

# MALAYSIAN FORESTRY RESEARCH AND DEVELOPMENT BOARD ACT 1985

## ACT 319

**Date of coming into force: 1 October 1985**

### **Preamble**

An Act to establish the Malaysian Forestry Research and Development Board, for the administration of a fund for the purpose of financing research and to provide for matters connected therewith.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

### **PART I PRELIMINARY**

. Short title, application and commencement.

(1) This Act may be cited as the Malaysian Forestry Research and Development Board Act 1985 and shall apply throughout Malaysia.

(2) This Act shall come into force on such date as the Minister may by notification in the Gazette appoint, and different dates may be appointed for different parts of Malaysia.

2. Interpretation.

In this Act, unless the context otherwise requires-

"approved programmes" means programmes approved by the Board.

"Board" means the Malaysian Forestry Research and Development Board established under section 3;

"Chairman" means the Chairman of the Board appointed under section 3;

"Director-General" means the Director-General appointed under section 12 and includes the Deputy Director-General;

"forest development" means the management and development policies and activities for all natural and man-made forests, based on sound ecological and economic principles, for the expressed purposes of both the production of forest produce and the protection of the environment;

"forest industries" means all industries engaged in the harvesting, extraction, processing, manufacture, preservation and seasoning of forest produce;

"forest produce" means-

(a) products in the unprocessed or semi-processed form, that is to say-

logs; poles; fuelwood; rubberwood; stems of oil palms, coconut and other palms; gaharu and other scented wood; gums, damar and oleoresins; wood oils, leaves; rattans; bamboos; illipe nuts; shoots; roots; mengkuang;

(b) products that have undergone processing or whose forms have been altered, that is to say-

sawn timber; charcoal; essential oils; wood chips, and wood shavings; ground wood; beadings, and mouldings; plywood and veneer; particleboards; and fibreboards; blockboards, laminboards, and other reconstituted wood-based panel products; wood pulp, paper and paper products; gluelaminated timber; and other processed products derived from items listed in (a); and

(c) products in the finished form, that is to say-

attaps; railway and tramway sleepers of wood; furniture, handicrafts and toys of wood; wooden handles of tools; piles, pickets, and stakes of wood; picture frames of wood; packing cases of wood; household utensils of wood, basketwork, wickerwork and other articles of plaiting; pencils; and other finished articles that are wholly or partially made from products listed in (a) or (b);

"Fund" means the Forestry Research and Development Fund established under section 15;

"Institute" means the Forest Research Institute of Malaysia established under section 11;

"member" means a member of the Board, and includes an alternate member;

"Minister" means the Minister for the time being charged with the responsibility for the forestry sector;

"remuneration" includes salary or wages, allowances, medical benefits, free or subsidised housing, and other privileges capable of being valued in money.

## **PART II THE BOARD**

### 3. Constitution of the Board.

(1) There shall be established a body corporate to be known as the "Malaysian Forestry Research and Development Board" which shall have perpetual succession and a common seal and which may sue and be sued in its said name and subject to and for the purposes of this Act, may enter into contracts and hold and deal in or with any movable or immovable property and do all other matters and things incidental or appertaining to a body corporate.

(2) The Board shall consist of the following members who shall be appointed by the Minister:

(a) a Chairman;

(b) a representative of the Ministry responsible for forestry;

(c) a representative of the Treasury;

(d) a representative of the Federal Forestry Department;

(e) a representative of the Malaysian Timber Industry Board;

(f) three representatives of the timber trade and industry; and

(g) such other persons not exceeding four in number who, in the opinion of the Minister, can contribute to forestry research and development.

(3) The Minister shall, in addition to the persons mentioned in subsection (2), appoint to be members of the Board not more than three other persons as the Minister considers fit, to represent the interest of the States in forestry research.

(4) The Director-General shall be a member of the Board.

(5) The Board shall exercise its functions and perform its duties in accordance with the Schedule.

#### **4. Tenure of office.**

The members of the Board shall hold office for such period as may be specified in their letters of appointment and shall be eligible for reappointment.

#### **5. Alternate members.**

(1) The Minister may, in respect of each member appointed under section 3(2)(b) to 3(2)(f) and section 3(3), appoint one person to be an alternate member to attend in place of the member, meetings of the Board that the member is for any reason unable to attend.

(2) When attending meetings of the Board, an alternate member shall for all purposes be deemed to be a member of the Board.

