

MALAYSIAN COCOA BOARD (INCORPORATION) ACT 1988

ACT 343

Preamble

An Act to establish the Malaysian Cocoa Board and to provide for matters connected therewith.

[1 February 1989]

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

1. Short title, application and commencement.

(1) This Act may be cited as the **Malaysian Cocoa Board (Incorporation) Act, 1988**.

(2) This Act shall apply throughout Malaysia and shall come into force on such date as the Minister may by notification in the Gazette appoint, and the Minister may appoint different dates for the coming into force of this Act for different States in Malaysia or for different provisions of this Act.

2. Interpretation.

In this Act, unless the context otherwise requires-

"analyst" means an analyst appointed under section 23n;

[Ins. Act A1103]

"appointed day" means the day on which section 25a comes into operation;

[Ins. Act A1103]

"approved programmes" means programmes approved by the Board;

"authorized officer" means-

(a) an officer of the Board authorized under section 23A;

(b) a police officer not below the rank of Inspector; or

(c) an officer of customs;

[Ins. Act A1103]

"Board" means the Malaysian Cocoa Board established under section 3;

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

[Am. Act A1103 - Prior text read - "'Chairman" means the Chairman of the Board appointed under section 3;"]

"cocoa" means the plant of the genus Theobroma or any related genus or species or any hybrids or clones of the genus or species, **plants** resulting from the crossing of these species, hybrids or clones with any other species, hybrids or clones of **plants**, and genetically engineered versions of these species, hybrids or clones, and includes cocoa beans and cocoa products;

[Am. Act A1103 - Prior text read - "cocoa" includes the plant Theobroma cacao L, cocoa beans and cocoa products;"]

"cocoa bean" means the seed of theobroma cacao L whether or not passed through a process of fermentation or drying;

[Am. Act A1103 - Prior text read - "cocoa bean" means the seed of theobroma cacao L whether or not passed through a process of fermentation or drying and includes a cocoa pod;]

"cocoa industry" means any industry involved in the planting of cocoa or the production of cocoa products or both and includes services related to such planting or production;

[Ins. Act A1103]

"cocoa planting materials" means cocoa seeds, cocoa seedlings, budded cocoa seedlings, any material from any part of the cocoa plant used in vegetative propagation and **plants** from cocoa tissues;

[Ins. Act A1103]

"cocoa products" means any products manufactured from the cocoa bean and includes cocoa liquor, cocoa butter, cocoa cake, cocoa powder and chocolate;

[Subs. Act A1103 - Prior text read - "cocoa products" means products manufactured from the cocoa bean which include cocoa butter, cocoa liquor, cocoa powder, cocoa paste, chocolate and other products made from the cocoa bean;]

"conveyance" means any mode of transport, whether by air, sea or land;

[Ins. Act A1103]

"Director-General" means the Director-General of the Board appointed under section 15;

"Fund" means the Malaysian Cocoa Board Fund established under section 18;

"MARDI" means the Malaysian Agricultural Research and Development Institute established under the Malaysian Agricultural Research and Development Institute Act 1969;

[Ins. Act A1103]

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

"Minister" means the Minister responsible for the cocoa industry;

[Am. Act A1103 - Prior text read - "Minister" means the Minister responsible for the Cocoa Industry;"]

"research finding" means any results from research and development activities and includes inventions and improvements in any process, apparatus, machine or technique;

[Ins. Act A1103]

"sea" includes inland waters;

[Ins. Act A1103]

"staff" means the officers and servants of the Board and where the context so applies, any expert employed by the Board on a temporary basis;

[Am.. Act A1103]

"this Act" includes any regulations made under this Act.

PART II THE BOARD

3. Establishment of Board and its objectives.

- (1) There is established a body corporate by the name of "Malaysian Cocoa Board".
- (2) The Board shall have perpetual succession.
- (3) The Board may sue and be sued in its corporate name.
- (4) Subject to and for the purposes of this Act, and on such terms as it deems fit, the Board may-
 - (a) enter into contracts; and
 - (b) in respect of movable and immovable property and interest in movable and immovable property, of every description-
 - (i) acquire, purchase and take such property and interest; and
 - (ii) hold, enjoy, convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, or otherwise dispose of or deal with, such property and interest vested in the Board.
- (5) The objectives of the Board are-
 - (a) to promote and develop the cocoa industry of Malaysia; and
 - (b) to develop national objectives, policies and priorities for the orderly development and administration of the cocoa industry of Malaysia.
- (6) The First Schedule shall apply to the Board.

