

# STATE OF SABAH

## RUBBER INDUSTRY BOARD ENACTMENT 1981 (No. 25 of 1981)

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**LIST OF AMENDMENTS**

<i>Enactment no.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
41/1981	26 (1), 42, 46	01-12-1981
2/1987	47, 48	16-04-1987
3/2000	Long title ("Industry" substituted for "Fund"), 1 (1), 2, 3 (1), (2)	07-03-2000
2/2004	2 (definitions of "raw rubber, "selling price of Standard Malaysian Rubber 20 (SMR 20)", 25A, 26 (1) (b)	14-11-2012
8/2012	2 (definitions of "conveyance", enforcement officer", "export", "processed rubber", "raw rubber", 4 (1) (d), 25 marginal notes, (1), (2), (3), (4), 25A, 25B, 25C, PART VA, 25D, 25E, 25F, 25G, 25H, 25I, 25J, 25K, 25L, 25M, 25N, 44, 46, 46A, 46B, 47, 48, 49, 49A	22-11-2012
5/2013	2 (definition of "functions"), PART V, 24A, PART VA, PART VB, 25 (1), (2), 25A (1), (2), (3), 25B (4), (a), (b), 25C (1), (2), 25EA, 25GA, 25H (3), 25IA, 25IB, 25IC, 26 (1) (ba), 49B, 49C	15-12-2013

8/2014

2 (definition of "Panel"), 4 (1) 01-01-2015  
(c), PART IIIA, 19A, 19B,  
19C, 19D, 24 (ea), (eb), 24A  
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26 (1) (da), 50 (1), (2)  
("Ordinances" substituted for  
"Ordinance"), (h), (i), (j),

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An Enactment to repeal and re-enact the law relating to the establishment of a Rubber Industry Board and provide for matters incidental thereto and connected therewith so as to make better provisions respecting the constitution, administration, procedure, functions and finance of the Rubber Industry Board.

[1st December 1981]

ENACTED by the Legislature of the State of Sabah as follows:

PART I  
PRELIMINARY

**Short title and commencement**

1. (1) This Enactment may be cited as the Rubber Industry Board Enactment 1981 and shall come into operation on such date as the Minister may, by notice in the *Gazette*,\* appoint.

(2) The Minister may appoint different dates for the coming into operation of different parts or provisions of the Enactment.

**Interpretation**

2. In this Enactment, unless the context otherwise requires –

"Board" means the Rubber Industry Board constituted under section 3;

"Chairman" means Chairman of the Board;

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

"Deputy Chairman" means Deputy Chairman of the Board;

"enforcement officer" means any officer appointed by the Board under section 25D;

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\* In force 1st December 1981 - see G.N. 1008/81

"export" means to take or cause to be taken out of Sabah any rubber or raw rubber by land, sea, inland waters or air;

"General Manager" means the General Manager appointed under section 20 of the Enactment and includes any person for the time being so appointed to perform the duties of the General Manager;

"member" means a member of the Board including the Chairman and Deputy Chairman;

"Minister" means the Minister for the time being charged with responsibility for matters relating to agriculture;

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

"processed rubber" means rubber that has undergone processing operations that transform raw rubber into finished goods or products and includes Standard Malaysian Rubber (SMR), Technically Specified Rubber (TSR), Latex Concentrate, Specialty Rubbers, Superior Processing Rubber, Rubber Products, vulcanisates, Purified Rubber – DPNR, Oil extended Rubber – OENR and peptized rubber;

"raw rubber" means any form of natural rubber in its original form derived from any rubber plant which has not been processed in one way or another into Standard Malaysian Rubber (SMR) or Technically Specified Rubber or Latex Concentrate or Specialty Rubber or Superior Processing Rubber or Purified Rubber – DPNR or Oil extended Rubber – OENR or peptized rubber or Rubber Products and includes materials such as field latex, unsmoked rubber sheets, cuplumps, scrap, rubber slabs, latex crepe, brown crepe, unsmoked blanket crepe, air dried sheets, air-dried crepe, pale/white crepe, combo crepe, rubber earth scrap, flat bark crepe and coagulums;

"rubber" includes rubber prepared from the leaves, bark or latex of any rubber plant and the latex of any rubber plant whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into rubber, and latex in any state of concentration and also all articles and things manufactured wholly or partly of rubber;



"rubber plant" includes plants, trees and shrubs of vines of any of the following –

- (a) Hevea Braziliensis (Para Rubber)
- (b) Manihot Glaziovii (Ceara Rubber)
- (c) Castilloa elastica
- (d) Ficus elastica (Rambong)
- (e) Any other plant which the Yang di-Pertua Negeri may declare to be a rubber plant;

"selling price of Standard Malaysian Rubber 20 (SMR 20)" means the daily noon price of SMR 20 fixed by the Malaysian Rubber Board.

## PART II ESTABLISHMENT AND CONSTITUTION OF BOARD

### **Establishment of Board**

3. (1) As from the commencement of this Enactment, there shall be constituted "the Rubber Industry Board" which shall be a body corporate with perpetual succession, capable of suing and being sued in its corporate name and with power to purchase or otherwise acquire, hold, and exchange or alienate or otherwise deal with in any lawful manner whatsoever, any property movable and immovable, and to enter into contracts and generally to do such acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its objects and the exercise of its powers as set out in this Enactment.

(2) The Board shall have a common seal which shall bear such device as the Board may approve and such seal may from time to time be broken, changed, altered and made anew by the Board, as the Board may think fit.

(3) Until a common seal is provided under subsection (2), a stamp bearing the inscription "The Rubber Industry Board" may be used as the common seal of the Board.

### Composition of Board

4. (1) The Board shall consist of the following members –
- (a) a Chairman;
  - (b) a Deputy Chairman;
  - (c) three *ex-officio* members who shall be the persons for the time being holding the offices of the Permanent Secretary of the Ministry of Finance, Permanent Secretary of the Ministry of Agriculture and Food Industries and the Director of Agriculture;
  - (d) not more than five other members who shall be persons engaged in the production or marketing of rubber; and
  - (e) the person for the time being holding the office of the General Manager:

Provided that the General Manager shall not be entitled to vote at the meeting of the Board.

