

STATE OF SABAH

RUBBER INDUSTRY BOARD ENACTMENT 1981

(Sabah No. 25 of 1981)

RUBBER INDUSTRY BOARD (LICENSING AND PERMITS) REGULATIONS 2015

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In exercise of the powers conferred by section 49 of the Rubber Industry Enactment 1981 [No. 25 of 1981], the Minister makes the following regulations:

PART I
PRELIMINARY

Citation and commencement

1. (1) These regulations may be cited as the Rubber Industry Board (Licensing and Permits) Regulations 2015.
- (2) These Regulations shall come into operation on 16 March 2015.

Interpretation

2. In these Regulations, unless the context otherwise requires -
 - "Board" has the meaning assigned to it in section 2 of the Enactment;
 - "conveyance" has the meaning assigned to it in section 2 of the Enactment;
 - "Enactment" means the Rubber Industry Board Enactment 1981 [No. 25 of 1981];
 - "enforcement officer" means any officer appointed by the Board under section 25D of the Enactment;
 - "estate" means a rubber holding which is more than 40.46 hectares;
 - "export" has the meaning assigned to it in section 2 of the Enactment;
 - "import" means to bring or cause to be brought into Sabah any rubber or raw rubber by land, sea, inland waters or air;
 - "licence" means a licence issued under subregulation 4 (1);
 - "licensee" means a person issued with a licence under subregulation 4 (1);
 - "mobile licence" means a licence issued under regulation 12;

"Panel" means the Licensing and Permit Board established under section 19A of the Enactment;

"permit" means a permit issued under regulation 15;

"premises" includes an container, building or tent or any other structure, permanent or otherwise together with the land on which the building, tent or other structure is situated and any adjoining land used in connection therewith;

"processed rubber" has the meaning assigned to it in section 2 of the Enactment;

"raw rubber" has the meaning assigned to it in section 2 of the Enactment;

"rubber" has the meaning assigned to it in section 2 of the Enactment;

"rubber plant" has the meaning assigned to it in section 2 of the Enactment;

"rubber planting materials" includes rubber seeds, seedling, cuttings, budwood (green and brown), budded plants (including bare root budded stumps, polybag budded plants and core stumps), and any tissues or plant parts that can be propagated or multiplied by any means, including by conventional or biotechnological techniques;

"smallholding" means -

- (a) rubber holding which is less than 40.46 hectares; or
- (b) rubber holding which in aggregate amount less than 40.46 hectares.

PART II LICENCE

Application for licence

3. (1) An application for a licence to carry out any of the activities referred to in section 19C of the Enactment shall be made to the Panel in such form and manner as determined by the Panel together with the non-refundable administrative fee as specified in the Schedule.

(2) Unless otherwise directed by the Panel, a separate application shall be made in respect of -

- (a) each activity referred to in section 19C of the Enactment; and
- (b) each premises used in connection with the activities referred to in section 19C of the Enactment irrespective of whether the premises is administratively or organizationally linked with another premises.

(3) Upon receiving an application under subregulation (1), the Panel may require the applicant to provide further particulars, information or documents.

(4) If any particulars, information or documents required under subregulation (3) is not provided by the applicant within the time specified by the Panel, the application shall be deemed to have been withdrawn without prejudice to a fresh application being made by the applicant.

(5) An application under subregulation (1) may be withdrawn at any time before the issuance of or refusal to issue a licence.

Issuance of licence

4. (1) After considering the application under subregulation 3 (1) and particulars, information or documents under subregulation 3 (3), the Panel may issue or refuse to issue a licence.

(2) Where the Panel decides to issue the licence under subregulation (1), the applicant shall pay the fee as specified in the Schedule before the issuance of the licence.

(3) Where the Panel refuses to issue a licence under subregulation (1), the Panel shall give the applicant a written notice of its decision within thirty days from the date of the decision.

Compliance with conditions imposed on licence

5. (1) The Panel may impose any condition upon issuance of a licence under regulation 4 and may, at any time, amend the conditions imposed.

(2) A licensee shall comply with the conditions imposed on a licence.

(3) A licensee who contravenes subregulation (2) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) Any rubber or raw rubber acquired by the licensee in contravention of subregulation (2) shall be seized and forfeited to the Board.

Renewal of licence

6. (1) A licensee may, within sixty days before the expiry of a licence, apply for renewal of the licence to the Panel in the form and manner as determined by the Panel together with the non-refundable administrative fee as specified in the Schedule.

(2) Without prejudice to the licensee's right to apply for a new licence where an application for renewal is made after the expiry of the licence, the Panel may refuse to renew the licence.

(3) The Panel may, after considering the application under subregulation (1) or (2), renew, with or without conditions, or refuse to renew the licence.

