



FREQUENTLY ASKED QUESTIONS

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GENERAL

1. When was the Enforcement Agency Integrity Commission (EAIC) established?

1 April 2011

2. What are the functions of the Commission?

The main functions of EAIC as provided under section 4(1) of Act 700:

- (a) to receive complaints of misconduct from the public against an enforcement officer or against an enforcement agency;
- (b) to formulate and put in place mechanisms for the detection, investigation and prevention of misconduct by an enforcement officer;
- (c) to protect the interest of the public by preventing and dealing with misconduct of an enforcement officer;
- (d) to audit and monitor of particular aspects of the operations and procedures of an enforcement agency;
- (e) to promote awareness of, enhancement of, and education relating to integrity within an enforcement agency;
- (f) to assist the Government in formulating legislation, or to recommend administrative measures to the Government or an enforcement agency, in the promotion of integrity;
- (g) to study and verify any infringement of enforcement procedures and to make any necessary recommendations; and
- (h) to conduct site visits to the premises of an enforcement agency, including visiting police stations and lockups in accordance with the procedures under any written law, and make any necessary recommendations.

In addition to that, as provided under section 4(2) of Act 700, EAIC shall have power to do all things necessary for the performance of its function.

3. What are the scopes of misconduct that can be complained to the Commission?

(a) any ACTION OR INACTION by an enforcement officer:

- (i) which is contrary to any written law;
- (ii) which is based on mistake of law or fact;
- (iii) which grounds should have been given but were not given;
- (iv) unreasonable, unjust, oppressive or improperly discriminatory;
- (v) committed on improper motive, irrelevant grounds or consideration.

(b) failure of an enforcement officer to follow rules and procedures laid down by law or by the appropriate authority; and

(c) any criminal offence by an enforcement officer.

Examples of misconduct that can be reported:

- Complaints are not taken properly by an enforcement officer / failure to record the details given by the complainant.
- The investigation took too long and the complainant was not informed about the status of the investigation.
- Delayed investigation by an enforcement officer.
- Charges imposed without facts and applicable law.
- Instructions or actions taken by an enforcement officer to accommodate / in favor of certain parties.
- The investigation papers closed (No Further Action) too fast 1-3 days.
- No action taken by enforcement agency despite crime has been reported and criminal are identified.

4. Who can complain about misconduct to the Commission?

According to section 23(1) of Act 700, ANY PERSON can make or refer a complaint of misconduct to the Commission.

5. Can a person make a complaint of misconduct on behalf of another person?

Yes, a person may complain about misconduct even though the person is not the victim of the misconduct complained of. However, that person shall furnish the Commission with the particulars of the said victim.

6. What are the enforcement agencies under EAIC supervision?

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| 1) National Anti-Drugs Agency | 13) Department of Wildlife and National Parks |
| 2) Malaysian Maritime Enforcement Agency | 14) Labour Department |
| 3) Ikatan Relawan Rakyat Malaysia (RELA) | 15) Ministry of Health (Enforcement Division) |
| 4) Department of Environment | 16) Ministry of Tourism Malaysia (Enforcement Unit of Licensing Division) |
| 5) Immigration Department of Malaysia | 17) Ministry of Domestic Trade, Co-operatives and Consumerism (Enforcement Division) |
| 6) Royal Customs Department of Malaysia | 18) Ministry of Housing and Local Government (Enforcement Division) |
| 7) Department of Occupational Safety and Health | 19) Commercial Vehicles Licensing Board |
| 8) National Registration Department | 20) Registrar of Businesses |
| 9) Civil Aviation Department | 21) Royal Malaysia Police |
| 10) Road Transport Department | |
| 11) Industrial Relations Department | |
| 12) Fisheries Department | |

Although the Commercial Vehicles Licensing Board and the Registrar of Businesses have also been prescribed in the Schedule of Act 700 but both of the agencies have been dissolved and its functions have been absorbed in Land Public Transport Commission and Companies Commission of Malaysia respectively.

7. Is Malaysian Anti-Corruption Commission (MACC) subjected to the supervision of the Commission?

No, according to section 1(5) of Act 700, MACC established under the Malaysian Anti-Corruption Commission Act 2009 (Act 694) is not subjected to the jurisdiction of this Commission.

8. Can a complaint be made or referred to the Commission about misconduct that took place before Act 700 came into force i.e. before 1 April 2011?