(2) The members as specified in paragraphs (a), (b) and (d) of subsection (1) shall be appointed by the Yang di-Pertua Negeri.

(3) An *ex-officio* member may by instrument in writing addressed to the Chairman appoint another officer in the public service of the State as an alternate member who may attend on his behalf any meeting of the Board which such member is for any reason unable to attend and such alternate member when attending such meeting shall for all purposes be deemed to be a member of the Board.

(4) Subject to the provisions of section 7 of this Enactment, a member other than an *ex-officio* member and the General Manager shall hold office for a period of three years from the date of his appointment, and shall be eligible for re-appointment.

### Resignation and revocation

5. (1) A member, other than an *ex-officio* member and the General Manager, may at any time resign his office by giving notice in writing to the Chairman.

(2) The appointment of a member may at any time be revoked by the Yang di-Pertua Negeri if he thinks it expedient to do so.

**Disqualification from membership**

6. The following persons shall be disqualified from being appointed as or, if appointed, remaining a member -

- (a) a person who is of unsound mind or otherwise incapable of performing his duties or managing his affairs;
- (b) a person who is prohibited from being a director of a company under the provisions of any written law relating to companies;
- (c) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude; and
- (d) a bankrupt.

**Vacation of office**

7. The office of a member, other than an *ex-officio* member and the General Manager, shall become vacant –

- (a) on his death;
- (b) if he is absent from three consecutive meetings of the Board without the special leave of the Chairman or leave of absence granted under this Enactment and the Board passes a resolution declaring his office vacant;
- (c) if he resigns his office;
- (d) if he becomes disqualified for membership under section 6 of this Enactment;
- (e) if his appointment is revoked by the Yang di-Pertua Negeri.

### **Leave of absence**

8. The Minister may grant to any member such leave of absence as the Minister may deem fit.

### **Casual vacancies and temporary membership**

9. (1) If the office of a member, other than an *ex-officio* member and the General Manager, becomes vacant, the Yang di-Pertua Negeri may appoint another suitably qualified person to fill such vacancy for so long only as the member in whose place he is appointed would have held office.

(2) Where any member, other than an *ex-officio* member and the General Manager, is prevented by illness, absence from the State or other like cause from performing his duties as a member the Yang di-Pertua Negeri may appoint any suitably qualified person to act as deputy for such member during such period as he is so prevented from performing his duties.

### **Remuneration of members of Board**

10. There shall be paid to the members or to such of them as the Minister may determine, such salaries, fees and allowances out of the funds of the Board as the Minister may from time to time approve.

## **PART III PROCEDURE OF BOARD**

### **Meetings**

11. (1) The Board shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Chairman may determine:

Provided that the Chairman shall not allow more than three months to elapse between such meetings.

(2) Where not less than three members, by notice in writing signed by them and addressed to the Chairman, request that a meeting of the Board be held for any purpose specified in such notice the Chairman shall, within seven days of the receipt by him of such notice, convene a meeting accordingly.

### **Procedure of meetings**

**12.** (1) The quorum necessary for the transaction of the business of the Board shall be five.

(2) In the absence of the Chairman from any meeting of the Board, the Deputy Chairman shall preside thereat, and, in the absence of both the Chairman and the Deputy Chairman, the members present shall elect one of their number to preside thereat.

(3) Questions arising at any meeting of the Board shall be decided by the votes of the majority of those present and voting thereon and in the case of an equality of votes the Chairman or other person presiding at such meeting shall have a second or casting vote.

(4) Subject to the provisions of this Part, the Board shall have power to make standing orders to regulate its own proceedings.

### **Members interested not to vote**

**13.** (1) Any member who has or acquires, directly or indirectly by himself, his partner or agent –

(a) any share or interest in any contract made with or work done for the Board or in any company or with any person or in respect of any undertaking with which the Board proposes to contract; or

(b) any beneficial interest in land proposed to be acquired, purchased, leased or otherwise dealt with by the Board or which he knows to be affected or to be likely to be enterprise approved or proposed to be approved by the Board,

shall, before taking part in any proceedings at a meeting of the Board, relating to or affecting directly or indirectly any such contract or land, inform the person presiding at such meeting of

the nature and extent of such share or interest, and such information shall be recorded in the minutes of such meeting, and such member shall not vote upon any resolution or question relating thereto, or to matters incidental thereto and if the person presiding at the meeting so requests, such member shall withdraw from the meeting during such deliberation or decision:

Provided that no member shall be deemed to have or acquire any share or interest in a contract with the Board by reason only that he has or acquires a share in any loan issued by the Board or in any security for the same:

Provided further that for the purpose of determining whether there is a quorum a member who attends the meeting shall be treated as being present notwithstanding that, under the provisions of this section, he may not vote or has withdrawn.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand ringgit and imprisonment for six months.

#### **Power to appoint committee**

14. (1) Subject to the provisions of this Enactment, the Board may, for any general or special purpose, appoint such committees as it thinks desirable.

(2) A committee may do all such things as may be necessary for the effective carrying out of its functions but shall be subject to the general directions of the Board.

(3) A committee shall consist of a Chairman and not more than five other persons.

(4) A committee may consist of persons who are not members of the Board.

(5) Members of a committee may be paid such remuneration or allowance as the Board may, with the approval of the Minister, determine.

#### **Meetings of a committee**

15. (1) In the absence of the Chairman of a committee from any meeting of the committee such other member of the committee as may be elected by the members present shall preside over the meeting.

(2) The quorum for the meeting of a committee shall be three.

(3) Any question to be determined at any meeting of a committee shall be decided by the votes of the majority of those present and voting thereon, and in case of an equality of votes the person presiding shall have a second or casting vote.

(4) A committee may invite to any of its meetings any person who can in its opinion contribute to its deliberations but such a person shall have no right to vote at the meetings.

