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FOREST CONCESSION AREA (REHABILITATION AND DEVELOPMENT) FUND ORDINANCE, 1985

[Ord. No. 7/85]

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**FOREST CONCESSION AREA
(REHABILITATION AND DEVELOPMENT) FUND
ORDINANCE, 1985**

[Ord. No. 7/85]

Date Passed by Dewan Undangan	
Negeri	18th May, 1985
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SARAWAK LAWNET

**FOREST CONCESSION AREA
(REHABILITATION AND DEVELOPMENT) FUND
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SARAWAK LAWNET

**FOREST CONCESSION AREA
(REHABILITATION AND DEVELOPMENT) FUND
ORDINANCE, 1985**

[Ord. No. 7/85]

*An Ordinance to establish the Forest Concession Area
(Rehabilitation and Development) Fund and to provide for the
management of that Fund and other incidental matters.*

*[1st January, 1987]
(Swk. L.N. 36/87)*

Enacted by the Legislature of Sarawak—

Short title

1. This Ordinance may be cited as the Forest Concession Area (Rehabilitation and Development) Fund Ordinance.

Interpretation

2.—(1) In this Ordinance—

“Board” means the Board of Trustees constituted under section 4;

“financial institutions” means any bank or financial institution licensed under the Banking and Financial Institutions Act 1989 [*Act 372*], or the Offshore Banking Act 1990 [*Act 443*];

[Ins. Cap. A67.]

“forest concession” includes any licence or permit issued under the Forests Ordinance [*Cap. 126 (1958 Ed.)*] for the felling, removal and sale of forest produce;

[Ins. Cap. A67.]

“forest concession area” means any place or land within the area which is or has been covered by a licence or permit issued under the Forests Ordinance, and which is or has been subject to logging activities or operation authorized under such licence or permit;

[Ins. Cap. A67.]

“Fund” means the Forest Concession Area (Rehabilitation and Development) Fund established under section 3.

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

“land development scheme” means any scheme approved by the Government for the development of Native Customary Land or for the development of agricultural estates or plantations or planted forests by or through any body corporate incorporated under any written law or any company approved by the Government;

[Ins. Cap. A67.]

“Native Customary Land” shall have the same meaning assigned to that expression by the Land Code [*Cap. 81 (1958 Ed.)*];

[Ins. Cap. A67.]

“planted forests” has the meaning assigned to that expression by the Forests Ordinance;

[Ins. Cap. A67.]

“Secretary” means the Secretary for the Board appointed under section 5(b);

[Ins. Cap. A67.]

“securities” means—

(a) shares, debentures, equity or other securities issued by a company approved by the Government to undertake or carry out any land development scheme in Sarawak;

(b) bonds or other securities issued by the Government or the Government of Malaysia;

(c) shares in any company listed on the Kuala Lumpur Stock Exchange;

(d) unit trusts of any Trust Fund approved or established under any written law; and

(e) shares, equity or securities in any company reserved or allotted specially for subscription by natives.

[Ins. Cap. A67.]

(2) In this Ordinance a reference to the Yang di-Pertua Negeri shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a Member of it acting under the general authority of the Majlis.

Establishment of the Fund

3.—(1) There shall be established a Fund to be known as the Forest Concession Area (Rehabilitation and Development) Fund.

(2) The Fund shall consist of—

(a) such sums as are credited to the Fund under section 52(4A);

(b) of the Forests Ordinance [*Cap. 126 (1958 Ed.)*];

(b) all interests received by the Board upon such portion of the moneys of the Fund as may from time to time be invested in securities or through placement in deposit accounts or otherwise with any financial institution;

(c) all profits, dividends and revenues from any investment made and from any forest concession or property held by the Board;

(d) all other moneys which may be donated, contributed, endowed, bequeathed or in any other manner paid into the Fund by the Government or any authority or person; and

(e) all income derived from any participation or undertaking or investment by the Board in any land development scheme, securities, business or venture approved by the Board.

(3) The Fund shall vest in and be administered by a Board of Trustees.

[Am. Cap. A19; Am. Cap. A67.]

Members of the Board

4.—(1) The Board shall consist of—

(a) the following *ex officio* members:

(i) the Chief Minister (as Chairman);

(ii) the Minister for the time being responsible for forestry (as Deputy Chairman);

(iii) the State Financial Secretary or his representative;

(iv) the Director of Development or his representative;

(v) the Director of Forests or his representative;
and

(b) not more than five unofficial members, of whom at least three shall be members of the Dewan Undangan Negeri, to be appointed by the Yang di-Pertua Negeri.

(2) The Board shall be a body corporate with perpetual succession and a common seal with the power to sue and be sued, to hold property movable and immovable, to make contracts and subject as provided, to convey, assign, surrender, mortgage, lease or otherwise dispose of movable or immovable property vested in the Board upon such terms as it may think fit.

(3) Unofficial members of the Board shall be appointed for a period not exceeding three years and shall be eligible for re-appointment.

(4) The Chairman shall preside at all meetings of the Board and in his absence the Deputy Chairman shall preside.

(5) The Board shall meet at such places and times as the Chairman may appoint and at any meeting of the Board five members shall form a quorum.

(6) The Chairman shall have a casting vote.

(7) No salary, fee or honorarium or commission shall be paid to any member of the Board, but the Board may reimburse unofficial members thereof in respect of any out-of-pocket expenses necessarily and reasonably incurred by them in and about the business of the Board.

(8) All members of the Board and the Secretary and other officers or servants of it shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

[Am. Cap. A67.]

(9) (a) The Secretary shall be entitled to attend all meetings of the Board but shall not have any vote in respect of any matter under consideration before the Board.