[Subs. Act A1103 - Prior text read - "**3. Constitution of the Board.**"]

(1) There shall be established in this Act a body corporate called the Malaysian Cocoa Board which shall have perpetual succession and a common seal and power to acquire and hold, dispose of or otherwise deal with any movable and immovable property and which may sue or be sued in its corporate name.

(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 the cocoa industry;
- (c) a representative of the Treasury;

(d) a representative of the Ministry of Agriculture;

(e) a representative of the Ministry of Trade and Industry;

(f) five persons to represent the cocoa industry;

(g) not more than six persons to represent other interests of the cocoa industry or of the Government of the Federation or those of the States.

(3) The Board shall exercise its functions and perform its duties in accordance with the First Schedule."]

3A. Common seal.

(1) The Board shall have a common seal that shall bear a device approved by the Board.

(2) The common seal may, from time to time, be broken, changed, altered and made anew as the Board deems fit.

(3) Until a seal is provided by the Board, a stamp bearing the words "Malaysian Cocoa Board" may be used and shall be deemed to be its common seal.

(4) The common seal shall be kept in the custody of the Chairman or a member of the Board.

(5) The common seal shall be affixed in the presence of the Chairman and one other member of the Board and the Chairman and such member shall sign every deed, document or other instrument to which the common seal is affixed.

(6) All deeds, documents and other instruments purporting to be sealed with the common seal and authenticated as specified in subsection (5) shall, until the contrary is proven, be deemed to have been validly executed.

(7) Any deed, document or other instrument that, if executed by a person who is not a body corporate, is not required to be under seal, may in like manner be executed by the Chairman or a member of the Board on behalf of the Board.

(8) The common seal of the Board shall be officially and judicially noticed.

3B. Membership of Board.

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

(a) a Chairman;

(b) a representative of the Ministry charged with the responsibility for the cocoa industry, to be nominated by the Secretary-General of the Ministry;

(c) a representative of the Treasury, to be nominated by the Secretary-General of the Ministry of Finance;

(d) a representative of the Ministry charged with the responsibility for agriculture, to be nominated by the Secretary-General of the Ministry;

(e) a representative of the Ministry charged with the responsibility for international trade and industry, to be nominated by the Secretary-General of the Ministry;

(f) five representatives of the cocoa industry;

(g) not more than six persons to represent the other interests of the cocoa industry or the interests of the Federal Government or the interests of the State Governments; and

(h) the Director-General.

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 of the Board appointed under paragraphs (b), (c), (d), (e), (f) and (g) of section 3B appoint one person to be an alternate member to attend in place of the member at the meetings of the Board if that member is for any reason unable to attend.

[Am. Act A1103 - Prior text read - "(1) The Minister may in respect of each member of the Board appointed under paragraphs (b), (c), (d), (e), (f) and (g) of subsection (2) of section 3 appoint one person to be an alternate member to attend in place of the member at the meetings of the Board if that member is for any reason unable to attend."]

(1A) Alternate members to be appointed-

(a) in respect of members appointed under paragraphs (b), (c), (d) and (e) of section 3B, shall be alternate members nominated by the Secretary-General of the respective Ministries specified in those paragraphs; and

(b) in respect of members appointed under paragraphs (f) and (g) of section 3B, shall be alternate members nominated by the respective appointed member.

[Ins. Act A1103]

(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 if the member in respect of whom he is an alternate ceases to be a member of the Board.

6. Appointment to 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 other than the Director-General to exercise the functions of the Chairman during any period the Chairman is for any reason unable to exercise his functions or during any 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.

[Am. Act A1103 - Prior text read - "(1) The Minister may appoint any member of the Board to exercise the functions of the Chairman during any period the Chairman is for any reason unable

to exercise his functions or during any 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 under subsection (1) is made or in default of such appointment or in the absence of the Chairman from any meeting of the Board, the member appointed under paragraph (b) of section 3b or his alternate, as the case may be, shall exercise the functions of and be deemed to be the Chairman of the Board.