(5) Subject to this section and the directions of the Board, a committee shall regulate its own procedure.

#### **Delegation of powers**

16. (1) The Board may delegate to any committee, member, officer or servant of the Board, such of its functions as it may deem necessary or desirable.

(2) Any functions delegated under this section –

(a) may be so delegated subject to such conditions or restrictions as the Board may either generally or specially impose;

(b) shall be exercised by the committee, member, officer or servant concerned in the name and on behalf of the Board.

(3) No delegation made under this section shall preclude the Board itself from exercising or performing at any time any of the functions so delegated.

#### **Power of Chairman to delegate**

17. (1) Subject to the provisions of this enactment and of any regulations made thereunder, the Chairman may delegate in writing to any member, officer or servant of the Board the power and authority to carry out on his behalf such duties, powers or functions as he may determine.

(2) The Chairman may at the time of delegating any power or authority under subsection (1) to any member, officer, servant, or at any time thereafter give directions as to

the manner in which such delegated power or authority is to be exercised and may at any time revoke, modify or increase such delegation.

**Execution of documents, etc.**

**18.** (1) The common seal of the Board shall be in the custody of the Chairman and shall not be used except in the presence of the Chairman or Deputy Chairman and one member and such use shall be authenticated by the signatures of such persons and such authentication shall be sufficient evidence that such seal was duly and properly fixed and that it is the lawful seal of the Board.

(2) All documents, other than those required by law to be under seal, to which the Board is a party may be signed on behalf of the Board by the Chairman or any member or by any officer or servant generally or specially authorised in that behalf by the Board.

**Vacancy not to invalidate acts, etc.**

**19.** (1) No act or proceeding of the Board or any committee thereof shall be questioned on account of any vacancy among the members or on account of the appointment of any member having been defective.

(2) Until the contrary is proved every meeting of the Board or of any committee thereof shall be deemed to have been duly convened and held and all members present thereat shall be deemed to have been duly qualified.

(3) A statement in any document to the effect that any function has been delegated under this Part shall, unless the contrary is proved, be evidence that such delegation has been lawfully made.

PART IIIA  
ESTABLISHMENT OF A PANEL

**Establishment of a Panel**

**19A.** (1) A Panel to be called the "Licensing and Permit Panel" is established for the purpose of this Enactment.



- (2) The Panel shall consist of the following members:
- (a) the Permanent Secretary of the Ministry of Agriculture and Food Industries as Chairman;
  - (b) the Permanent Secretary of the Ministry of Finance or his representative;
  - (c) the Permanent Secretary of the Ministry of Local Government and Housing or his representative;
  - (d) the Permanent Secretary of the Ministry of Industrial Development or his representative; and
  - (e) the General Manager.

**Panel to issue licence and permit**

**19B.** The Panel shall have the power to issue licence or permit for any activity referred to in sections 19C and 19D on such terms and conditions as the Panel thinks fit and in accordance with regulations made under this Enactment.

**Activities to be licenced**

- 19C.** (1) No person shall –
- (a) buy, store, sell, process or pack, or export rubber or raw rubber;
  - (b) buy and store rubber or raw rubber for the manufacture of rubber products; or
  - (c) buy, store or sell, or germinate, grow, plant or transplant rubber planting materials for commercial purposes,

unless he holds a licence.

(2) A person who contravenes subsection (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.

(3) Any rubber or raw rubber acquired in contravention of subsection (1) shall be seized and forfeited.

(4) Any rubber or raw rubber forfeited under subsection (3) shall be the property of the Board.

#### **Activities requiring permit**

**19D.** (1) No person shall –

- (a) in the case of a smallholder or rubber plantation operator, sell rubber or raw rubber unless he holds a permit; and
- (b) import rubber or raw rubber consignments unless whether “that” person holds an import permit.

(2) Any person who contravenes paragraph (1) (a) commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

(3) Any person who contravenes paragraph (1) (b) 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 IV ADMINISTRATION

#### **Appointment of General Manager, officers and servants**

**20.** Subject to section 21, the Board shall appoint a General Manager with the approval of the Minister, and such other officers and servants as may be necessary for carrying out its functions and duties under the Enactment.

(2) Whenever the General Manager is prevented by illness, absence from the State, or other like cause from performing his duties as such, or when the office of General Manager is vacant, the Board may appoint one of its officers to perform the duties of General

Manager during such period as the General Manager is so prevented from performing his duties or the said office is vacant.

(3) Subject to the approval of the Government, the General Manager and other officers and servants of the Board shall be engaged on such terms and conditions as the Board may think fit.

**Restriction on alterations in establishment.**

21. The Board shall not, without the approval of the Government, make any addition to its established posts.

**General Manager as chief executive officer**

22. (1) The General Manager shall be the chief executive officer responsible to the Board and shall perform such duties and exercise such powers as may be determined or delegated by the Board.

(2) Subject to the directions and control of the Board, all officers and servants of the Board shall be under the administrative control of the General Manager.

**Officer or servant not to be interested in contracts**

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

(2) Any officer or servant of the Board who has or acquires any such share or interest shall be liable in the discretion of the Board to summary dismissal without notice.

(3) No officer or servant shall be deemed to have or acquire any such share or interest by reason only that –

- (a) he is or becomes a member of an incorporated company which owns land situated in Sabah or has a contract with or executes work for the Board;
- or

- (b) he has or acquires a share in any loan, issued by the Board or in any security for the same.

PART V  
FUNCTIONS AND POWERS OF THE AUTHORITY

**Duties of the Board**

24. It shall be the duty of the Board –
- (a) to promote, by such means or the provisions of such services as the Board may deem desirable, better conditions for the producers of rubber;
  - (b) to promote the increase of production and the improvement of the quality of rubber, through conservation or proper utilisation of natural resources;
  - (c) to provide any other service which in the opinion of the Board is calculated to promote the welfare of the rubber industry or the more economic production, inspection, grading, preparation or marketing of rubber;
  - (d) to control, manage and administer the Fund established in respect of the Board and for the purpose to hold the moneys, property and investments of such Fund;
  - (e) to undertake the development of such agricultural produce other than rubber as may be approved by the Minister;
  - (ea) to regulate and monitor the trade in, the processing, manufacturing and distribution of raw rubber (supply, sale, purchase, movement, transport, storage, export and import) including licensing and registration;
  - (eb) to regulate and control the sale and distribution of rubber planting materials and setting up of rubber planting materials nurseries including licensing and registration;
  - (f) to do all lawful acts incidental to the carrying out of the objects and duties of the Board.

