



LAWS OF SARAWAK

ONLINE VERSION

Chapter 80

SARAWAK RUBBER INDUSTRY BOARD ORDINANCE, 2022

SARAWAK RUBBER INDUSTRY BOARD
ORDINANCE, 2022

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SARAWAK RUBBER INDUSTRY BOARD ORDINANCE, 2022

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LAWS OF SARAWAK

Chapter 80

SARAWAK RUBBER INDUSTRY BOARD ORDINANCE, 2022

An Ordinance to repeal the Rubber Ordinance [Cap. 125 (1958 Ed.)] and to establish the Sarawak Rubber Industry Board and to provide for matters connected therewith and incidental thereto.

[1st September, 2022]
(Swk. L.N. 169/2022)

Enacted by the Legislature of Sarawak—

PART I
PRELIMINARY**Short title and commencement**

1.—(1) This Ordinance may be cited as the Sarawak Rubber Industry Board Ordinance, 2022, and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) The Minister may appoint different dates for the coming into force of different parts or provisions of this Ordinance.

Interpretation

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

“analyst” means an analyst appointed under section 51;

“authorized officer” means any officer appointed by the Board under section 36;

“Board” means the Board constituted and established under section 3;

“cess” means the cess imposed under section 25;

“Chairman” means the Chairman of the Board appointed under section 4(1)(a) and includes any person appointed by the

Minister to temporarily discharge the functions and duties of the Chairman;

“conveyance” includes ship, boat, vessel, train, vehicle, aircraft or any other means of transport by which persons or goods can be carried;

“export” means to take or cause to be taken out of the State any rubber product by any conveyance;

“Fund” means the Sarawak Rubber Industry Board Fund established under section 20;

“General Manager” means the person appointed under section 11 and includes any officer for the time being acting in or covering the duties of the General Manager;

“Government” means the Government of the State of Sarawak;

“land” has the same meaning assigned to it in the Land Code [*Cap. 81 (1958 Ed.)*];

“member” means a member of the Board and includes a nominee member;

“Minister” means the Minister for the time being charged with the responsibility for agriculture;

“Native Customary Land” has the same meaning assigned to it in the Land Code [*Cap. 81 (1958 Ed.)*];

“processed rubber” means rubber that has undergone processing operations that transform raw rubber into rubber products or finished goods in one way or another into Standard Malaysian Rubber (SMR) or any other standard approved by the Board;

“raw rubber” means all natural rubber in its original form, in liquid or solid derived from rubber plant and includes field latex, cup-lumps, rubber sheets, and all field rubber coagulum;

“rubber” means all natural rubber in liquid, solid or blended form derived from any latex-bearing plant and synthetic rubber in liquid, solid or blended form derived from petrochemical products and includes all elastomers derived from natural or synthetic rubber or both;

“rubber industry” means any activity which includes the planting of rubber plant, the production of rubber and *hevea wood*, the processing and utilization of rubber, the manufacture of rubber products, and any services related thereto;

“rubber plant” means the species of plants of the *genera Hevea Brasiliensis* (para rubber), *Manihot Glaziovii* (ceara rubber), *Castilloa Elastica*, *Ficus Elastica* (rambung) or any other genus or species of latex-bearing plant and includes—

- (a) hybrids or clones of the genus or species;
- (b) plants resulting from the crossing of the species, hybrids or clones with any other species, hybrids, or clones of plants; and
- (c) genetically engineered versions of these species, hybrids, or clones.

“rubber planting material” means rubber seeds, rubber seedlings, bare-rooted stumps (BRS), budded stumps, plants from rubber tissues and including any other planting materials introduced or approved by the Board;

“rubber product” means any product obtained directly from rubber plant, or wholly or partly manufactured or derived from such product and includes latex, raw rubber, processed rubber, rubber planting material, rubber wood and all vulcanizates in finished or semi-finished form derived wholly or partly from rubber; and

“State land” has the same meaning assigned to it in the Land Code [*Cap. 81 (1958 Ed.)*].

PART II ESTABLISHMENT OF THE BOARD

Establishment of the Sarawak Rubber Industry Board

3.—(1) There shall be established a body corporate by the name of “Sarawak Rubber Industry Board” with perpetual succession and a corporate seal and shall, by that name, be capable of—

- (a) suing and be sued;
- (b) acquiring, owning, holding, leasing or disposing of property, both movable and immovable; and
- (c) doing such other acts or things as body corporate may lawfully do.

