (2) and (3), so much of the allowance in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for which there is statutory income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance or allowances to which it is so entitled.

(5) Where any income is exempt from tax by virtue of subsection (3), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(6) For the purposes of this section and subject to subsection (7), “capital expenditure”—

(a) in relation to manufacturing based research, means capital expenditure incurred on a factory or on any plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to research and development; and

(b) in relation to agriculture based research, means capital expenditure incurred in respect of —

(i) the clearing and preparation of land;

(ii) the planting of trial crops;

(iii) the provision of irrigation or drainage systems;

(iv) the provision of plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to research and development;

(v) the construction of access roads including bridges; and

(vi) the construction or purchase of buildings (excluding those provided for the welfare of persons or as living accommodation for persons) and structural

improvements on land for the purposes of an activity relating to research and development.

(7) Notwithstanding subsection (6), “capital expenditure” shall not include capital expenditure incurred on buildings (which are used as living accommodation for persons), plant and machinery where such buildings, plant or machinery are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.

Investment tax allowance for application under section 26E which has been approved under section 27E

29F. (1) Where a company which has been granted approval under section 27E has incurred in the basis period for a year of assessment in respect of an activity relating to in-house research capital expenditure for the purposes of that activity, there shall be given to the company for that year of assessment an investment tax allowance of fifty per cent of that expenditure:

Provided that for the purposes of this subsection, “capital expenditure” shall not include —

- (a) capital expenditure as defined under subsection 29(7), 29A(8), 29B(7), 29C(7), 29D(6), 29E(6), 29G(6) or 31E(6);
- (b) capital expenditure for the purposes of Schedule 7A of the principal Act: and
- (c) capital expenditure incurred on plant or machinery used directly or indirectly for the purposes of storage, treatment or disposal of scheduled wastes as defined in the Environmental Quality (Scheduled Wastes) Regulations 1989.

(2) An allowance for expenditure given under subsection (1) —

- (a) subject to subsection (4), shall be given only for the year of assessment in the basis period for which that expenditure was incurred;

(b) shall be given in respect of expenditure incurred within ten years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (2)(b) in relation to a business which it is about to carry on in respect of an activity relating to in-house research, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business.

(3) Where an allowance is given to a company under subsection (1) for a year of assessment, so much of the statutory income of the business of the company in respect of an activity relating to in-house research for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment.

(4) Where, by reason of an insufficiency or absence of statutory income of the business of the company in respect of an activity relating to in-house research for a year of assessment, effect cannot be given or cannot be given in full to any allowance to which the company is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (1), (2) and (3), so much of the allowance in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for which there is statutory income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance to which it is so entitled.

(5) Where any income is exempt from tax by virtue of subsection (3), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(6) For the purposes of this section and subject to subsection (7), “capital expenditure” —

- (a) in relation to manufacturing based research, means capital expenditure incurred on a factory or on any plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to in-house research; and
- (b) in relation to agriculture based research, means capital expenditure incurred in respect of —
- (i) the clearing and preparation of land;
 - (ii) the planting of trial crops;
 - (iii) the provision of irrigation or drainage systems;
 - (iv) the provision of plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to in-house research;
 - (v) the construction of access roads including bridges; and
 - (vi) the construction or purchase of buildings (excluding those provided for the welfare of persons or as living accommodation for persons) and structural improvements on land for the purposes of an activity relating to in-house research.

(7) Notwithstanding subsection (6), “capital expenditure” shall not include capital expenditure incurred on buildings (which are used as living accommodation for persons), plant and machinery where such buildings, plant or machinery are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.

Investment tax allowance for application under section 26F which has been approved under section 27F

29G. (1) Where a company which has been granted approval under section 27F has incurred in the basis period for a year of assessment in respect of a promoted activity or promoted product in areas of new and emerging technologies or in respect of a company establishing a medical devices testing laboratory or upgrading an existing medical

devices testing laboratory in Malaysia capital expenditure for the purposes of that promoted activity or promoted product, there shall be given to the company for that year of assessment an investment tax allowance of sixty per cent of that expenditure.

(2) An allowance for expenditure given under subsection (1) —

(a) subject to subsection (4), shall be given only for the year of assessment in the basis period for which that expenditure was incurred;

(b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (2)(b) in relation to a business which it is about to carry on in respect of a promoted activity or promoted product in areas of new and emerging technologies or in respect of a company establishing a medical devices testing laboratory or upgrading an existing medical devices testing laboratory in Malaysia or in respect of, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business.

(3) Where an allowance is given to a company under subsection (1) for a year of assessment, so much of the statutory income of the business of the company in respect of a promoted activity or promoted product for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act.

(4) Where, by reason of an insufficiency or absence of statutory income of the business of the company in respect of a promoted activity or promoted product for a year of assessment, effect cannot be given or cannot be given in full to any allowance to which the company is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (1), (2) and (3), so much of the allowance in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for which there is statutory income from that business, and so on for

subsequent years of assessment until the company has received the whole of the allowance to which it is so entitled.

(5) Where any income is exempt from tax by virtue of subsection (3), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(6) Subsections 29(7) and (8) relating to capital expenditure shall apply, *mutatis mutandis*, for the purposes of this section.

Investment tax allowance for application under section 26G which has been approved under section 27G

29H. (1) Where a technical or vocational training company which has been granted approval under subsection 27G(1) has incurred in the basis period for a year of assessment in respect of an activity relating to technical or vocational training capital expenditure for the purposes of that activity, there shall be given to the company for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

(1A) Where a private higher education institution which has been granted approval under subsection 27G(2) has incurred in the basis period for a year of assessment, in respect of an activity relating to qualifying science courses, capital expenditure for the purposes of that activity, the institution shall be given for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

(2) An allowance for expenditure given under subsection (1) or (1A) —

(a) subject to subsection (4), shall be given only for the year of assessment in the basis period for which that expenditure was incurred;

(b) shall be given in respect of expenditure incurred within ten years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (2)(b) in relation to a business which it is about to carry on in respect

of an activity relating to technical or vocational training or qualifying science courses, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business.

(3) Where an allowance is given to a company under subsection (1) or (1A) for a year of assessment, so much of the statutory income of the business of the company in respect of an activity relating to technical or vocational training, or qualifying science courses for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment.

(4) Where, by reason of an insufficiency or absence of statutory income of the business of the company in respect of an activity relating to technical or vocational training, or qualifying science courses for a year of assessment, effect cannot be given or cannot be given in full to any allowance to which the company is entitled under this section for that year in relation to the source consisting of that business, then, notwithstanding subsections (1), (1A), (2) and (3), so much of the allowance in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this section for the first subsequent year of assessment for which there is statutory income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance to which it is so entitled.

