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Act 582

MALAYSIAN PALM OIL BOARD ACT 1998

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LAWS OF MALAYSIA

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MALAYSIAN PALM OIL BOARD ACT 1998

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LAWS OF MALAYSIA

Act 582

MALAYSIAN PALM OIL BOARD ACT 1998

An Act to repeal the Palm Oil Registration and Licensing Authority (Incorporation) Act 1976 and the Palm Oil Research and Development Act 1979; to dissolve the Palm Oil Registration and Licensing Authority, the Palm Oil Research and Development Board and the Palm Oil Research Institute of Malaysia; to establish the Malaysian Palm Oil Board and to provide for matters connected therewith and to make better provision in respect of the oil palm industry of Malaysia.

[1 May 2000, P.U. (B) 129/2000]

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:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Malaysian Palm Oil Board Act 1998.

(2) This Act shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint and the Minister may appoint different dates for different provisions of this Act.

Interpretation

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

“analyst” means an analyst appointed under section 60;

“appointed day” means the day on which this Act, or if different dates are appointed for the coming into force of different provisions of this Act, the day on which Part VIII comes into force;

“authorized officer” means—

- (a) an officer of the Board authorized under section 44;
- (b) a police officer not below the rank of Inspector; or
- (c) an officer of customs;

“Board” means the Malaysian Palm Oil Board established under section 3;

“cess” means the cess imposed under section 35;

“Chairman” means the Chairman of the Board appointed under section 6;

“conveyance” means any vehicle, vessel, ship, aircraft or any other mode of transport whether by air, sea or land;

“Director General” means the Director General of the Board appointed under section 19;

“Fund” means the Malaysian Palm Oil Board Fund established under section 32;

“member” means a member of the Board and includes an alternate member;

“oil palm” means the species of palm of the genus *Elaeis* or any oil bearing genus of palm and includes hybrids of these species, hybrids resulting from crossing these species or hybrids with any other species or hybrids of plants, and genetically engineered versions of these species or hybrids;

“oil palm fruit” means the unprocessed fruit of the oil palm, whether in bunches or in loose form;

“oil palm industry” means any industry involved in the planting of oil palm, the production of oil palm products, and services related thereto;

“oil palm planting material” means oil palm seeds, oil palm seedlings and plants from oil palm tissues;

“oil palm product” means any product obtained directly from the oil palm or wholly or partly manufactured or derived from such product and includes palm oil, palm kernel, palm kernel cake, oil palm shell, palm fatty acids, oil palm planting material, oil palm fruit, oil palm fibre, oil palm empty fruit bunches, oil palm fronds, oil palm trunks, oil palm roots, oil palm based fibreboards, oil palm based pulp and paper and oil palm based chemicals;

“palm oil” means oil, whether in crude or processed form, originating or extracted from the pericarp of the oil palm fruit, and includes oil, whether in crude or processed form originating or extracted from the kernel of the oil palm fruit;

“research finding” means any results from research and development activities and includes inventions and improvements in any process, apparatus, machine or technique;

“sea” includes inland waters;

“this Act” includes any subsidiary legislation made under this Act.

PART II

ESTABLISHMENT OF THE BOARD

The Board and its objectives

3. (1) There is established a body corporate by the name of “Malaysian Palm Oil Board” with perpetual succession and a common seal, which may sue and be sued in its corporate name and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Board upon such terms as it deems fit.

(2) The objectives of the Board are—

- (a) to promote and develop the oil palm industry of Malaysia; and
- (b) to develop national objectives, policies and priorities for the orderly development and administration of the oil palm industry of Malaysia.

(3) The provisions of the First Schedule shall apply to the Board.

Functions of Board

4. The functions of the Board shall be—

- (a) to implement policies and developmental programmes to ensure the viability of the oil palm industry of Malaysia;
- (b) to conduct and promote research and development activities relating to the planting, production, harvesting, extraction, processing, storage, transportation, use, consumption and marketing of oil palm and oil palm products;
- (c) to plan, coordinate, implement and monitor all research and development activities on oil palm and oil palm products;
- (d) to regulate, register, coordinate and promote all activities relating to the planting, supply, sale, purchase, distribution, movement, storage, surveying, testing, inspecting, brokering, export and import of oil palm products, and the milling of oil palm fruit;
- (e) to develop and commercialize research findings for the benefit of the oil palm industry and to promote the use of the research findings commercially;
- (f) to provide technical, advisory and consultancy services to the oil palm industry;
- (g) to promote the efficient marketing and handling of oil palm products;
- (h) to develop and maintain markets for oil palm products;
- (i) to promote, control and monitor measures towards attaining a high quality for oil palm products;

- (j) to plan and implement training programmes and human resource development in line with the needs of the oil palm industry;
- (k) to liaise and coordinate with other bodies within or outside Malaysia to further enhance the oil palm industry of Malaysia;
- (l) to conduct research and development on oil seeds and other oils and fats other than palm oil where such research and development are for the enhancement of the oil palm industry;
- (m) to gather information and maintain records of all relevant matters relating to the oil palm industry;
- (n) to be the resource and information centre of the oil palm industry;
- (o) to publish or sponsor the publication of journals, periodicals, booklets and other publications and to collect, collate and disseminate information relating to oil palm, oil palm products and other vegetable and animal oils and fats;
- (p) to conduct research and development in any other area where the results of the research and development are intended to benefit the oil palm industry; and
- (q) to do such other things as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

Powers of Board

5. The Board shall have power—

- (a) to undertake and coordinate activities relating to research and development into the planting, production, harvesting, extraction, processing, storage, transportation, use, consumption and marketing of oil palm and oil palm products including oil palm and oil palm product wastes, and services related thereto;
- (b) to impose fees or any other charges it deems fit for the use of any facility relating to research, investigation, testing, advisory services or any other service provided by the Board;

- (c) to enter into such negotiations and agreements or arrangements as it deems fit for the discharge of its functions;
- (d) to acquire, hold, dispose of or grant rights in connection with the results of any research conducted by or for the Board or in connection with the results of any research undertaken by any person or organization;
- (e) to commission any person or body to carry out research or development, or both;
- (f) to award certificates of proficiency in respect of training and accredited programmes;
- (g) to undertake and coordinate such activities as it deems necessary for the purpose of protecting and furthering the interests of the oil palm industry of Malaysia;
- (h) to regulate the oil palm industry, including by the implementation of registration and licensing schemes;
- (i) to prescribe the standards or grades of oil palm and oil palm products; and
- (j) to do such other things as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

Membership of Board

6. The Board shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman;
- (b) a representative of the Ministry charged with the responsibility for the oil palm industry, to be nominated by the Secretary General of the Ministry;
- (c) a representative of the Treasury, to be nominated by the Secretary General of the Ministry of Finance;
- (d) a representative of the Ministry charged with the responsibility for industrial development, to be nominated by the Secretary General of the Ministry;
- (e) a representative of the Federal Land Development Authority established under the Land Development Act 1956 [Act 474], to be nominated by the Chairman of the Authority;

- (f) a representative of the smallholder sector of the oil palm industry;
- (g) two representatives of oil palm producers;
- (h) a representative of palm oil millers;
- (i) a representative of palm oil refiners;
- (j) a representative of the oleochemical industry;
- (k) four persons who, in the opinion of the Minister, are able to contribute to the development of the oil palm industry; and
- (l) the Director General.