(2) The Board shall for the purpose of the Land Code [*Cap. 81 (1958 Ed.)*] be deemed a native.

Composition of the Board

4.—(1) The Board shall consist of the following—

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) the Permanent Secretary to the Ministry responsible for agriculture or his nominee;
- (d) the Permanent Secretary to the Ministry responsible for natural resource or his nominee;
- (e) the State Financial Secretary or his nominee;
- (f) the Director of the Economic Planning Unit or his nominee; and
- (g) not more than five (5) other members with appropriate experience, knowledge and expertise in the rubber industry from the upstream and the downstream sector of the industry.

(2) The Chairman, the Deputy Chairman and the members referred to in paragraph (a), (b) and (g) of subsection (1) shall be appointed by the Minister with the approval of the Majlis Mesyuarat Kerajaan Negeri.

(3) The Chairman, the Deputy Chairman and the members of the Board appointed under subsection (2) shall hold office for a term of not exceeding three years but shall be eligible for re-appointment.

(4) Notwithstanding subsection (3), the appointment of a member of the Board shall cease—

- (a) upon his death;

- (b) if he has been adjudged a bankrupt by a court of competent jurisdiction;
- (c) if his appointment is revoked by the Majlis Mesyuarat Kerajaan Negeri;
- (d) if because of ill health or unsoundness of mind he is unable to discharge the duties attached to his office as a member;
- (e) if he absents himself for three consecutive meetings of the Board without approval of the Minister;
- (f) if he has been convicted of any offence under any law relating to fraud, dishonesty, or corruption; and
- (g) if he resigns by letter addressed to the Minister.

Corporate seal, dealings, and affairs

5.—(1) The corporate seal of the Board shall be in the custody of the Secretary.

(2) The corporate seal of the Board shall be authenticated by the signature of its Chairman or any other member authorized by the Board and the Secretary, and when so authenticated, shall be judicially and officially noticed.

(3) All documents and instruments which are not required by any written law to be executed under seal, may be executed on behalf of the Board by the Chairman or any other member of the Board and the Secretary.

(4) All statutory records and minutes of all meetings and proceedings of the Board shall be kept and maintained by the Secretary.

Regulations governing the Board

6. The Board shall determine its affairs and proceedings.

Functions of the Board

7. Subject to this Ordinance and to any direction issued by the Minister, it shall be the functions and duties of the Board—

(a) to formulate strategic objectives, policies and priorities for the orderly development and administration of the rubber industry in the State;

(b) to implement policies and developmental programs to ensure the viability and sustainability of the rubber industry in the State;

(c) to promote, facilitate, by such means or the provisions of such services as the Board may deem desirable, better conditions for the producers of rubber in the State;

(d) to register, coordinate and promote all activities relating to the planting, supply, sale, purchase, distribution, movement, storage, surveying, testing, inspecting and grading, brokering, export and import of rubber products, and the processing and manufacturing of rubber into downstream products;

(e) to provide technical, advisory and consultancy services to the rubber industry;

(f) to develop and promote the efficient marketing and handling of rubber products;

(g) to formulate, develop, implement marketing strategy, and maintain an international market for rubber products;

(h) to promote, control and monitor measures towards attaining high quality for rubber products;

(i) to plan and implement training programs and human resource development in line with the needs of the rubber industry;

(j) to liaise and coordinate with other bodies within or outside Malaysia to further enhance the rubber industry in the State;

(k) to gather information and maintain records of all relevant matters relating to the rubber industry;

(l) to be the resource and information centre of the rubber industry in the State; and

(*m*) to do such other things as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

Powers of the Board

8.—(1) The Board shall have 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 issue licenses, certificates, permits and approvals as may be required under this Ordinance and its regulations;

(*b*) to collect or cause to be collected money due to the Fund;

(*c*) to appoint agents, experts or any other person to do any act required to be done in the execution of its functions for the better carrying into effect of the purposes of this Ordinance;

(*d*) 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;

(*e*) to draw up, prepare and formulate plans, projects and schemes for the development of the area under its responsibility or jurisdiction;

(*f*) to undertake activities for promoting investment in the rubber industry in the State;

(*g*) to enter into negotiations and agreements or arrangements as it deems fit for the discharge of its functions;

(*h*) to commission any person or body to carry out research or development, or both;

(*i*) to prescribe the standards or grades of rubber products;

(j) to undertake and coordinate such activities as it deems necessary for the purpose of protecting and furthering the interests of the rubber industry in the State;

(k) to collect cess, fees, or any other charges it thinks fit for giving effect to any of its functions or powers and the manner for collecting and disbursing such fees;

(l) to give assistance to any corporation, body or person appearing to the Board to have facilities for rubber industry development, including financial aid by way of grant, loans or otherwise; and

(m) to do such other things as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

Board may establish committees

9.—(1) The Board may establish such committees as it considers necessary or expedient to assist it in the performance of its functions under this Ordinance.