[Am. Act A1103 - Prior text read - "(2) Until an appointment is made under subsection (1) or in default of such appointment, the member appointed under paragraph (b) of subsection (2) of section 3 shall exercise the functions of and be deemed to be the Chairman of the Board."]

(3) If at any meeting of the Board neither the Chairman nor the person exercising the functions of the Chairman under subsection (2) is present, the members present shall elect one of their number to preside at the meeting.

8. Functions of the Board.

The Board shall have the following function:

(a) to conduct and promote research into the production, processing, storage, transportation, marketing, consumption and uses of cocoa and cocoa products;

(b) to secure, where the public interest or the interest of the cocoa industry so requires, the development and exploitation of any research finding, which appears to the Board not to have been developed and exploited or sufficiently developed or exploited;

[Am. Act A1103 - Prior text read - "(b) to secure, where the public interest or the interest of the cocoa industry so requires, the development and exploitation of any result of research, which appears to the Board not to have been developed and exploited or sufficiently developed or exploited;"]

(c) to acquire, hold, dispose of or grant rights in connection with the research findings vested in by the Board or, where the public interest or the interest of the cocoa industry so requires, in connection with the findings of any research undertaken by any person or organization;

[Am. Act A1103 - Prior text read - "(c) to acquire, hold, dispose of or grant rights in connection with the results of any research conducted by the Board or, where the public interest or the interest of the cocoa industry so requires, in connection with the result of any research undertaken by any person or organization;"]

(d) to control and coordinate the activities and policies of all research and development organizations financed wholly or mainly from the Fund;

(e) to ensure that the Board is kept fully informed on the relevant activities and policies of all research and development organizations financed partly by the Fund;

(f) to collect, collate and disseminate information relating to cocoa and cocoa products and other substitutes for cocoa products and to promote the use of cocoa and cocoa products in competition with other materials or complementary thereto;

(g) to coordinate activities within Malaysia relating to research, development, publicity and other matters affecting the cocoa industry as well as to liaise with bodies outside Malaysia concerned with these matters;

(h) to provide technical, advisory and consultancy services to the cocoa industry;

[Am. Act A1103 - Prior text read - "(h) to provide consultancy services where appropriate or necessary;"]

(i) to coordinate activities towards the efficient marketing of cocoa beans and cocoa products from Malaysia;

(j) to regulate and improve the manner of storing and shipping of cocoa and cocoa products;

(k) to promote measures towards attaining a high quality for cocoa and cocoa products and including assisting in the laying of standards and the establishment of an efficient grading system;

(l) to regulate the processing, grading, packing, import and export of cocoa including the certification thereof;

[Am. Act A1103 - Prior text read - "(l) to regulate the processing, grading, packing and export of cocoa including the certification thereof;"]

(m) to regulate and coordinate the proper conduct in the production, processing, storage, transportation and marketing of cocoa and cocoa products;

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

(na) to plan and implement training programmes and human resource development in line with the needs of the cocoa industry;

[Ins. Act A1103]

(nb) to conduct research and development on oils and fats other than cocoa butter if such research and development are for the enhancement of the cocoa industry;

[Ins. Act A1103]

(nc) to conduct research and development in any other area if the research and development are intended to benefit the cocoa industry;

[Ins. Act A1103]

(nd) to conduct research and development on inter-cropping and to promote inter-cropping in cocoa plantations; and

[Ins. Act A1103]

(o) generally to do everything for the betterment and proper conduct of the cocoa industry and to exercise such other functions as the Minister may, from time to time, direct.

9. Powers of the Board.

The Board shall have the power to do all things reasonably necessary for, or expedient or incidental to, the exercise of its functions, in particular without prejudice to the generality of the following:

- (a) to establish and operate such institutions and establishments in such places as the Board may consider appropriate in order to discharge its functions under this Act;
- (b) to enter into such negotiations and arrangements as the Board considers necessary for the promotion of the general interests of the cocoa industry;
- (c) to receive in consideration of services rendered by it, such commission or payments as may be agreed upon;
- (d) to impose fees or other charges it deems fit for giving effect to any of its functions;
- (e) to set up committees, which may consist of or include persons who are not members of the Board in order to advise or assist the Board on such matters concerning its powers and functions as it considers fit; and the Board may delegate, subject to such conditions and restrictions as it may impose, such of its powers and functions (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.