### **Powers of the Board**

**24A.** (1) The Board shall have the power to do all things expedient or reasonably necessary for or incidental to the carrying out of its functions.

(2) Without prejudice to the generality of subsection (1), the powers of the Board shall include power –

- (a) to collect or cause to be collected money due to the Fund;
- (b) to appoint such agents, experts or any other person to do any act required to be done in the execution of its functions or the better carrying into effect of the purposes of this Enactment;
  - (ba) to issue and impose fees for licences or any other related charges for any of its services;
  - (bb) to gather information and maintain records of all relevant matters relating to rubber industry in Sabah;
  - (bc) to carry on all activities, particularly activities which are commercial in nature the carrying on of which appears to it to be requisite, advantageous or convenient for or in connection with the performance of its functions; and
- (c) to do such other things as it deems fit to enable the Board to perform its functions effectively or which are incidental to the performance of its functions.

### **PART VA CESS**

#### **Imposition of cess on rubber**

**25.** (1) The Yang di-Pertua Negeri, on recommendation of the Board, may from time to time, by order published in the *Gazette*, impose a cess at a rate not exceeding two and one-

fifth cents per kilogramme on all rubber exported from Sabah with effect from a date specified in such order.

(2) No rubber produced in Sabah shall be exported from Sabah unless the cess has been paid in respect of such rubber and any person who exports or attempts to export any such rubber from Sabah in contravention of this subsection commits an offence.

**Imposition of cess on raw rubber**

**25A.** (1) The Yang di-Pertua Negeri, on recommendation of the Board, may from time to time, by order published in the *Gazette*, impose a cess on raw rubber at a rate of ten percentage of the selling price of Standard Malaysian Rubber 20 (SMR 20) per kilogramme on all raw rubber exported from Sabah with effect from a date specified in such order.

(2) Notwithstanding subsection (1), the cess imposed under section 25 shall apply to all raw rubber exported under this section.

(3) No raw rubber produced in Sabah shall be exported from Sabah unless the cess has been paid in respect of such raw rubber and any person who exports or attempts to export any such raw rubber from Sabah in contravention of this subsection commits an offence

**Matters related to cess imposed under sections 25 and 25A**

**25B.** (1) An order made under sections 25 and 25A may prescribe different amounts, rates and manner of collection for different types or grades of rubber.

(2) The amount of any cess imposed under sections 25 and 25A 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.

(3) The institution of proceedings under sections 25 and 25A 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 Enactment to make.

(4) Any person or body corporate who commits an offence –

- (a) under section 25 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;
- (b) under section 25A shall, on conviction, be liable to a fine equivalent to five times of the sale value of raw rubber based on the selling price of SMR 20 at the time of export from Sabah or to imprisonment for a term not exceeding three years and such raw rubber shall be forfeited and disposed of by the Board.

### **Presumption**

**25C.** Where any rubber or raw rubber is found in the state it shall be presumed unless the contrary is proved that such rubber or raw rubber has been produced in Sabah.

## PART VB ENFORCEMENT

### **Appointment of enforcement officer**

**25D.** The Board shall appoint such number of officers of the Board or any public officer to be enforcement officers as it may consider necessary for the proper carrying out of this Enactment.

### **Authority card**

**25E.** (1) The Board shall issue to each enforcement officer an authority card.

(2) Whenever such officer exercises any of the powers under this Enactment, he shall, on demand produce to the person against whom the power is being exercised the authority card issued to him under subsection (1).

(3) No person shall impersonate an enforcement officer.

(4) Any person who impersonate as an enforcement officer commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to an imprisonment for a term not exceeding one year or to both

**Access to premises, containers or conveyance**

**25EA.** (1) An enforcement officer shall for the purposes of this Enactment at all times have full and free access to any premises, containers or conveyance where any person carries on his business.

(2) Where an enforcement officer exercises his powers under subsection (1), the person who carries on his business or any other person present at the premises, containers or conveyance at that time of entry shall provide to him all reasonable facilities and assistance for the exercise of his duties under this section.

(3) Where an enforcement officer enters upon any premises, containers or conveyance in accordance with this section, he may –

- (a) require any person to produce any rubber, raw rubber, thing, book, document or other article which relates to the person's business;
- (b) examine any rubber, raw rubber, thing, book, document or other article;
- (c) seize and detain any rubber, raw rubber, thing, book, document or other article if in his opinion it may afford evidence of the commission of any offence under this Enactment;
- (d) require the person to answer any question relating to any rubber, raw rubber, thing, book, document or other article;
- (e) require any envelope or other receptacle in the premises, containers or conveyance to be opened;
- (f) at the risk and expense of the owner of the business, open and examine any package, or any goods or material in the premises, containers or conveyance; or
- (g) take samples of any goods or material and make copies or extracts of any document, if he deems necessary.



(4) Where an enforcement officer is unable to obtain full and free access to the premises, containers or conveyance under subsection (1) or to any receptacle contained therein, he may, at any time, enter the premises, containers or conveyance and open the receptacle by force, if necessary.

(5) An enforcement officer may require at the risk and expense of the person to deliver to the enforcement officer any rubber, raw rubber, thing, book, document, envelope or other receptacle, package, or any goods or material or other article.

(6) Any person who refuses to permit any enforcement officer to enter upon any premises, containers or conveyance in accordance with this section 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.

#### **Power of arrest**

**25EB.** (1) An enforcement officer may arrest without warrant any person whom he reasonably believes has committed or is attempting to commit an offence under this Enactment.