(2) The Board may appoint any person to be a member of any committee established under subsection (1) provided that any committee so established shall include at least one member of the Board and the General Manager.

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

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

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

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

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

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

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

Power of Minister to give directions

10.—(1) In the discharge of its functions and the exercise of its powers, the Board shall comply with any direction, not inconsistent with the provisions of this Ordinance, given by the Minister and shall duly give effect to all such direction which shall be binding upon the Board.

(2) The Board shall furnish to the Minister such information, accounts and records of its activities, dealings, and financial affairs, as he may require from time to time.

PART III OFFICERS AND EMPLOYEES OF THE BOARD

Appointment and duties of General Manager

11.—(1) The Board shall appoint a General Manager, with the approval of the Minister, on such terms and conditions as he may determine.

(2) The General Manager shall be responsible for the proper administration and management of the functions and affairs of the Board in accordance with its direction, policy and decision and shall also be the Secretary to the Board.

(3) The General Manager shall attend meetings of the Board, but shall have no right of voting on any issue, matter or resolution before, or under consideration, by the Board.

(4) If the General Manager is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Chairman to act in the place of the General Manager during any such period of absence from duty.

(5) The Board may from time to time appoint such other officers, employees and agents as it thinks fit for the effective discharge of its functions and powers, on such terms and conditions as it may determine.

Officers and employees of the Board

12.—(1) The Board may create or establish such number of posts, either permanent or temporary, as the Majlis Mesyuarat Kerajaan Negeri may approve, necessary to enable the Board to perform its functions, discharge its duties and exercise its powers under this Ordinance and for the efficient management and administration of its affairs and activities.

(2) The Board may appoint or engage, on such terms and conditions to be determined by the Board, persons with requisite qualification and experience to the posts referred to in subsection (1).

Conduct and disciplinary control of employees

13. The Statutory Bodies (Conduct and Discipline) Ordinance, 2004 [*Cap. 57*], shall apply to the General Manager and all persons appointed under section 12.

Personal immunity

14. No member, officer or employee of the Board or any person acting under or carrying out the direction or executing or implementing the decision of the Board shall be personally liable for any act or default of the Board done in good faith and without negligence in the ordinary course of the performance of their functions, duties or in the exercise of any powers conferred by this Ordinance.

Public servants

15. All members, officers and employees of the Board or any committee, or any officer, employee, or agent of the Board, while performing their functions or discharging their duties under this Ordinance shall be deemed to be “public servants” within the meaning of the Penal Code [*Act 574*].

Delegation of powers and functions

16.—(1) The Board may, subject to such conditions or restrictions as it deems fit, delegate to any committee appointed under section 9, or to the General Manager or any officer of the Board, or any company incorporated by the Board and its subsidiaries, all or any of the powers and functions vested in the Board by this Ordinance, (other than the power to delegate conferred by this section).

(2) Notwithstanding the delegation of powers or functions under this section, the Board may continue to perform any of its functions or exercise any powers conferred upon it under this Ordinance.

Public Authorities Protection Act 1948

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

Obligation of secrecy

18.—(1) Except for the purpose of this Ordinance or of any criminal proceedings under this Ordinance, no member, officer or employee of the Board shall disclose any information which has been obtained by him in the course of his duties and which has not been published in pursuance of this Ordinance.

(2) Any person contravening the provisions of subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or imprisonment for a term not exceeding three years or to both.

PART IV
FUND AND FINANCE PROVISIONS

Financial and accounting procedure

19. The Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995 [*Cap. 15*] shall apply to the Board.

Fund of the Board

20.—(1) All money received, raised, collected or earned by the Board shall forthwith be paid into such banks or other financial institutions as may from time to time be decided by the Board to the credit of a fund to be called the Sarawak Rubber Industry Board Fund (referred to in this Ordinance as “the Fund”) which shall be controlled and administered by the Board, subject to the directions of the Majlis Mesyuarat Kerajaan Negeri.