(4) Where the Panel decides to renew the licence under subregulation (1) or (2), the applicant shall pay the fee as specified in the Schedule to the Panel before a licence is renewed.

(5) The Panel may refuse to renew a licence if the Panel is satisfied that -

(a) the licensee has failed to comply with any of the provisions of the Enactment or any regulations made under the Enactment;

(b) the licensee has failed to comply with any of the conditions of the licence; or

- (c) the applicant has submitted any statement, information or document found to be false, irrespective of whether the applicant knows or believes such statement, information or document is false or otherwise.

(6) Where the renewal of licence is refused by the Panel under subregulation (5), the Panel shall give the applicant a written notice of its decision within thirty days from the date of the decision.

(7) An application under subregulation (1) or (2) may be withdrawn at any time before the application is approved or refused.

Validity of licence

7. Every licence issued under regulation 4 or renewed under regulation 6 shall expires on 31 December in the year it is issued.

Suspension and revocation of licence

8. (1) The Panel may require a licensee to provide explanation as to why his or its licence should not be suspended or revoked if the Panel is satisfied that -

- (a) any conditions imposed on a licence has not been complied with or has been contravened;
- (b) the issuance of the licence was induced by a false representation of fact by or on behalf of the licensee;
- (c) the licence has been used or is intended to be used for an unlawful purposes;
- (d) the original purpose for which the licence was issued no longer exists;
- (e) the licensee has contravened or has failed to comply with any provision of the Enactment, any regulations made under the Enactment or any other written law;

- (f) the licensee has ceased to carry on the activity for which the licence was issued;
- (g) the licensee has tarnished the good image of the rubber industry;
- (h) the decision of the Panel or any enforcement officer has not been complied with; or
- (i) there exists any other circumstances to warrant such action.

(2) The Panel may suspend or revoke a licence if the licensee fails to provide the explanation as required under subregulation (1).

(3) if the Panel is not satisfied with the explanation given under subregulation (1), the Panel may suspend the licence for a period of not exceeding six months for the licensee to take corrective action.

(4) If the licensee fails to take the corrective action under subregulation (3), the Panel may revoke the licence after suspension period has expired.

Revocation of licence

9. The Panel shall revoke a licence if -

- (a) the licensee dies;
- (b) the licensee becomes a bankrupt;
- (c) the licensee is of unsound mind or is otherwise incapable of discharging the licensee's duties;
- (d) the licensee is dormant, without undertaking any activity or transaction throughout the validity period of such licence.

Transfer or assignment of licence

10. (1) A licence issued under these Regulations shall not be transferred or assigned to any other person.

(2) A person who contravenes subregulation (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Surrender of licence

11. (1) A licensee may surrender a licence by forwarding the licence to the Panel together with a written notice to that effect.

(2) The surrender shall take effect on the date the Panel receives the licence and the notice referred to in subregulation (1), or if a prospective date of surrender is specified in the notice, on the prospective date.

(3) The surrender of a licence shall be irrevocable unless it is expressed to take effect on a prospective date and the Panel, before that date, by notice in writing to the licensee allows the surrender to be withdrawn.

Mobile licence

12. (1) No person shall purchase or sell rubber or raw rubber unless he holds a mobile licence issued under this regulation and shall pay the fee and the administrative fee as specified in the Schedule.

(2) A licence issued under subregulation (1) shall be valid for the specified conveyance and shall not be transferrable to any other conveyance.

(3) Each conveyance referred to in subregulation (2) shall be separately licenced.

(4) The licence issued for each conveyance shall be restricted to purchase or sell rubber or raw rubber at the location or place specified in the licence.

(5) The licensee is prohibited to purchase or sell rubber or raw rubber exceeding the quantity specified in the mobile licence.

(6) A person who contravenes this regulation commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(7) Any rubber or raw rubber purchase or sell in contravention of this regulation shall be seized and forfeited.

(8) Any rubber or raw rubber forfeited under subregulation (7) shall be the property of the Board.

Display of licence

13. A licensee shall display the licence in a conspicuous place at the premise or conveyance as specified in the licence.

PART III PERMITS

Application for permit

14. (1) An application for a permit to carry out the activities under 19D of the Enactment shall be made to the Panel in such form and manner as determined by the Panel together with the non-refundable administrative fee as specified in the Schedule.

(2) Upon receiving an application under subregulation (1), the Panel may require the applicant to provide further particulars, information or documents.

(3) If any particulars, information or documents required under subregulation (2) is not provided by the applicant within the time specified by the Panel, the application shall be deemed to have been withdrawn without prejudice to a fresh application being made by the applicant.

(4) An application under subregulation (1) may be withdrawn at any time before the issuance of or refusal to issue a permit.