(2) An enforcement officer making an arrest under subsection (1) shall, without unnecessary delay, bring the person arrested to the nearest police station, and thereafter the person shall be dealt with according to the law relating to criminal procedure for the time being in force.

#### **Search and seizure with warrant**

**25F.** (1) If it appears to a Magistrate, upon written information on oath and after such inquiry as he considers necessary, that there is reasonable cause to believe that any premises or container has been used or is about to be used for, or there is in or on any premises or container, evidence necessary to establish the commission of an offence under this Enactment, the Magistrate may issue a warrant authorising an enforcement officer to whom it is directed, at any reasonable time by day or night and with or without assistance –

- (a) to enter any premises or container and search for, seize and detain any rubber, raw rubber, thing, book, document or other article;

- (b) take samples of any rubber, raw rubber or thing found in the premises or container for the purpose of ascertaining, by testing or otherwise, whether an offence has been committed;
  - (c) to make copies of or take extracts from any book, document or other article so seized and detained;
  - (d) to take possession of, and remove from the premises or container any rubber, raw rubber, thing, book, document or other article so seized and detain it for such period as may be necessary;
  - (e) to search any person who is in, or on, such premises or container and for the purpose of the search, detain the person and remove him to such place as may be necessary to facilitate the search, and seize and detain any property or document found on the person; or
  - (f) to examine and search any rubber, raw rubber, thing, book, document or other article.
- (2) An enforcement officer acting under subsection (1) may, if it is necessary to do so –
- (a) break open any outer or inner door of any premises or container and enter the premises or container;
  - (b) forcibly enter any premises or container and every part thereof;
  - (c) remove by force any obstruction to the entry, search, seizure, detention or removal that he is empowered to effect; or
  - (d) detain any person found on any premises or container searched under subsection (1) until the search is completed.
- (3) If, by reason of its nature, size or amount, it is not practicable to remove any rubber, raw rubber, thing, book, document or other article seized under this section, the enforcement officer making the seizure shall, by any means, seal such rubber, raw rubber, thing, book, document or other article in the premises or container in which it is found.

(4) Any person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3) or removes the rubber, raw rubber, thing, book, document or other article under seal or attempts to do so commits 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.

#### **Search and seizure without warrant**

**25G.** If an enforcement officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under subsection 25F(1) the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the enforcement officer may enter the premises or container and exercise in, upon and in respect of the premises or container all the powers referred to in section 25F in as full and ample a manner as if he were authorised to do so by a warrant issued under that section.

#### **Power to inspect**

**25GA.** (1) An enforcement officer may, for the purpose of carrying out the object of this Enactment, at all reasonable times enter, inspect and examine any premises or container.

- (2) In exercising his powers under subsection (1), an enforcement officer may –
- (a) make examination and investigation of any rubber, raw rubber, thing, book, document or other article as may be necessary to ascertain whether or not the provisions of this Enactment have been complied with;
  - (b) direct that the premises, container, or any part thereof, or anything therein, shall be left undisturbed, whether generally or in particular respects, for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (a); and
  - (c) make copies of or take extracts from any book, document or other article found in the premises or container.

**Power to stop, search and seize conveyance**

**25H.** (1) If an enforcement officer has a reasonable cause to suspect that any conveyance is carrying rubber, raw rubber, thing, book, document or other article in respect of which an offence under this Enactment 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 rubber, raw rubber, thing, book, 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 enforcement officer –

- (a) stop the conveyance and allow the enforcement 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 enforcement officer considers necessary.

(3) Any person who contravenes subsection (2) commits an offence.

**Power to require attendance of persons acquainted with case**

**25I.** (1) The enforcement officer making an investigation under this Enactment may, by order in writing, require the attendance before himself of any person who appears to him to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If any such person refuses to attend as required by an order made under subsection (1), the enforcement officer may report his refusal to a Magistrate who shall issue a warrant to secure the attendance of such person as may be required by the order.

**Examination of persons acquainted with case**

**25IA.** (1) An enforcement officer making an investigation under this Enactment may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) Such person shall be bound to answer all questions relating to such case put to him by the enforcement officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) The enforcement officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, wherever possible, be reduced into writing and signed by the person making it or affixed with his thumb print, as the case may be, after –

- (a) it has been read to him in the language in which he made it; and
- (b) he has been given an opportunity to make any correction he may wish.

**Admissibility of statements in evidence**

**25IB.** (1) Except as provided in this section, no statement made by any person to an enforcement officer in the course of an investigation made under this Enactment shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to the enforcement officer in the course of the investigation under this Enactment and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to the making or the contents of any statement made by him to the enforcement officer in the course of an investigation made under this Enactment, that statement may be used as evidence in the prosecution's case.

#### **Access to computerized data**

**25IC.** (1) An enforcement officer conducting a search under this Enactment shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purpose of this section, "access" –

(a) includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerized data; and

(b) has the same meaning assigned to it in subsections 2(2) and (5) of the Computer Crimes Act 1997 [Act 563].

#### **Forfeiture of seized rubber, etc.**

**25J.** (1) Any rubber, raw rubber, thing, book, document or other article seized in exercise of any power conferred under this Enactment shall be liable to forfeiture.

(2) An order for the forfeiture of the rubber, raw rubber, thing, book, document or other article, shall be made if it is proved to the satisfaction of the court that an offence under this Enactment has been committed and that the rubber, raw rubber, thing, book, document or other article was the subject matter of or was used in the commission of the offence, even though no person has been convicted of such offence.

(3) If there is no prosecution with regard to any rubber, raw rubber, thing, book, document or other article seized under this Enactment, such rubber, raw rubber, thing, book, document or other article shall be taken and deemed to be forfeited at the expiration of a period of one calendar month from the date of service of the notice to the last known address of the person from whom the rubber, raw rubber, thing, book, document or other article was seized.

(4) The notice referred to in subsection (3) shall indicate that there is no prosecution in respect of such rubber, raw rubber, thing, book, document or other article unless before that date a claim thereto is made in the manner set out in subsections (5), (6) and (7).

