



# LAWS OF SARAWAK

---

ONLINE VERSION

---

**Chapter 79**

**SAGO AND NIPAH DEVELOPMENT BOARD  
ORDINANCE, 2022**

SAGO AND NIPAH DEVELOPMENT BOARD  
ORDINANCE, 2022

Date Passed by Dewan Undangan

Negeri ... .. 16th February, 2022

Date of Assent ... .. 24th February, 2022

Date of Publication in *Gazette* ... .. 25th February, 2022

Sarawak LawNet

SAGO AND NIPAH DEVELOPMENT BOARD ORDINANCE,  
2022

---

ARRANGEMENT OF SECTIONS

---

PART I  
PRELIMINARY

*Section*

1. Short title and commencement
2. Interpretation

PART II  
SAGO AND NIPAH DEVELOPMENT BOARD

3. Establishment of the Board
4. Regulations governing the Board
5. Appointment and duties of General Manager
6. Common seal, dealings and affairs
7. Board may establish committees

PART III  
FUNCTIONS AND POWERS OF THE BOARD

8. Functions of the Board
9. Powers of Board
10. Power of the Minister to give directions

PART IV  
DEVELOPMENT AREA

11. Development Area
12. Declaration of nipah area
13. Compulsory acquisition
14. Power to vest
15. Sublease

PART V  
OFFICERS AND EMPLOYEES OF THE BOARD

*Section*

16. Appointment of other officers and employees of the Board
17. Conduct and disciplinary control of employees
18. Personal immunity
19. Public servants
20. Delegation of functions and powers
21. Public Authorities Protection Act 1948
22. Obligation of secrecy

PART VI  
FUND AND FINANCE PROVISIONS

23. Fund of the Board
24. Purposes of Fund
25. Annual estimates
26. Reserve Fund
27. Cess on sago product and nipah product
28. Power to exempt
29. Presumption
30. Fees for technical, advisory and consultancy services, *etc.*
31. Financial and Accounting Procedure
32. Account and Audit
33. Annual report

PART VII  
OTHER POWERS AND FUNCTIONS OF THE BOARD

34. Borrowing powers
35. Power to grant loans
36. Power to employ agents, *etc.*
37. Powers to establish corporations
38. Commercialization of research findings
39. Investment

PART VIII  
ENFORCEMENT AND INVESTIGATION

*Section*

40. Appointment and Power of Authorized Officer
41. Temporary return of conveyance, *etc.*
42. Sale and disposal of seized sago product and nipah product
43. Forfeiture of things seized
44. Cost of holding seized sago product and nipah product, *etc.*
45. No costs or damages arising from seizure to be recoverable
46. Access to computerized data
47. Additional powers of an authorized officer
48. Obstruction of authorized officer
49. Power to conduct prosecutions
50. Abetments and attempts punishable as offences
51. False information
52. Offences by body corporate
53. Compounding of offences
54. General Penalty

PART IX  
GENERAL

55. Appointment of analysts
56. Power to make regulations

## LAWS OF SARAWAK

## Chapter 79

**SAGO AND NIPAH DEVELOPMENT BOARD ORDINANCE,  
2022**

*An Ordinance to establish the Sago and Nipah Development Board  
and to provide for matters connected therewith and incidental thereto.*

[ 1<sup>st</sup> September, 2022 ]  
( *Swk. L.N. 168/2022* )

Enacted by the Legislature of Sarawak—

PART I  
PRELIMINARY**Short title and commencement**

1.—(1) This Ordinance may be cited as the Sago and Nipah Development 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 55;

“authorized officer” means an officer of the Board authorized under section 40;

“Board” means the Sago and Nipah Development Board established under section 3;

“cess” means the cess imposed under section 27;

“Chairman” means the Chairman of the Board appointed under section 3(3)(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;

“Development Area” means the area of land declared as such by the Minister under Part IV, any designated area, area planted by smallholders or estate holdings, and includes all categories of land;

“Fund” means the Fund established under section 23;

“General Manager” means the General Manager of the Board appointed under section 5 and includes any person for the time being so appointed to perform the duties of the General Manager;

“Government” means the State Government of Sarawak;

“managing agent” means a person or corporation, or any management company appointed by the Board;