(5) Where any income is exempt from tax by virtue of subsection (3), section 23 shall apply to that income (with any necessary modifications) as it applies to income exempt under section 22A.

(6) For the purposes of this section and subject to subsection (7), “capital expenditure”, in relation to technical or vocational training, or qualifying science courses means capital expenditure incurred on a building or on any plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to training or courses, as the case may be.

(7) Notwithstanding subsection (6), “capital expenditure” shall not include capital expenditure incurred on buildings (which are used as

living accommodation for persons), plant and machinery where such buildings, plant or machinery are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.

***29I.** (*Deleted by Act A1468*).

Investment tax allowance for application under section 26I which has been approved under section 27I

29J. (1) This section shall apply to a company which has been granted approval for the purposes of investment tax allowance under subsection 27I(1) provided such application is received on or after a date to be prescribed under section 4D.

(2) Where a company which has been granted approval under subsection 27I(1) has incurred, in the basis period for a year of assessment in respect of a promoted activity or promoted product, capital expenditure for the purposes of that promoted activity or promoted product, the company shall be given for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

(2A) Where a company which has been granted approval under subsection 27I(1A) has incurred, in the basis period for a year of assessment in respect of a promoted activity or promoted product in relation to renewable energy for own consumption, capital expenditure for that purpose, the company shall be given for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

- (3) An allowance for expenditure given under subsection (2) —
- (a) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and
 - (b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

*NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

Provided that —

- (i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (b) in relation to a business which it is about to carry on in respect of a promoted activity or promoted product, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and
- (ii) where the company incurs capital expenditure prior to its application under section 26I and the approval under section 27I, the allowance is granted retrospectively from a date not earlier than a date to be prescribed under section 4D.

(3A) An allowance for expenditure given under subsection (2A)—

- (a) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and
- (b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that—

- (i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (b) in relation to a business which it is about to carry on in respect of a promoted activity or promoted product, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and
- (ii) where the company incurs capital expenditure prior to its application under section 26I and the approval under section 27I, the allowance is granted retrospectively from the date such activity or product is prescribed by the Minister as a promoted activity or promoted product under section 4D.

(4) Subsections 29AA(4), (5), (6) and (7) shall apply, *mutatis*

mutandis, for the purposes of this section.

Investment tax allowance for application under section 26J which has been approved under section 27J

29K. (1) This section shall apply to a company which has been granted approval for the purposes of investment tax allowance under section 27J provided such application is received on or after a date to be prescribed under section 4E.

(2) Where a company which has been granted approval under section 27J has incurred, in the basis period for a year of assessment in respect of a promoted activity or promoted product, capital expenditure for the purposes of that promoted activity or promoted product, the company shall be given for that year of assessment an investment tax allowance of sixty per cent of that expenditure.

(3) An allowance for expenditure given under subsection (2) —

- (a) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and
- (b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that —

- (i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (b) in relation to a business which it is about to carry on in respect of a promoted activity or promoted product, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and
- (ii) where the company incurs capital expenditure prior to its application under section 26J and the approval under section 27J, the allowance is granted retrospectively from a date not earlier than a date to be prescribed under section 4E.

(4) Subsections 29AA(4), (5), (6) and (7) shall apply *mutatis*

mutandis, for the purposes of this section.

Investment tax allowance for application under section 26K which has been approved under section 27K

29L. (1) This section shall apply to a company which has been granted approval for the purposes of investment tax allowance under section 27K provided such application is received on or after a date as prescribed in the statutory order published in the *Gazette* under section 4F.

(2) In relation to a contract research and development company, and research and development company undertaking reinvestment, the company shall be given for that year of assessment an investment tax allowance of one hundred per cent of that additional capital expenditure:

- (a) an allowance for expenditure given under this subsection —
 - (i) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and
 - (ii) shall be given in respect of expenditure incurred within ten years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in subparagraph (ii) in relation to a business which it is about to carry on in respect of an activity relating to research and development, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business;

- (b) where an allowance is given to a company under this subsection for a year of assessment, so much of statutory income of the business of that company in respect of an activity relating to research and development for the basis period of that year of assessment as is equal to the amount of allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act for that year of assessment:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment; and

- (c) subsections 29D (4), (5), (6) and (7) shall apply, *mutatis mutandis*, for the purposes of this section.

(3) In relation to a company undertaking reinvestment in an activity related to in-house research, that company shall be given for that year of assessment an investment tax allowance of fifty per cent of that additional capital expenditure:

- (a) an allowance for expenditure given under this subsection —
- (i) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and
 - (ii) shall be given in respect of expenditure incurred within ten years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in subparagraph (ii) in relation to a business which it is about to carry on in respect of an activity relating to research and development, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business;

- (b) where an allowance is given to a company under this subsection for a year of assessment, so much of statutory income of a company from the business of that company in respect of an activity relating to in-house research for the basis period of that year of assessment as is equal to the amount of allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act for that year of assessment:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment; and

(c) subsections 29F(4), (5), (6) and (7) shall apply, *mutatis mutandis*, for the purposes of this section.

(4) In relation to a company undertaking reinvestment to produce value-added products utilizing oil palm biomass, that company shall be given for that year of assessment an investment tax allowance of one hundred per cent of that additional capital expenditure —

(a) an allowance for expenditure given under this subsection —

(i) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and

(ii) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in subparagraph (ii) in relation to a business which it is about to carry on in respect of an activity relating to production of value-added products utilizing oil palm biomass, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business;

(b) where an allowance is given to a company under this subsection for a year of assessment, so much of statutory income of a company from the business of that company in respect of a promoted activity or promoted product for the basis period of that year of assessment as is equal to the amount of allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act for that year of assessment; and

- (c) subsections 29B(4), (5), (6), (7) and (8) shall apply, *mutatis mutandis*, for the purposes of this section.

(5) In relation to a company undertaking reinvestment in hotel business and tourist project activities, that company shall be given for that year of assessment an investment tax allowance of sixty per cent of that additional capital expenditure —

- (a) an allowance for expenditure given under this subsection —
- (i) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and
 - (ii) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that —

- (A) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in subparagraph (ii) in relation to a business which it is about to carry on in respect of a promoted activity or promoted product, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and
 - (B) where the company incurs capital expenditure prior to its application under subsection 26K(1) and the approval under subsection 27K(2), the allowance is granted retrospectively from a date not earlier than 13 September 2003;
- (b) where an allowance is given a company under this subsection for a year of assessment so much of statutory income of the business of that company in respect of the promoted activity or promoted product for the basis period of that year of assessment as is equal to the amount of

allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act for that year of assessment:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment; and

- (c) subsections 29A(6), (7), (8) and (9) shall apply, *mutatis mutandis*, for the purposes of this section.