Tenure of office

7. Subject to such conditions as may be specified in his instrument of appointment, a member of the Board shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding two years and is eligible for reappointment.

Alternate members

8. (1) The Minister may, in respect of each member appointed under paragraphs 6(b) to (k), appoint an alternate member to attend, in place of that member, meetings of the Board that that member is for any reason unable to attend.

(2) Alternate members to be appointed in respect of members appointed under paragraphs 6(b) to (k) shall be those nominated by the persons specified in those paragraphs.

(3) When attending meetings of the Board an alternate member shall for all purposes be deemed to be a member of the Board.

(4) An alternate member shall, unless he sooner resigns his membership or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate ceases to be a member of the Board.

Temporary exercise of functions of Chairman

9. (1) Where the Chairman is for any reason unable to perform the functions of the Chairman or during any period of vacancy in the office of the Chairman, the Minister may appoint any member of the Board other than the Director General to perform the functions of the Chairman.

(2) Until an appointment under subsection (1) is made or in default of such appointment or in the absence of the Chairman from any meeting of the Board, the member appointed under paragraph 6(b) shall perform the functions of the Chairman.

(3) A member appointed under subsection (1) or a member referred to in subsection (2), as the case may be, shall, during the period in which he is performing the functions of the Chairman under this section be deemed to be the Chairman.

(4) If at any meeting of the Board neither the Chairman nor the person exercising the functions of the Chairman is present, the members present shall elect one of their number to preside at the meeting.

Revocation and resignation

10. (1) The appointment of any member may at any time be revoked by the Minister without assigning any reason therefor.

(2) A member may at any time resign his office by a written notice addressed to the Minister.

Vacation of office

11. (1) The office of a member of the Board 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;
- (d) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) if he absents himself from three consecutive meetings of the Board without leave of the Chairman or, in the case of the Chairman, without leave of the Minister;
- (f) in the event of his resignation being accepted by the Minister; or
- (g) if his appointment is revoked by the Minister.

(2) Where any person ceases to be a member by reason of any of the provisions of this Act, another person shall be appointed in his place in accordance with sections 6 and 7.

Non-liability of members of Board

12. No member of the Board shall incur personal liability for any loss or damage caused by an act in administering the affairs of the Board, unless the loss or damage is occasioned by an intentionally wrongful act on his part.

Public Authorities Protection Act 1948

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

Public servant

14. Every member of the Board or any of its committees or any officer, servant or agent of the Board, while discharging his duties as such member, officer, servant or agent shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

Power of Minister to give directions

15. (1) The Board shall be responsible to the Minister.

(2) The Minister may give general directions not inconsistent with this Act and the Board shall, as soon as possible, give effect to such directions.

Returns, reports, accounts and information

16. (1) The Board shall furnish to the Minister, and such public authority as may be directed by the Minister, such returns, reports, accounts and information with respect to its property and activities as the Minister may require or direct.

(2) Without prejudice to the generality of subsection (1), the Board shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister and, if so directed by the Minister, to any other public authority, a report dealing with the activities of the Board during the preceding financial year and the report shall be in such form and shall contain such information relating to the proceedings and policy of the Board as the Minister may specify.

Delegation of Board's functions, powers and duties

17. (1) The Board may, subject to such conditions, limitations or restrictions as it deems fit to impose, delegate any of its functions, powers or duties, except the power to borrow money, grant loans, establish corporations or make regulations, to—

- (a) any member of the Board;
- (b) any committee established by the Board; or
- (c) any officer or servant of the Board,

and any function, power or duty so delegated may be performed, exercised or discharged by the member, officer or servant, as the case may be, in the name and on behalf of the Board.

(2) A delegation under this section shall not preclude the Board itself from performing or exercising at any time any of the functions, powers or duties so delegated.

(3) Without prejudice to the generality of subsection (1) and the other provisions of this Act, the Board may delegate to the Director General—

- (a) the power to grant loans and make advances to the officers and servants of the Board under section 22; and
- (b) the authority to sanction expenditure from the Fund or any other moneys vested in or under the control of the Board up to such limit as the Board shall specify.

Board may establish committees

18. (1) The Board may establish such committees as it deems necessary or expedient to assist it in the performance of its functions under this Act.

(2) The Board may appoint any person to be a member of any committee established under subsection (1).

(3) A committee established under this section may elect any of its members to be chairman and may regulate its own procedure and, in the exercise of its powers under this subsection, such committee shall be subject to and act in accordance with any direction given to the committee by the Board.

(4) Meetings of a committee established under this section shall be held at such times and places as the chairman of the committee may, subject to subsection (3), determine.

(5) A committee may invite any person, for the purpose of advising it on any matter under discussion, to attend any meeting of the committee but the person so invited shall not be entitled to vote at any such meeting.

(6) Members of a committee or any person invited to attend any meeting of a committee may be paid such allowances and other expenses as the Board may determine.

(7) A member of a committee shall hold office for such term as may be specified in his instrument of appointment and is eligible for reappointment.

(8) The appointment of any member of a committee may at any time be revoked by the Board without assigning any reason therefor.

(9) A member of a committee may at any time resign his office by a written notice addressed to the Chairman of the Board.

PART III

DIRECTOR GENERAL, OFFICERS AND SERVANTS OF THE BOARD

Appointment of Director General

19. The Minister shall appoint a Director General of the Board on such terms and conditions as the Minister may determine.

Powers and duties of Director General

20. (1) The Board shall vest in the Director General such powers and shall impose upon him such duties as the Board may determine.

(2) The Director General shall be responsible for—

(a) the proper administration and management of the affairs of the Board;

(b) the preparation of—

(i) all programmes, schemes, projects and activities;

(ii) an estimate of expenditure for the implementation of the annual programmes; and

(iii) an estimate of income, for the approval of the Board;

(c) the execution of the annual programmes of the Board; and

(d) the carrying out of the decisions and directions of the Board.

(3) The Director General shall have general control of the officers and servants of the Board.

(4) The Director General shall perform such further duties as the Board may direct.

(5) In discharging his duties, the Director General shall act under the general authority and direction of the Board.

(6) If the Director General is temporarily absent from Malaysia or is temporarily incapacitated through illness or for any other sufficient reason from performing his duties, one of the Deputy Directors General shall perform the duties of the Director General during such temporary absence or incapacity.

(7) For the purposes of subsection (6), if the office of Deputy Director General is vacant, the Board may direct any other officer of the Board to perform the duties.

Appointment of officers and servants

21. (1) Subject to any regulations made under subsection (3), the Board may—

- (a) with the approval of the Minister, appoint such number of Deputy Directors General;
- (b) appoint such number of other officers and servants as may be necessary for carrying out the purposes of this Act,

on such terms and conditions as the Board deems desirable.

(2) No person shall be eligible for employment as an officer or servant of the Board if he has, directly or indirectly, by himself or his partner, any share or interest in any contract or proposed contract with, for or on behalf of the Board.