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

“nipah” means the species of palm of the genus *Nypa* which includes hybrids of these species, hybrids resulting from crossing of these species or hybrids with any other species or hybrids of plants, and new variety of these hybrids;

“nipah industry” means any activity which includes the planting of nipah palm, the processing and utilization of nipah, the production of nipah sap and the manufacturing of nipah products and its derivatives, and any services related thereto;

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

“nipah palm planting material” means nipah roots, nipah suckers, nipah seed and seedlings and nipah palm clones and any planting material related thereto;

“nipah product” means any product derived directly from the nipah palm or wholly or partly manufactured or derived from such product and includes nipah sap, nipah frond, nipah fruit, nipah sugar, nipah vinegar, nipah palm ethanol, nipah palm fibre, and nipah palm planting materials, and any matter related thereto;

“nipah sap” means sap whether in crude or processed form, originating or extracted from the mature fruit stalk (infructescence) of fruiting head of the nipah fruit;

“nipah sugar” means the predominantly dry matter derived from sugar-rich sap of nipah;

“owner” for the purpose of this Ordinance means, in relation to land,—

(a) the registered proprietor of the land as defined in section 2 of the Land Code [*Cap. 81(1958 Ed.)*];

(b) any native lawfully occupying Native Customary Land as defined in section 2 of the Land Code [*Cap. 81(1958 Ed.)*]; or

(c) any person deemed a native under section 3(2) of the Ordinance or under section 9(1)(d) of the Land Code [*Cap.81(1958 Ed.)*] for the purpose of holding, dealing, occupying or developing any Native Area Land, or any Native Customary Land which is to be issued with title, within a Development Area;

“research finding” means any invention, innovation and includes improvements in any process, apparatus, machine or technique as a result of research and development activities;

“sago” means the species of palm of the genus *Metroxylon* which is a starch bearing genus of palm and includes hybrids of these species, hybrids resulting from crossing of these species or hybrids with any other species or hybrids of plants, and new variety of these hybrids, which is planted and shall exclude wild sago;

“sago industry” means any activity which includes the planting of sago palm, the processing and utilization of sago, the



production of sago starch and the manufacturing of sago products and its derivatives, and any services related thereto;

“sago log” means the unprocessed sago trunk that has been cut into unspecified dimension;

“sago palm planting material” means sago suckers, sago seedlings, sago clones and any planting material related thereto;

“sago product” means any product derived directly from the sago or wholly or partly manufactured or derived from such product and includes sago trunk, sago log, sago frond, sago bark, sago starch, sago roots, sago suckers, sago palm planting materials, sago palm fibre and any matter related thereto;

“sago starch” means starch, whether in crude or processed form, originating or extracted from the pith of sago trunk;

“sago trunk” means the harvested and unprocessed sago palm; and

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

## PART II

### SAGO AND NIPAH DEVELOPMENT BOARD

#### **Establishment of the Board**

3.—(1) There shall be established a body corporate called “Sago and Nipah Development 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 purposes of the Land Code [*Cap. 81 (1958 Ed.)*] be deemed a native.

(3) The Board shall consist of:

- (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 Economic Planning Unit or his nominee;
- (g) the Director of Forest of Sarawak or his nominee; and
- (h) not more than five (5) other members with appropriate experience, knowledge, or expertise in matters relating to the development of the nipah and sago industries.

(4) The Chairman, the Deputy Chairman and the members referred to in paragraphs (a), (b) and (h) of subsection (3) shall be appointed by the Minister with the approval of the Majlis Mesyuarat Kerajaan Negeri.

(5) The appointment of the Chairman, the Deputy Chairman and any member made under paragraphs (a), (b) and (h) of subsection (4) shall hold office for a term of not exceeding three years but shall be eligible for re-appointment.

(6) Notwithstanding subsection (4), 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.

(7) Any member of the Board or any person invited under subsection (3) may be paid by the Board such remuneration and allowances as may be determined by the Minister.

### **Regulations governing the Board**

4. The Board shall determine its affairs and proceedings.

### **Appointment and duties of General Manager**

5.—(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.

### **Common seal, dealings and affairs**

6.—(1) The common 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.

#### **Board may establish committees**

7.—(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 reappointment.

(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.