(6) In relation to a company undertaking reinvestment in activities or products other than those specified in subsections (2), (3), (4) and (5), that company shall be given for that year of assessment an investment tax allowance of sixty per cent of that additional capital expenditure—

- (a) an allowance for expenditure given under this subsection —

(i) shall be given only for the year of assessment in the basis period for which that expenditure was incurred; and

(ii) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in subparagraph (ii) in relation to a business which it is about to carry on in respect of an activity relating to activities or products other than those specified in subsections (2), (3), (4) and (5), that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business;

- (b) where an allowance is given a company under this subsection for a year of assessment, so much of statutory income of the business of that company in respect of the promoted activity or promoted product for the basis period of that year of assessment as is equal to the amount

of allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax under the principal Act for that year of assessment:

Provided that the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment; and

(c) subsections 29A(6), (7), (8) and (9) shall apply, *mutatis mutandis*, for the purposes of this section.

*29M. (Deleted by Act A1468).

Investment tax allowance for application under section 26M which has been approved under section 27M

29N. (1) This section shall apply to a company which has been granted approval for the purposes of investment tax allowance under section 27M provided such application is received on or after 11 September 2004.

(2) Where a company which has been granted approval under section 27M has incurred in the basis period for a year of assessment in respect of *halal* food product, capital expenditure for the purposes of such product, the company shall be given for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

(3) An allowance for expenditure given under subsection (2) —

- (a) shall be given only in the basis period for the year of assessment for which that expenditure was incurred; and
- (b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that —

* NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

- (i) where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (b) in relation to a business which it is about to carry on in respect of a promoted activity or promoted products, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business; and
- (ii) where the company incurs capital expenditure prior to its application under section 26M and the approval under section 27M, the allowance is granted retrospectively from a date not earlier than 11 September 2004.

(4) Subsections 29AA(4), (5), (6) and (7) shall apply, *mutatis mutandis*, for the purposes of this section.

Investment tax allowance for application under section 26N which has been approved under section 27N

29O. (1) This section shall apply to a company which has been granted approval for the purposes of investment tax allowance under section 27N provided such application is received on or after 1 October 2005.

(2) Where a company which has been granted approval under section 27N has incurred, in the basis period for a year of assessment in respect of conserving energy for own consumption, capital expenditure for the purposes of such activity, the company shall be given for that year of assessment an investment tax allowance of sixty per cent of that expenditure.

(2A) Notwithstanding subsection (2), for an application received from 8 September 2007 until 31 December 2015, the company shall be given for that year of assessment an investment tax allowance of one hundred per cent of that expenditure.

(3) An allowance for expenditure given under subsection (2) or (2A) —

- (a) shall be given only in the basis period for the year of assessment for which that expenditure was incurred; and
- (b) shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect:

Provided that where a company incurs capital expenditure from the date from which the approval is to take effect referred to in paragraph (b) in relation to a business which it is about to carry on in respect of a promoted activity, that expenditure shall be deemed to be incurred in the basis period in which it commences to carry on the business and where the company incurs capital expenditure —

- (i) prior to its application under section 26N and the approval under paragraph (a) of the proviso to subsection 27N(1), the allowance is granted retrospectively from a date not earlier than 1 October 2005; or
- (ii) prior to its application under section 26N and the approval under paragraph (aa) of the proviso to subsection 27N(1), the allowance is granted retrospectively from a date not earlier than 8 September 2007.

(4) For the purposes of this section and subject to subsection (5), the term “capital expenditure”, in relation to a company conserving energy for own use, means capital expenditure incurred in respect of plant and machinery used in connection and for the purpose of that activity.

(5) Notwithstanding subsection (4), “capital expenditure” shall not include capital expenditure incurred on buildings (which are used as living accommodation for persons), plant and machinery where such buildings, plant or machinery are provided wholly or partly for the use

of a director or an individual who is a member of the management, administrative or clerical staff.

(6) For the purposes of subsection (2) and subparagraph (3)(b)(i) of the proviso, subsections 29A(5), (6) and (7) shall apply *mutatis mutandis*.

(7) For the purposes of subsection (2A) and subparagraph (3)(b)(ii) of the proviso, subsections 29AA(4), (5) and (6) shall apply *mutatis mutandis*.

***29P.** (*Deleted by Act A1400*).

Determination of capital expenditure in respect of promoted activity or promoted product subject to goods and services tax for investment tax allowance

29Q. Where a company which has been granted approval under section 27, 27A, 27C, 27D, 27E, 27F, 27G, 27I, 27J, 27K, 27M or 27N has incurred in the basis period for a year of assessment capital expenditure in respect of promoted activity or promoted product for the period specified under paragraph 29(2)(b), (c) or (d), paragraph 29A(3)(b), (c) or (d), paragraph 29AA(3)(b), 29B(2)(b), 29D(2)(b), 29E(2)(b), 29F(2)(b), 29G(2)(b), 29H(2)(b), 29J(2)(b), 29K(2)(b), subparagraph 29L(2)(a)(ii), 29L(3)(a)(ii), 29L(4)(a)(ii), 29L(5)(a)(ii), 29L(6)(a)(ii), paragraph 29N(3)(b) or 29O(3)(b), the capital expenditure incurred by the company shall not include any amount paid or to be paid in respect of goods and services tax by that company if the company is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if the company is entitled to credit that amount as input tax under that Act.

* *NOTE—see section 54 of the Promotion of Investments (Amendment) Act 2011 [Act A1400].*

Adjustment of capital expenditure incurred which is subject to goods and services tax

29R. (1) Where in the basis period for a year of assessment a company has incurred capital expenditure under this Act and such capital expenditure is subject to any adjustment made in respect of input tax for a period specified under the Goods and Services Tax Act 2014, the amount of such expenditure for that asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(2) In the event the adjustment of the amount of the capital expenditure made under subsection (1) results in—

(a) an additional amount, such amount shall be deemed to be part of the capital expenditure incurred for the purpose of this Act, and subject to sections 29, 29A, 29B, 29D, 29E, 29F, 29G, 29H, 29J, 29K, 29L and 29O, there shall be given to the company for a year of assessment an allowance in respect of such additional amount; or

(b) a reduced amount, any amount of allowance that ought not to have been given under this Act in consequence of such reduction shall be part of the statutory income of that company from a source consisting of a business in the basis period the adjustment is made.

(3) Notwithstanding subsection (1), where a company has incurred capital expenditure in relation to an asset, and the asset is disposed of at any time in the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such expenditure shall be made in the basis period for the year of assessment in which the disposal is made.

(4) Where an adjustment is made in respect of the input tax under the Goods and Services Tax Act 2014, the Director General may make a computation or recomputation of any allowance made under this Act or the amount of statutory income of a company for a year of assessment in the similar manner as provided under this section, in the basis period for the year of assessment the adjustment is made or at any time as may be necessary to give effect to such adjustment.

