



LAWS OF MALAYSIA

REPRINT

Act 403

EXTERNAL LOANS ACT 1963

Incorporating all amendments up to 1 January 2006

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

EXTERNAL LOANS ACT 1963

First enacted	1963 (Act No. 22 of 1963)
Revised	1989 (Act 403 w.e.f 14 December 1989)

PREVIOUS REPRINT

First Reprint 2001

LAWS OF MALAYSIA**Act 403****EXTERNAL LOANS ACT 1963**

ARRANGEMENT OF SECTIONS

Section

1. Short title and application

PART I**AUTHORITY TO BORROW**

2. Power to raise external loans, and application of sums raised

PART II**GENERAL PROVISIONS**

3. Provisions regulating the raising of external loans
4. Raising of loans
5. Management of external loans
6. Exchange of securities
7. Cancellation of securities exchanged or redeemed

SCHEDULE

LAWS OF MALAYSIA**Act 403****EXTERNAL LOANS ACT 1963**

An Act to authorize the raising of loans outside Malaysia to provide sums required for the purposes of the Federal Development Fund or for the repayment or amortization of external loans, and to make general provision with respect to external loans.

*[Peninsular Malaysia—15 June 1963;
Sabah and Sarawak—16 September 1963]*

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:

Short title and application

1. (1) This Act may be cited as the External Loans Act 1963.
- (2) This Act shall apply throughout Malaysia.

PART I**AUTHORITY TO BORROW****Power to raise external loans, and application of sums raised**

2. (1) The Minister (that is to say, the Minister for the time being charged with responsibility for finance) may from time to time raise loans outside Malaysia—
 - (a) for the purposes of the Federal Development Fund or some one or more of those purposes; or
 - (b) for the repayment or amortization of loans raised outside Malaysia, whether under this section or not.

(2) Any sums raised by way of loan under this section are hereby appropriated first to the payment of the expenses in connection with the raising of the loan, and subject to payment of those expenses, to the purposes for which the loan is raised; but if the sums so raised for the repayment or amortization of any loan exceed the amounts required for that purpose after the application thereto of any amounts available in a sinking fund relating to the loan, then the excess shall be applied and is hereby appropriated to the redemption, at such times and in such manner as the Minister may determine, of securities of Malaysia.

(3) The sums raised under this section shall not exceed the sum specified from time to time by the Yang di-Pertuan Agong by order published in the *Gazette* and such order shall as soon as possible after its publication be laid by the Minister before the Dewan Rakyat; and in applying this subsection sums raised in a currency other than ringgit shall be converted into ringgit as at the day when the amount to be raised is determined and by the use of such rate of exchange as the Governor of Bank Negara may certify to be then appropriate.

(3A) Any agreement entered into in respect of sums raised under this Act shall be made in the name of Malaysia and may be signed on behalf of Malaysia by the Minister or by any person authorized thereto in writing by the Minister.

(4) The Loan Ordinance 1953 [*Ord. 56 of 1953*], is hereby repealed.

PART II

GENERAL PROVISIONS

Provisions regulating the raising of external loans

3. (1) The General Loan and Stock Ordinance 1949 [*Ord. 3 of 1949*], and the *Government Trustee Securities Ordinance 1957 [*Ord. 41 of 1957*], shall not apply to any loan raised or issued after the commencement of this Act, and those Ordinances shall be amended as specified in the Schedule.

*NOTE—The Government Trustee Securities Ordinance 1957 [*Ord. 41 of 1957*] has since been superseded by the Government Trustee Securities Act 1957 [*Act 426*].

(2) Sections 4 and 5 shall apply to loans raised under section 2, and (subject to the Act relating thereto) to loans authorized by any other Act to be raised outside Malaysia in accordance with this Part; and any such loans are in this Part referred to as “external loans”.

Raising of loans

4. (1) External loans shall be raised—

(a) in such manner;

(b) by such arrangement; or

(c) by the creation and issue of such securities, as the Minister thinks fit.

(1A) Without prejudice to subsection (2), any external loan raised under subsection (1) shall be subject to such terms and conditions as may be determined by or with the authority of the Minister.

(2) The securities issued for raising any external loan under paragraph (1)(c) shall bear such rate of interest, and be subject to such terms and conditions as to repayment, redemption and other matters (including provision for a sinking fund) as may be determined by or with the authority of the Minister.

(3) In connection with the raising of any external loan under paragraph (1)(c), the Minister may make such arrangements as he sees fit for the underwriting of any offer for subscription or sale of the securities.

(4) Subsections (1), (1A) and (2) shall authorize the Minister to include among the terms and conditions of any external loan provisions for exemptions from taxes or for exempting from exchange control the debt charges or any description of debt charges in respect of an external loan; and the Minister shall by order make such provision as he considers necessary to give effect to any such exemption from tax or from exchange control, and any such order shall have effect notwithstanding anything in any written law relating to the tax, or to exchange control, as the case may be.

