



LAWS OF MALAYSIA

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Act 603

ANTI-PERSONNEL MINES CONVENTION IMPLEMENTATION ACT 2000

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**ANTI-PERSONNEL MINES CONVENTION
IMPLEMENTATION ACT 2000**

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Act 603

ANTI-PERSONNEL MINES CONVENTION IMPLEMENTATION ACT 2000

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LAWS OF MALAYSIA**Act 603****ANTI-PERSONNEL MINES CONVENTION
IMPLEMENTATION ACT 2000**

An Act to implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction; and for other matters connected therewith.

[1 October 1999]

WHEREAS according to Article 17 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction—

“1. This Convention shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.

2. For any State which deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.”:

AND WHEREAS the said 40th instrument of ratification was so deposited by Burkina Faso on the sixteenth day of September 1998 and the Convention therefore entered into force on the first day of March 1999:

AND WHEREAS Malaysia deposited her instrument of accession on the twenty-second day of April 1999 and therefore in accordance with the said Article 17 the Convention entered into force as far as Malaysia is concerned on the first day of October 1999:

NOW, THEREFORE, IT IS ENACTED by the Parliament of Malaysia as follows:

Short title

1. This Act may be cited as the Anti-Personnel Mines Convention Implementation Act 2000.

Interpretation

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

“anti-handling device” means a device intended to protect a mine and that is part of, linked to, attached to or placed under the mine and that activates when an attempt is made to tamper with or otherwise intentionally disturb the mine;

“anti-personnel mine” means a mine that is designed to be exploded by the presence, proximity or contact of a person and that is capable of incapacitating, injuring or killing one or more persons; but a mine that is designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, and that is equipped with anti-handling devices, is not considered to be an anti-personnel mine as a result of being so equipped;

“Convention” means the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction that entered into force on the first day of March 1999, and includes any amendments to the Convention ratified, accepted, approved or acceded to and entered into force for Malaysia;

“mine” means a munition designed to be placed under, in, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

“mined area” means an area which is dangerous due to the presence or suspected presence of mines;

“Minister”, unless otherwise expressly stated, means the Minister charged with the responsibility for defence;

“transfer”, in respect of anti-personnel mines, includes, in addition to the physical movement of anti-personnel mines into or from Malaysia, the transfer of title to and control over anti-personnel mines, but does not include the transfer of any territory containing emplaced anti-personnel mines.

Prohibitions

3. (1) Notwithstanding the provisions of any other written law and subject to section 4, no person shall—

- (a) place an anti-personnel mine under, in, on or near the ground or other surface area with the intent to cause the explosion of the anti-personnel mine;
- (b) develop, produce or otherwise acquire, stockpile, retain, possess or transfer to anyone, directly or indirectly, anti-personnel mines; or
- (c) assist, encourage or induce, in any way, any person to engage in any activity prohibited by this Act.

(2) Except as authorized by the Minister and subject to compliance with other written laws relating to import and export, no person shall import or export anti-personnel mines.

Exceptions

4. Section 3 does not prohibit—

- (a) the placement, acquisition, possession or transfer of a number of anti-personnel mines, as authorized under section 8, for the development of, and training in, mine detection, mine clearance or mine destruction techniques;
- (b) the acquisition, possession or transfer of anti-personnel mines in the course of duties or employment for the purpose of rendering the mines harmless or for their destruction;
- (c) the acquisition, possession or transfer of an anti-personnel mine that has been deactivated by—
 - (i) removing all explosive substances, including the priming charge, booster charge and main charge, from the anti-personnel mine, including from any fuse, percussion cap or detonator; and

- (ii) removing or destroying the anti-personnel mine's priming or detonating mechanism or rendering the mechanism inoperable in such a way that its function cannot readily be restored; or
- (d) participating in operations, exercises or other military activities with the armed forces of a country that is not a party to the Convention that engage in an activity prohibited under section 3, if that participation does not amount to active assistance or involvement in that prohibited activity.

Delivery for destruction

5. Every person who possesses an anti-personnel mine that the person is prohibited by section 3 from possessing shall, without delay, deliver it for destruction to such person as may be designated by the Minister.

Mined areas to be marked

6. Where an area is identified as a mined area or is suspected to be a mined area, the Minister shall, wherever possible, ensure that such area is perimeter-marked and protected by fencing or otherwise employ such means as are necessary so as to notify civilians of the presence of anti-personnel mines.