(2) The Board shall open and maintain an account or accounts with such bank or other financial institutions in Malaysia as the Board thinks fit, and any such account shall be operated by such person or persons as may from time to time be authorized in that behalf by the Board.

Purposes of Fund

21. The Fund shall be used and applied by the Board for the following purposes—

(a) to implement or carry out and complete all plans, schemes and projects in respect of which the Board has, or is entrusted, to implement, carry out or complete either by itself or jointly with other parties;

(b) to perform or discharge all functions and duties of the Board;

(c) to pay all remuneration, benefits and privileges of, or accorded to members, officers and employees of the Board and for payment of fees and other sums due to or claimed by contractors, agents, advisors and consultants engaged or appointed by the Board;

(d) to repay any loan, liabilities or other borrowings of the Board including interests and financial charges accrued thereon;

(e) to undertake approved and lawful investments, and acquisition of shares or interests in companies or property both movable or immovable for the purpose of this Ordinance; and

(f) to pay any other expenses lawfully incurred in the discharge or performance of its functions under this Ordinance.

Accounts and audit

22.—(1) The Board shall keep or cause to be kept proper accounts and other records in respect of its activities and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the Board shall be audited annually by the Auditor General or such auditor as may be appointed by the Board with the approval of the Minister.

(3) After the end of such financial year, and as soon as the accounts of the Board have been audited, the Board shall cause a copy of the statement of accounts to be transmitted to the Minister together with a copy of any observations made by the Auditor General or other auditor appointed under subsection (2) on any statement or on the accounts of the Board.

(4) The Minister shall cause a copy of every such statement and observations to be laid on the table of the Dewan Undangan Negeri.

Annual estimates

23. The Board shall obtain in advance the approval of the Majlis Mesyuarat Kerajaan Negeri for its annual estimates of expenditure and for any supplementary estimates of its expenditure.

Reserve Fund

24. The Board shall establish and manage a reserve fund within the Fund.

Cess on rubber products

25.—(1) Subject to any other written law, the Minister may, on the recommendation of the Board, make orders for the imposition, variation or cancellation of a cess on rubber products produced in or

exported from the State and the orders may specify the nature, amount and rate of the cess and the manner of collection of the cess.

Provided that the order made may prescribe different amounts, rates, and manner of collection for different types or grades of rubber products in relation to different persons or different classes of persons.

(2) Any person who fails or refuses to pay any cess imposed under this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(3) Notwithstanding subsection (2), the amount of any cess imposed under this section shall be deemed to be a debt due to the Board from the person on whom the cess is imposed and shall be recoverable by the Board as a civil debt.

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

(5) When a person is convicted of an offence under this section, the court shall, in addition to any penalty which it may impose, order the person convicted of the offence to pay to the Board a sum of not less than ten times (as assessed by the General Manager or any other officer authorized by him) the cess or other payments due in respect of which such offence has been committed, and any sum ordered to be so paid shall be recoverable by the Board as a civil debt.

(6) In any prosecution under this section, the onus of proving that the cess or other payments in respect of such cess has been made shall be upon the accused.

(7) A certificate signed by General Manager or any other officer authorized by him as to the amount of cess payable under subsection (1) shall be conclusive evidence of the sum to be paid by any person or class of persons on whom the cess is imposed.

Power to exempt

26. The Minister, with the approval of Majlis Mesyuarat Kerajaan Negeri may, subject to such terms and conditions as he may deem fit, exempt any person, class of persons, any activity or class of

activities relating to rubber product from all or any of the provisions of this Ordinance.

Presumption

27.—(1) For the purpose of export, rubber product shall be presumed to be taken or caused to be taken out from the State if the rubber product has been loaded on to a conveyance.

(2) Where any rubber product is found in the State, it shall be presumed unless the contrary is proved that such rubber product has been produced in the State.

Fees for technical, advisory and consultancy services, etc.

28. The Board may fix and collect fees and other charges in respect of any technical, advisory and consultancy services or other services provided by the Board under this Ordinance.

Annual report

29.—(1) 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 the preceding financial year and containing such information relating to the proceedings and policy of the Board as the Minister may from time to time direct.

(2) The Minister shall cause a copy of every such report to be laid before the Dewan Undangan Negeri.