10. Power to establish corporation.

(1) The Board may, with the approval of the Minister after consultation with the Minister of Finance, by order published in the Gazette, establish a corporation, by such name as the Board deems fit, to carry out and have the charge, conduct and management of any project, scheme or enterprise that has been planned or undertaken by the Board in the performance of its functions, the exercise of its powers or the discharge of its duties.

[Subs. Act A1103 - Prior text read - "(1) The Board may, from time to time, with the approval of the Minister and with the concurrence of the Minister of Finance, establish, by order published in the Gazette, a corporation by such name as may be specified in the order, to carry out and have the charge, conduct and management on behalf of the Board of any project, scheme or enterprise that has been planned or undertaken by the Board in the discharge of its functions under this Act, and may in like manner cancel, vary or amend any such order."]

(2) Every order made under subsection (1) shall make provisions in respect of-

- (a) the constitution of the corporation;
- (b) the financing of the corporation;
- (c) the repayment of loans made to the corporation; and
- (d) the accounts to be kept by the corporation and the audit of the accounts.

(3) The provisions of the Second Schedule shall apply to the corporation established by the Board under subsection (1).

(4) The Minister may make such rules or regulations prescribing any activity or interest or prescribing the terms or conditions of any activity or interest of any member, officer or servant of the Board in relation to the corporation and any omission or neglect to comply with and any act done or attempted to be done contrary to the provisions of such rules or regulations is an offence

against this Act and the offender shall be liable on conviction to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

10A. Commercialization of research findings.

The Board may make available any research finding vested in the Board to any person or body subject to such conditions and to 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.

10B. Power to employ agents, etc.

The Board may employ and pay agents and technical advisers, including advocates and solicitors, bankers, consultants, 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 Act.

11. Power of Minister to make regulations.

The Minister may after consultation with the Board, make regulations for the proper and effective carrying out of the purposes and provisions of this Act, and in particular and without prejudice to the generality of the foregoing, such regulations may-

- (a) require the registration and licensing of persons in respect of any or all activities that fall within the scope of the functions of the Board;
- (b) provide for matters relating to registration and licensing including the manner of applying for registration and licences, the fees payable for licences, the imposition or variation of conditions and restrictions of licences, and the revocation or suspension of such licences;
- (c) provide for matters relating to appeals;
- (d) regulate any or all activities that fall within the scope of the functions of the Board in any manner apart from or in addition to registration and licensing;
- (e) provide for the practices to be observed or avoided in the cocoa industry;
- (f) provide for the registration of contracts of sale including the details of such contracts, relating to the export of cocoa and cocoa products;
- (g) for the purposes of ensuring that the quality of cocoa to be exported is of such standard as may be prescribed and for the prevention of fraud in connection herewith, provide for the control and supervision of such standards including the prescribing of marks to be stamped or otherwise inscribed on cocoa packed for export;
- (h) prescribe the fees to be charged in respect of any research, investigation, test, advice or other services that the Board is requested to carry out, render or perform under these regulations;

[Am. Act A1103 - Prior text read - "(h) to prescribe the fees to be charged in respect of any research, investigation, test, advice or other services that the Board is requested to carry out, render or perform under these regulations;"]

(i) prescribe penalties for the contravention of the provisions of any regulations made under this section with imprisonment not exceeding two years or a fine not exceeding fifty thousand ringgit or of both such imprisonment and fine;

[Am. Act A1103 - Prior text read - "(i) prescribe penalties for the contravention of the provisions of any regulations made under this section with imprisonment not exceeding two years or a fine not exceeding ten thousand ringgit or of both such imprisonment and fine."]

(j) prescribe the standards of processing and methods of fermenting, drying, grading or packaging cocoa and cocoa products;

[Ins. Act A1103]

(k) prescribe the procedure for the import and export of cocoa beans and cocoa products;

[Ins. Act A1103]

(l) prescribe the offences that may be compounded;

[Ins. Act A1103]

(m) prescribe the records and documents to be kept and the returns to be submitted;

[Ins. Act A1103]

(n) provide for such other matters as are contemplated by, or necessary for giving full effect to, this Act and for its due administration.