***30.** *(Deleted by Act A1468).*

Withdrawal of investment tax allowance in relation to disposed asset

30A. (1) For the purposes of Chapter 2 of Part II, where capital expenditure is incurred on acquisition of any asset and such asset is disposed of at any time within a period of two years from the date of the acquisition, the investment tax allowance for such capital expenditure shall be deemed to have not been given to the company to which it would otherwise be entitled.

(2) For the purpose of subsection (1), “asset” means a factory, plant, machinery or building referred to in the definition of capital expenditure in subsections 29(7), 29A(8), 29AA(7), 29B(7), 29D(6), 29E(6), 29F(6), 29G(6), 29H(6), 29J(4), 29K(4), paragraphs 29L(2)(c), 29L(3)(c), 29L(4)(c), 29L(5)(c), 29L(6)(c), subsections 29N(4) and 29O(4).

Meaning of company in relation to agriculture

31. For the purposes of this Chapter, in the case of an application for approval for an investment tax allowance in respect of a promoted activity or promoted product in relation to agriculture, “company” includes an agro-based co-operative society, an Area Farmers’ Association, a Federal Farmers’ Association, a State Farmers’ Association, an Area Fishermen’s Association, a Federal Fishermen’s Association, a State Fishermen’s Association and a sole proprietorship, partnership or association solely engaged in agriculture:

Provided that section 23 shall only apply to a company incorporated under any written law.

Chapter 2A — Industrial Adjustment Allowance

31A. *(Deleted by Act A1318).*

*NOTE—See subsection 51(1) of the Promotion of Investments (Amendment) Act 2014 [Act A1468].

31B. *(Deleted by Act A1318).*

31C. *(Deleted by Act A1318).*

31D. *(Deleted by Act A1318).*

31E. *(Deleted by Act A1318).*

Chapter 3 — Abatement of Adjusted Income

32. *(Deleted by Act A1318).*

33. *(Deleted by Act A1318).*

33A. *(Deleted by Act A862).*

34. *(Deleted by Act A1318).*

35. *(Deleted by Act A1318).*

Chapter 4 — Abatement of Statutory Income for Exports

36. *(Deleted by Act A1318).*

36A. *(Deleted by Act A1318).*

37. *(Deleted by Act A1318).*

38. *(Deleted by Act A1318).*

Chapter 5 — Export Allowance

39. *(Deleted by Act A1318).*

39A. *(Deleted by Act A1318).*

40. *(Deleted by Act A1318).*

40A. *(Deleted by Act A1318).*

Chapter 6 — Deductions for Promotion of Exports

Deductions for promotion of exports

41. (1) The Minister of Finance may make rules prescribing deductions in respect of outgoings and expenses incurred for the promotion of exports from Malaysia.

(2) Rules of the kind referred to in subsection (1) may include provisions prescribing —

- (a) the kinds of outgoings and expenses to which the rules relate;
- (b) conditions allowing the deductions to which the rules relate; and
- (c) the ratio to be applied, for the purpose of ascertaining any such deduction, to the amount of any such outgoings and expenses.

(3) The rules contained in the Schedule shall be deemed to have been made under this section and may be amended or revoked accordingly.

(4) Except for the rules contained in the Schedule, section 149 and subsection 154(2) of the principal Act shall apply to any rules made under this section.

Chapter 7 - Infrastructure Allowance

41A. *(Deleted by Act A1468).*

41B. *(Deleted by Act A1468).*

PART III

SUPPLEMENTAL

Power of entry, etc.

42. (1) Any public officer authorized in writing by the Minister or the Minister of Finance may at all reasonable times —

(a) have access to —

(i) any premises occupied by a company or used for the storage of the company's goods or products; and

(ii) any records or accounts of the company,

for the purposes of checking the production, composition, storage or packing of any such goods or products and generally for the purpose of ensuring the implementation of this Act; and

(b) take samples of any such goods or products for any such purpose.

(2) Any person who obstructs a public officer in the exercise of any power conferred by subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Power to make rules and regulations

43. The Minister may make rules and regulations —

- (a) without prejudice to the generality of subsection 2(2), specifying any necessary modifications in the application of this Act to any particular industry which is not a manufacturing industry;
- (b) prescribing anything required by this Act to be prescribed; and
- (c) generally for facilitating the operation of this Act.

Separate accounts

43A. (1) Where a company has been granted a pioneer certificate under section 7 or an approval under section 27, 27A, 27C, 27D, 27E, 27F or 27G, subsection 27I(1) or section 27J, 27K or 27M, it shall not, before the end of its tax relief period, or the period specified in paragraph 29(2)(b), (c) or (d), 29A(3)(b), (c) or (d), 29AA(3)(b), 29B(2)(b), 29D(2)(b), 29E(2)(b), 29F(2)(b), 29G(2)(b), 29H(2)(b), 29J(3)(b), 29K(3)(b), subparagraph 29L(2)(a)(ii), (3)(a)(ii), (4)(a)(ii), (5)(a)(ii), (6)(a)(ii) or paragraph 29N(3)(b) carry on any business other than a business where the whole of the gross income is derived from its promoted activity or promoted product without informing the Minister.

(2) Where a company referred to in subsection (1) carries on a business other than the business where the whole of the gross income is derived from its promoted activity or promoted product, it shall keep separate accounts in respect of that business.

(3) Any company which has been granted pioneer certificate under section 7 or an approval under section 27, 27A, 27C, 27D, 27E, 27F or 27G, subsection 27I(1) or section 27J, 27K or 27M in respect of a promoted activity or promoted product or an additional promoted activity or promoted product shall keep separate accounts in respect of the business relating to that activity or product or that additional activity or additional product.

Repeal

44. Subject to the following provisions, the Investment Incentives Act 1968 [*Act 199*] is hereby repealed.

Savings

45. Notwithstanding its repeal, the Investment Incentives Act 1968 (hereinafter in this Act referred to as the "repealed law") shall remain in full force and effect and continue to apply to any company for all purposes and in all respects in relation to any certificate issued or approval granted to a company under the repealed law before the commencement of this Act for so long as the same remains valid and in force, and accordingly —

- (a) the repealed law shall, in relation thereto, apply to the company for any year of assessment whether before or subsequent to the commencement of this Act; and
- (b) where in order to give effect to any such certificate or approval, it is necessary to make any subsidiary legislation under the repealed law, the authority having the power thereunder to make the same may make the necessary subsidiary legislation.

46. (*Deleted by Act A656*).

47. (*Deleted by Act A656*).