(3) An alternate member shall, unless he sooner resigns or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate ceases to be a member of the Board.

#### **6. Appointments to the Board shall be gazetted.**

The appointment of every member and alternate member of the Board shall be published in the Gazette.

#### **7. Temporary exercise of functions of Chairman.**

(1) The Minister may appoint any member of the Board to exercise the functions of the Chairman during the period in which the Chairman is for any reason unable to exercise his functions or during the period of any vacancy in the office of Chairman; and such member shall, during the period in which he is exercising the functions of Chairman under this subsection, be deemed to be the Chairman.

(2) Until an appointment is made under subsection (1), or in default of such appointment, the member appointed under section 3(2)(b) shall exercise the functions of and be deemed to be the Chairman; and if that member is for any reason unable to act under this subsection, the member appointed under section 3(2)(d) shall exercise the functions of and be deemed to be the Chairman.

#### **8. Functions of the Board.**

(1) The Board shall exercise the following functions:

(a) to conduct and promote research into forest development including the production, extraction, processing, storage, transportation and utilisation of forest produce, and other fields appropriate to the continued development of the forestry sector and the conservation of the resource base;

(b) to secure, where the public interest or the interest of forest development and forest industries so require, the development and exploitation of results of research, which appear to the Board not to have been developed or exploited or sufficiently development or exploited;

(c) to acquire, hold, dispose of or grant rights in connection with the result of any research conducted by the Board or, where the public interest or the interest of forest development and forest industries so require, in connection with the result of any research undertaken by any person or organisation;

(d) to control, coordinate and monitor the activities of any organisation undertaking research and development programmes and projects financed wholly or mainly from the Fund;

(e) to ensure that it is kept fully informed of the relevant activities of any organisation undertaking research and development programmes and projects financed partly by the Fund;

(f) to collect, collate and disseminate information relating to forest management and development, forest produce and forest products utilisation;

(g) to coordinate activities within Malaysia relating to research and development, publicity and other matters relating to forest development and forest industries and to liaise with bodies outside Malaysia concerned with these matters;

(h) to keep the Minister fully informed of all matters relating to forestry research and development; and

(i) to exercise such other functions as the Minister may, from time to time, direct.

(2) The Board may do all things reasonably necessary for, or expedient or incidental to, the discharge of its functions, in particular but without prejudice to the generality of this section-

(a) to enter into contracts with, or commission any person or body to carry out research;

(b) to provide consultancy services to the public; and

(c) to set up committees, which may consist of or include persons who are not members of the Board, to advise or assist the Board on such matters concerning its functions as it considers fit and the Board may delegate, subject to such conditions and restrictions as it may impose, such of its functions under the Act (except the power to make regulations and to borrow money) as it considers fit to any such committees, and any act done or decision made by the committees pursuant to such delegation shall be deemed to be the act or decision of the Board.

## **9. Minister may give directions.**

The Board shall be responsible to the Minister and the Minister may, after consultation with the Board where in his discretion he deems it necessary to do so, give to it such directions as to him appear appropriate and expedient and the Board shall comply with such directions.

#### **10. Power of Board to make regulations.**

The Board may, with the approval of the Minister make such rules and regulations as it considers necessary for the effective discharge of its functions under section 8, and in particular, but without prejudice to the generality of the power conferred by this section, such rules and regulations may-

- (a) prescribe the procedure for the administration of the Fund under Part IV;
- (b) provide for the schemes and terms and conditions of service including the conduct and discipline of the officers and servants of the Institute;
- (c) prescribe the terms and conditions of loans made to the officers and servants of the Institute under section 15(3)(d); and
- (d) provide for any other matter that is required for the better and effective carrying out of the provisions of this Act.

### **PART III THE INSTITUTE**

#### **11. The Institute.**

- (1) The Board shall establish and manage a research institute to be called the Forest Research Institute of Malaysia for the purpose of executing its functions under this Act.
- (2) The Board shall, in relation to the Institute,-
  - (a) subject to section 12(4), determine the number and grades of posts of the officers and servants required by the Institute;
  - (b) determine the priority of the research activities of the Institute and approve the annual programmes of research and the estimates of expenditure necessary for carrying out the activities and administration of the Institute;
  - (c) ensure that the approved programmes are duly carried out and that the expenditure incurred is in accordance with the estimates of expenditure; and
  - (d) have such other powers as may be necessary for the management of the Institute.