(5) Any person asserting that he is the owner of the rubber, raw rubber, thing, book, document or other article referred to in subsection (3) and that it is not liable to forfeiture may personally or by his agent authorised in writing, given written notice to the enforcement officer in whose possession such rubber, raw rubber, thing, book, document or other article is held that he claims the rubber, raw rubber, thing, book, document or other article.

(6) On receipt of the notice referred to in subsection (4), the enforcement officer shall refer the claim to a Magistrate.

(7) The Magistrate to whom a matter is referred under subsection (5) shall issue a summons requiring the person asserting that he is the owner of the rubber, raw rubber, thing, book, document or other article and the person from whom it was seized to appear before him, and when the person appears or fails to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter and on proof that an offence under this Enactment has been committed and that such rubber, raw rubber, thing, book, document or other article was the subject matter of or was used in the commission of such offence, shall order the same to be forfeited and shall, in the absence of such proof order its release.

(8) Any rubber, raw rubber, thing, book, document or other article forfeited or deemed to be forfeited shall be delivered to the enforcement officer and shall be disposed of in accordance with the directions of the Magistrate.

(9) Where any rubber or raw rubber seized in exercise of the powers conferred under this Enactment is of perishable nature or is subject to speedy and natural decay or

where the custody of such rubber or raw rubber involves unreasonable expense and inconvenience, or is believed to cause obstruction or hazard to the public, the Board may direct that such rubber or raw rubber be sold at any time and the proceeds of the sale held to abide by the result of any prosecution under this Enactment.

(10) The Board shall not be liable to any person for any deterioration, however caused, in the quality of any rubber or raw rubber seized under this Enactment.

**No costs or damages arising from seizure to be recoverable**

**25K.** No person shall, in any proceedings before any court in respect of the seizure of any rubber, raw rubber, thing, book, document or other article seized in the exercise or the purported exercise of any powers conferred under this Enactment, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

**Cost of holding seized rubber, etc.**

**25L.** Where any rubber, raw rubber, thing, book, document or other article seized under this Enactment is held in the custody of the Board pending completion of any proceedings in respect of an offence under this Enactment, the cost of holding it in custody shall, in the event of any person being convicted of such offence, be a debt due to the Board, by such person and shall be recoverable accordingly.

**Power of investigation**

**25M.** An enforcement officer shall have the power to investigate the commission of any offence under this Enactment.

**Obstruction of enforcement officer**

**25N.** Any person who obstructs, impedes, assaults or interferes with any enforcement officer in the performance of his powers under this Enactment commits an offence.



PART VI  
FINANCIAL PROVISIONS

**Fund of the Board**

**26.** (1) Subject to the provisions of the Rubber Industry Replanting Fund Ordinance [Cap. 170.], there shall be established a Fund to be known as the "Rubber Fund" which shall consist of –

- (a) such sums as may from time to time be provided by the Legislative Assembly out of the general revenues of the State of Sabah or donated by the Government of Sabah, or the Government of Malaysia or of any other State thereof or by any other institution or person for the purpose of the Board;
  - (b) all moneys to be collected from the cess imposed on rubber and raw rubber under the provisions of subsection (1) of section 25 and 25 A;
  - (ba) moneys collected or paid under section 49C;
  - (c) such sums as may from time to time be raise by the Board by loan;
  - (d) all rents and proceeds of sale profits and income and other funds derived by the Board directly or indirectly from the property belonging to the Board;
  - (da) all moneys collected from fees or charges imposed on licences, permits, applications or certificates;
  - (e) all such other sums as may from time to time be paid to the Board.
- (2) The Fund may be applied in defraying the following charges –
- (a) the expenses and allowances of the members;
  - (b) the salaries, fees or remuneration of the officers, agents and servants and technical or other advisers of the Board;

- (c) the cost of research work in connection with the rubber industry and, without being bound to devote any moneys to any particular object, the cost of such contributions as may be decided to enable the Rubber Research Institute of Malaysia to extend its activities to Sabah;
- (d) all costs, charges and expenses of and incidental to the exercise of the powers of the Board under this Enactment;
- (e) interest on any loan raised by the Board;
- (f) sums required for the repayment of moneys borrowed;,
- (g) such sums as it may be deemed appropriate set aside in respect of depreciation on the property of the Board;
- (h) any architect, management and agency fees;
- (i) grant or loan authorised by the Board to the State or towards any particular development project carried out by the State;
- (j) any other expenditure authorised by the Board.

#### **Investment of funds**

**27.** The Board may, from time to time, invest any of its funds, not immediately required to be expended in the meeting of the obligations or in the discharge of the functions of the Board, in securities authorised for the investment of trust funds by any written law for the time being in force, may place the same on deposit in any bank or banks licensed under the provisions of the Banking and Financial Institutions Act 1989<sup>#</sup> [Act 372.], or, in any undertaking as may be approved by the Minister of Finance.

#### **Borrowing powers**

**28.** (1) The Board may, from time to time, with the approval of the Minister of Finance, borrow money by the issue of debenture stock or otherwise as the Minister of Finance may direct for the purposes of this Enactment.

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<sup>#</sup> "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372.

(2) The Board may, from time to time, for the purpose of this Enactment, raise loans from the Government, or with the consent of the Minister of Finance, borrow by way of a temporary loan or overdraft from a bank licensed under the provisions of the Banking and Financial Institutions Act 1989<sup>#</sup> [Act 372.] or otherwise.

**Loans may be secured by mortgage**

29. The Board may secure the repayment of any sum borrowed, by the mortgage or charge, legal or equitable, of any property vested in the Board, or of any revenue receivable by the Board under this Enactment or any other written law.

**Power to make loans**

30. (1) Subject to such conditions as the Minister may deem fit to impose in particular cases, the Board may, out of the Fund make loans in accordance with the provisions of this Enactment in that behalf, in the execution of its duties or in the discharge of its functions under section 24.

(2) In making loans under the provisions of subsection (1) the Board may charge such rate of interest as it may deem fit in any particular case.