Sarawak LawNet

PART III  
FUNCTIONS AND POWERS OF THE BOARD

**Functions of the Board**

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

(a) to promote, facilitate and develop the sago industry and nipah industry;

(b) to formulate objectives, policies and priorities for the development and administration of the sago industry and nipah industry in the State;

(c) to develop or rehabilitate the sago industry and nipah industry including—

(i) to formulate and carry out in any area which has been declared to be a Development Area for sago or nipah area or project under Part IV;

(ii) to initiate and carry out by itself or through its managing agents, projects or schemes for the development and improvement of sago industry and nipah industry; and

(iii) to promote and undertake sago and nipah development programs or projects in the State;

either of its own or in association with any public or private body or person or otherwise on their behalf, any sago Development Area or nipah area or land owned by or vested in the Board; or at the request of the landowners thereof, and upon such terms and conditions as may be agreed to between the said owner and the Board, any land;

(d) to implement policies and developmental programs to ensure the viability and sustainability of the sago industry and nipah industry in the State;

(e) to plan, coordinate, monitor and promote research and development, and commercialisation activities relating to the

planting, production, processing, manufacturing, storage, transportation, use, consumption, and marketing of sago product and nipah product;

(f) to cooperate with or act as agent or managing agent of or otherwise act in association with or on behalf of the Government or any corporation, body or person in sago or nipah development programs;

(g) to provide technical, advisory and consultancy services and related services to the sago industry and nipah industry;

(h) to develop and maintain markets for sago product and nipah product;

(i) to promote, control and monitor measures towards attaining high quality for sago product and nipah product;

(j) to plan and implement training programs and human resource development in line with the needs of the sago industry and nipah industry;

(k) to liaise and coordinate with other bodies within or outside the State or Malaysia as it deems necessary including being members of associations of the industry to further enhance the sago industry and nipah industry;

(l) to gather information and maintain records of all relevant matters relating to the sago industry and nipah industry;

(m) to be the resource and information centre of the sago industry and nipah industry in the State;

(n) to consider, promote and take measures to prevent the occurrence and spread of diseases affecting sago and nipah;

(o) to explore the potential of nipah palm for ecosystem restoration and climate change mitigation, sustainable rural livelihoods, and renewable energy;

(p) to engage in any activity, either alone or in conjunction with other organizations or international agencies, to promote better understanding of sago industry and nipah industry; and

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

### **Powers of Board**

9.—(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 control, co-ordinate or supervise the management of the land in a Development Area or land owned by or vested in the Board or for which it has become responsible and may cause to be carried out or may undertake any of the aforesaid activities for the improvement or development of such land as it deems fit;

(b) to control or supervise the management and plantations land in a Development Area or plantation land owned by or vested in the Board or for which it has become responsible and may cause to be carried out or may undertake such works for the improvement or development of such land as it deems fit;

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

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



(e) to provide land improvement schemes for the rehabilitation of sago and nipah small holdings;

(f) to undertake and coordinate activities relating to research and development into the planting, production, processing, manufacturing, storage, transportation, use, consumption and marketing of sago products, nipah products and services related thereto;

(g) to carry on all activities, particularly activities which are commercial in nature which appears to it to be requisite, advantageous or convenient for or in connection with the performance of its functions;

(h) to collect cess, fees or any other charges it thinks fit for giving effect to any of its functions or powers;

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

(j) to commission any person or body to carry out research or development relating to sago industry and nipah industry;

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

(l) to prescribe the standard or grades of sago product and nipah product;

(m) to issue licenses, certificates, permits and approvals as may be required under this Ordinance and its regulations; and

(n) 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.

#### **Power of the 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 IV DEVELOPMENT AREA

##### **Development Area**

11.—(1) The Minister may, with the approval of Majlis Mesyuarat Kerajaan Negeri, by order published in the *Gazette* declare any area of unalienated State land (including any Native Customary Land) to be a Development Area within which the Board may perform its functions under this Ordinance.