No, as provided in section 1(3) of Act 700, the Commission can only investigate into misconduct complained of occurring on or after the Act 700 came into force.

9. Does the identity of complainant be kept confidential?

No, the reasons are:

- (a) there is no such provision in the Act 700;
- (b) Whistleblower Protection Act 2010 [Act 711] is not applicable for person who complain to the Commission; and
- (c) it is a policy decision by the Commission that all complaint management process shall be transparent.

Thus, the identity of complainant will be revealed when it is deemed necessary and just by the Commission.

10. Do witnesses who are going to give / have given evidence before the Commission be protected?

Yes, according to section 44 of Act 700, it is an offence when a person threatens or injures witnesses who are going to give / have given evidence before the Commission. Upon conviction of the offence, the person shall be liable to imprisonment for a term not exceeding two (2) years or to a fine not exceeding one hundred thousand ringgit (RM100,000.00) or to both.

11. Is an act of contempt against a Commissioner an offence?

Yes, it's provided under section 45(1) of Act 700 that upon conviction of the offence, a person shall be liable to imprisonment for a term not exceeding two (2) years or to a fine not exceeding one hundred thousand ringgit (RM100,000.00) or to both.

12. What does an “act of contempt” means?

As defined in section 45(2) of Act 700, an “act of contempt” means any act of disrespect or any insult or threat to a Commissioner:

- (a) while the Commissioner is sitting in a hearing; and
- (b) at any other time and place on account of him proceeding in his capacity as a Commissioner.

13. The differences between this Commission (EAIC), Public Complaints Bureau (PCB), Malaysia Anti-Corruption Commission (MACC) and Malaysia Institute of Integrity (IIM).

EAIC	PCB	MACC	IIM
Established on 1 April 2011 under the Act of 700.	Established on 23 July 1971 through a Cabinet decision.	Established on January 2009, replacing the previous agency - the Anti-Corruption Agency (ACA) in accordance with the new act enacted the Malaysian Anti-Corruption Commission Act 2009.	Established on 4 March 2004 as an autonomous body registered under the Companies Act 1965.
To receive complaints of MISCONDUCT of enforcement officer and enforcement agency under section 24 (1) of Act 700.	To receive complaints focusing more on Government administrative matters.	To receive and consider specific complaints, to investigate and prevent any form of CORRUPTION AND ABUSE OF POWER under section 7 of the MACC Act 2009.	To coordinate and monitor the implementation of the National Integrity Plan, to implement programs to enhance the ethics and integrity level among Malaysian.
The Commission and Task Force Members have all the powers of investigation provided in the Criminal Procedure Code and Act 700.	No investigative powers provided by law.	MACC Act 2009 provides power to the MACC to investigate the nature of any offense of corruption and abuse of power.	No investigative powers provided by law.





COMPLAINT

1. How to make a complaint of misconduct to the Commission?

According to section 23(2) of Act 700, a complaint shall be made IN WRITING and submitted to the Commission via one of the followings:

- walk-in to the Commission office
- letter
- online

2. What are the particulars should be included to make a complaint to the Commission?

According to section 23 (2) Act 700, the particulars to be included are as follows:

(a) Particulars of the complainant:

- Name
- Correspondence address
- Identification card number
- Telephone number and e-mail address

(b) Particulars of the enforcement officer:

- Name of the enforcement officer complained
- Action or inaction taken

(c) Particulars of the misconduct complained consists of the date and place where the misconduct occurred;

(d) Particulars of the person affected by the act or inaction of the enforcement officer, if that person is the complainant;

(e) Particulars of any other person present during or involved in the act or inaction complained of; and

(f) Any other details including photographs and documents that is necessary to be included in the complaint.

3. Can a person complain about a misconduct which occurs while an enforcement officer was not on official duty?

Yes, he/she can. According to section 24(2)(b) of Act 700, the misconduct of an enforcement officer may be investigated by the Commission although the act or inaction occurs while the enforcement officer was not on official duty.

4. How does the Commission deals with a complaint of misconduct after it was received?

After a complaint was received, the Complaints Committee shall conduct preliminary investigation in order to determine the nature of the misconduct complained of and whether the Commission should proceed with a full investigation into the complaint. The complainant will be called for a statement recording under section 112 of the Criminal Procedure Code.