#### **12. Appointment of officers and servants of the Institute.**

- (1) The Minister shall appoint a Director-General of the Institute.
- (2) The Board shall appoint a Deputy Director-General of the Institute and may also appoint such number of other officers and servants of the Institute as it considers necessary and expedient for the exercise of its functions.
- (3) The appointments of the Director-General and the Deputy Director-General shall be published in the Gazette.
- (4) The Board shall, before establishing or modifying any scheme of service for officers and servants of the Institute, including the terms and conditions of service and the salaries, any

pensions scheme, and any scheme relating to allowances and other remuneration, obtain the approval of the Treasury and the Public Services Department.

### **13. Powers and duties of the Director-General.**

(1) The Director-General shall be the chief executive officer of the Institute and shall, apart from having such powers and duties specified in subsection (2) or as the Board thinks fit to confer or impose on him, have all the powers and duties necessary for carrying out the administration and technical functions of the Institute.

(2) The Director-General shall-

(a) submit for the approval of the Board-

(i) annual programmes of research; and

(ii) the estimates of revenue and expenditure necessary to carry out the activities of the Institute including the annual programmes of research and for the administration of the Institute;

(b) ensure that the approved programmes are duly implemented and that the expenditure for carrying out the approved programmes as well as for the administration of the Institute, is in accordance with the estimates approved by the Board;

(c) keep the Board fully informed of the progress of research, development and advisory work, and to prepare and submit to the Board as soon as possible after the end of each financial year a report dealing with the administration of the Institute accompanied by a statement of income and expenditure for the year just ended together with a balance sheet as at the end of the year; and

(d) be responsible for providing and maintaining the necessary secretariat services for the Board.

(3) In the exercise of his powers and the performance of his duties, the Director-General shall be assisted by the Deputy Director-General.

(4) Where the Director-General is temporarily unable to exercise his powers and duties on grounds of sickness, absence or any other cause, the Deputy Director-General shall exercise the powers and duties of the Director-General.

### **14. Public servant.**

All members and all officers and servants of the Institute shall be deemed to be public servants within the meaning of the Penal Code.

## **PART IV FINANCE AND ANNUAL REPORT**

### **15. Forestry Research and Development Fund.**

(1) There shall be established and maintained a fund to be known as the Forestry Research and Development Fund which shall be administered by the Board.

(2) The following shall be paid into the Fund:

(a) any grant made to the Board by the Federal or any State Government;

(b) all monies collected under section 19;

(c) all monies borrowed by the Board under section 16;

(d) all monies earned or arising from any investment under section 17 or from any properties, mortgages, charges or debentures; and

(e) monies received from other sources including fees for advice or services rendered pursuant to section 22, or fees or royalties charged pursuant to subsection (2) of section 23.

(3) The Fund shall be applied for defraying the following:

(a) to meet the expenses incurred by the Board in administering the Fund and in exercising its functions under this Act including the remuneration of officers and servants of the Institute;

(b) to provide funds to the Institute for executing the functions of the Board under this Act;

(c) to provide funds to any organisation which the Board thinks expedient to commission research, development or publicity activities;

(d) to grant loans to the officers and servants of the Institute for the purpose of purchasing dwelling house or conveyances, on such terms and conditions as may be prescribed by the Treasury;

(e) to contribute by way of subscription or donations to any organisation, whether local or international, which promotes the interest of research in forest development and forest industries;

(f) to repay monies borrowed by the Board under section 16; and

(g) to meet any other expenses which the Board considers incidental to its functions.

#### **16. Power to borrow money.**

The Board may, upon the approval of the Minister given with the concurrence of the Minister of Finance, borrow monies for the purposes of exercising its functions.

#### **17. Power to invest.**

The Board may, upon the approval of the Minister given with the concurrence of the Minister of Finance, invest the Fund or any part thereof, not being immediately required for meeting its obligations or exercising its functions, in any investment or securities for the time being authorized for the investment of trust funds under any written law.

#### **18. (Deleted by Act 478)**

#### **19. Research cess.**

(1) The Minister may, after consultation with the Board and with the concurrence of the Minister of Finance, make orders for the imposition, variation or cancellation of a research cess on all or any forest produce; and the orders may specify the nature, the amount and rate and the manner of the collection of the cess.

(2) Every such order shall be published in the Gazette.

(3) Except as may be otherwise provided in any such order, such cess shall be deemed for the purposes of collecting and enforcing the collection thereof to be a customs duty imposed under the Customs Act 1967.