Destruction of mines

7. Subject to section 8, the Minister shall ensure the destruction of—
- (a) all stockpiled anti-personnel mines;
 - (b) any anti-personnel mines delivered under section 5 for destruction; and
 - (c) all anti-personnel mines in mined areas in Malaysia.

Authorization by Minister

8. The Minister may authorize such number of anti-personnel mines to be placed, acquired, retained, possessed, or transferred by any person designated by the Minister for the development of, and training in, mine detection, mine clearance or mine destruction techniques, but the number of such mines shall not exceed the minimum number absolutely necessary for those purposes.

Disclosure of information

9. (1) The Minister may, at any time by notice in writing, require any person whom the Minister has reasonable grounds to believe has information or documents relevant to the administration or enforcement of this Act, or information that Malaysia is required by Article 7 of the Convention to report to the Secretary-General of the United Nations, to furnish all the necessary information and documents to the Minister, or to such person as may be designated by the Minister, within such time as may be specified in the notice.

(2) Any person who fails to comply with a notice given to him under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Issuance of certificate

10. If a fact-finding mission to Malaysia is authorized under Article 8 of the Convention, or if the Minister invites a fact-finding mission to Malaysia, the Minister charged with the responsibility for foreign affairs shall issue to every member of the fact finding mission a certificate—

- (a) identifying the member by name, and indicating the member's status and authority to conduct a fact-finding mission in Malaysia;
- (b) stating that the member enjoys such privileges and immunities as are accorded to missions of the United Nations under the laws of Malaysia; and
- (c) setting out such other information and any conditions applicable to the member's fact-finding activities in Malaysia as the Minister may impose.

Production of certificate on inspection

11. Every member of a fact-finding mission who wishes to inspect a place in Malaysia shall produce the certificate issued under section 10 to any person in charge of or residing in or having control of the installation, facility or place to be inspected.

Power to inspect

12. (1) Subject to the provisions of this Act, a member of the fact-finding mission may, at any reasonable time and consistent with the provisions of Article 8 of the Convention, enter and inspect—

- (a) any installation or facility that has or may have the capacity to develop, produce or stockpile anti-personnel mines or anti-personnel mine components; or
- (b) any other place,

with the consent of the person in charge of or residing in or having control of the installation, facility or place, if the member has reasonable grounds to believe that any information, document or other thing that is relevant to compliance with the Convention may be found in that installation, facility or place.

(2) The power of entry to and inspection of sensitive equipment, information and areas shall be subject to such conditions and restrictions as the Minister may think fit to impose.

Fact-finders may be accompanied

13. (1) The Minister may direct that members of a fact-finding mission be accompanied by officers of the Royal Malaysia Police or members of the Armed Forces of Malaysia or both, or any other person the Minister thinks necessary in order to facilitate the conduct of an investigation.

(2) Except as provided in subsection 12(2), any person in charge of or residing in or having control of the installation, facility or place to be inspected under section 12 shall—

- (a) provide members of the fact-finding mission and accompanying persons access to any area, container or thing in the installation, facility or place;
- (b) permit members of the fact-finding mission and accompanying persons to examine any thing in the installation, facility or place;
- (c) permit members of the fact-finding mission and accompanying persons to interview any person in the installation, facility or place; and

- (d) permit members of the fact-finding mission and accompanying persons to take samples for analysis of any thing in the installation, facility or place and permit the member to remove the samples for analysis outside that installation, facility or place.

Issuance of search warrant

14. If it appears to a Magistrate, upon information on oath, that—

- (a) there is reasonable cause to believe that an offence under this Act is being or has been committed at an installation, facility or place or that any information, document, equipment or other thing which is necessary to the conduct of an investigation into an offence may be found at the installation, facility or place; or
- (b) there is reasonable cause to believe that members of a fact-finding mission may find at an installation, facility or place any information, document, equipment or other thing that is relevant to compliance with the Convention; and
- (c) entry to the installation, facility or place—
 - (i) is necessary for any purpose relating to the fact-finding mission; and
 - (ii) has been refused or there are reasonable grounds to believe will be refused,

the Magistrate may, by warrant, authorize the person to whom it is directed to enter the installation, facility or place at any reasonable time, with or without assistance, to search for and seize any such document, equipment or thing or to carry out an inspection.

Search and inspection without warrant

15. If information is given to any police officer not below the rank of Inspector that there is reasonable cause to believe that by reason of any delay in obtaining a search warrant under section 14 the search or inspection would be adversely affected and any evidence of the commission of an offence or any information, document or other thing relevant to compliance with the Convention is likely to be tampered with, removed, damaged or destroyed, the officer and members of the fact-finding mission and accompanying

persons may enter the installation, facility or place and they may exercise in, upon and in respect of that installation, facility or place all the powers of search, seizure or inspection as if authorized to do so by a warrant.