5. Will the Commission attend Anonymous Letter?

Yes, the Commission will accept all types of complaints, including anonymous letter under the provisions of section 23 (3) of Act 700. If the Commission found the anonymous letter has a basis of complaint, it will be referred to the Disciplinary Authority of the agency and if none it will be rejected.

6. What is the action taken by the Commission against false accusation?

If the preliminary investigation found a false complaint, the Commission may take an action against the complainant by lodging a police report.







7. Is the finding of the Complaints Committee final?

No, all findings and recommendations by the Complaints Committee shall be reported to the Commission for its consideration and decision. If the Commission is not satisfied with the report and recommendation or finding of the Complaints Committee, the Commission shall direct a further investigation into the complaint.

The findings of the investigation shall be reported to the Commission within fourteen (14) days for a final decision.

8. Does the Commission conduct full investigations against all complaints received?

No, all complaints received will be assessed by the Complaints Committee. There are four (4) methods in dealing with complaints received by the Commission:

- i. the complaint to be investigated by the Commission under Act 700 if the Commission is satisfied that a misconduct as specified in section 24 is disclosed and that there is a basis for the Commission to commence full investigation into the misconduct;
- ii. the complaint to be referred to the appropriate Disciplinary Authority for its investigation if the Commission is satisfied that a disciplinary offence is disclosed and that the complaint would be better dealt with by the appropriate Disciplinary Authority;
- iii. the complaint to be referred to Malaysian Anti-Corruption Commission (MACC) for its investigation if the Commission is satisfied that an offence under Part IV of the Malaysian Anti-Corruption Commission Act 2009 is disclosed; and
- iv. the complaint will be REJECTED by the Commission if:
 -  the complaint does not fall within the scope of misconduct as specified in section 24;
 -  the complaint is of frivolous or vexatious nature, or it was not made in good faith;
 -  the subject matter of the complaint is trivial;
 -  the misconduct complained of occurred too remote a time to justify an investigation;
 -  there is or was available to the complainant an alternative and satisfactory means of redress; or
 -  the subject matter of the complaint has been finally determined by any court or is the subject matter of any proceedings pending in any court, including any appeal proceedings.

9. What happens if a complaint is referred to the appropriate Disciplinary Authority or MACC?

According to section 27(3) of Act 700, the Disciplinary Authority or MACC shall conduct its own investigation and communicate its finding to the Commission within thirty (30) days from the date of receipt of the complaint from the Commission.





INVESTIGATION

1. What are the investigation powers possessed by EAIC if the Commission decided to commence full investigation into a complaint?

Generally:

Section 17(4) of Act 700 – The members of a Task Force shall have all the powers of investigation as contained in the Criminal Procedure Code.

Specifically:

- Power to obtain documents or other things (section 32 of Act 700);
- Power to hold hearing by the Commission (section 34 of Act 700);
- Power to search and seizure with warrant (section 40 of Act 700) and
- Power to search and seizure without warrant (section 41 of Act 700).

2. Could the Commission intervene the investigation conducted by the enforcement agency?

No it can't. The Commission only has the power to investigate complaints of misconduct.

3. Does the Commission have jurisdiction to pass sentence or to institute prosecution on its own upon completion of full investigation?

No, where the Commission have completed its investigation, the Commission shall:

i) if the Commission finds that the misconduct constitutes a disciplinary offence:

it shall record its finding and make recommendation as to the punishment that should be imposed upon the enforcement officer concerned and refer the matter to the appropriate Disciplinary Authority for its action. The Disciplinary Authority shall then inform the Commission of its action and the grounds of its decision within fourteen (14) days from the date of receipt of the finding and recommendation;

ii) if the Commission finds that the misconduct constitutes a criminal offence:

it shall record its finding and compile its report and the investigation papers and refer the matter to the Public Prosecutor. The Public Prosecutor shall then communicate his decision to the Commission within fourteen (14) days from the date of receipt of the finding, report and investigation papers; and

iii) if the Commission finds that the misconduct complained of is not substantiated:

it shall record its finding and inform the complainant.

4. Do all findings by the Commission and any action taken by the Disciplinary Authority or the Public Prosecutor be communicated to the public?

According to section 30(5) of Act 700, the Commission shall make public its finding and inform the complainant of its finding and any action taken by the Disciplinary Authority or the Public Prosecutor.

5. Will the complained officer be notified regarding the Commission's investigation decision?

Yes, the investigation's decision by the Commission will be informed to all parties including the complained officer.