#### **20. Submission of accounts, audit and annual report.**

The Statutory Bodies (Accounts and Annual Reports) Act 1980 shall apply in respect of the accounts, audit and annual reports of the Board.

### **PART V** **SUPPLEMENTAL AND TRANSITIONAL PROVISIONS**

#### **21. Protection of the Board and its members, and officers and servants of the Institute.**

No action or prosecution shall be brought, instituted or maintained in any court against the Board or any of its members, or against any officer or servant of the Institute for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Act, and no suit or prosecution shall lie in any court against any other person for or on account of or in respect of any act done or purporting to have been done by him under order, direction or instruction of the Board or any of its members, or any officer or servant of the Institute given for any such purpose as aforesaid:

Provided that the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

#### **22. Fees.**

The Board may from time to time fix the fees to be charged in respect of any research, investigation, test, advice or other services that the

Institute is requested to carry out, render or perform pursuant to section 8(2)(b).

#### **23. Property in discoveries and improvements.**

(1) The property in every discovery of and improvement in any process or apparatus beneficial to forestry development by any officer or servant of the Institute in the course of his duties or during the period when the officer or servant concerned is under the employment of the Board, shall vest in the Board, but the Board may reward the officer or servant concerned for the discovery or improvement.

(2) The Board may make available any discovery or improvement vested in the Institute by virtue of subsection (1), to any body or person subject to such conditions and to the payment of such fees or royalties if any, as the Board may determine.

#### **24. Transfer of rights and liabilities.**

All rights and liabilities which immediately before the commencement of this Act were the rights and liabilities of the Forest Research Institute (hereinafter referred to as the "former Institute") established under the Federal Forestry Department, shall on the coming into force of this Act be the rights and liabilities of the Board constituted under this Act.

#### **25. Continuance of officers and servants.**

Every person who immediately before the commencement of this Act was employed as an officer or servant of the Federal Forestry Department for the former Institute, shall on that



commencement have the right to an option to be employed by the Board upon terms and conditions of service no less favourable than those enjoyed immediately before that commencement, or to remain in the service of the Federal Forestry Department.

## **26. Validation of acts done in anticipation of Act.**

(1) All acts and things done by any person or authority, whether or not purporting to be done for or on behalf of the Board in preparation for or in anticipation of the promulgation of this Act, and any expenditure incurred in relation thereto shall be deemed to have been authorized by this Act, provided that the acts and things are not inconsistent with the general intention and purpose of this Act; and all rights and obligations acquired or incurred as a result of the doing of those acts and things or of any expenditure so incurred shall be deemed to be the rights and obligations of the Board.

(2) For the avoidance of doubt, it is declared that subsection (1) does not authorize the appointment of members, officers or servants of the Board except in so far as to authorize the temporary appointment of such persons until appointed under this Act.

## **SCHEDULE**

(Section 3(5))

### **SUPPLEMENTARY PROVISIONS RESPECTING THE BOARD**

1. The Board shall hold at least four meetings in each year.
2. The Board shall also meet at such other times as may be deemed necessary by the Chairman or at the request of any six members.
3. (1) At any meeting of the Board, six members shall form a quorum.  
(2) Decisions of the Board shall be taken by a simple majority of the members present and voting.  
(3) If on any question to be determined by the Board there is an equal division of votes, the Chairman or member presiding, shall have a casting vote in addition to his deliberative vote.
4. (1) A member who-
  - (a) at three consecutive meetings of the Board, without reasonable cause or the permission in writing of the Chairman, has neither been present nor represented by the alternate member, if any, appointed in respect of that member;
  - (b) has been found or declared to be of unsound mind;
  - (c) has become bankrupt or made an arrangement with his creditors; or
  - (d) has been convicted of any offence involving fraud, dishonesty, or moral turpitude, shall cease to hold office.

(2) The Provisions of subparagraph (1), other than subparagraph (1)(a), shall apply mutatis mutandis to an alternate member.
5. The Chairman and members may be paid such allowances as may be determined by the Minister.

6. The seal of the Board shall be affixed in the presence of the Chairman and one other member who shall sign every deed or other document or instrument to which such seal is affixed and such signing shall be prima facie evidence that such seal was duly and properly affixed and that the same is the lawful seal of the Board.

7. Subject to paragraph 1, 2, 3 and 4, the Board may regulate its own procedure.