(3) The Board may, with the approval of the Minister, make regulations with respect to the conditions of service of its officers and servants.

(4) The appointment of the Director General and Deputy Directors General shall be published in the *Gazette*.

Power to grant loans and make advances to officers and servants

22. The Board may grant loans and make advances to its officers and servants on such terms and conditions as the Board may determine.

Delegation of Director General's duties

23. (1) The Director General may in writing delegate any of the functions, powers or duties assigned to him under this Act to any officer of the Board, subject to such terms and conditions as he thinks fit.

(2) A delegation under this section shall not preclude the Director General himself from performing or exercising at any time any of the functions, powers or duties so delegated.

Disciplinary committees

24. (1) The Board shall have disciplinary authority over all its officers and servants and shall exercise disciplinary control in respect of all such persons in accordance with this Act and any regulations made under section 26.

(2) For the purposes of this section—

(a) there shall be established a disciplinary committee of the Board in respect of the Director General consisting of—

(i) the Chairman, who shall be the chairman of the committee; and

(ii) at least two members of the Board, which shall not include the Director General, as shall be determined among the members themselves; and

(b) the Board may, by notification in the *Gazette*, establish different disciplinary committees for different categories of officers and servants of the Board.

(3) The following provisions shall apply to any disciplinary committee established under paragraph (2)(b):

(a) such committee shall consist of any number of members of the Board, other than the Chairman of the Board, or officers of the Board, or any combination of such members and officers; and

(b) an officer who is a member of a disciplinary committee shall not be lower in rank than any officer or servant over whom the committee of which he is a member has disciplinary authority.

(4) The committee established under paragraph (2)(b) shall exercise its powers in all matters relating to the discipline of officers and servants placed under its jurisdiction.

(5) In the exercise of its disciplinary functions and powers, a disciplinary committee referred to in subsection (2) shall have the power to take disciplinary action and impose any disciplinary punishment or any combination of two or more disciplinary punishments as may be provided for under any regulations made under section 26.

Appeal against decision of disciplinary committee

25. (1) A decision of the disciplinary committee established under paragraph 24(2)(a) shall be appealable to the Minister.

(2) A decision of the disciplinary committee established under paragraph 24(2)(b) shall be appealable to the Disciplinary Appeal Board which shall consist of the following members:

- (a) the Chairman of the Board, who shall be the chairman of the Disciplinary Appeal Board and shall have a casting vote; and
- (b) three members of the Board, not being members of the disciplinary committee whose decision is the subject matter of the appeal, to be appointed by the chairman of the Disciplinary Appeal Board with the approval of the Board for the purpose of the appeal.

(3) The Minister or the Disciplinary Appeal Board, as the case may be, may confirm, reverse or vary the decision of the disciplinary committee.

(4) When the Disciplinary Appeal Board considers an appeal made under subsection (2), a member of the disciplinary committee against whose decision the appeal is made shall not be present or in any way participate in any proceedings relating to that appeal.

(5) The decision of the Minister or the Disciplinary Appeal Board under subsection (3) shall be final and shall not be questioned in any court.

Power to make disciplinary regulations

26. (1) The Board may, with the approval of the Minister, make such regulations as it deems necessary or expedient to provide for the discipline of the officers and servants of the Board.

(2) The disciplinary regulations made under this section—

- (a) may create disciplinary offences;
- (b) may provide for such disciplinary punishments as the Board deems appropriate, and the punishments may extend to warning, fine, forfeiture of emoluments, deferment of salary movement, reduction of salary, reduction in rank and dismissal;
- (c) shall provide an opportunity for the person against whom disciplinary proceedings are taken to make representations against the disciplinary charge laid against him before a decision is arrived at by the disciplinary committee except in the following cases:
 - (i) where an officer or a servant of the Board is dismissed or reduced in rank on the ground of conduct in respect of which a criminal charge has been proved against him;
 - (ii) where the Board, on the recommendation of the Minister charged with the responsibility for home affairs, is satisfied that in the interest of the security of Malaysia or any part thereof it is not expedient to carry out the requirements of this paragraph; or
 - (iii) where there has been made against an officer or a servant of the Board any order of detention, supervision, restricted residence, banishment or deportation, or where there has been imposed on such officer or servant of the Board any form of restriction or supervision by bond or otherwise, under any law relating to the security of Malaysia or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls;

- (d) may provide for the interdiction with reduced emoluments of an officer or a servant of the Board during the pendency of criminal proceedings against him or disciplinary proceedings against him with the view to his dismissal or reduction in rank; and
- (e) may provide for the suspension without emoluments of an officer or a servant of the Board where the officer or servant has been convicted by any criminal court or where an order of detention or restriction has been made in respect of or imposed on the officer or servant.

Imposition of surcharge

27. (1) A person who is or was in the employment of the Board may be surcharged if it appears to the Board that the person—

- (a) has failed to collect any moneys owing to the Board for the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of moneys from the Board or any payment of moneys which is not duly approved;
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any moneys, stores or other property of the Board;
- (d) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
- (e) has failed to make any payment, or is or was responsible for any delay in the payment from the Board, of moneys to any person to whom such payment is due under any law or under any contract, agreement or arrangement entered into between that person and the Board.

(2) The Board shall, before the person is surcharged, serve on him a written notice calling on him to show cause why he should not be surcharged.

(3) If a satisfactory explanation is not received within fourteen days from the date of service of the notice under subsection (2), the Board may—

- (a) in the case of paragraphs (1)(a), (b) and (c), surcharge against the person a sum not exceeding the amount not collected, or of the improper payment made, or of the deficiency in or destruction of the property caused; and
- (b) in the case of paragraphs (1)(d) and (e), surcharge against the person such sum as the Board deems fit.

Notification of surcharge

28. The Board shall notify the person surcharged under subsection 27(3) of the surcharge.

Withdrawal of surcharge

29. Notwithstanding subsection 27(3) and section 28, the Board may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Board shall forthwith notify the person surcharged of the withdrawal.

Recovery of surcharge

30. The amount of any surcharge made under subsection 27(3) and not withdrawn under section 29 shall be a debt due to the Board from the person surcharged and may be sued for and recovered in any court at the suit of the Board and may also, if the Board so directs, be recovered by deduction—

- (a) from the salary of the person surcharged; or
- (b) from the pension of the person surcharged,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

Composition of Board in special cases

31. In any action for surcharge against the Director General, the composition of the Board for the purposes of sections 27 to 30 shall not include the Director General.

PART IV

FINANCE

The Fund

32. (1) There is established, for the purposes of this Act, a fund to be known as the “Malaysian Palm Oil Board Fund”, to be administered and controlled by the Board.

(2) The Fund shall consist of—

- (a) such sums as may be provided for the purposes of this Act by the Federal or any State Government;
- (b) moneys earned by the operation of any project, scheme or enterprise financed from the Fund;
- (c) moneys earned or arising from any property, investment, mortgage, charge or debenture acquired by or vested in the Board;
- (d) any property, investment, mortgage, charge or debenture acquired by or vested in the Board;
- (e) sums borrowed by the Board for the purposes of meeting any of its obligations or discharging any of its duties;
- (f) moneys earned from the consultancy, advisory or any other services provided by the Board;
- (g) moneys collected or paid under section 35;
- (h) moneys collected or paid under section 71;
- (i) moneys collected by the Board under the regulations made under this Act and specified therein as sums payable into the Fund;
- (j) moneys distributed as dividends from the corporations established under this Act;
- (k) donations and contributions received from within or outside Malaysia and includes moneys received from any government or organization outside Malaysia; and
- (l) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its functions and powers.

