

MALAYSIAN INDUSTRIAL DEVELOPMENT AUTHORITY (INCORPORATION) ACT 1965

ACT 397

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1. Short title and application
2. Interpretation
3. Establishment of the Authority
- 3A. Establishment of the Board
- 3B. Vacation of office
- 3C. Filling of vacancies
- 3D. Appointment of Director General
- 3E. Appointment of officers, servants and other persons
4. (Deleted)
5. Direction on policy by the Minister
6. Functions of the Authority
- 6A. Powers of the Authority
- 6B. Board to perform functions and exercise powers of the Authority
7. (Deleted)
- 7A. Power to delegate
- 7B. Power to appoint committees
- 7C. Power to establish companies
8. (Deleted)
9. (Deleted)
10. Malaysian Industrial Development Authority Fund
- 10A. Expenditure to be charged on the Fund
- 10AA. Investment
- 10B. Deposit of the Fund
- 10C. Balancing revenue of the Fund
- 10D. Expenditure and preparation of estimates
11. Statutory Bodies (Accounts and Annual Reports) Act 1980
12. Annual Report
13. Application of Penal Code and obligation of secrecy
- 13A. Non-liability
- 13B. Public Authorities Protection Act 1948
14. Regulations
- Schedule

An Act to provide for the establishment and incorporation of the Malaysian Investment Development Authority and to provide for the administration, functions and powers of the Authority and for matters connected therewith.[23 June 1966]

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

1. Short title and application

- (1) This Act may be cited as the Malaysian Investment Development Authority (Incorporation) Act 1965.
- (2) This Act shall apply throughout Malaysia.

2. Interpretation

In this Act, unless the context otherwise requires—

“Authority” means the Malaysian Investment Development Authority established under subsection 3(1);

“Board” means the Board established under section 3A;

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 3D;

“Director General” *Deleted by Act A1399*

“Fund” means the Malaysian Investment Development Authority Fund established under section 10;

“Government Entity” means -

(a) the Federal Government, or any State Government, State Authority or local government; and

(b) any ministry, department, office, agency, authority, commission, committee, board, council or other body, corporate or unincorporate, of the Federal Government, or of any State Government, whether established under written law or otherwise;

“member” means a member of the Board;

“Minister” means the Minister charged with the responsibility for international trade and industry.

3. Establishment of the Authority

- (1) A body corporate by the name of the “Malaysian Investment Development Authority” is established.
- (2) The Authority shall have perpetual succession and a common seal.
- (3) Subject to and for the purposes of this Act, the Authority may, upon such term as it deems fit—
 - (a) enter into contracts;
 - (b) acquire, purchase, take, hold and enjoy movable and immovable property of every description; and
 - (c) convey, assign, surrender, charge, mortgage, demise, reassign, transfer, or otherwise dispose of, or deal with, any movable or immovable property or any interest vested in the Authority.

3A. Establishment of the Board

- (1) There shall be established a Board of the Authority consisting of the following members:
 - (a) a Chairman who shall be appointed by the Minister;
 - (b) the Secretary General of the Ministry responsible for finance or his representative;
 - (c) the Secretary General of the Ministry responsible for international trade and industry or his representative;
 - (d) not more than ten other members who shall be appointed by the Minister and of whom not more than seven shall represent the commercial, manufacturing, financial, industrial and service sectors; and
 - (e) the Chief Executive Officer.

- (2) The Board shall be responsible for—
 - (a) providing policy guidance and recommendations in relation to the performance of the Authority's functions and exercise of the Authority's powers;
 - (b) overseeing the implementation of the policies and recommendation; and
 - (c) giving such directions to the Chief Executive Officer as are consistent with the provisions of this Act.
- (3) The provisions of the Schedule shall apply to the Board.
- (4) There shall be paid to the members of the Board, other than the Chief Executive Officer, such allowances as may be determined by the Minister.
- (5) Subject to such terms as may be specified in the instrument of appointment, a member appointed under (a) , (d) or (e) shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding three years and is eligible for reappointment.
- (6) The Minister may at any time revoke the appointment of any member appointed under paragraph (1)(a), (d) or (e) without assigning any reason for the revocation.
- (7) A member appointed under (a), (d) or (e) may at any time resign from his office by a written notice to the Minister.
- (8) The Minister may appoint any member to exercise the functions of the Chairman during any period the Chairman is for any reason unable to perform his functions or during any period of vacancy in the office of the Chairman and such member shall, during the period in which he is performing the functions of the Chairman under this subsection, be deemed to be the Chairman.
- (9) Until an appointment under subsection (8) is made or in default of such appointment or in the absence of the Chairman from any meeting of the Board, the Chief Executive Officer shall perform the functions of and be deemed to be the Chairman of the Board.