12. Appeals to the Minister.

(1) Any person aggrieved by the refusal of the Board to issue or renew, or by revocation or suspension by the Board of a licence required under this Act or any rules or regulations made thereunder or by imposition or variation of conditions on such licence, may within thirty days of the decision being made known to him in writing appeal to the Minister, whose decision shall be final and shall not be questioned in any court.

[Am. Act A1103 - Prior text read - "(1) Any person aggrieved by the refusal of the Board to issue or renew, or by revocation or suspension by the Board of a licence required under this Act or any rules or regulations made thereunder or by imposition or variation of conditions on such licence, may within thirty days of the decision being made known to him in writing appeal to the Minister, whose decision shall be final and conclusive."]

(2) In giving his decision on an appeal under subsection (1), the Minister may confirm, reverse or vary the decision of the Board.

13. Power of Board to make rules and 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 established under Part III of this Act;

(b)(deleted)

[Deleted by Act A1103 - Prior text read - "(b) provide for the conduct and discipline of the staff including provisions for surcharge;"]

(c) prescribe the scheme as well as the terms and conditions of loans to be made to the staff under subsection (3)(c) of section 18;

(d) prescribe matters relating to the establishment of a corporation under section 10.

14. Minister may give direction.

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

14A. Member deemed to be public servant.

In the exercise of their official duties and functions, the members of the Board shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

**PART IIA
DIRECTOR-GENERAL AND STAFF OF THE BOARD**

15. Appointment of Director-General and other staff of the Board.

(1) There shall be appointed by the Minister, a Director-General of the Board or a person by such other designation as the Minister may consider appropriate on such terms and conditions and for such period as he shall determine.

(2) The Board may appoint such number of other staff of the Board including Cocoa Inspectors as it considers necessary and expedient.

(3) The appointment of the Director-General shall be published in the Gazette.

[Am. Act A1103 - Prior text read - "(3) The appointments of the Director-General, and the Cocoa Inspectors shall be published in the Gazette."]

(4) The Board shall not establish or modify any post or scheme of service for officers and servants of the Board, including the terms and conditions of service and the salaries, any pensions scheme, and any scheme relating to allowances and other remuneration, without the approval of the Treasury and the Public Services Department.

16. Powers and duties of the Director-General.

(1) The Director-General shall be the chief executive officer of the Board 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 of the Board.

(2) The Director-General shall-

(a) submit for the approval of the Board-

(i) annual programmes of the activities of the Board;

(ii) the estimates of revenue and expenditure necessary to carry out the activities of the Board;

(b) ensure that the approved programmes are duly implemented and that the expenditure for carrying out the approved programmes is in accordance with the annual budget approved by the Board;

(c) keep the Board fully informed of the progress of its activities.

(3) Where the Director-General is temporarily unable to exercise his functions on grounds of sickness, absence or any other cause, the Board may appoint a member of the staff to exercise the powers and duties of the Director-General.

17. Public servants.

In the exercise of their official duties and functions, the Director-General and staff of the Board shall be deemed to be public servants within the meaning of the Penal Code.

17A. Delegation of Director General's duties.

(1) The Director-General may, in writing, delegate any of the functions, powers or duties assigned to him under this Act to any officer of the Board, subject to such conditions as he thinks fit.

(2) A delegation under this section shall not preclude the Director-General himself from performing or exercising at any time any of the delegated functions, powers or duties.

17B. Property in research findings by Director General or staff.

The property in every research finding by the Director-General, any member of the staff or any expert employed by the Board, in the course of his official duties or during the period when the officer or person concerned is under the employment or in the service of the Board, shall vest in the Board but the Board may reward the officer or person concerned for the research finding in such manner as it deems fit.