Expenditure to be charged on Fund

33. The Fund shall be expended for the purpose of—

- (a) paying any expenditure lawfully incurred by the Board, including—
 - (i) the remuneration of the officers and servants of the Board, including the granting of loans, superannuation allowances, pensions or gratuities;
 - (ii) insurance coverage for the officers and servants of the Board;
 - (iii) costs incurred in providing for the welfare of the officers and servants of the Board; and
 - (iv) legal fees and costs and other fees and costs;
- (b) financing research and development activities;
- (c) contributing to bodies or organizations of which the Board is a member;
- (d) contributing to such organizations related to the oil palm industry as the Minister may determine;
- (e) financing such scholarships for higher education as may be approved by the Board;
- (f) providing loans or grants to institutions of higher learning within or outside Malaysia for the purpose of human resource development in the oil palm industry;
- (g) granting loans or providing capital for corporations established under this Act;
- (h) paying any other expenses, costs or expenditure properly incurred or accepted by the Board in the performance of its functions or the exercise of its powers under this Act;
- (i) subject to the approval of the Minister, making contributions to any organization, whether within or outside Malaysia, for the purpose of promoting the marketing of oil palm products;
- (j) purchasing or hiring equipment, machinery and any other materials, acquiring land and erecting buildings, and

carrying out any other works and undertakings in the performance of its functions or the exercise of its powers under this Act;

- (k) repaying any moneys borrowed under this Act and the interest due on such moneys;
- (l) paying any reward under section 75; and
- (m) generally, paying any expenses for carrying into effect the provisions of this Act.

Conservation of Fund

34. It shall be the duty of the Board to conserve the Fund by so performing its functions and exercising its powers under this Act as to secure that the total revenues of the Board are sufficient to meet all sums properly chargeable to its revenue account including depreciation and interest on capital taking one year with another.

Cess on oil palm product

35. (1) The Minister may, after consultation with the Minister of Finance, make orders for the imposition, variation or cancellation of a cess on oil palm products produced in or exported from Malaysia and the orders may specify the nature, amount and rate of the cess, *person or class of persons on whom the cess is imposed and the manner of collection of the cess.

(2) Except in so far as may be otherwise provided in any order made under subsection (1), the cess imposed by such order shall, for the purposes of its collection and for the enforcement of the collection thereof, be deemed to be a customs duty under the Customs Act 1967 [*Act 235*].

(3) An order made under this section may prescribe different amounts, rates and manner of collection for different types or grades of oil palm product in relation to different persons or different classes of persons.

*NOTE—Any subsidiary legislation made by the Minister before the commencement of this Act has been declared to have been validly and lawfully made notwithstanding that subsection 35(1) of this Act did not contain the words “person or class of persons”—see subsection 2(2) and sections 3 and 4 of the Malaysian Palm Oil Board (Amendment) Act 2004 [*Act A1222*] providing for validation of subsidiary legislation of repealed Act and validation of cess.

(4) A person who fails or refuses to pay any cess imposed under this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten times the amount of cess due or to imprisonment for a term not exceeding three years or to both.

(5) The amount of any cess imposed under this section shall be a debt due to the Board from the person on whom the cess is imposed and may be sued for and recovered in any court at the suit of the Board.

(6) The institution of proceedings under this section shall not relieve any person from liability for the payment of any cess for which he is or may be liable or from liability to make any return which he is required by this Act to make.

(7) Without prejudice to subsection (5), the court before which a person is convicted for an offence under subsection (4) may order the person to pay to the Board the total amount of cess certified by the finance officer of the Board to be due from the person at the date of the conviction.

(8) Cess payable under subsection (7) shall, for the purpose of its collection, be deemed to be a fine and shall be recovered in accordance with section 283 of the Criminal Procedure Code [Act 593].

Expenditure and preparation of estimates

36. (1) The expenditure of the Board up to such amount as may be authorized by the Minister for any one year shall be defrayed out of the Fund.

(2) Before the beginning of September of each year, the Board shall submit to the Minister an estimate of the expenditure (including the expenditure for research and development activities) 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 Board of the amount authorized for expenditure generally or of the amounts authorized for each description of expenditure.

(3) 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 included in the supplementary estimate.

Statutory Bodies (Accounts and Annual Reports) Act 1980

37. The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Board and any corporation established under this Act.

PART V

OTHER POWERS AND FUNCTIONS OF THE BOARD

Power to borrow

38. The Board may, with the approval of the Minister and the Minister of Finance, borrow, at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise as the Minister and the Minister of Finance may approve, any sums required by the Board for meeting any of its obligations or discharging any of its duties.

Investment

39. (1) The moneys of the Board shall, in so far as they are not required to be expended by the Board under this Act, be invested in such manner as the Minister and the Minister of Finance may approve.

(2) Without prejudice to the generality of subsection (1), the Board may, with the approval of the Minister, acquire and develop land and property for or in connection with the exercise of its powers and for this purpose may enter into such negotiations, arrangements or agreements as may be necessary for generating income required for the operation of the Board.

Commercialization of research findings

40. The Board may make available any research finding vested in the Board to any person or body subject to such conditions and the payment of such fees, royalties or other consideration, if any, as the Board may, with the approval of the Minister, determine for the purpose of its commercialization.

Power to employ agents, etc.

41. The Board may employ and pay agents and technical advisers, including advocates and solicitors, bankers, stockbrokers, surveyors, valuers and other persons, to transact any business or to do any act required to be transacted or done in the performance of its functions, the exercise of its powers or the discharge of its duties or for the better carrying into effect of the purposes of this Act.

Power to grant loans

42. The Board may, with the approval of the Minister and the Minister of Finance, grant loans at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise as the Minister and the Minister of Finance may approve.

Power to establish corporations

43. (1) The Board may, with the approval of the Minister and the Minister of Finance, by order published in the *Gazette*, establish a corporation, by such name as the Board deems fit, to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Board in the performance of its functions, the exercise of its powers or the discharge of its duties.

(2) The provisions of the Second Schedule shall apply to every corporation established by the Board under subsection (1).

PART VI**ENFORCEMENT****Authorization of officers**

44. (1) The Director General may in writing authorize any officer of the Board to exercise the powers of enforcement under this Act.

(2) An officer authorized under subsection (1) when acting under this Act shall, on demand, declare his office, and produce to the

person against whom he is acting or from whom he seeks any information such authority card as the Director General may direct to be carried by such officer.

Power of investigation

45. An authorized officer may investigate the commission of any offence under this Act.

Power of arrest

46. An authorized officer may arrest without warrant any person—

- (a) found committing or attempting to commit or abetting the commission of an offence under this Act; or
- (b) whom the authorized officer reasonably suspects of being engaged in committing or attempting to commit or abetting the commission of an offence under this Act,

if the person refuses or fails to furnish the person's name and address or if there are reasonable grounds for believing that the person has furnished a false name or address or that the person is likely to abscond.