3B. Vacation of office

- (1) The office of a member appointed under paragraph 3A(1)(a), (d) or (e) shall be vacated—
 - (a) if he dies;
 - (b) if there has been proved against him, or he has been convicted on, a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
 - (c) if he becomes a bankrupt or has made an arrangement with his creditors;
 - (d) if he is of unsound mind or is otherwise incapable of performing his duties or managing his affairs; or
 - (e) if he has been absent at three consecutive meetings of the Board, without leave in writing of the Minister.

3C. Filling of vacancies

Where any person ceases to be a member by reason of section 3B the Minister may appoint another person to fill the vacancy for a term not exceeding three years, and that person shall be eligible for reappointment.

3D. Appointment of Chief Executive Officer

- (1) The Minister shall appoint, a Chief Executive Officer upon such terms and conditions as the Minister may determine.
- (2) The Chief Executive Officer shall be responsible for the administration and management of the functions and affairs of the Authority, and in particular, but without prejudice to the generality of the foregoing—
 - (a) the preparation of programmes, schemes and projects, the progress of which must be reported to the Board from time to time;
 - (b) the execution of programmes, schemes and projects of the Authority;
 - (c) the issuance of policy guidance or elucidation of recommendations of the Board to officers and servants of the Authority;
 - (d) the management and administration of the financial affairs of the Authority;

- (da) the management of the annual budget of the Authority and making a decision on the allocation for all activities including development and operational; and
 - (e) the supervision and control over the implementation of the recommendations of the Board.
- (3) The Chief Executive Officer shall perform such further duties as the Board may from time to time direct.

3E. Appointment of officers, servants and other persons

- (1) The Authority may appoint such number of officers and servants of the Authority as it thinks desirable and necessary who shall be paid such remuneration and allowances and be subject to such conditions of service as may be prescribed by regulations.
- (2) The Authority may engage the services of and pay other persons to do any act required to be done in the performance of its functions or the exercise of its powers or for the better carrying into effect the purposes of this Act.

4. Omitted or Deleted Section

(Deleted by Act A1146).

5. Direction on policy by the Minister

The Minister may give to the Board directions not inconsistent with this Act as to the performance of the functions and exercise of the powers of the Authority, and the Board shall give effect to such directions.

6. Functions of the Authority

It shall be the functions of the Authority to promote investments in the manufacturing and services sectors (excluding financial and utilities) and to advise the Minister on the formulation of policies in respect thereof and for that purpose, the Authority may—

- (a) lead, co-ordinate, monitor and evaluate the implementation of the policies, strategies, activities and development of investment in the manufacturing and services sectors (excluding financial and utilities);
- (b) undertake activities relating to the promotion of investment in the manufacturing and services sectors (excluding financial and utilities) within or outside Malaysia;
- (c) undertake or cause to be undertaken research and planning on matters relating to investment in the manufacturing and services sectors (excluding financial and utilities);
- (d) advise the Government on the policies relating to the promotion of investment in the manufacturing and services sectors (excluding financial and utilities) including policies on—
 - (i) the granting of manufacturing licences;
 - (ii) the incentives applicable to investors in Malaysia;
 - (iii) expatriate posts;
 - (iv) the imposition or alteration of, and exemption from, custom duties; and
 - (v) any other fiscal or non-fiscal facilities;
- (e) formulate measures for the promotion of investment in the manufacturing and services sectors (excluding financial and utilities);
- (f) co-ordinate and facilitate the activities relating to the promotion and implementation of investment in the manufacturing and services sectors (excluding financial and utilities) at the Federal and State levels;
- (g) provide consultancy services including training and technical assistance;
- (h) undertake any activity that promotes co-operation with other countries in line with the objectives of the Government with respect to investment in the manufacturing and services sectors (excluding financial and utilities);
- (i) assist Malaysian companies in seeking technology and investment opportunities abroad;
- (j) act as a centre for collection, reference and dissemination of information relating to investment across all sectors of the economy;
- (k) report periodically to the Minister on the progress and problems of investment in the manufacturing and services sectors (excluding financial and utilities) in Malaysia and make recommendations on the manner in which such problems may be dealt with;

- (l) carry out any other functions consistent with this Act as the Minister may authorize in writing; and
- (m) generally do all such matters incidental to or consequential upon the exercise of its powers or the performance of its functions under this Act.