Import and export of equipment

16. (1) Subject to subsection (2), the members of a fact-finding mission may import free of duty and tax any equipment to be used exclusively in carrying out their mission and may subsequently export the equipment free of duty and tax.

(2) The equipment which may be imported and exported free of duty and tax shall not include a motor vehicle as defined in the Road Transport Act 1987 [Act 333].

Confidentiality of information obtained

17. (1) Except as authorized under subsection (2), no person in possession of information obtained under this Act or the Convention shall knowingly, without the prior written consent of the person from whom it was obtained, communicate it or allow it to be communicated to any person or allow any person to have access to it.

(2) A person in possession of information obtained under this Act or the Convention may communicate it or allow it to be communicated to any person, or allow any person to have access to it if—

- (a) the communication or access is in the public interest in that it relates to public health or public safety; or
- (b) the communication or access is necessary for the purpose of the administration or enforcement of this Act or of giving effect to the Convention.

False statement, obstruction

18. No person shall—

- (a) knowingly make any false or misleading statement to any member of a fact finding mission or to any person directed to accompany members of a fact-finding mission in relation to the place or thing being inspected; or
- (b) wilfully obstruct the inspection.

General offence

19. Any person who contravenes sections 3 and 5, subsections 12(2) and 17(1) and section 18 commits an offence.

General penalty

20. Where no penalty is expressly provided for an offence under this Act, a person who commits such offence shall be liable, on conviction, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Forfeiture

21. (1) Any document, equipment or other thing seized under this Act is liable to forfeiture.

(2) An order for the forfeiture or for the release of any document, equipment or other thing liable to forfeiture under this section shall be made by the court before which the prosecution was held and an order for the forfeiture of the document, equipment or thing shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the document, equipment or thing was the subject matter or was used in the commission of the offence notwithstanding that no person may have been convicted of the offence.

(3) If there is no prosecution with regard to any document, equipment or thing seized in the exercise of any power conferred under this Act, the document, equipment or thing shall be taken and deemed to be forfeited at the expiration of one calendar month from the date it was seized unless a claim to it was made before that date in the manner provided in this section.

(4) A person asserting that he is the owner of any document, equipment or thing seized under this Act and that the document, equipment or thing is not liable to forfeiture may, personally or by his agent authorized in writing, give written notice to a police officer not below the rank of Inspector of his claim.

(5) On receipt of a notice under subsection (4) the police officer shall, after such enquiry as may be necessary, direct that the document, equipment or thing be released or refer the case to a Sessions Court for decision.

(6) The Sessions Court to whom the case is referred shall issue a summons requiring the person asserting that he is the owner of the document, equipment or thing and the person from whom it was seized to appear before him and upon their appearance or default to appear, due service of such summons being proved, the Sessions Court shall proceed to an examination of the matter and, on proof that an offence under this Act has been committed and that the document, equipment or thing was the subject matter or was used in the commission of the offence, shall order the document, equipment or thing to be forfeited or may, in the absence of such proof, order the release of the document, equipment or thing to the person entitled to it.

(7) Any document, equipment or thing forfeited or deemed to be forfeited shall be delivered to the Inspector General of Police or to an officer duly authorized by him and the Inspector General of Police or such officer shall dispose of it in the manner provided for in the order or as he thinks fit.

Delegation by Minister

22. (1) The Minister may delegate to any officer under his control, direction and supervision, by name or office, any of the functions and powers imposed or conferred on him under this Act except for the power to make regulations under section 24.

(2) Any delegation under this section shall not prevent the Minister from himself exercising or performing such delegated function or power.

(3) A delegation made under subsection (1) may—

(a) be made subject to such conditions, limitations or restrictions as may be specified in the instrument of delegation; and

(b) be revoked or varied.

Protection of officers and other persons

23. No action or prosecution shall be brought, instituted or maintained in any court against any officer or any person designated, directed or delegated by the Minister to carry out any of the purposes of the Act in respect of any action which was done by him in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it.

Regulations

24. The Minister may make regulations as may be expedient or necessary for the better carrying out of the provisions of this Act.

LAWS OF MALAYSIA

Act 603

**ANTI-PERSONNEL MINES CONVENTION
IMPLEMENTATION ACT 2000**

LIST OF AMENDMENTS

Amending law

Short title

In force from

– NIL –

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IMPLEMENTATION ACT 2000**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
	- NIL -	