Search by warrant

47. (1) If it appears to a Magistrate, upon written information on oath and after such enquiry as the Magistrate considers necessary, that there is reasonable cause to believe that an offence under this Act or any regulations made under this Act is being or has been committed on any premises, the Magistrate may issue a warrant authorizing any authorized officer named therein to enter the premises at any reasonable time by day or by night, with or without assistance and if need be by force, and there to—

- (a) search for and seize any oil palm product, conveyance, machinery, contrivance, equipment, book, record, document or other article that is reasonably believed to furnish evidence of the commission of such offence;

- (b) take samples of any oil palm product or thing found in the premises for the purposes of ascertaining, by testing or otherwise, whether the offence has been committed; and
- (c) make copies of or take extracts from any book, record, document or other article found in the premises.

(2) An authorized officer entering any premises under this section may take with him such other persons and equipment as may appear to him to be necessary.

(3) An authorized officer may, in the exercise of his powers under this section, if it is necessary so to do,—

- (a) break open any outer or inner door of the premises and enter into the premises;
- (b) forcibly enter the premises and every part of the premises;
- (c) remove by force any obstruction to entry, search, seizure and removal as he is empowered to effect; and
- (d) detain every person found in the premises until the place has been searched.

(4) Where, by reason of its nature, size or amount, it is not practicable to remove any oil palm product, conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this section, the seizing officer shall, by any means, seal such oil palm product, conveyance, machinery, contrivance, equipment, book, record, document or other article in the premises or container in which it is found.

(5) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (4) or removes the oil palm product, conveyance, machinery, contrivance, equipment, book, record, document or other article under seal or attempts to do so shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Search without warrant

48. If an authorized officer in any of the circumstances referred to in section 47 has reasonable cause to believe that by reason of

delay in obtaining a search warrant under that section the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, such officer may enter such premises and exercise in, upon and in respect of the premises all the powers referred to in section 47 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Power to stop and search conveyances

49. (1) If an authorized officer has reasonable cause to suspect that any conveyance is carrying any oil palm product, machinery, contrivance, equipment, book, record, document or any other article in respect of which an offence under this Act or any regulations made under this Act is being or has been committed, he may stop and examine the conveyance and may, if on examination he has reasonable cause to believe that such conveyance is or has been used for the commission of such offence, seize such conveyance and any oil palm product, machinery, contrivance, equipment, book, record, document or other article found in the conveyance that is reasonably believed to furnish evidence of the commission of such offence.

(2) The person in control or in charge of the conveyance shall, if required to do so by the authorized officer—

- (a) stop the conveyance and allow the authorized officer to examine it; and
- (b) open all parts of the conveyance for examination and take all measures necessary to enable or facilitate the carrying out of such examination as the authorized officer considers necessary.

(3) A person who contravenes subsection (2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

List of things seized

50. (1) Except as provided in subsection (2), where any oil palm product, conveyance, machinery, contrivance, equipment, book, record, document or other article is seized under section 47, 48 or

49, the seizing officer shall prepare a list of the things seized and immediately deliver a copy of the list signed by him to—

- (a) where premises have been searched under section 47 or 48, the occupier of the premises which have been searched, or to his agent or servant, at those premises; and
- (b) where a conveyance is seized under section 49, the person in control or in charge of the conveyance.

(2) Where the premises are unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously on the premises.

Power to enter premises

51. Notwithstanding sections 47 and 48, an authorized officer may at any time enter any premises for the purpose of—

- (a) inspecting any oil palm product, conveyance, machinery, contrivance, equipment, book, record, document or other article as he considers necessary;
- (b) verifying the accuracy of records or statements or any information given to an authorized officer or to the Board; or
- (c) collecting samples of any oil palm product.

Temporary return of conveyance, etc.

52. (1) Where any conveyance, machinery, contrivance or equipment is seized under this Act, the court may temporarily return the conveyance, machinery, contrivance or equipment to the owner of the conveyance, machinery, contrivance or equipment or the person from whose possession, custody or control it was seized, subject to such terms and conditions as the court may impose and, subject in any case to sufficient security being furnished to the satisfaction of the court that the conveyance, machinery, contrivance or equipment shall be surrendered to the court on demand and that such terms and conditions, if any, shall be complied with.

(2) Where any seized conveyance, machinery, contrivance or equipment is temporarily returned under subsection (1), a person who—

- (a) fails, on demand, to surrender the conveyance, machinery, contrivance or equipment to the court; or

- (b) contravenes any of the terms or conditions imposed under subsection (1),

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Sale and disposal of seized oil palm product

53. (1) The Director General may at any time direct that any oil palm product seized under this Act be sold and the proceeds of the sale be held while waiting for the result of any prosecution under this Act where—

- (a) the oil palm product is of a perishable nature or easily deteriorates in quality;
- (b) the custody of the oil palm product involves unreasonable expense and inconvenience;
- (c) there is a lack or absence of adequate or proper facilities for the storage of the oil palm product; or
- (d) the oil palm product is believed to cause an obstruction or to be a hazard to the public.

(2) Notwithstanding subsection (1), where an analyst certifies, or if the results of tests as certified by an analyst proves, that the oil palm product tested by him is contaminated, the seizing officer may keep it in custody or, if no prosecution is instituted in respect of the oil palm product, cause it to be disposed of in the manner determined by the Director General.

Seized oil palm product, *etc.*, liable to forfeiture

54. Any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized in exercise of any power conferred under this Act shall be liable to forfeiture.

Property in forfeited oil palm product, *etc.*

55. Any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article forfeited or taken and deemed to be forfeited under this Part shall be the property of the Board.

Forfeiture or release of seized oil palm product, *etc.*

56. (1) If prosecution is instituted with regard to any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act, the court before which the prosecution with regard thereto has been held may order the forfeiture or release of the thing concerned.

(2) The court shall order the forfeiture of the oil palm product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the oil palm product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article was the subject matter of or was used in the commission of the offence, notwithstanding that no person may have been convicted of such offence.

(3) If no prosecution is to be instituted with regard to any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act, the authorized officer in whose custody it is held shall notify the person from whom the oil palm product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article was seized of that fact and of the provisions of section 57.

(4) A notice under subsection (3) shall be in writing and shall be sent to the last known address of the person concerned.

(5) If no claim is made under section 57 within thirty days from the date of service of the notice referred to in subsection (3), the oil palm product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article seized shall be taken and deemed to be forfeited at the expiration of that period.

Claim for seized oil palm product, *etc.*

57. (1) A person who asserts that he is the owner of the oil palm product or the proceeds of sale thereof, or of the conveyance, machinery, contrivance, equipment, book, record, document or

other article referred to in subsection 56(3) and that it is not liable to forfeiture may, personally or by his agent authorized in writing, give written notice to the authorized officer in whose custody it is held that he claims the oil palm product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article.

(2) On receipt of the notice referred to in subsection (1), the authorized officer shall refer the matter to the Director General who may direct that the oil palm product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article be released or may direct the authorized officer, by information in writing, to refer the matter to a Magistrate.