Application of this Act to tax relief period

48. (1) Notwithstanding section 45, where the tax relief period of a company which has been issued with a pioneer certificate or granted an approval under section 12A of the repealed law has not ended at the 1 January 1986, the company may apply to the Minister for approval for this Act to apply in respect of its tax relief period.

(2) Where the Minister grants an approval in respect of an application made under subsection (1), the repealed law relating to the tax relief period of that company shall cease to apply and this Act shall apply in respect of the tax relief period of the company:

Provided that the total tax relief period of the company shall not exceed five years from its production day which has been determined under the repealed law but the company shall, at the end of that tax relief period and subject to section 14A, be eligible to apply for an extension of that tax relief period under section 14A.

Capital expenditure incurred on plant and machinery in hotel business

49. (1) Where a company has been granted an approval under section 30KA of the repealed law and has incurred capital expenditure on or after the 1 January 1986 on plant and machinery or other facilities used in connection with the hotel business, the company may apply to the Minister for approval for subparagraph 29(7)(c) of this Act to apply to such capital expenditure in relation to a hotel business:

Provided that such capital expenditure is incurred within five years from the date of approval granted under section 30KA of the repealed law.

(2) Where the Minister grants an approval in respect of an application under subsection (1), subparagraph 29(7)(c) of this Act shall apply to such expenditure.

Application for an incentive of a similar character

50. (1) Where a company has been granted an approval in respect of an incentive under section 5, 12A, 12B, 26, 30KA or 30Q of the repealed law but as at 1 January 1986 or at any time thereafter, its tax relief period has not commenced or the company has not incurred capital expenditure for purposes of section 26, 30KA or 30Q of the repealed law the company may apply for an incentive under this Act where the

incentive applied for is substantially of a similar character to that for which an approval was granted under the repealed law.

(2) Where the Minister grants an approval in respect of an application made under subsection (1), the approval granted under the repealed law shall be deemed to have been withdrawn.

Application for investment tax allowance by a company granted an incentive under the repealed law

50A. A company which has been granted an incentive under the repealed law shall only be eligible to apply for investment tax allowance under section 26 in respect of a promoted activity or promoted product other than the activity or product for which an incentive was granted under the repealed law.

Eligibility of companies under repealed law for industrial adjustment allowance

50AA. A company which has been granted an incentive or investment tax credit under the repealed law shall only be eligible to apply for industrial adjustment allowance in respect of a manufacturing activity or manufactured product other than the activity or product for which an incentive was granted under the repealed law or in respect of capital expenditure other than the capital expenditure on which investment tax credit has been granted under the repealed law:

Provided that where a company which has been granted an incentive or investment tax credit under the repealed law carries on the same activity or manufactures the same product after the end of the period for which the incentive or investment tax credit was granted, the company may apply for an industrial adjustment allowance only in respect of capital expenditure in relation to such activity or product incurred by the company after the end of the period for which the incentive or investment tax credit was granted.

Eligibility of company under repealed law for abatement of adjusted income or export allowance

50B. (1) Where a company has been granted an incentive under section 5, 12A or 12B of the repealed law, that company shall be eligible for abatement of adjusted income or statutory income, as the case may be, under section 32, 33, 34 or 36 or for export allowance under section 39 at the end of its tax relief period under the repealed law.

(2) Subject to subsections (3) and (4), where a company has been granted an approval under section 26 or 30P of the repealed law, that company shall be eligible for abatement of adjusted income or statutory income, as the case may be, under section 32, 33, 34 or 36 or for export allowance under section 39 at the end of the period of five years specified in paragraph 26(3)(b) or 30Q(2)(b) of the repealed law.

(3) A company which has been granted an approval under section 26 or 30P of the repealed law may, at any time during the period specified in paragraph 26(3)(b) or 30Q(2)(b) of that law, surrender the approval by giving a notice in writing to the Minister, and where the Minister is satisfied with the reasons for the surrender of such approval, or that the company has complied with the terms and conditions imposed under subsection 26(7) or 30P with any other provisions of the repealed law, the surrender shall have effect from a date specified by the Minister in the notice approving such surrender and such date shall not be earlier than the date the notice is received by the Minister:

Provided that in respect of a notice of surrender received by the Minister on or after 1 January 1986 and on or before the 31 March 1987 and upon the Minister being satisfied as provided in this subsection, the Minister, when approving such surrender, may specify a date which is not earlier than 1 January 1986 as the date the surrender shall have effect.

(4) Where a company —

(a) surrenders an approval granted to it under section 26 or 30P of the repealed law; and

(b) the surrender becomes effective and is in accordance with subsection (3),

that company shall, with effect from the day following the date of such surrender, be eligible for abatement of adjusted income or statutory income, as the case may be, under section 32, 33, 34 or 36 or for export allowance under section 39.

Application under repealed law

51. (1) Where an application is made under the repealed law and it is pending on the date of coming into force of this Act,

(a) the defined authority shall consider such application in accordance with the provisions of this Act if there are corresponding provisions in this Act —

(i) for such an application; or

(ii) for an application which, in the opinion of the defined authority, is of substantially similar character or is in respect of a substantially similar matter; or

(b) if there are no corresponding provisions in this Act, or where the defined authority is satisfied that it is for any reason not practicable to consider such application in accordance with the provisions of this Act, such application shall be considered by the defined authority in accordance with the provisions of the repealed law.

(2) Where an approval has been granted to a company under paragraph (1)(a), this Act shall apply to the company for all purposes and in all respects in relation to such grant:

Provided that where an approval which has been granted to a company is to take effect from a date prior to the commencement of this Act, this Act shall be deemed to apply to such grant from the date specified in the grant notwithstanding that such date is earlier than the date of the coming into force of this Act.

(3) Where an approval has been granted to a company under paragraph (1)(b), the repealed law shall continue to apply to the company for all purposes and in all respects in relation to such grant until its expiration or until it ceases to have effect.

Concurrence of the Minister of Finance

52. The Minister in exercising his powers under sections 48, 49 and 50 shall act in concurrence with the Minister of Finance.

Application of sections 27 and 29 of the repealed law

53. (1) Where a company has incurred any approved outgoings or expenses prior to 1 January 1986 in connection with the promotion of exports from Malaysia, section 27 of the repealed law shall, notwithstanding the repeal, apply to such approved outgoings and expenses.

(2) Where a company exports products manufactured in Malaysia prior to 1 January 1986, section 29 of the repealed law shall, notwithstanding the repeal, apply in respect of such products.

Functions of a public officer

54. For the purposes of sections 45 to 50 and 53, any function of a public officer under the repealed law may be exercised by any public officer referred to in section 42 of this Act or section 134 of the principal Act whose office substantially corresponds to that of an officer by whom the function was exercisable under that law.