(2) Where an area has been declared a Development Area pursuant to subsection (1), the Board shall—

(a) notify owners of land within the Development Area of any scheme or plan approved by the Government for the development thereof and provide such information or particulars pertaining to the development thereof:

(i) by publishing a notice thereof in one newspaper circulating in the State;

(ii) by exhibiting a notice thereof at the notice board of the District Office and Sub-District Office for the area where the land is situate; and

(iii) in such other manner as the Board thinks necessary or appropriate;

(b) seek the consent in writing of the owners of land within a Development Area to have their lands developed in accordance with the said scheme or plan; and

(c) take such steps or action as may be appropriate or necessary to implement the scheme or plan approved by the Government for the Development Area, including but not limited to, having the Development Area or any part thereof surveyed by

a Surveyor licensed under the Land Surveyors Ordinance, 2001 [Cap. 40].

(3) No dealing affecting any land within a Development Area may be affected without the consent of the Minister.

Provided that any land is for the time being declared or deemed to be a Development Area under this Ordinance shall not affect the legal ownership of that land or any customary rights, but the rights of the owners shall be subject to the provisions of this Ordinance and to the right of the Board to control and to carry on all activities in connection with the discharge of its functions.

#### **Declaration of nipah area**

12.—(1) In carrying out its functions and obligation in relation to nipah, the Minister may, with approval of Majlis Mesyuarat Kerajaan Negeri, by notification in the *Gazette*, declare any nipah area to be a nipah conservation within the meaning of this Ordinance.

(2) When any nipah area has been declared under subsection (1), all the provisions of this Ordinance and regulations made thereunder shall have effect in such nipah area.

(3) The Board shall take necessary measures to conserve nipah area in the performance of its functions and obligations—

(a) to plan and make recommendations to the Government for the development and improvement of the nipah conservation area;

(b) to control and regulate activities in any nipah area, nipah conservation area in mitigation of climate change;

(c) to take all lawful, necessary and reasonably practicable measures to keep the nipah area sustainable to support rural livelihood;

(d) to take all appropriate measures to prevent or reduce the rate of erosion of any nipah area and for the protection and restoration thereof; and

(e) to examine, study and determine the utility and practicability of improving the development and management of nipah area and its ecosystem.

### **Compulsory acquisition**

13.—(1) Where it is not possible to develop any land by arrangement or agreement with the owner, the Board may, with the approval of the Minister, acquire such land by compulsory acquisition for the purpose of carrying out any of its functions under this Ordinance.

(2) Where land over which native customary rights are exercised is required for the purposes of this Ordinance, such rights may be extinguished in accordance with section 5 of the Land Code [*Cap. 81 (1958 Ed.)*].

(3) The purpose for which land is acquired pursuant to the provisions of this section shall be deemed to be a public purpose under the Land Code.

(4) Any land compulsorily acquired under subsection (1) shall be vested in the Board free of all encumbrances and the Register kept under the Land Code [*Cap. 81 (1958 Ed.)*], in which the title to such land is registered, shall be rectified accordingly.

(5) Compensation shall be payable by the Board in respect of any land compulsorily acquired under subsection (1).

### **Power to vest**

14. The Minister may, by notification in the *Gazette*, vest in the Board any property as may be considered necessary to enable the Board to carry out its functions, duties, and powers under this Ordinance.

### **Sublease**

15. The Board may with the approval of the Minister sublease any land owned by or vested in the Board on such terms and conditions as it thinks fit.

PART V  
OFFICERS AND EMPLOYEES OF THE BOARD

**Appointment of other officers and employees of the Board**

16.—(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**

17. The Statutory Bodies (Conduct and Discipline) Ordinance, 2004 [*Cap. 57*], shall apply to the General Manager and all persons appointed under section 16.

**Personal immunity**

18. 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**

19. All members, officers and employees of the Board or any committee, or any officer, servant, 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 functions and powers**

20.—(1) The Board may, subject to such conditions or restrictions as it deems fit, delegate to any committee appointed under section 7, 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 functions and powers vested in the Board by this Ordinance.

(2) Notwithstanding the delegation of functions or powers 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**

21. 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**

22.—(1) Except as provided in this Ordinance or for the purpose of any civil or criminal proceedings under any written law, no member, officer or employee of the Board, whether during his tenure of office, or during his employment or thereafter, and no other person who has by any means access to any confidential information or document whatsoever relating to the affairs of the Board shall give, divulge, reveal, or otherwise disclose such information or document to any person.