PART V

OTHER POWERS AND FUNCTIONS OF THE BOARD

Investment

30. All moneys not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Board may be invested in any bank or financial institution licensed under the Financial Services Act 2013 [*Act 758*] or Islamic Financial Services Act 2013 [*Act 759*], or in such other investments or securities as may from time to time be approved by the Board.

Power to borrow

31. The Board may, from time to time for the purposes of this Ordinance, raise loans from the Government or, with the consent of the Majlis Mesyuarat Kerajaan Negeri, from any other sources.

Power to employ agents, etc.

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

Power to grant loans

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

Power to establish corporations

34.—(1) The Board may, with the approval of the Minister, establish, or expand or promote the establishment or expansion of corporations, by such names as the Board thinks fit, under the Companies Act 2016 [*Act 777*]

(a) to perform any of its functions or carry out or in exercise any of its powers; and

(b) to carry out and have the charge, conduct and management of any activity which has been planned or undertaken by the Board in the performance of its functions or the discharge of its duties.

(2) The corporation or other body established by the Board under this section shall be managed in accordance with such regulations and directions as may, from time to time, be made by the Board.

Vesting of properties

35. The Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette*, vest in the Board any properties as may be considered necessary to enable the Board to carry out its functions, duties, and powers under this Ordinance.

PART VI
ENFORCEMENT AND INVESTIGATION

Appointment and Power of Authorized Officer

36.—(1) The Minister, may in writing authorize any public officers or officers of the Board to exercise the powers of enforcement under this Ordinance.

(2) Any such officer shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

(3) In exercising any powers of enforcement under this Ordinance, an authorized officer shall on demand produce to the person against whom he is acting, the authority issued to him by the Minister.

(4) An authorized officer shall have the powers to investigate any offences under this Ordinance and shall also have all the powers as provided under the Criminal Procedure Code [*Act 593*] relating to arrests, searches, seizures, disposal of seized articles and investigations and such powers shall be in addition to the powers provided under this Part and not in derogation thereof.

Temporary return of conveyance, etc.

37.—(1) Where any conveyance, machinery, contrivance, or equipment is seized under this Ordinance, the General Manager may temporarily return the conveyance, machinery, contrivance or equipment to the owner of the conveyance, machinery, contrivance or equipment, subject to a written application and on such terms and conditions as the General Manager may impose and, subject in any case to sufficient security being furnished to the satisfaction of the General Manager that the conveyance, machinery, contrivance or equipment shall be surrendered to the General Manager on demand and that such terms and conditions, if any, shall be complied with.

Provided that any security being furnished for the purpose of this section shall be forfeited to the Board if any person contravenes any of the terms and conditions imposed under this section for its temporary return of conveyance, machinery, contrivance, or equipment.

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

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

(b) contravenes any of the terms or conditions imposed under subsection (1), shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Sale and disposal of seized rubber product

38. The Board may, at any time direct that any rubber product seized under this Ordinance be sold or disposed of in the manner determined by the Board and if sold, the proceeds of the sale shall be held while waiting for the result of any prosecution under this Ordinance.

Forfeiture of things seized

39.—(1) Any thing seized under this Ordinance shall be liable to forfeiture.

(2) An order for the forfeiture or for their lease of anything liable to forfeiture under this Ordinance shall be made by the Sessions Court before which the prosecution with regard thereto has been held and an order for the forfeiture of the thing shall be made if it is proved to the satisfaction of the court that an offence has been committed and that the thing was the subject matter of, or was used in the commission of the offence, notwithstanding that no person may have been convicted of such offence.

(3) If there be no prosecution with regard to anything seized under this Ordinance, such thing shall be taken and deemed to be forfeited at the expiry of one calendar month from the date of seizure unless before that date a claim thereto is made in the following manner:

(a) any person asserting that he is the owner of such thing and that it is not liable to forfeiture may personally or by his agent authorized in writing give written notice to the General Manager that he claims the same;

(b) on receipt of such notice, the General Manager, shall, unless the investigation into the offence is still pending, refer the claim to a Magistrate for decision; and

(c) the Magistrate to whom the claim is referred shall issue a summons requiring the claimant to appear before him and upon his appearance or default to appear, the Magistrate shall proceed to the examination of the claim and, on proof that an offence has been committed and that such thing was the subject matter of or was used in the commission of such offence, shall order the same to be forfeited or may in the absence of such proof order its release.

(4) All things forfeited or deemed to be forfeited shall be delivered to the General Manager and shall be disposed of in accordance with the Board's direction.