(b) The Secretary shall record and keep minutes of all proceedings of the Board and any committee of it and maintain records of all securities held and investments made by the Board, and all documents, deeds or instruments executed pursuant to subsection (11).

(c) The Secretary shall have custody of the Seal of the Board.

(d) The Board may pay the Secretary such salary or allowances as the Board may determine.

[Sub. Cap. A67.]

(10) The Board may, by resolution, constitute any committee, comprising not more than five members, the majority of whom shall be members of the Board, and delegate or assign to such committee any of its functions or powers and determine its terms of reference and the manner in which the committee may exercise or perform such functions or powers.

[Ins. Cap. A67.]

(11) (a) Where any document, deed or instrument is required or authorized by the Board to be executed under seal, the common seal of the Board shall be affixed to it by the Chairman or any other *ex officio* member and the Secretary.

(b) All other documents, deeds or instruments may be signed or executed on behalf of the Board by the Chairman or an *ex officio* member or, if so authorized generally or specially by resolution of the Board, by the Secretary.

[Ins. Cap. A67.]

Powers of the Board

5. The Board shall have powers—

(a) to determine its own procedure for the summoning and conduct of meetings of the Board, to regulate the submission of statement of accounts and the report of its activities, and to prescribe any other matters that may be necessary for the administration of the Fund;

(b) to appoint any person or officer to be Secretary to the Board and may from time to time appoint such other officers, clerks and servants as may be necessary for conducting the business of the Board;

(c) to apply for and acquire timber concessions and work them directly or through contracting out and to carry on other business which may seem to the Board capable of being conveniently carried on or in connection with the above or calculated directly or indirectly to enhance the value or render profitable any of the Board's property or rights;

(d) to invest in such securities or to make such investments in land development scheme or in any business or venture as the Board deems to be beneficial to the Fund;

(e) to establish from time to time a corporation by such name as the Board may think fit to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Board in the execution of its duty or discharge of its functions in pursuit of the objects of the Fund;

(f) to appoint investment managers, advisers or consultants to advise or assist the Board in the investment and management of moneys in the Fund; and

(g) to do all things expedient or reasonably necessary or incidental for the carrying out of the purposes prescribed under section 6.

[Am. Cap. A67.]

Objects and beneficiaries of the Fund

6.—(1) The moneys in the Fund shall be applied for the following purposes and for the benefit of the natives or the communities living in or from any forest concession area (“the beneficiaries”):

(a) to rehabilitate the forest concession areas or improve the economic, social and human development and well being of the beneficiaries;

(b) to improve the standard of health and education of the beneficiaries;

(c) to assist or provide assistance, in such form or manner as the Board may in its discretion determine, for the beneficiaries to participate in any land development scheme or to acquire securities in any company undertaking such scheme;

(d) to enable the beneficiaries to invest in such securities as may be approved by the Board;

(e) to upgrade, improve or provide infrastructure facilities, public utilities and other social or communal amenities either within or outside a forest concession area for the benefit, enjoyment and recreation of the beneficiaries;

(f) to relieve poverty or hardship of any of the native communities living in or from a forest concession area;

(g) to pay for the administration of the Fund and expenses of the Board in the discharge of its functions and powers, including payment of salaries, fees, allowances and expenses to employees of the Board and the advisers, consultants or managers appointed under section 5(f);

(h) generally, towards the advancement and benefit of the beneficiaries, or for such other purposes as the Board, in consultation with Majlis Mesyuarat Kerajaan Negeri, may approve.

(2) All payments or disbursement of moneys from the Fund shall be approved by a general or a special resolution of the Board.

[Sub. Cap. A67.]

Accounts and audit

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

(2) The accounts of the Board shall be audited by the Auditor General or an officer authorized by the Auditor General.

(3) Not later than the 31st May of each year, the Board shall submit an audited statement of accounts, the auditor's report on it and the report of the activities of the Board to the Yang di-Pertua Negeri who shall cause the same to be laid before the Dewan Undangan Negeri.

Liability of members

8. No member of the Board shall be liable for any loss arising from or contingent upon any investment made unless such loss has been occasioned by his negligence, fraud or dishonesty; and no member of the Board and no agent or person acting under the authority of the Board shall be personally liable to any action or proceeding for or in respect of any action made or thing done or omitted to be done in good faith and in the proper exercise of any of the powers of the Board or of its members.

Powers to make regulations

9. The Board may with the approval of the Yang di-Pertua Negeri make regulations—

- (a) for the winding up of the Fund;
- (b) to provide for the payment of salaries and allowances and conditions of service of the officers and servants of the Board;
- (c) for the proper performance by the Board of its powers and duties; and
- (d) generally for the purpose of carrying into effect the objects of this Ordinance.

Power of Yang di-Pertua Negeri to give directions

10.—(1) The Yang di-Pertua Negeri may from time to time give to the Board directions of a general character, not inconsistent with the provisions of this Ordinance, as to the exercise and performance by the Board of its functions and the Board shall give effect to any directions so given.

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

The Board and its corporations to be deemed a native

11. For the purpose of the Land Code [(1958 Ed.)], the Board and every corporation established under this Ordinance shall be deemed a native.

**FOREST CONCESSION AREA
(REHABILITATION AND DEVELOPMENT) FUND
ORDINANCE, 1985**

[Ord. No. 7/85]

LIST OF AMENDMENTS

<i>Amending Law</i>	<i>Short title</i>	<i>In force from</i>
Swk. L.N. 36/87	Date of Commencement Notification	1.1.1987
Cap. A67	Amendment Ordinance, 1999	1.6.1999
Cap. A19	Amendment Ordinance, 1994	1.1.1995