PART III Finance

18. Malaysian Cocoa Board Fund.

(1) There shall be established and maintained a fund to be known as the Malaysian Cocoa Board 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 22;

(c) all monies collected under any rules and regulations made under this Act, other than fines;

(d) all monies borrowed by the Board under section 19;

(e) all monies earned or arising from any investment under section 20 or from any properties, mortgages, charges or debentures;

[Am. Act A1103 - Prior text read - "(e) all monies earned or arising from any investment under section 20 or from any properties, mortgages, charges or debentures; and"]

(f) monies received from other sources including commission and fees for advice or services rendered pursuant to paragraphs (c) and (d) of section 9, royalties or other consideration payable under section 10A;

[Am. Act A1103 - Prior text read - "(f) monies received from other sources including commission and fees for advice or services rendered pursuant to paragraphs (c) and (d) of section 9, or fees or royalty charged pursuant to subsection (2) of section 24."]

(g) monies collected or paid under section 23Y; and

[Ins. Act A1103]

(h) donations and contributions received from within or outside Malaysia, including monies received from any government or organization outside Malaysia.

[Ins. Act A1103]

(3) The Fund may be applied for-

(a) defraying the expenses incurred by the Board in administering the Fund;

(b) defraying any expenditure lawfully incurred by the Board, including-

(i) the remuneration of the Director-General and staff, including the granting of loans, superannuation allowances, pensions or gratuities and, if relevant, the contributions to the Employees Provident Fund in respect of the Director-General and staff;

(ii) insurance coverage for the Director-General and staff;

(iii) contributions to the Malaysian Cocoa Board Staff Welfare Account established under section 18A; and

(iv) legal fees and costs and other fees and costs;

[Subs. Act A1103 - Prior text read - "(b) defraying such expenditure as the Board may incur in carrying out its duties and exercising its powers under the Act, including the remuneration of, and where relevant, the contributions in respect of pension and Employees Provident Fund of the Director-General and staff;"]

(c) providing housing loans or loans to purchase conveyance for the Director-General and staff, on such terms and conditions as may be prescribed;

(d) making contributions by way of subscription or donations to any recognized organization, whether local or international, which promotes research and development on cocoa and the marketing of cocoa and cocoa products;

[Am. Act A1103 - Prior text read - "(d) making contributions by way of subscription or donations to any recognized organization, whether local or international, which promotes relevant research on cocoa;"]

(e) repaying any sum borrowed by the Board under section 19;

[Am. Act A1103 - Prior text read - "(e) repaying any sum borrowed by the Board under section 19; and"]

(ea) paying any reward under section 23DD; and

[Ins. Act A1103]

(f) defraying any other expenses which the Board considers incidental to its functions.

18A. Malaysian Cocoa Board Staff Welfare Account.

(1) The Board may, with the approval of the Minister, out of the funds of the Board, create and maintain a trust account to be called the "Malaysian Cocoa Board Staff Welfare Account" for the benefit of the Director-General and staff of the Board.

(2) The Malaysian Cocoa Board Staff Welfare Account shall be utilized for purposes that are conducive to the welfare of the Director-General and staff of the Board as may be specified in trust directions to be issued by the Board with the approval of the Minister and such directions may provide for the manner and the procedure for the making of grants, loans or other payments from the Malaysian Cocoa Board Staff Welfare Account.

19. Power to borrow money.

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

20. Power to invest.

The Board may, from time to time, with the approval of the Minister and after consultation with 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.

21. (Repealed).

**PART IV
CESS**

22. Cess on cocoa.

(1) The Minister may, after consultation with the Minister of Finance, make orders for the imposition, variation or cancellation of cess on cocoa; and the orders may specify the nature, the amount and rate and the manner of collection of the cess.

[Am. Act A1103 - Prior text read - "(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 cess on cocoa; and the orders may specify the nature, the amount and rate and the manner of collection of the cess."]

(1A) An order made under this section may prescribe different amounts, rates and manner of collection for different types or grades of cocoa.

[Ins. Act A1103]

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

(3) Every such order shall be published in the Gazette and shall be laid on the table of each House of Parliament as soon as practicable after the publication of such order in the Gazette.

(4) A 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 ten times the amount of cess due or to imprisonment for a term not exceeding two years or to both.

[Ins. Act A1103]

(5) The amount of any cess imposed under this section shall be a debt due to the Board from the person on whom the cess is imposed and may be sued for and recovered in any court at the suit of the Board.

[Ins. Act A1103]

(6) 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 that he is required by this Act to make.