References to repealed law

55. Unless the context otherwise requires, a reference in a written law to any provision of the repealed law shall be construed in relation to the year of assessment 1987 and subsequent years of assessment as a reference to the corresponding provision (if any) of this Act.

SCHEDULE

[Subsection 41(3)]

INCOME TAX (PROMOTION OF EXPORTS) RULES 1986

Citation and commencement

1. (1) These Rules may be cited as the Income Tax (Promotion of Exports) Rules 1986.

(2) These Rules shall have effect with respect to approved outgoings and expenses incurred on or after 1 January 1986.

Interpretation

2. In these Rules, unless the context otherwise requires –

“approved outgoings and expenses” means outgoings and expenses allowable as a deduction under rule 4.

Company resident in Malaysia eligible for deduction

3. Every company resident in Malaysia for the basis year for a year of assessment shall be eligible for the deduction under these Rules for that year.

Deduction of certain outgoings and expenses

4. (1) Subject to these Rules, for the purpose of ascertaining under the principal Act the adjusted income of a company from its business for the basis period for a year of assessment, there shall be allowed as a deduction any outgoings and expenses of the kind described in paragraph (2) which–

(a) were incurred by that company during that basis period with respect to that business; and

(b) were incurred primarily and principally for the purpose of seeking opportunities, or in creating or increasing a demand, for the export of goods or agricultural produce manufactured, produced, assembled, processed, packed, graded or sorted in Malaysia.

(2) The outgoings and expenses referred to in paragraph (1) are –

(a) expenses incurred in respect of publicity and advertisements in any media outside Malaysia;

- (b) expenses directly attributable to the provision of samples without charge to prospective customers outside Malaysia, including the cost of delivery of the samples;
- (c) expenses directly attributable to carrying out export market research or the obtaining of export marketing information;
- (d) expenses directly attributable to the preparation of tenders for the supply of goods or agricultural produce (not being goods or agricultural produce of the same kind and specifications as those regularly manufactured, produced or supplied by the company) to prospective customers outside Malaysia;
- (e) expenses by way of fares in respect of travel to a country outside Malaysia by a representative of the company, being travel necessarily undertaken for the purpose of negotiating or concluding contracts for sales of goods or agricultural produce on behalf of the company or for the purpose of participating in trade fairs or trade or industrial exhibitions approved by the Minister, and actual expenses, subject to a maximum of three hundred ringgit per day, for accommodation and a maximum of one hundred and fifty ringgit per day for sustenance for the whole of the period commencing with the representative's departure from Malaysia and ending with his return to Malaysia;
- (f) expenses for giving technical information to persons outside Malaysia relating generally to goods or agricultural produce of the company offered for sale, excluding expenses for giving technical information to purchasers after purchase;
- (g) expenses directly attributable to the provision of exhibits for trade fairs or trade or industrial exhibitions which are held outside Malaysia and approved by the Minister;
- (h) expenses for services rendered for public relations work connected with export;
- (i) expenses directly incurred for participating in trade fairs or trade or industrial exhibitions approved by the Minister other than the expenses specified in subparagraphs (e) and (g);
- (j) expenses for the cost of maintaining sales offices overseas for the promotion of exports from Malaysia;
- (k) professional fees incurred in packaging design on condition that the goods are of export quality and the company employs local professional services.

(3) Deductions allowed under this rule shall be in addition to any deductions allowable under section 33 of the principal Act.

(4) No deduction shall be allowed under this rule in respect of any outgoing expenses or other payments of the kind mentioned in subsection 39(1) of the principal Act.

(5) Where the amount of any outgoing and expenses, the whole of which would have been allowable as a deduction under these Rules but for this paragraph, exceeds the amount which in the opinion of the Director General would reasonably be expected to be incurred in the ordinary course of the business with respect to which those outgoing and expenses were incurred, the Director General may to the extent of that excess disallow that amount as a deduction under these Rules.

(6) For the purpose of paragraph (1) of this rule, where two basis periods overlap, the period common to both shall be deemed to fall in the first basis period only.

Pioneer company

5. Notwithstanding section 21 where a company which has incurred outgoing and expenses allowed under rule 4 is a pioneer company, then—

- (a) for the purpose of computing its income for any accounting period in respect of its pioneer business under that section, no deductions shall be made under these Rules;
- (b) all deductions under these Rules which but for paragraph (a) of this rule would have fallen to be made for the purpose of computing its income from its pioneer business under that section shall be accumulated, and the aggregate amount thereof shall be allowed as a deduction under these Rules for the purpose of ascertaining its income from its post-pioneer business for the first basis period appropriate to the post-pioneer business for a year of assessment.

Non-application of Rules

6. These Rules shall not apply to any of the outgoing and expenses referred to in rule 4 which are incurred in relation to the export of any of the products excluded for the purposes of Chapters 4 and 5.

LAWS OF MALAYSIA

Act 327

PROMOTION OF INVESTMENTS ACT 1986

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A656	Promotion of Investments (Amendment) Act 1986	01-01-1986
Act A715	Promotion of Investments (Amendment) Act 1988	01-01-1989; and year of assessment 1990 and subsequent years
Act A751	Promotion of Investments (Amendment) Act 1990	01-01-1989; s. 9, para 10(a), 13 to 17 and 22: 01-01-1986 and year of assessment 1997 and subsequent years; s. 11 and 20: 01-01-1990 and year of assessment 1991 and subsequent years; s. 4 to 7: 01-01-1991 and year of assessment 1992 and subsequent year
Act 438	Free Zones Act 1990	05-09-1991
Act A862	Promotion of Investments (Amendment) Act 1993	01-11-1991; para 2(a): 27-10-1990; para 2(d), 25(a), 25(c), subpara 25(b)(i), s. 21, 23, 26 and 27: year of assessment 1993; s. 14 on or after 01-01-1994; para 17(a) and 17(b): 01-01-1986 and year of assessment 1987 and subsequent years; s. 19, 20 and 22: 01-01-1992

Amending law	Short title	In force from
Act A877	Promotion of Investments (Amendment) Act 1994	01-01-1993 and year of assessment 1994 and subsequent years except s. 2: 10-12-1992
Act A900	Promotion of Investments (Amendment) (No. 2) Act 1994	29-10-1993 s. 4, 5, 7, 11, 12 and 15: 20-10-1994; s. 6: year of assessment 1991 and subsequent years
Act 531	Finance Act 1995	28-10-1994
Act A993	Promotion of Investments (Amendment) Act 1997	25-10-1996
P.U. (A) 170/2001	Income Tax (Promotion of Exports) (Amendment) Rules 2001	01-01-2001
P.U. (A) 267/2003	Income Tax (Promotion of Exports) (Amendment) Rules 2003	From the year of assessment 2002
Act A1318	Promotion of Investments (Amendment) Act 2007	See section 1 of Act A1318
Act A1400	Promotion of Investments (Amendment) Act 2007	See section 1 of Act A1400
Act A1468	Promotion of Investments (Amendment) Act 2014	See subsections 1(1) to (33) of Act A1468
Act 773	Finance Act 2015	Year of assessment 2015 and subsequent years