(5) Notwithstanding the Criminal Procedure Code [Act 593], any application for release of things seized under this Ordinance shall be inquired into and disposed of according to the provisions herein contained.

(6) The Board shall not be liable to any person for any deterioration in the quality or diminution in value, howsoever caused, of any thing seized under this Ordinance:

Provided that the deterioration in the quality or diminution in value is not as a result of the negligent act of its officers in carrying out their duties under this Ordinance.

(7) When the trial of any offence is concluded, any rubber product in respect of which such offence has been committed, together with any machineries, tools, conveyances or other things or property seized under this Ordinance shall be forfeited to the Board.

Cost of holding seized rubber product, etc.

40. Where any rubber product, thing, book, document, or other article seized under this Ordinance is held in the custody of the Board pending completion of any proceedings in respect of any offence under this Ordinance, 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.

No costs or damages arising from seizure to be recoverable

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

Access to computerized data

42.—(1) An authorized officer conducting a search under this Ordinance 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*].

Additional powers of an authorized officer

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

(a) to require the production of records, accounts, computerized data and documents from any person in relation to any case or offence under this Ordinance and to inspect, examine, download and make copies of them;

(b) to require the production of any identification document from any person in relation to any case or offence under this Ordinance; or

(c) to make such inquiry as may be necessary to ascertain whether the provisions of this Ordinance have been complied with.

(2) A person who fails to comply with a request made under 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.

Obstruction of authorized officer

44. Any person who obstructs, impedes, assaults, or interferes with any authorized officer in the performance of his powers under this Ordinance commits an offence.

Power to conduct prosecutions

45.—(1) Prosecutions for offences committed under this Ordinance or its subsidiary legislations may be conducted by the Public Prosecutor or any person authorized in writing by him under section 377 of the Criminal Procedure Code [*Act 593*].

Abetments and attempts punishable as offences

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

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

False information

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

ringgit or to imprisonment for a term not exceeding two years, or to both.

Offences by body corporate

48.—(1) If a body corporate commits an offence under this Ordinance, 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

49.—(1) The Board or any authorized officer may, compound any offence committed by any person under this Ordinance or its subsidiary legislations 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 Board 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 Board, subject to such terms and conditions as may be imposed in accordance with the conditions of the compound.

General Penalty

50. Any person who commits an offence under this Ordinance 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.

PART VII GENERAL

Appointment of analysts

51.—(1) For the purposes of this Ordinance, the Board may appoint analysts to examine and test any rubber product and to certify its condition, type, method of processing, quality, standard and grade.

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

Regulations

52.—(1) The Majlis Mesyuarat Kerajaan Negeri may make such regulations as may be expedient or necessary for the better carrying out of the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1), regulations may be made for the following purposes:

(a) prescribing the procedures to be followed for the administration of the Fund;

(b) regulating activities relating to rubber product and rubber industry;

(c) regulating the standards of processing and methods of preserving, grading or packaging rubber product including prescribing the marks to be stamped or otherwise inscribed on rubber or rubber products packed for export;

(d) prescribing the procedure to be followed by exporters in exporting rubber or rubber product;

(e) 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;

(f) prescribing the forms for the purposes of this Ordinance;

(g) prescribing the fees and charges payable under this Ordinance and its regulations 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 Ordinance; and

(i) providing for such other matters as are contemplated by, or necessary for giving full effect to the provisions of this Ordinance and for their due administration.

(3) Such regulations may provide that the contravention of any particular rules shall constitute an offence and may provide for the punishment of any such offence by penalties not exceeding a fine of fifty thousand ringgit and imprisonment not exceeding three years, or to both.

PART VIII
REPEAL, SAVING AND TRANSITIONAL

Repeal, saving and transitional

53.—(1) The Rubber Ordinance [*Cap. 125 (1958 Ed.)*] (hereinafter referred to as the “repealed Ordinance”), is repealed.

(2) Notwithstanding subsection (1), all rules, orders, directions, appointments, proclamations, licences, rights, privileges or other acts or things made or done under or in accordance with the repealed Ordinance, shall continue in force until amended, revoked or replaced pursuant to this Ordinance.

(3) Any prosecution, action, suit, claim, proceeding or inquiry which has been instituted, filed, commenced or made under the repealed Ordinance and is still pending and not finally disposed of or existing immediately before the date of commencement of this Ordinance shall be continued and be determined or completed or disposed of in all respects under the provisions of the repealed Ordinance as if this Ordinance had not been enacted.