6A. Powers of the Authority

- (1) The Authority shall have all such powers as may be reasonably necessary for, or incidental to, the performance of its functions.
- (2) In particular, but without prejudice to the generality of subsection(1), the Authority may—
 - (a) conduct surveys and investigations to ensure compliance with conditions imposed for the grant of licences, permits or incentives in respect of manufacturing and services sectors (excluding financial and utilities);
 - (b) require any person dealing with manufacturing and services sectors (excluding financial and utilities) or any other activity relating to the functions of the Authority to submit reports;
 - (ba) require —
 - (i) all relevant Government Entities to give such assistance and submit such information in their possession as may be required by the Authority in order for the Authority to carry out its functions under this Act; and
 - (ii) all Government Entities, companies and corporations, and other bodies or persons, whether local or foreign, responsible for or engaged in carrying out or intending to carry out development in Malaysia to submit reports, containing such particulars and information as may be specified by the Authority, regarding their activities or proposed activities;
 - (bb) establish advisory panels to advise the Authority on the future direction and development of the manufacturing and services sectors (excluding financial and utilities);
 - (c) charge fees for any services or facilities provided by the Authority; and
 - (d) generally undertake such other powers incidental to or consequential upon the exercise of its powers or the performance of its functions under this Act.

6B. Board to perform functions and exercise powers of the Authority

The Board shall perform the functions and exercise the powers of the Authority under this Act and any function so performed or any power so exercised shall be deemed to be performed or exercised by the Authority.

7. Omitted or Deleted Section

(Deleted by Act A1146).

7A. Power to delegate

- (1) The Board may, subject to such terms, limitations or restrictions as it deems fit to impose, delegate to the Chairman, the Chief Executive Officer or to any other member the power and authority to exercise or perform on its behalf such powers or functions of the Board under this Act as it may determine, except the power to make regulations, and any power or function so exercised or performed by the Chairman or the Chief Executive Officer or the member, as the case may be, shall be deemed to have been exercised by and on behalf of the Board.
- (2) Without prejudice to the generality of subsection (1) and to the other provisions of this Act, the Board may delegate to either the Chairman or to the Chief Executive Officer authority to sanction expenditure from any moneys vested in and under the control of the Board up to such limit as the Minister shall specify.

7B. Power to appoint committees

- (1) The Board may appoint committees to assist it in relation to the selection and recruitment of officers and servants, disciplinary matters, financial and audit matters and such other matters arising out of or connected with the operation of the Authority.
- (2) Committees appointed under subsection (1) shall regulate their own procedure.

- (3) Committees appointed under subsection (1) shall conform to any instructions from time to time given to it by the Board and the Board may at any time discontinue or alter the constitution of any committee so appointed.
- (4) A committee shall report its recommendations to the Board.

7C. Power to establish companies

The Authority may, with the approval of the Minister, establish companies under the Companies Act 1965 [Act 125] to carry out and have the charge, conduct and management of any project, scheme, or enterprise which has been planned or undertaken by the Authority in the performance of its functions or the exercise of its powers.

8. Omitted or Deleted Section

(Deleted by Act A1146)

9. Omitted or Deleted Section

(Deleted by Act A1146).

10. Malaysian Industrial Investment Authority Fund

- (1) For the purposes of this Act, there is established a fund to be known as the “Malaysian Investment Development Authority Fund”, to be administered and controlled by the Board.
- (2) The Fund shall consist of —
 - (a) such sums as may be provided from time to time by the Government;
 - (b) moneys earned by the Authority in the performance of any of its functions;
 - (c) donations and contributions received from within or outside Malaysia; and
 - (d) all other moneys belonging to or which may in any manner become payable to the Authority in respect of any matter incidental to its functions and powers.

10A. Expenditure to be charged on the Fund

The Fund shall be expended for the purposes of—

- (a) paying any fees, costs or expenses lawfully incurred by the Authority, including the remuneration, superannuation and other allowances, pensions or gratuities of officers, servants or agents of the Authority;
- (b) paying any other costs or expenditure properly incurred or accepted by the Authority in the exercise of its powers or in the performance of its functions;
- (c) giving grants loans or any financial assistance to members of the private sector for purposes approved by the Minister;
- (ca) giving financial assistance or credit facilities, with or without interest, or any contribution to any person for educational purposes, scholarships or any other purposes subject to the approval of the Minister with the concurrence of the Minister of Finance;
- (d) granting loans for such purposes as may be prescribed by regulations to officers and servants of the Authority; and
- (e) generally, paying any expenses for carrying into effect the provisions of this Act.

10AA. Investment

The moneys of the Authority, insofar as they are not required to be expended by the Authority under this Act, may be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

10B. Deposit of the Fund

The Authority may, with the approval of the Minister and the concurrence of the Minister of Finance, place the moneys of the Fund on deposit with such financial institution as may be approved by the Minister.

10C. Balancing revenue of the Fund

It shall be the duty of the Board to perform its functions and exercise its powers under this Act so as to secure that the total revenues of the Authority are, subject to any directions given by the Minister under section 5, sufficient to meet all sums properly chargeable to its revenue account including depreciation and interest on capital taking one year with another.