Issuance of permit

15. (1) After considering the application under subregulation 14 (1) and the particulars, information and documents under subregulation 14 (2), the Panel may issue or refuse to issue a permit.

(2) Where the Panel decides to issue the permit, the applicant shall pay the permit fee as specified in the Schedule to the Panel before the issuance of the permit.

(3) The Panel may impose any condition upon issuance of the permit and may, from time to time, amend the conditions imposed.

(4) Where the Panel refuses to issue a permit under subregulation (1), the Panel shall give the applicant a written notice of its decision within thirty days from the date of the decision.

(5) A permit issued under this regulation shall not be transferrable to any other person.

Revocation of permit

16. (1) The Panel may require a permit holder to provide explanation as to why his or its permit should not be revoked if the Panel is satisfied that -

(a) any conditions imposed on the permit has not been complied with or has been contravened;

(b) the grant of the permit was induced by a false representation of facts by or on behalf of the permit holder;

(c) the permit has been used or is intended to be used for an unlawful purpose;

(d) the original purpose for which the permit was issued no longer exists;

- (e) the permit holder has contravened or has failed to comply with any provisions of the Enactment, any regulations made under the Enactment or any other written law;
- (f) the permit holder has ceased to carry on the activity for which the permit was issued;
- (g) the permit holder has tarnished the good image of the rubber industry;
- (h) the decision of the Panel or any enforcement officer has not been complied with; or
- (i) there exists any other circumstances to warrant such action.

(2) The Panel may revoke the permit if the permit holder fails to provide the explanation as required under subregulation (1)

Surrender of permit

17. (1) A permit holder may surrender a permit by forwarding the permit to the Panel together with a written notice to that effect.

(2) The surrender shall take effect on the date the Panel receives the permit and the notice referred to in subregulation (1), or if a prospective date of surrender is specified in the notice, on the prospective date.

(3) The surrender of a permit shall be irrevocable unless it is expressed to take effect on a prospective date and the Panel, before that date, by notice in writing to the permit holder, allows the surrender to be withdrawn.

PART IV
IMPORT, CONVEYANCE, TRANSPORTATION AND RECEIPT OF RUBBER,
RAW RUBBER OR RUBBER PLANTING MATERIALS

Verification of imported rubber or raw rubber

18. Any rubber or raw rubber brought in from outside the state of Sabah shall be physically checked and all import documentation including import permit shall be verified by an enforcement officer at the check point or at the port of entry.

Conveying, transporting and receiving rubber, raw rubber or rubber planting materials

19. (1) No person shall convey, transport or receive rubber or raw rubber without a written authority under regulation 20 unless he is holder of a mobile licence under regulation 12.

(2) No person shall convey, transport or receive rubber planting materials without a written authority under regulation 20.

(3) Any person who contravenes subregulation (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Written authority for conveying, transporting and receiving rubber, raw rubber or rubber planting materials

20. (1) A licensee or owner of rubber, raw rubber or rubber planting materials shall issue a written authority in the form and manner as determine by the Board to accompany every conveyance or transportation of rubber, raw rubber or rubber planting materials.

(2) The written authority under subregulation (1) shall be made in three copies and shall be countersigned by the licensee or forwarding agent or any other person duly authorized by the licensee or owner or forwarding agent to receive the rubber, raw rubber or rubber planting materials for transportation.

(3) The prescribed form shall be obtained from the Board by the payment of the requisite fee as determined by the Board from time to time.

(4) The original copy of the written authority shall be kept by licensee, forwarding agent or buyer taking delivery of the rubber, raw rubber or rubber planting materials, and the duplicate and triplicate copies shall be kept by the owner of the rubber, raw rubber or rubber planting materials at the premises specified in the licence for the purpose of inspection by the enforcement officer.

(5) The owner, licensee, forwarding agent or buyer, as the case may be, shall on demand by an enforcement officer produce his or its respective copy of such written authority for the purpose of inspection.

(6) The owner, licensee or forwarding agent shall not assign the written authority to any other person.

(7) Any person who contravenes this regulation commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

PART V GENERAL

Exemption from licensing and permit

21. (1) Notwithstanding regulation 3, the Board shall be exempted from the requirement of any licence and permit.

(2) Owners of rubber smallholdings and rubber estates registered with the Board shall be exempted from requirement of licence to sell rubber which are produced from the said smallholdings or estates.

Fees

22. The fees payable under these Regulations shall be paid to the Panel by such means and in such manner as the Panel may determine.

Maintenance and submission of records and documents

23. (1) A licensee and a permit holder shall maintain an updated and true records of all transactions and related documents in relation to the licence and permit in the form and manner as determined by the Board.

(2) The records and documents referred to in subregulation (1) shall be in the national language or the English language.