[Ins. Act A1103]

(7) Without prejudice to subsection (5) , the court before which a person is convicted for an offence under subsection (4) may order the person to pay to the Board the total amount of cess certified by the finance officer of the Board to be due from the person at the date of the conviction.

[Ins. Act A1103]

(8) Cess payable under subsection (7) shall, for the purpose of its collection, be deemed to be a fine and shall be recovered in accordance with section 283 of the Criminal Procedure Code.

PART V AUDIT AND ANNUAL REPORT

23. 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 VA ENFORCEMENT

23A. Authorization of officers.

(1) The Director-General may, in writing, authorize any officer of the Board to exercise the powers of enforcement under this Act.

(2) An officer authorized under subsection (1) when acting under this Act shall, on demand, declare his office and produce to the person against whom he is acting or from whom he seeks any information such authority card as the Director-General may direct to be carried by such officer.

23B. Power of investigation.

An authorized officer shall have all the powers necessary to carry out an inspection and to investigate the commission of any offence under this Act.

23C. Search by warrant.

(1) If it appears to a Magistrate, upon written information on oath and after such enquiry as the Magistrate considers necessary, that there is reasonable cause to believe that an offence under this Act or any regulations made under this Act is being or has been committed on any premises, the

Magistrate may issue a warrant authorizing any authorized officer named in the warrant to enter the premises at any reasonable time by day or by night, with or without assistance and if need be by force, and there to-

(a) search for and seize any cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article that is reasonably believed to furnish evidence of the commission of such offence;

(b) take samples of any cocoa or thing found in the premises for the purposes of ascertaining, by testing or otherwise, whether the offence has been committed; and

(c) make copies of or take extracts from any book, record, document or other article found in the premises.

(2) An authorized officer entering any premises under this section may take with him such other persons and equipment as may appear to him to be necessary.

(3) An authorized officer may, in the exercise of his powers under this section, if it is necessary to do so-

(a) break open any outer or inner door of the premises and enter into the premises;

(b) forcibly enter the premises and every part of the premises;

(c) remove by force any obstruction to entry, search, seizure and removal as he is empowered to effect; and

(d) detain every person found in the premises until the place has been searched.

(4) If, by reason of its nature, size or amount, it is not practicable to remove any cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this section, the seizing officer shall, by any means, seal such cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article in the premises or container in which it is found.

(5) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (4) or removes the cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article under seal or attempts to do so commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

23D. Power to stop and search conveyances.

(1) If an authorized officer has reasonable cause to suspect that any conveyance is carrying any cocoa, machinery, contrivance, equipment, book, record, document or any other article in respect of which an offence under this Act or any regulations made under this Act is being or has been committed, he may stop and examine the conveyance and may, if on examination he has reasonable cause to believe that such conveyance is or has been used for the commission of such offence, seize such conveyance and any cocoa, machinery, contrivance, equipment, book, record, document or other article found in the conveyance that is reasonably believed to furnish evidence of the commission of such offence.

(2) The person in control or in charge of the conveyance shall, if required to do so by the authorized officer-

(a) stop the conveyance and allow the authorized officer to examine it; and

(b) open all parts of the conveyance for examination and take all measures necessary to enable or facilitate the carrying out of such examination as the authorized officer considers necessary.

(3) A person who contravenes subsection (2) 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 two years or to both.

23E. List of things seized.

(1) Except as provided in subsection (2) , if any cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article is seized under section 23C or section 23D, the seizing officer shall prepare a list of the things seized and immediately deliver a copy of the list signed by him to-

(a) if premises have been searched under section 23C, the occupier of the premises that have been searched, or to his agent or servant, at those premises; and

(b) if a conveyance is seized under section 23d, the person in control or in charge of the conveyance.

(2) If the premises are unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously on the premises.

23F. Power to enter premises.

Notwithstanding section 23C, an authorized officer may at any time enter any premises for the purpose of-

(a) inspecting any cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article as he considers necessary;

(b) verifying the accuracy of records or statements or any information given to an authorized officer or to the Board; or

(c) collecting samples of any cocoa.

23G. Temporary return of conveyance, etc.