10D. Expenditure and preparation of estimates

- (1) Before the beginning of September of each year the Board shall submit to the Minister an estimate of the expenditure (including expenditure for development projects) for the following year in such form and containing such particulars as the Minister may direct; and the Minister shall, before the beginning of the following year, notify the Authority of the amount authorized for expenditure generally or of the amount authorized for each description of expenditure.
- (2) The Board may at any time submit to the Minister a supplementary estimate for any one year and the Minister may allow the whole or any part of the additional expenditure.

11. Statutory Bodies (Accounts and Annual Reports) Act 1980

The Statutory Bodies (Accounts and Annual Reports) Act 1980 [Act240] shall apply to the Authority.

12. Annual Report

- (1) The Authority shall as soon as practicable after the end of each financial year, furnish to the Minister a report dealing with the activities of the Authority during the preceding year and containing such information relating to the proceedings and policy of the Authority as the Minister may from time to time require.
- (2) The Minister shall cause a copy of every such report to be laid on the table of each House of Parliament.

13. Application of Penal Code and obligation of secrecy

- (1) Every member, officer, servant and agent of the Authority and every member of a committee appointed under section 7b, while discharging his duties as such member, officer, servant or agent, shall be deemed to be public servant within the meaning of the Penal Code [Act574].
- (2) Except for the purposes of this Act or of any criminal proceedings under this Act, no member, officer or servant or agent of the Authority shall disclose any information with respect to any individual business, which has been obtained by him in the course of his duties and which is not published in pursuance of this Act; and a person contravening this subsection shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding fifty thousand ringgit or to both.
- (3) *(Deleted by Act A1146).*

13A. Non-liability

No member or member of the Authority's committees or officer, servant or agent of the Authority shall incur personal liability for any loss or damage caused by any act in administering the affairs of the Authority, unless the loss or damage is occasioned by an intentionally wrongful act or omission on his part.

13B. Public Authorities Protection Act 1948

The Public Authorities Protection Act 1948 [Act 198] shall apply to any action, suit, prosecution or proceeding against the Authority or against any member, officer, servant or agent of the Authority in respect of any act, neglect or default done or committed by him in such capacity.

14. Regulations

- (1) The Minister, on the recommendation of the Board, may makesuch regulations as may be necessary or expedient for the better carryinginto effect of the purpose and provisions of this Act.
- (2) In particularand without prejudice to the generality of subsection(1), such regulations may provide for—
 - (a) the fees to be imposed by the Authority under this Act;
 - (b) the remuneration, allowances and conditions of service of officers and servants of the Authority;
 - (c) the payment of pensions, allowances or gratuities to officers and servants of the Authority;
 - (d) the manner, terms and purposes of loans granted to officers and servants of the Authority; and
 - (e) such other matters which may be prescribed by the Authority under this Act.

Schedule
[Subsection 3A(3)]

Meeting

1. (1) The quorum for a meeting of the Board shall be seven.
- (2) If on any question to be determined by the Board there is an equality of votes, the Chairman or other member acting as Chairman shall have a casting vote.
- (3) Subject to subparagraphs (1) and (2), the Board shall determine its own procedure.

Common seal

2. (1) The Authority shall have a common seal which shall bear such device as the Board shall approve and such seal may be broken, changed, altered or made anew as the Board may think fit.
- (2) The seal of the Authority shall be authenticated by the Chairman and one other member, and all deeds, documents and other instruments purporting to be sealed with the authenticated seal shall, until the contrary is shown, be deemed to have been validly executed.
- (3) Notwithstanding subparagraph (2), a document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the Board; and such document or instrument may be executed on behalf of the Authority by any officer or servant of the Authority generally or specially authorized by the Board in that behalf.
- (4) Until a seal is provided by the Board, a stamp bearing the words "Malaysian Investment Development Authority" may be used and shall be deemed to be the common seal.
- (5) The common seal shall be kept in the custody of the Chairman or such other person as may be authorized by the Board.
- (6) The seal of the Authority shall be officially and judicially noticed.

Minutes

3. (1) The Board shall cause minutes of all its meetings to be maintained and kept in a proper form.
- (2) Minutes made of meetings of the Board shall, if duly signed, be admissible in evidence in all legal proceedings without further proof and every meeting of the Board in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members shall be deemed to have been duly qualified to act.

Validity of acts and proceedings

4. No act done or proceedings taken under this Act shall be questioned on the ground of—
 - (a) any vacancy in the membership, or any defect in the constitution, of the Board; or
 - (b) any omission, defect or irregularity not affecting the merit of the case.

Disclosure of interest

5. A member having whether directly or indirectly any interest in any company or undertaking with which the Authority proposes to make any contract or whether directly or indirectly having any interest in any such contract or in any matter under discussion by the Board shall disclose to the Board the fact of his interest and the nature of the interest, and such disclosure shall be recorded in the minutes of the meetings of the Board and, unless specially authorized by the Chairman, the member shall take no part in any deliberation or decision of the Board relating to the contract or matter.