LAWS OF MALAYSIA

Act 327

PROMOTION OF INVESTMENTS ACT 1986

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
1	Act A656	01-01-1986
2	Act A656 Act A715 Act A751 Act A862	01-01-1986 01-01-1989 01-01-1989 27-10-1990
		Year of assessment 1993 and subsequent years
	Act A900	29-10-1993
	Act 531	28-10-1994
	Act A993	25-10-1996
	Act A1318	See section 1 of Act A1318
	Act A 1468	See subsections 1(1) to (33) of Act A1468
	Act 773	Year of assessment 2015 and subsequent years
4	Act A862 Act A1318	01-11-1991 See section 1 of Act A1318
4A	Act A862	01-11-1991
4B	Act A900 Act 531 Act A1318	29-10-1993 28-10-1994 See section 1 of Act A1318
	Act A 1468	See subsections 1(1) to (33) of Act A1468
4c	Act A900 Act A 1468	29-10-1993 See subsections 1(1) to (33) of Act A1468
4D - 4F	Act A1318	See section 1 of Act A1318
5	Act A751	01-01-1989

Section	Amending authority	In force from
	Act A862	01-11-1991
	Act A900	20-10-1994
	Act A993	25-10-1996
	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
6	Act A715	01-01-1989
	Act A862	01-11-1991
	Act A900	20-10-1994
	Act A993	25-10-1996
	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
7	Act A656	01-01-1986
	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
9A	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
10	Act A656	01-01-1986
11	Act A656	01-01-1986
12	Act A1318	See section 1 of Act A1318
14A	Act A656	01-01-1986
	Act A715	01-01-1989
	Act A862	01-11-1991
14B	Act A862	01-11-1991
14C	Act A862	01-11-1991
	Act A1318	See section 1 of Act A1318

Section	Amending authority	In force from
16	Act A656	01-01-1986
18	Act A656 Act A751 Act A900 Act A1318 Act A1400	01-01-1986 01-01-1991 Year of assessment 1991 and subsequent years See section 1 of Act A1318 See section 1 of Act A1400
19	Act A1468	See subsections 1(1) to (33) of Act A1468
21	Act A656 Act A751 Act A862 Act A1400	01-01-1986 01-01-1991 01-11-1991 See section 1 of Act A1400
21A	Act A656 Act A751 Act A1318 Act A1400	01-01-1986 01-01-1991 See section 1 of Act A1318 See section 1 of Act A1400
21B	Act A862 Act A1400	01-11-1991 See section 1 of Act A1400
21BA	Act A1318 Act A1400	See section 1 of Act A1318 See section 1 of Act A1400
21C	Act A862 Act A993 Act A1400	01-11-1991 25-10-1996 See section 1 of Act A1400
21D	Act A900 Act A1400 Act A1468	20-10-1994 See section 1 of Act A1400 See subsections 1(1) to (33) of Act A1468

Section	Amending authority	In force from
21DA	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
21E	Act A900	20-10-1994
	Act A1400	See section 1 of Act A1400
21F	Act A900	20-10-1994
	Act A993	25-10-1996
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
21G	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
21H – 21J	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
21K	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
21L – 21M	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
22	Act A862	01-11-1991
	Act A900	29-10-1993
	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400

Section	Amending authority	In force from	
22A	Act A1400	See section 1 of Act A1400	
	Act A1468	See subsections 1(1) to (33) of Act A1468	
23	Act A1400	See section 1 of Act A1400	
	Act A1468	See subsections 1(1) to (33) of Act A1468	
24	Act A1318	See section 1 of Act A1318	
	Act A1400	See section 1 of Act A1400	
	Act A1468	See subsections 1(1) to (33) of Act A1468	
25	Act A656	01-01-1986	
	Act A751	01-01-1991	
	Act A862	01-11-1991	
	Act A900	29-10-1993	
	Act A1318	See section 1 of Act A1318	
	Act A1400	See section 1 of Act A1400	
26	Act A656	01-01-1986	
	Act A751	01-01-1989	
	Act A900	29-10-1993	
	Act A1318	See section 1 of Act A1318	
	26A	Act A862	01-11-1991
		Act A993	25-10-1996
26B	Act A900	20-10-1994	
	Act A1318	See section 1 of Act A1318	
	Act A1468	See subsections 1(1) to (33) of Act A1468	
26C	Act A900	20-10-1994	
	Act A1318	See section 1 of Act A1318	
26D	Act A900	20-10-1994	

Section	Amending authority	In force from
26E	Act A900	20-10-1994
26F	Act A900 Act A993 Act A1318 Act A1400 Act A1468	20-10-1994 25-10-1996 See section 1 of Act A1318 See section 1 of Act A1400 See subsections 1(1) to (33) of Act A1468
26G	Act 531 Act A1318	28-10-1994 See section 1 of Act A1318
26H	Act A1318 Act A1468	See section 1 of Act A1318 See subsections 1(1) to (33) of Act A1468
26I – 26L	Act A1318 Act A1400 Act A14689(except 26J)	See section 1 of Act A1318 See section 1 of Act A1400 See subsections 1(1) to (33) of Act A1468
26M	Act A1318	See section 1 of Act A1318
26N	Act A1318 Act A1468	See section 1 of Act A1318 See subsections 1(1) to (33) of Act A1468
26O	Act A1318 Act A1400	See section 1 of Act A1318 See section 1 of Act A1400
27	Act A656 Act A751 Act A862 Act A1318 Act A1400	01-01-1986 01-01-1986 on or after 01-01-1994 See section 1 of Act A1318 See section 1 of Act A1400
27A	Act A862	01-11-1991

Section	Amending authority	In force from
27B	Act A900 Act 1468	20-10-1994 See subsections 1(1) to (33) of Act A1468
27C	Act A900 Act A1400	20-10-1994 See section 1 of Act A1400
27D	Act A900	20-10-1994
27E	Act A900 Act A1400	20-10-1994 See section 1 of Act A1400
27F	Act A900 Act A1400	20-10-1994 See section 1 of Act A1400
27G	Act 531 Act A1318 Act A1400	28-10-1994 See section 1 of Act A1318 See section 1 of Act A1400
27H	Act A1318 Act A1468	See section 1 of Act A1318 See subsections 1(1) to (33) of Act A1468
27I	Act A1318 Act A1400 Act A1468	See section 1 of Act A1318 See section 1 of Act A1400 See subsections 1(1) to (33) of Act A1468
27J-27K	Act A1318	See section 1 of Act A1318
27L - 27N	Act A1318 Act A1400 Act A1468	See section 1 of Act A1318 See section 1 of Act A1400 See subsections 1(1) to (33) of Act A1468
27O	Act A1318 Act A1400	See section 1 of Act A1318 See section 1

