



# **LAWS OF MALAYSIA**

## **Act A1415**

### **HOUSING DEVELOPMENT (CONTROL AND LICENSING) (AMENDMENT) ACT 2012**

Date of Royal Assent	...	...	30 January 2012
Date of publication in the <i>Gazette</i>	...	...	9 February 2012

**LAWS OF MALAYSIA****Act A1415****HOUSING DEVELOPMENT (CONTROL  
AND LICENSING) (AMENDMENT) ACT 2012**

An Act to amend the Housing Development (Control and Licensing) Act 1966.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title, commencement and application**

**1.** (1) This Act may be cited as the Housing Development (Control and Licensing) (Amendment) Act 2012.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

(3) This Act applies to Peninsular Malaysia.

**Amendment of section 3**

**2.** Section 3 of the Housing Development (Control and Licensing) Act 1966 [*Act 118*], which is referred to as the “principal Act” in this Act, is amended in the definition of “housing developer” by inserting after the word “development” the words “, and in a case where the housing developer is under liquidation, includes a person or body appointed by a court of competent jurisdiction to be the provisional liquidator or liquidator for the housing developer.”.

**Amendment of section 6****3.** Section 6 of the principal Act is amended—

(a) in paragraphs (1)(a) and (b), by substituting for the words “not less than two hundred thousand ringgit” the words “a sum equivalent to three per cent of the estimated cost of construction as certified by an architect in charge of the housing development”; and

(b) by inserting after subsection (1A) the following subsection:

“(1B) For the purpose of paragraphs (1)(a) and (b), “estimated cost of construction” means the cost of constructing a housing development and includes financial costs, overhead costs and all other expenses necessary for the completion of the housing development but excludes land cost.”.

**Amendment of section 7B****4.** Section 7B of the principal Act is amended—

(a) in the shoulder note, by inserting after the word “sections” the word “7,”; and

(b) by inserting after the word “sections” the word “7,”.

**Substitution of section 8A****5.** The principal Act is amended by substituting for section 8A the following section:

“**8A.** (1) Notwithstanding anything contained in any agreement, a purchaser shall at any time be entitled to terminate the sale and purchase agreement entered into in respect of a housing development which the licensed housing developer is engaged in, carries on, undertakes or causes to be undertaken if—

(a) the licensed housing developer refuses to carry out or delays or suspends or ceases work for a continuous period of six months or more after the execution of the sale and purchase agreement;

- (b) the purchaser has obtained the written consent from the end financier; and
- (c) the Controller has certified that the licensed housing developer has refused to carry out or delayed or suspended or ceased work for a continuous period of six months or more after the execution of the sale and purchase agreement.

(2) For the purpose of paragraph (1)(b), no end financier shall unreasonably withhold its written consent to the termination of the sale and purchase agreement.

(3) In the event that the purchaser exercises his right to terminate the sale and purchase agreement under subsection (1), the licensed housing developer shall within thirty days of such termination refund or cause to be refunded to such purchaser all monies received by the licensed housing developer from the purchaser free of any interest.

(4) Upon receipt of the refund under subsection (2), the purchaser shall immediately cause all encumbrances on the land to be removed and the cost and expenses for such removal shall be borne by the licensed housing developer and may be claimed as a civil debt from the licensed housing developer.

(5) Any person who fails to comply with this section shall be guilty of an offence and shall, on conviction, be liable to a fine which shall not be less than fifty thousand ringgit but which shall not exceed two hundred and fifty thousand ringgit and to a further fine not exceeding five thousand ringgit for every day during which the offence continues after conviction.

(6) This section applies only to an agreement lawfully entered into between a purchaser and a licensed housing developer after the date of coming into operation of the Housing Development (Control and Licensing) (Amendment) Act 2012 [*Act A1415*].”.

**Amendment of section 16N**

6. Section 16N of the principal Act is amended—

(a) in paragraph (1)(b)—

- (i) in subparagraph (ii), by inserting after the word “goodwill;” the word “or”;
- (ii) by deleting subparagraph (iii); and
- (iii) by renumbering the existing subparagraph (iv) as subparagraph (iii); and

(b) in subsection (2), by deleting the word “licensed”.

**Amendment of section 16Q**

7. Section 16Q of the principal Act is amended in the shoulder note by substituting for the words “Cause of action” the word “Claims”.

**Amendment of section 16AD**

8. Subsection 16AD(1) of the principal Act is amended—

- (a) by substituting for the word “five” the word “ten”; and
- (b) by substituting for the word “ten” the word “fifty”.

**New section 18A**

9. The principal Act is amended by inserting after section 18 the following section:

**“Offences relating to abandonment of housing development by a licensed housing developer**

**18A.** (1) Any licensed housing developer who abandons or causes to be abandoned a housing development or any phase of a housing development which the licensed housing developer is engaged in, carries on, undertakes or causes to be undertaken shall be guilty of an offence and shall, on conviction, be liable to a fine which shall not be less than

two hundred and fifty thousand ringgit but which shall not exceed five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) For the purpose of this section, “abandons” means refuses to carry out or delays or suspends or ceases work continuously for a period of six months or more or beyond the stipulated period of completion as agreed under the sale and purchase agreement.”.

### **Amendment of section 24**

**10.** Paragraph 24(2)(g) of the principal Act is amended by substituting for the word “twenty” the word “fifty”.

### **Savings and transitional**

**11.** (1) Any action or proceedings commenced or pending immediately before the date of coming into operation of this Act shall, after the date of coming into operation of this Act, be continued as if the principal Act had not been amended by this Act.

(2) Where a licensed housing developer has been granted a licence immediately before the date of coming into operation of this Act but has not paid the deposit under subsection 6(1), the provisions of the principal Act applicable to the payment of deposit shall continue to apply as if the principal Act had not been amended by this Act.