(3) Every licensee and a permit holder referred to in subregulation (1) shall ensure that all records and documents are kept for a period of three years from the date of the last entry or execution of the records and documents.

(4) The records and documents kept shall be made available for inspection by an enforcement officer at the premises specified in the licence and permit.

(5) Every licensee shall submit to the Panel an updated and true quarterly or annual returns particulars or rubber, raw rubber or rubber seedlings produced, purchased or stock held or sold.

(6) A person who contravenes this regulation commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Requirement to furnish information and document

24. (1) The Panel may, by notice in writing require any person to furnish any information or document the Panel deems necessary in such manner as determined by the Board.

(2) A person who -

(a) refuses or neglects to furnish the information or document required; or

(b) knowingly gives any information or document required under subregulation (1) by such notice which is incomplete, false or inaccurate,

commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Register of licence and permit

25. (1) The shall keep and maintain a Register of Licence and Permit.
- (2) Any person may inspect or make a copy of the Register during office hours upon payment of the prescribed fee.

Use or possession of inaccurate, false or unjust weight

26. (1) A licensee shall not use or possess any instrument or device for weighing or measuring which is inaccurate, false or unjust for the purpose of purchasing rubber or raw rubber.
- (2) A licensee who contravenes subregulation (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Possession of rubber without a licence

27. (1) No person shall possess any rubber, raw rubber or rubber planting materials unless he is the owner or occupant of a smallholding or estate, or a person who has acquired rubber, raw rubber or rubber planting materials under a licence issued by the Panel.
- (2) A person who contravenes subregulation (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.
- (3) Any rubber, raw rubber or rubber planting materials possess in contravention of subregulation (1) shall be seized and forfeited.
- (4) Any rubber, raw rubber or rubber planting materials forfeited under subregulation (3) shall be the property of the Board.

General penalty

28. Any person who commits an offence under these Regulations for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Compounding of offences

29. (1) The Panel may compound any offence committed by any person under these Regulations, by making a written offer to such person to compound the offence upon payment to the Panel 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 to compound under subregulation (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) Where the amount specified in the offer to compound under subregulation (1) is not paid within the time specified in the offer or within such extended period as the Panel may grant, prosecution for that offence may be instituted at any time after such period against the person to whom the offer to compound was made.

(4) Where an offence has been compound under subregulation (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 rubber, raw rubber, thing, book, document or other article seized in connection with such offence may be released or forfeited by the Panel, subject to such terms and conditions as may be imposed in accordance with the conditions of the compound.

SCHEDULE (Regulations 3 (1), 4 (2), 6 (1) & (4), 12 (1), 14 (1) and 15 (2) FEES					
No.	Matter	Regulation	Type	Activity/Purpose	Fees
1.	Application for new licence or renewal of licence	Subregulation 3 (1) Subregulation 4 (2) Subregulation 6 (4)	Licence A	Licence to buy, sell & store rubber or raw rubber	Licence fee RM500.00 per year and administrative fee RM50.00
		Subregulation 3 (1) Subregulation 4 (2) Subregulation 6 (4)	Licence B	Licence to export rubber or raw rubber	Licence fee RM500.00 per year and administrative fee RM50.00
		Subregulation 3 (1) Subregulation 4 (2) Subregulation 6 (4)	Licence C	Licence to treat/pack/process rubber or raw rubber	Licence fee RM1,000.00 per year and administrative fee RM50.00
		Subregulation 12 (1)	Licence D	Mobile Licence to buy and sell rubber	Licence fee RM400.00 per year and administrative fee RM50.00
		Subregulation 3 (1) Subregulation 4 (2) Subregulation 6 (4)	Licence E	Licence to buy and store rubber or raw rubber for manufacture of rubber products	Licence fee RM500.00 per year and administrative fee RM50.00

No.	Matter	Regulation	Type	Activity/Purpose	Fees
		Subregulation 3 (1) Subregulation 4 (2) Subregulation 6 (4)	Licence F	Licence to germinate, grow, plant or transplant, buy, store and sell rubber planting materials for commercial purposes	Licence fee RM500.00 per year and administrative fee RM50.00 per application
2.	Licence deposit	Subregulation 6 (1)	Licence A, B, C, E and F	Application for new Licence A, B, C, E and F	RM5,000.00 per each new application
		Subregulation 6 (1)	Licence D	Application for new Licence D	RM2,500.00 per each new application
3.	Import permit	Subregulation 14 (1) Subregulation 15 (2)	Permit T1	Permit to import	Permit fee RM100.00 per shipment and administrative fee RM10.00 per application

Licence Deposit is for first application only and is refundable on surrender of licence.

Administrative fee is non-refundable.