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

PART VI  
FUND AND FINANCE PROVISIONS

**Fund of the Board**

23.—(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 Sago and Nipah Development 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**

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

(a) paying any expenditure lawfully incurred by the Board, including legal fees and other fees and costs, and the salaries, remuneration and allowances of members, Committees, officers and servants appointed and employed by the Board, including superannuation allowances, provident fund, pensions and gratuities;

(b) paying any other expenses, costs or expenditure properly incurred or accepted by the Board in the performance of its functions or the exercise of its functions and powers under this Ordinance;

(c) financing research and development activities;

(d) contributing to research stations established under this Ordinance;

(e) granting loans, advances, incentives or other financial aid approved by the Board;

(f) purchasing or hiring equipment, vehicles, machinery, stores and any other materials, acquiring land and erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers under this Ordinance;

(g) repaying any monies borrowed under this Ordinance and the interest due thereon; and

(h) generally, paying any expenses for carrying into effect the provisions of this Ordinance and any rules or regulations made hereunder.

#### **Annual estimates**

25. 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**

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

#### **Cess on sago product and nipah product**

27.—(1) The Minister may, on the recommendation of the Board, make orders for the imposition, variation, or cancellation of a cess on sago product and nipah product, 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 sago product or nipah product, 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) Without prejudice to subsection (4), the court before which a person is convicted for an offence under subsection (3) may order the person to pay to the Board the total amount of cess certified by the General Manager to be due from the person at the date of the conviction.

(6) 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 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.

(7) 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.

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

#### **Power to exempt**

28. 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 sago product and nipah product from all or any of the provisions of this Ordinance.

**Presumption**

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

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

**Fees for technical, advisory and consultancy services, etc.**

30. 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.

**Financial and Accounting Procedure**

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

**Account and Audit**

32.—(1) The Board shall keep 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 each financial year, 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 report or 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 report**

33.—(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 VII  
OTHER POWERS AND FUNCTIONS OF THE BOARD

**Borrowing powers**

34. 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 grant loans**

35. 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 employ agents, etc.**

36.—(1) 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.

(2) Such appointment shall be regulated by an agreement between the Board and the person or company or corporation to be appointed under subsection (2). The agreement shall set out the duties and responsibilities of the managing agent and the terms, conditions, and duration of the appointment.

**Powers to establish corporations**

37.—(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.

**Commercialization of research findings**

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

**Investment**

39. 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.

PART VIII  
ENFORCEMENT AND INVESTIGATION

**Appointment and Power of Authorized Officer**

40.—(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.**

41.—(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 sago product and nipah product**

42. The Board may, at any time direct that any sago product and nipah 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**

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

(2) An order for the forfeiture or for the release 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 any thing 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 to fits officers in carrying out their duties under this Ordinance.

(7) When the trial of any offence is concluded, any sago product and nipah 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 sago product and nipah product, etc.**

44. Where any sago product and nipah 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**

45. No person shall, in any proceedings before any court in respect of the seizure of any sago product and nipah 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**

46.—(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**

47.—(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**

48. 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**

49.—(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**

50.—(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**

51. 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 thirty thousand ringgit or to imprisonment for a term not exceeding one year, or to both.

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

52.—(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**

53.—(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 sago product and nipah product, 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**

54. 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 IX GENERAL**

### **Appointment of analysts**

55.—(1) For the purposes of this Ordinance, the Board may appoint analysts to examine and test any sago product or nipah 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.

### **Power to make regulations**

56.—(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 purposes of carrying out, or the procedures necessary for giving full effect, to the provisions of Part IV;

(b) regulating and controlling the conduct and administration of land owned by or vested in the Board or for which it has become responsible with;

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

(d) to regulate activities relating to sago industry and nipah industry;

(e) prescribing the standards of processing and methods of preserving, grading or packaging sago product and nipah product including prescribing the marks to be stamped or otherwise inscribed on sago product or nipah product packed for export;

(f) prescribing the procedure in exporting sago product and nipah product;

(g) providing for the maintenance of proper standards of conduct in the carrying out of the sago product and nipah product trades and for dealing with infringements thereof;

(h) prescribing the records and documents to be kept and returns to be submitted;

(i) prescribing the fees and charges payable under this Ordinance and the manner for collecting and disbursing such fees;

(j) to regulate activities relating to rubber product and rubber industry; and

(k) 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.

(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 five years or to both.

Sarawak LawNet