(3) The Magistrate to whom a matter is referred under subsection (2) shall issue a summons requiring the Board and the person asserting that he is the owner of the oil palm product or the proceeds of sale thereof, or of the conveyance, machinery, contrivance, equipment, book, record, document or other article and the person from whom it was seized to appear before the Magistrate and on their appearance or default to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter.

(4) If it is proved that an offence under this Act has been committed and that the oil palm product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article was the subject matter of or was used in the commission of such offence, the Magistrate shall order the oil palm product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article to be forfeited, and shall, in the absence of such proof, order its release.

(5) Any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article forfeited or deemed to be forfeited shall be delivered to the authorized officer and shall be disposed of in accordance with the directions of the Magistrate.

(6) The Board shall not be liable to any person for any deterioration, no matter how arising, in the quality of any oil palm product seized under this Act.

Release of seized oil palm product, etc.

58. Notwithstanding section 57, the Director General or any officer authorized by the Director General may, where he thinks fit, at any time direct that any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Part be released to the person from whose possession, custody or control it was seized.

PART VII**GENERAL****Regulation of oil palm industry**

59. The oil palm industry of Malaysia shall be regulated in accordance with the regulations made under this Act.

Appointment of analysts

60. (1) For the purposes of this Act, the Minister may appoint analysts to examine and test any oil palm product and to certify its condition, type, method of processing, quality, standard and grade.

(2) In any prosecution for an offence under this Act, a certificate of analysis signed by an analyst shall be sufficient evidence of the facts stated in the certificate.

Proportional examination or testing of seized oil palm product

61. (1) Where it is necessary to examine or test any oil palm product seized under this Act, it shall be sufficient to examine or test only a sample not exceeding ten per centum in volume or weight of the oil palm product or of each different type or description of the oil palm product or, if the oil palm product is packed in different packages, of the contents of each package.

(2) The court shall presume that the rest of the type, description or package of the oil palm product conforms in condition, type, method of processing, quality, standard, grade or otherwise to the sample of the oil palm product examined or tested.

Cost of holding seized oil palm product, etc.

62. Where any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act is held in the custody of the Board or the Government pending completion of any proceedings in respect of an offence under this Act, the cost of holding it in custody shall, in the event of any person being found guilty of an offence, be a debt due to the Board or the Government, as the case may be, by such person and shall be recoverable accordingly.

No costs or damages arising from seizure to be recoverable

63. No person shall, in any proceedings before any court in respect of the seizure of any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Additional powers

64. (1) An authorized officer shall, for the purposes of the execution of this Act, have power to do all or any of the following acts:

- (a) to require the production of records, accounts, computerized data and documents and to inspect, examine and copy any of them;
- (b) to require the production of any identification document from any person in relation to any case or offence under this Act;
- (c) to make such enquiry as may be necessary to ascertain whether the provisions of this Act have been complied with.

(2) A person who fails to comply with a request made under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Offence to assault or obstruct authorized officer

65. A person who—

- (a) assaults, obstructs, impedes or interferes with any authorized officer in the performance of his functions under this Act;
- (b) rescues or endeavours to rescue any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act; or
- (c) before or after any seizure causes the disappearance of, or damages or destroys any oil palm product, conveyance, machinery, contrivance, equipment, book, record, document or other article in order to prevent the seizure thereof or the securing of the oil palm product, conveyance, machinery, contrivance, equipment, book, record, document or other article,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Duty to maintain secrecy

66. (1) Except for the purposes of this Act, no person who has access to any record, book, register, correspondence, information, document or other material obtained under this Act shall disclose such record, book, register, correspondence, information, document or other material to any other person.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

False information

67. A person who makes, orally or in writing, signs or furnishes any declaration, return, certificate or other document or information required under this Act which is untrue, inaccurate or misleading in any particular shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Offence by body corporate

68. (1) Where a body corporate commits an offence under this Act, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) where the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed—

- (a) by his employee in the course of his employment;
- (b) by the agent when acting on his behalf; or
- (c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

General penalty

69. (1) A person who is guilty of an offence under this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(2) For the purposes of this section, “this Act” shall not include the regulations made under this Act.

Abetments and attempts punishable as offences

70. (1) A person who abets the commission of or who attempts to commit any offence under this Act shall be guilty of that offence and shall, on conviction, be liable to the punishment provided for the offence.

(2) A person who does any act preparatory to or in furtherance of the commission of any offence under this Act shall be guilty of that offence and shall, on conviction, be liable to the punishment provided for the offence:

Provided that any term of imprisonment imposed shall not exceed one-half of the maximum term provided for the offence.

Compounding of offences

71. (1) The Director General may compound any offence committed by any person under this Act and prescribed to be a compoundable offence by regulations made under this Act by making a written offer to such person to compound the offence upon payment to the Director General of such amount not exceeding fifty per centum of the amount of maximum fine for that offence within such time as may be specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer or within such extended period as the Director General may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(3) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made and any oil palm product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized in connection with the offence may be released or forfeited by the Director General, subject to such terms and conditions as the Director General thinks fit.

Institution and conduct of prosecution

72. (1) No prosecution for or in relation to any offence under this Act shall be instituted without the written consent of the Public Prosecutor.

(2) Any officer of the Board authorized in writing by the Public Prosecutor may conduct the prosecution for any offence under this Act.

Jurisdiction to try offences

73. Notwithstanding any written law to the contrary, a Court of a Magistrate of the First Class shall have jurisdiction to try any offence under this Act and to impose the full punishment for any such offence.

Protection of officers

74. No action or prosecution shall be brought, instituted or maintained in any court against—

- (a) the Director General, Deputy Directors General, or any other officer duly appointed under this Act for or on account of or in respect of any act ordered or done for the purpose of carrying this Act into effect; and
- (b) any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Director General, a Deputy Director General or any other officer duly appointed under this Act if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it.

Rewards

75. The Director General may order such rewards as he thinks fit to be paid to any person for services rendered in connection with the detection of any offence under this Act or in connection with any seizures made under this Act.

Protection of informers

76. (1) Except as provided in subsections (2) and (3), no witness in any civil or criminal proceeding shall be obliged or permitted to disclose the name or address of an informer or the substance of the information received from him or to state any matter which might lead to his discovery.

(2) If any book, record or document which is in evidence or liable to inspection in any civil or criminal proceeding contains any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If on the trial for any offence under this Act or any regulations made under this Act the court after full enquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of the opinion that justice cannot be fully done between the parties in that proceeding without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit enquiry and require full disclosure, concerning the informer.

Power to exempt

77. (1) The Minister may by order published in the *Gazette* exempt any person or class of persons or any oil palm product or other thing from all or any of the provisions of this Act.

(2) The Minister may impose any terms and conditions as he thinks fit on any exemption under subsection (1).