Section	Amending authority	In force from of Act A1400
27P	Act A1468	See subsections 1(1) to (33) of Act A1468
28	Act A862 Act A900 Act 531 Act A1318 Act A1400 Act A1468	01-11-1991 29-10-1993 28-10-1994 See section 1 of Act A1318 See section 1 of Act A1400 See subsection 1(1) to (33) of Act A1468
28A	Act A1318	See section 1 of Act A1318
29	Act A656 Act A751 Act A862 Act A1318 Act A1468	01-01-1986 01-01-1986 01-01-1989 01-01-1986 01-11-1991 See section 1 of Act A1318 See subsection 1(1) to (33) of Act A1468
29A	Act A862 Act A877 Act A900 Act A993 Act A1468	01-11-1991 10-12-1992 29-10-1993 25-10-1996 See subsections 1(1) to (33) of Act A1468
29AA	Act A1318 Act A1468	See section 1 of Act A1318 See subsections 1(1) to (33) of Act A1468
29B	Act A862 Act A993 Act A1468	01-11-1991 25-10-1996 See subsections 1(1) to (33) of Act A1468
29C	Act A900 Act A1318	20-10-1994 See section 1 of Act A1318

Section	Amending authority	In force from
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
29D - 29F	Act A900 Act A1468	20-10-1994 See subsections 1(1) to (33) of Act A1468
29G	Act A900 Act A993 Act A1468	20-10-1994 25-10-1996 See subsections 1(1) to (33) of Act A1468
29H	Act 531 Act A1318 Act A1468	28-10-1994 See section 1 of Act A1318 See subsections 1(1) to (33) of Act A1468
29I – 29J	Act A1318 Act A1468	See section 1 of Act A1318 See subsections 1(1) to (33) of Act A1468
29K	Act A1318	See subsection 1(1) to (33) of Act A1468
29L	Act A1318 Act A1400	See section 1 of Act A1318 See section 1 of Act A1400
29M	Act A1318 Act A1400 Act A1468	See section 1 of Act A1318 See section 1 of Act A1400 See subsections 1(1) to (33) of Act A1468
29N	Act A1318	See section 1 of Act A1318
29O	Act A1318 Act A1400 Act A1468	See section 1 of Act A1318 See section 1 of Act A1400 See subsections 1(1) to (33) of Act A1468

Section	Amending authority	In force from
29P	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
29Q-29R	Act 773	Year of assessment 2015 and subsequent years
30	Act A1468	See subsections 1(1) to (33) of Act A1468
30A	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
	Act A1468	See subsections 1(1) to (33) of Act A1468
Chapter 2A	Act A751	01-01-1990
31A	Act A751	01-01-1990
	Act A1318	See section 1 of Act A1318
	Act A1400	See section 1 of Act A1400
31B	Act A751	01-01-1990
	Act A1318	See section 1 of Act A1318
31C	Act A751	01-01-1990
	Act A1318	See section 1 of Act A1318
31D	Act A751	01-01-1990
	Act A1318	See section 1 of Act A1318
31E	Act A751	01-01-1990
	Act A1318	See section 1 of Act A1318
32	Act A656	01-01-1986
	Act A862	01-01-1992
	Act A900	29-10-1993
	Act A1318	See section 1 of Act A1318
33	Act A656	01-01-1986
	Act A715	01-01-1989
	Act A862	01-01-1992

Section	Amending authority	In force from
	Act A1318	See section 1 of Act A1318
33A	Act A715 Act A862	01-01-1989 Year of assessment 1993 and subsequent years
34	Act A656 Act A862	01-01-1986 Year of assessment 1993 and subsequent years
	Act A1318	See section 1 of Act A1318
35	Act A751 Act A862	01-01-1989 Year of assessment 1993 and subsequent years
	Act A1318	See section 1 of Act A1318
Chapter 4	Act A862	Year of assessment 1993 and subsequent years
36	Act A656 Act A751 Act 438 Act A862	01-01-1986 01-01-1986 05-09-1991 Year of assessment 1993 and subsequent years
	Act A877 Act A900 Act A1318	01-01-1993 29-10-1993 See section 1 of Act A1318
36A	Act A656 Act 438 Act A862	01-01-1986 05-09-1991 Year of assessment 1993 and subsequent years
	Act A1318	See section 1 of Act A1318
37	Act A656 Act A751 Act A862	01-01-1986 01-01-1986 Year of assessment 1993 and subsequent years
	Act 531 Act A1318	28-10-1994 See section 1 of Act A1318
38	Act A751 Act A877	01-01-1986 01-01-1993

Section	Amending authority	In force from
	Act A1318	See section 1 of Act A1318
Chapter 5	Act A656	01-01-1986
39	Act A656 Act A751 Act A862 Act A877 Act A900 Act A1318	01-01-1986 01-01-1986 01-11-1991 01-01-1993 29-10-1993 See section 1 of Act A1318
39A	Act A656 Act A1318	01-01-1986 See section 1 of Act A1318
40	Act A656 Act A751 Act A1318	01-01-1986 01-01-1986 See section 1 of Act A1318
40A	Act A877 Act A1318	01-01-1993 See section 1 of Act A1318
Chapter 7	Act A900 Act A1468	29-10-1993 See subsections 1(1) to (33) of Act A1468
41A	Act A900 Act A1468	29-10-1993 See subsections 1(1) to (33) of Act A1468
41B	Act A900 Act A993 Act A1318 Act A1400 Act A1468	29-10-1993 25-10-1996 See section 1 of Act A1318 See section 1 of Act A1400 See subsections 1(1) to (33) of Act A1468
43A	Act A656 Act A862 Act A900 Act A1318 Act A1400	01-01-1986 01-11-1991 29-10-1993 See section 1 of Act A1318 See section 1 of Act A1400

Section	Amending authority	In force from
	Act A1468	See subsections 1(1) to (33) of Act A1468
45	Act A656	01-01-1986
46	Act A656	01-01-1986
47	Act A656	01-01-1986
48	Act A656 Act A751	01-01-1986 01-01-1989
50	Act A751	01-01-1989
50A	Act A656	01-01-1986
50AA	Act A751	01-01-1990
50B	Act A656 Act A751 Act A862	01-01-1986 01-01-1989 01-11-1991
51	Act A656	01-01-1986
53	Act A656	01-01-1986
Schedule	Act A751 P.U. (A) 170/2001 P.U. (A) 267/2003	01-01-1986 01-01-2001 From the year of assessment 2002