(3) Every loan shall be repaid to the Board in accordance with the terms and conditions under which such loan was made and the moneys so paid shall thereupon be taken into the accounts of the Board.

(4) Every mortgage to secure loan and every instrument or charge under the provisions of this Enactment shall be approved by the Board, and all costs, charges and expenses incurred in connection therewith shall be paid by the person to whom the loan is made.

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<sup>#</sup> "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372.

**Power to guarantee loans**

31. The Board may, with the written approval of the Yang di-Pertua Negeri, guarantee any loans made by any bank or financial institution to any applicant approved by the Board for any purpose for which the Board might itself have granted such loans.

**Annual estimates**

32. (1) The Board shall before the commencement of each financial year cause to be prepared and shall adopt annual estimates of income and expenditure of the Board for the ensuing year.

(2) Supplementary estimates may be adopted by the Board at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Board, be sent forthwith to the Minister for his approval.

(4) No expenditure shall be incurred by the Board which has not been included in the annual estimates or supplementary estimates adopted by the Board and approved by the Minister.

**Accounts**

33. (1) The Board shall cause –

(a) proper accounts and other records in relation thereto to be kept; and

(b) an annual statement of accounts to be prepared.

(2) The annual statement of accounts of the Board shall present a true and fair view of the financial position of the Board, and of the results of the operations of the Board for the year to which it relates.

(3) The financial year of the Board shall be the period commencing on the 1st day of January and ending on the 31st day of December in each year.

### **Audit and statement of accounts**

**34.** (1) The accounts of the Board shall be audited by the Auditor-General.

(2) The Board shall not later than the 31st day of July of each year submit the accounts of the Board for the preceding financial year to the Auditor-General for the purpose of audit.

(3) The Board shall, when required by the Auditor-General, produce and lay before him all books and accounts of the Fund concerned, together with all vouchers in support thereof, and relating thereto, and the Auditor-General shall be entitled to require from the Board, or any member, officer, servant, or agent of the Board such information and explanation as he may deem necessary for the performance of his duties as an auditor.

(4) After the end of each financial year, as soon as the accounts of the Board have been audited, the Board shall cause a copy of the statement of account, together with a copy of any report made by the Auditor-General on that statement or on the accounts of the Board, to be sent to the Minister who shall lay the same before the Legislative Assembly and cause a copy thereof to be published in the *Gazette*.

### **Annual Report**

**35.** The Board shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Board during such year, and the Minister shall cause a copy of such report to be laid before the Legislative Assembly.

### **Bank account**

**36.** (1) All moneys paid to the Board shall be paid into an account in such bank or banks licensed under the provisions of the Banking and Financial Institutions Act 1989<sup>#</sup> [Act 372.], as may be approved by the Board.

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<sup>#</sup> "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372.

(2) All orders against the said account shall be signed by the General Manager and countersigned by another officer of the Board authorised in writing in that behalf by the Board.

**When tenders to be called**

37. Tenders for the execution of any work or duty, or for the supply of any materials or for other things necessary for the purposes of the Board whereby the expenditure of the Board is involved, shall be called in such cases and in such manner as the Government may generally or in any particular case direct.

PART VII  
GENERAL

**Power of Minister to give directions**

38. (1) The Minister may give to the Board directions of general character, not inconsistent with the provisions of this enactment, as to the exercise and performance by the Board of its functions and the Board shall give effect to any direction so given.

(2) The Board shall furnish the Minister with such information with respect to its property and activities as he may from time to time require.

**Land acquired compulsorily**

39. (1) Where any immovable property, not being State land, is needed for the purposes of the Board and cannot be acquired by agreement, the Board may request and the Yang di-Pertua Negeri may, if he thinks fit, direct the acquisition of such property, and in such case, such property may be acquired in accordance with the provisions of any written law relating to the acquisition of land for a public purpose and any declaration required under any such law that such land is so needed may be made notwithstanding that compensation is to be paid out of funds of the Board, and such declaration shall have effect as if it were a declaration that such land is needed for a public purpose made in accordance with such written law.

(2) When any land is acquired compulsorily by the Government at the request and for the purposes of the Board under the provisions of any written law for the time being in force relating to such acquisition –

- (a) the Board shall indemnify the Government against all costs, charges and expenses incurred by the Government in relation to such acquisition;
- (b) the Board shall not, without the written consent of the Minister, sell, exchange or otherwise dispose of such land or any interest therein.

#### **Transfer of property to Board**

**40.** (1) The Yang di-Pertua Negeri may at any time by order vest any State land or movable property of the Government in the Board where it appears desirable to do so to enable the Board to carry out its duties and responsibilities.

(2) Property vested in the Board under this section may be so vested absolutely or subject to such terms and conditions as the Yang di-Pertua Negeri may think fit to impose.

(3) Where any land is vested in the Board under this section a delivery of a copy of the order concerned shall, notwithstanding any provision of any State law to the contrary, be sufficient authority to any public officer charged with the responsibility for registering dealings with land or the issue of title thereto, and any such officer shall thereupon, without payment of fee, take all necessary steps to perfect the title of the Board to such land.

#### **Emergency powers of General Manager**

**41.** In any case of emergency, the General Manager may direct the execution of any work or the doing of any act which the Board is empowered to execute and do and which he is not by the provisions of this Enactment or the regulations expressly empowered to execute or do and the immediate execution or doing of which is in his opinion necessary and he may direct that the expenses of executing the work or doing the act shall be paid from the funds of the Board:

Provided that –

- (a) the General Manager shall not take any step under this section in contravention of any resolution of the Board duly passed at meeting; and
- (b) he shall report anything done under this section to the next following meeting of the Board.

#### **Power of suspension of executive functions**

42. Notwithstanding any other provisions of this Enactment, the Yang di-Pertua Negeri may by order suspend all or any of the executive functions of the Board or of any member or of any officer executive or servant thereof and assign the same to any person or persons for such period as he may deem fit.