Regulations

78. (1) The Minister may make regulations for all or any of the following purposes:

- (a) prescribing the manner of applying for licences, certificates, permits and approvals under this Act, the particulars to be supplied by an applicant, the manner of licensing and

certification, the fees payable therefor, the conditions to be imposed and the form of licences, certificates, permits and approvals;

- (b) prescribing the standards of processing and methods of preserving, grading or packaging oil palm products;
- (c) prescribing the standards or grades of oil palm products and making provision for giving effect to such standards and grades, including provisions for or relating to labelling;
- (d) prescribing the procedure to be followed by exporters in exporting oil palm products;
- (e) providing for the maintenance of proper standards of conduct in the carrying out of the oil palm product trade and oil palm industry and for dealing with infringements thereof;
- (f) prescribing the practices to be observed or avoided in the oil palm industry;
- (g) providing for the registration of contracts relating to the sale and purchase of oil palm products and the details of such contracts;
- (h) prescribing the procedure to be followed for the administration of the Fund;
- (i) prescribing the offences which may be compounded;
- (j) prescribing the records and documents to be kept and the returns to be submitted;
- (k) prescribing the forms for the purposes of this Act;
- (l) prescribing the fees and charges payable under this Act and the manner for collecting and disbursing such fees;
- (m) providing for the regulation of all or any of the activities of the Board and generally the performance of the functions, the exercise of the powers and the discharge of the duties of the Board under this Act;
- (n) providing for such other matters as are contemplated by, or necessary for giving full effect to, the provisions of this Act and for their due administration.

(2) Regulations made under subsection (1) may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding two hundred and fifty thousand ringgit or imprisonment for a term not exceeding three years or both for such offence.

Validation of acts done in anticipation of Act

79. (1) Subject to subsection (2), all acts and things done by any person in preparation for or in anticipation of this Act and any expenditure incurred in relation thereto shall be deemed to have been authorized under this Act, provided that the acts and things done are not inconsistent with the general intention and purposes of this Act; and all rights and obligations acquired or incurred as a result of the doing of those acts or things including any expenditure incurred in relation thereto shall be deemed to be the rights and obligations of the Board.

(2) Subsection (1) does not extend to authorizing the appointment of members, officers or servants of the Board except in so far as to authorize the temporary appointment of such persons until the proper appointments are made under this Act.

PART VIII

REPEAL, SAVINGS AND TRANSITIONAL

Repeal and dissolution

80. The Palm Oil Registration and Licensing Authority (Incorporation) Act 1976 [*Act 179*] and the Palm Oil Research and Development Act 1979 [*Act 218*] (the “repealed Acts”) are repealed and the Palm Oil Registration and Licensing Authority (the “dissolved Authority”), the Palm Oil Research and Development Board (the “dissolved Board”) and the Palm Oil Research Institute of Malaysia (the “dissolved Institute”) are dissolved.

Transfer of powers, etc.

81. The powers, rights, privileges, liabilities, obligations and duties that before the appointed day were those of the dissolved Authority, the dissolved Board and the dissolved Institute shall devolve as from that day on the Board.

Transfer of property

82. (1) All lands that before the appointed day were vested in, or reserved under any written law relating to land for the purposes of, the dissolved Authority, the dissolved Board and the dissolved Institute shall on that day vest in or be deemed to be reserved for the purposes of the Board.

(2) All property and assets other than land that before the appointed day were vested in the dissolved Authority, the dissolved Board and the dissolved Institute or in any person on behalf of the dissolved Authority, the dissolved Board or the dissolved Institute, as the case may be, shall on that day vest in the Board.

Existing contracts

83. All deeds, bonds, agreements, instruments and working arrangements subsisting before the appointed day and affecting any of the property transferred under section 82 shall have full force and effect against or in favour of the Board and shall be enforceable as fully and effectually as if, instead of the dissolved Authority, the dissolved Board or the dissolved Institute or any person acting on behalf of the dissolved Authority, the dissolved Board or the dissolved Institute, the Board had been named therein or been a party thereto.

Transfer of moneys in funds

84. All moneys standing in or due to be paid to the funds of the dissolved Authority or the dissolved Board established under the repealed Acts shall on the appointed day be transferred to and be deemed to be part of the Fund established under section 32 of this Act.

Membership of dissolved Authority and dissolved Board

85. (1) Notwithstanding anything to the contrary, the members of the dissolved Authority and the dissolved Board and the members of any committee appointed under the repealed Acts who held office before the appointed day shall cease to hold office on that day.

(2) Nothing in subsection (1) shall affect the accountability of the outgoing members of the dissolved Authority and the dissolved Board and as soon as practicable after the appointed day, the dissolved Authority and the dissolved Board shall prepare and submit to the Minister a report including the financial statements required under the respective repealed Acts, but the report shall be limited to the period from 1 January of the relevant year to the day before the appointed day.

(3) Notwithstanding section 80, the dissolved Authority and the dissolved Board shall continue in existence for the purposes of subsection (2).

Continuance of officers and servants

86. The persons who on the appointed day are employed as officers and servants of the dissolved Authority, the dissolved Board or the dissolved Institute under the repealed Acts shall continue to be officers and servants of the Board under this Act as if those persons had been appointed under subsection 21(1) of this Act on the same terms and conditions for a term expiring on the day on which their appointments under the repealed Acts would expire.

Savings for licences and registers

87. (1) Notwithstanding the repeal under section 80 or any provision of this Act to the contrary, every person who, before the appointed day, held a valid licence issued to him under the repealed Acts shall be deemed to be licensed under this Act until the expiry date of the licence and subject to the terms and conditions attached thereto.

(2) Every licence by virtue of which a person is deemed under subsection (1) to be licensed under this Act shall be deemed to have been issued under this Act; and the Board may alter the terms and conditions attached to the licence for the purpose of bringing them into conformity with the policy of the Board regarding the imposition of conditions on licensing under this Act.

(3) The provisions of this Act relating to the cancellation of licences shall apply to all persons deemed under subsection (1) to be licensed under this Act.

(4) If a person deemed to be licensed under this Act under subsection (1) desires to be licensed under this Act after the expiration of the period for which he is deemed to be licensed under this Act, he may apply to the Board for a licence in accordance with the regulations made under this Act, notwithstanding anything to the contrary, and his application shall be made and treated as a fresh application and not as an application for renewal of licence.

(5) All registers kept and maintained under the repealed Acts shall be deemed to be registers kept and maintained under this Act and shall be deemed to form part thereof.

Continuance of pending applications, etc.

88. (1) All applications, approvals or decisions, on appeal or otherwise, pending before the dissolved Authority, the dissolved Board or the dissolved Institute under the repealed Acts shall on the appointed day be dealt with by the Board under this Act.

(2) All applications, approvals or decisions, on appeal or otherwise, pending before the Minister under the repealed Acts shall on the appointed day be dealt with by the Minister under this Act.

(3) All instruments, certificates or documents lodged with the dissolved Authority, the dissolved Board or the dissolved Institute under the repealed Acts before the appointed day shall on the appointed day be lodged with the Board.

Continuance of civil and criminal proceedings

89. (1) Neither the repeal under section 80 nor anything contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the repealed Acts before the appointed day, or any proceedings brought before that day in respect of such offences.