(5) Without prejudice to any of the foregoing provisions, the terms and conditions authorized by subsections (1), (1A) and (2) may include provision for the following matters:

- (a) for charging on any assets (whether originally or in the event of other debts of Malaysia being charged thereon) the debt charges or any description of debt charges in respect of an external loan;
- (b) for Malaysia, in proceedings relating to an external loan, to submit to the jurisdiction of the courts of the country in which the loan is raised.

(6) All debt charges in respect of any external loan shall be charged on the Federal Consolidated Fund (as provided by Article 98 of the Federal Constitution), and subsections (1), (1A) and (2) have effect subject to that Article.

(7) In this section “debt charges” includes interest, sinking fund charges, the repayment or amortization of debt, and all expenditure in connection with the raising of loans and the service and redemption of debt created thereby.

Management of external loans

5. In connection with any external loan the Minister may by any deed or deeds—

- (a) appoint a Registrar, and provide for the establishment and maintenance of a register of any securities, for the location of the register and for the extent to which the register is to be conclusive of the title to those securities or of any other matter;
- (b) provide for the conversion of registered securities into securities transferable by delivery, or vice versa;
- (c) provide for the authentication of certificates relating to the securities or of other documents;
- (d) appoint trustees of any sinking fund, and provide for the investment, management and application of the sinking fund;

- (e) enable any such deed to be modified with or without requiring the consent of a meeting of the holders of securities, and provide for the summoning and conduct of such meetings for that or any other purpose, and the majority required at such a meeting for the decision of the meeting on any matter to be binding on the holders of securities;
- (f) generally regulate, or authorize the Registrar to regulate, the management of the loan and all matters arising in connection therewith.

Exchange of securities

6. (1) The Minister may, for the purpose of carrying out any arrangement made with holders of securities issued under this Act for the exchange of those securities (whether on or before maturity, and whether with or without any further payment), create and issue such other securities as the Minister thinks fit, and sections 4 and 5 shall apply, with any necessary adaptations, to securities issued under this section as if they were issued for raising an external loan.

(2) Any arrangements made for the exchange of securities under this section may include provision for the making of payments to the holders of securities exchanged; and any such payments and all other expenses of any such exchange may be met out of the surplus (if any) created by the exchange in any sinking fund relating to the securities exchanged and, if not so met, shall be charged on the Federal Consolidated Fund as part of the debt charges for those securities.

(3) On any exchange of securities under this section the surplus (if any) thereby created in any sinking fund relating to the securities exchanged, or so much of it as is not applied under subsection (2), may if the Minister so directs be transferred to any other sinking fund relating to securities of Malaysia, and subject thereto shall be applied at such times and in such manner as the Minister may determine in the redemption of securities of Malaysia.

(4) This section shall apply to any conversion of securities authorized by section 31 of the General Loan and Stock Ordinance 1949, as if those securities had been issued for raising an external loan; and accordingly in paragraph (1)(b) of that section for the words “stock to be issued under the provisions of this Ordinance” there shall be substituted the words “securities to be issued as provided by section 6 of the External Loans Act 1963”.

Cancellation of securities exchanged or redeemed

7. All securities exchanged or redeemed in pursuance of this Act shall be cancelled and disposed of in such manner as the Minister may determine.

SCHEDULE

Amendments of existing Ordinances

1. In the General Loan and Stock Ordinance 1949 [*Ord. 3 of 1949*], the following provisions are hereby repealed, that is to say, sections 3, 5 to 24, 32, 33, 35 and 38; in paragraphs 31(1)(a), (c) and (d) and subsection 31(2); and in section 34 the words “into stock or cancelled or purchased”.

2. In the Government Trustee Securities Ordinance 1957 [*Ord. 41 of 1957*], in section 3, there shall be added at the end—

“Provided that this Ordinance shall not apply to securities issued after the commencement of the External Loans Act 1963.”

LAWS OF MALAYSIA

Act 403

EXTERNAL LOANS ACT 1963

LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 21/1954	Registration of Pharmacists	01-02-1952
L.N. 102/64	Modification of Laws (External Loans) (Extension) Order 1964	16-09-1963
Act 49	External Loans (Amendment) Act 1966	28-07-1966
Act A184	External Loans (Amendment) Act 1973	30-03-1973
P.U. (B) 346/1977	Resolution Under Section 2— External Loans Act 1963	27-05-1977
Act A477	Loan (Local) External and Extended Credit (Amendment) Act 1980	01-02-1980
P.U. (B) 406/1982	External Loans (Statutory Borrowing Ceiling) Order 1982	16-07-1982
Act A579	External Loans (Amendment) Act 1984	15-06-1963

LAWS OF MALAYSIA**Act 403****EXTERNAL LOANS ACT 1963**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act 49	28-07-1966
	Act A184	30-02-1973
	Act A477	01-02-1980
4	Act A579	15-06-1963