#### **Secrecy and penalty**

43. (1) Except for the purposes of this Enactment or of any criminal proceedings under this Enactment, no member or officer or servant of the Board shall disclose any information with respect to any individual business, which has been obtained by him in the course of his duties and which is not published in pursuance of this Enactment.

(2) Any person knowingly contravening the provision of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year.

#### **Protection against suit and legal proceedings**

44. No action, suit, prosecution or other proceedings shall lie or be brought, instituted or maintained in any court against the Board, any member of the Board, any member of a committee, any officer or servant of the Board, any enforcement officer or any other person engaged by the Board in respect of any act, neglect or default done or any omission by it or him in good faith in such capacity.



**Public servants**

**45.** All members, officers, and servants of the Board shall be deemed to be public servants within the meaning of the Penal Code [Act 574.].

**Public Authorities Protection Act 1948**

**46.** The Public Authorities Protection Act 1948 [Act 198.] shall apply to any action, suit, prosecution or proceeding against the Board, any member of the Board, any member of a committee, any officer or servant of the Board, any enforcement officer or any person engaged by the Board in respect of any act, neglect, or default done or any omission by it or him in such capacity.

**Protection of informer**

**46A.** (1) Except as provided in subsections (2) and (3), no witness in any civil or criminal proceedings pursuant to this Enactment shall be obliged or permitted to disclose the identity of any informer or the substance and nature of the information received from him or to state any matter which might lead to his discovery.

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

(3) If in a trial for any offence under this Enactment, the court after full enquiry into the case is in the opinion 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 proceedings the court is of the opinion that justice cannot be fully done between the parties in the proceedings without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit an inquiry and require full disclosure concerning the informer.

(4) Any person who gives the information referred to in this section knowing that the information is false, shall be guilty of an offence.

### **Reward**

**46B.** The Board may order a reward as it thinks fit to be paid to an informer for services, information, statement or assistance in connection with the detection of any offence under this Enactment.

### **Prosecution**

**47.** No prosecution for or in relation to any offence under this Enactment shall be instituted without the sanction in writing of the Public Prosecutor.

### **Sanction for prosecution**

**48.** *(Deleted)*

### **Regulations**

**49.** 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 Enactment, the particulars to be supplied by an applicant, the manner of licensing and certification, the fees payable therefor, the conditions or restrictions to be imposed and the form or forms of licences, certificates, permits and approvals;
- (b) prescribing the standards of processing and methods of preserving, grading or packaging rubber or raw rubber including prescribing the marks to be stamped or otherwise inscribed on rubber or raw rubber packed for export;
- (c) prescribing the procedure to be followed by exporters in exporting rubber or raw rubber;
- (d) providing for the maintenance of proper standards of conduct in the carrying out of the rubber trade and the rubber industry and for dealing with infringements thereof;

- (e) prescribing the procedure to be followed for the administration of the Fund;
- (f) prescribing the forms for the purposes of this Enactment;
- (g) prescribing the fees and charges payable under this Enactment and the manner for collecting and disbursing such fees;
- (h) 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 discharge of the duties of the Board under this Enactment; and
- (i) providing for such other matters as are contemplated by, or necessary for giving full effect to, the provisions of this Enactment and for their due administration.

#### **General Penalty**

**49A.** Any person who commits an offence under this Enactment 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.

#### **Offences by body corporate**

**49B. (1)** If a body corporate commits an offence under this Enactment, a person who at the time of the commission of the offence was a director, a member of the management committee, a member of the subsidiary management committee, a member of the joint management committee, chief executive officer, 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) if 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 had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

### **Compounding of offences**

**49C.** (1) The General Manager may, compound any offence committed by any person under this Enactment by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding fifty per centum of the amount of the maximum fine for that offence, within the time specified in the offer.

(2) An offer to compound under subsection (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 subsection (1) is not paid within the time specified in the offer, or within such extended period as the General Manager 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 compounded under subsection (1), no prosecution shall be instituted after that in respect of the 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 the offence may be released or forfeited by the enforcement officer, subject to such terms and conditions as may be imposed in accordance with the conditions of the compound.

### **Repeal and saving**

**50.** (1) The Rubber Fund Ordinance (Cap. 131) and the Rubber Dealers Ordinance (Cap. 130) are hereby repealed.

(2) Notwithstanding the repeal of the Ordinances specified in subsection (1) –

- (a) the corporate body constituted under the repealed Ordinances shall continue to exist as if the same had been constituted under this Enactment;
- (b) any right, privilege, obligation or liability acquired, accrued, or incurred under the repealed Enactment shall continue to be valid as if the same had been acquired, accrued or incurred under this Enactment;
- (c) any property of whatever nature possessed by or vested in the corporate body constituted under the repealed Ordinances shall continue to be possessed by or vested in the Board;
- (d) any deed, bond, agreement, instrument and working arrangement subsisting immediately before the commencement of this Enactment shall continue to be in force and effect against or in favour of the Board;
- (e) any appointment made under the repealed Ordinances or any subsidiary legislation made thereunder shall continue to be in force and effect as if the same had been made under this Enactment;
- (f) any subsidiary legislation made under the repealed Ordinances shall insofar as such subsidiary legislation is not inconsistent with the provisions of this Enactment continue to be in force and have effect as if the same had been made under this Enactment and may be repealed, extended, varied or amended accordingly;
- (g) any person's liability to be prosecuted or punished for offences committed under the repealed Ordinances or any proceedings brought in respect of such offence before the commencement of this Enactment shall not be affected;
- (h) any proceedings, whether civil or, criminal, or cause of action pending or existing immediately before the commencement of this Enactment by or against the corporate body constituted under the repealed Ordinances may be continued or instituted by or against the Board;

- (i) any person who, immediately before the commencement of this Enactment, was employed as an officer or servant of the body corporate constituted under the repealed Ordinances shall continue to be employed by the Board as an officer or servant, as the case may be, upon the same terms and conditions of service; and
- (j) any person who, before the appointed day, held a valid licence to purchase rubber or keep any place for the treatment or storage of rubber under the repealed Ordinances shall be deemed to be licensed under this Enactment, until the expiry date of the licence.

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