(2) Any proceedings, whether civil or criminal, or cause of action pending or existing before the appointed day by or against the dissolved Authority, the dissolved Board or the dissolved Institute or any person acting on behalf of the dissolved Authority, the dissolved Board or the dissolved Institute may be continued or instituted by or against the Board as it might have been by or against the dissolved Authority, the dissolved Board, the dissolved Institute or such person if this Act had not been enacted.

(3) Any appeal brought or any leave to appeal applied for on or after the appointed day against a decision given before that day in any legal proceedings to which the dissolved Authority, the dissolved Board or the dissolved Institute was a party may be brought by or against the Board.

Reference in law or document to dissolved Authority, dissolved Board and dissolved Institute

90. A reference in any law or document in force before the appointed day to the dissolved Authority, the dissolved Board or the dissolved Institute shall be construed as a reference to the Board.

Continuance of use of name

91. (1) Notwithstanding sections 80 and 90, the Board may continue to use the names “Palm Oil Research Institute of Malaysia” and “PORIM” for the purpose of maintaining goodwill or for any purpose the Board deems fit.

(2) No other person may use the name “Palm Oil Research Institute of Malaysia” or “PORIM” except with the prior written approval of the Board.

(3) A person who contravenes subsection (2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Prevention of anomalies

92. (1) The Minister may, after consultation with the Board, whenever it appears to him necessary or expedient to do so, whether for the purpose of removing difficulties, preventing anomalies or in consequence of the enactment of this Act, by order published in the *Gazette* make such modifications to any provisions in any existing laws as he thinks fit.

(2) The Minister shall not exercise the powers conferred by subsection (1) after the expiration of two years from the appointed day.

FIRST SCHEDULE

[Subsection 3(3)]

Meetings

1. (1) The Board shall meet at least once in every three months at such time and place as may be appointed by the Chairman.

(2) At least fourteen days notice in writing shall be given to the members.

(3) The Chairman shall preside at a meeting of the Board.

(4) The quorum of the Board shall be seven.

(5) Every member of the Board present shall be entitled to one vote.

(6) If on a question to be determined by the Board there is an equality of votes, the Chairman shall have a casting vote.

Allowance

2. Members of the Board shall be paid such allowances as the Minister may determine.

Board may invite others to meetings

3. (1) The Board may invite any person to attend a meeting or deliberation of the Board for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting or deliberation.

(2) A person invited under subparagraph (1) may be paid such fee as the Board may determine.

Common seal

4. (1) The Board 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 deems fit.

(2) Until a seal is provided by the Board, a stamp bearing the words “Malaysian Palm Oil Board” or “Lembaga Minyak Sawit Malaysia” may be used and shall be deemed to be the common seal of the Board.

(3) The common seal shall be kept in the custody of the Director General or such other person as may be authorized by the Board, and shall be authenticated by the Director General or such authorized person or by any officer authorized by either of them in writing; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any 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 any such document or instrument may be executed on behalf of the Board by any officer or servant of the Board generally or specially authorized by the Board in that behalf.

(4) The common seal of the Board shall be officially and judicially noticed.

Disclosure of interest

5. A member of the Board having, directly or indirectly, by himself or his partner, any interest in any company or undertaking with which the Board proposes to make any contract or 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 thereof, and such disclosure shall be recorded in the minutes of the Board and, unless specifically authorized thereto by the Chairman, such member shall take no part in any deliberation or decision of the Board relating to the contract or matter.

Minutes

6. (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.

(3) 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 thereat to have been duly qualified to act.

Validity of acts and proceedings

7. No act done or proceeding taken under this Act shall be questioned on the ground of—

- (a) a vacancy in the membership of, or a defect in the constitution of, the Board;
- (b) the contravention by any member of the Board of the provisions of paragraph 5; or
- (c) an omission, a defect or an irregularity not affecting the merit of the case.

Procedure

8. Subject to this Act, the Board shall determine its own procedure.

Member of Board to devote time to business of Board

9. Every member of the Board shall devote such time to the business of the Board as may be necessary to discharge his duties effectively.

Appointment to be published

10. The appointment of every member and alternate member of the Board shall be published in the *Gazette*.

SECOND SCHEDULE

[Subsection 43(2)]

Power of Board to make regulations in respect of corporation

1. The Board shall, on or before the date on which any corporation is established under section 43, make regulations in respect of such corporation defining—

- (a) the purposes and objects for which the corporation is established;
- (b) the rights, powers, duties and functions of such corporation;
- (c) the system of management thereof; and
- (d) the relations between such corporation and the Board and the Board's rights of control over such corporation.

Limitation on power to establish corporation

2. Nothing in paragraph 1 shall be deemed to authorize the Board to make regulations for any purpose or object more extensive in scope than the purposes or objects for which the Board has been constituted or to confer on any corporation any right, duty, power or function which is not within the rights, duties, powers or functions of the Board under this Act.

Effect of regulations

3. Subject to the provisions of this Act and of any regulations made under section 78, any regulations made under paragraph 1 shall be binding on the corporation in respect of which they were made and shall have effect for all purposes as if they had been enacted in this Act.

Amendment of regulations

4. The Board may at any time amend, revoke or add to any regulations made under paragraph 1 in respect of any corporation.

Register of corporations

5. The Board shall keep a register in the prescribed form of all corporations established by it under section 43 and such register, together with copies of all regulations made under paragraphs 1 and 4, shall be open to public inspection at such place or places and at such time as it may prescribe.

Winding up

6. (1) The Board may, with the approval of the Minister, by order published in the *Gazette*, direct that any corporation established by it be wound up and dissolved.

(2) Upon the dissolution of any corporation under this paragraph, the assets of the corporation after discharging all its liabilities shall be transferred to and shall vest in the Board.

(3) The winding up of a corporation under this paragraph shall be conducted in such manner as the Board may prescribe.

Corporations to be bodies corporate

7. Every corporation established under section 43 shall be a body corporate by such name as the Board shall give to it and shall have perpetual succession and a common seal and may sue and be sued in such name and, for the purpose of carrying into effect the project, scheme or enterprise for which it has been established, may enter into contracts, and may hold and deal in or with any immovable or movable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Act and subject to such restrictions or limitations as may be prescribed by the Board in each case.

Common seal of corporation

8. (1) Every corporation shall have a common seal which shall bear such device as the corporation, with the approval of the Board, may approve and such seal may be broken, changed, altered or made anew as the corporation, with the approval of the Board, deems fit.

(2) Until a seal is provided by the corporation, a stamp bearing the name of the corporation may be used and shall be deemed to be the common seal of the corporation.

(3) The common seal shall be kept in the custody of such person as may be authorized by the corporation, and shall be authenticated by such person; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any 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 corporation; and any such document or instrument may be executed on behalf of the corporation by any officer or servant of the corporation generally or specially authorized by the corporation in that behalf.

(4) The common seal of every corporation shall be officially and judicially noticed.

LAWS OF MALAYSIA**Act 582****MALAYSIAN PALM OIL BOARD ACT 1998****LIST OF AMENDMENTS**

Amending law	Short title	In force from
Act A1222	Malaysian Palm Oil Board (Amendment) Act 2004	02-07-2004

LAWS OF MALAYSIA
Act 582
MALAYSIAN PALM OIL BOARD ACT 1998

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
35	Act A1222	02-07-2004