(1) If any conveyance, machinery, contrivance or equipment is seized under this Act, the court may temporarily return the conveyance, machinery, contrivance or equipment to the owner of the conveyance, machinery, contrivance or equipment or the person from whose possession, custody or control it was seized, subject to such conditions as the court may impose and, subject in any case to sufficient security being furnished to the satisfaction of the court that the conveyance, machinery, contrivance or equipment shall be surrendered to the court on demand and that such conditions, if any, shall be complied with.

(2) If 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 court; or

(b) contravenes any of the conditions imposed under subsection (1) , 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 two years or to both.

23H. Sale and disposal of seized cocoa.

(1) The Director-General may at any time direct that any cocoa seized under this Act be sold and the proceeds of the sale be held while waiting for the result of any prosecution under this Act if-

(a) the cocoa is of a perishable nature or easily deteriorates in quality;

(b) the custody of the cocoa involves unreasonable expense and inconvenience;

(c) there is a lack or absence of adequate or proper facilities for the storage of the cocoa; or

(d) the cocoa is believed to cause an obstruction or to be a hazard to the public.

(2) Notwithstanding subsection (1) , if an analyst certifies, or if the results of tests as certified by an analyst proves, that the cocoa tested by him is contaminated, the seizing officer may keep it in custody or, if no prosecution is instituted in respect of the cocoa, cause it to be disposed of in the manner determined by the Director-General.

23I. Seized cocoa, etc., liable to forfeiture.

Any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized in exercise of any power conferred under this Act shall be liable to forfeiture.

23J. Property in forfeited cocoa, etc.

Any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article forfeited or taken and deemed to be forfeited under this Part shall be the property of the Board.

23K. Forfeiture or release of seized cocoa, etc.

(1) If prosecution is instituted with regard to any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act, the court before which the prosecution with regard to the matter has been held may order the forfeiture or release of the thing concerned.

(2) The court shall order the forfeiture of the cocoa or the proceeds of sale of the cocoa, or the conveyance, machinery, contrivance, equipment, book, record, document or other article if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article 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 no prosecution is to be instituted with regard to any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act, the authorized officer in whose custody it is held shall notify the person from whom the cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article was seized of that fact and of the provisions of section 23L.

(4) A notice under subsection (3) shall be in writing and shall be sent to the last-known address of the person concerned.

(5) If no claim is made under section 23L within thirty days from the date of service of the notice referred to in subsection (3) , the cocoa or the proceeds of sale of the cocoa, or the conveyance, machinery, contrivance, equipment, book, record, document or other article seized shall be taken and deemed to be forfeited at the expiration of that period.

23L. Claim for seized cocoa, etc.

(1) A person who asserts that he is the owner of the cocoa or the proceeds of sale of the cocoa, or of the conveyance, machinery, contrivance, equipment, book, record, document or other article referred to in subsection (3) of section 23K and that it is not liable to forfeiture may, personally or by his agent authorized in writing, give written notice to the authorized officer in whose custody it is held that he claims the cocoa or the proceeds of sale of the cocoa, or the conveyance, machinery, contrivance, equipment, book, record, document or other article.

(2) On receipt of the notice referred to in subsection (1), the authorized officer shall refer the matter to the Director-General who may direct that the cocoa or the proceeds of sale of the cocoa, or the conveyance, machinery, contrivance, equipment, book, record, document or other article be released or may direct the authorized officer, by information in writing, to refer the matter to a Magistrate.

(3) The Magistrate to whom a matter is referred under subsection (2) shall issue a summons requiring the Board and the person asserting that he is the owner of the cocoa or the proceeds of sale of the cocoa, or of the conveyance, machinery, contrivance, equipment, book, record, document or other article and the person from whom the cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article was seized to appear before the Magistrate and on their appearance or default to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter.

(4) If it is proved that an offence under this Act has been committed and that the cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article was the subject-matter of or was used in the commission of such offence, the Magistrate shall order the cocoa or the proceeds of sale of the cocoa, or the conveyance, machinery, contrivance, equipment, book, record, document or other article to be forfeited, and shall in the absence of such proof order its release.

(5) Any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article forfeited or deemed to be forfeited shall be delivered to the authorized officer and shall be disposed of in accordance with the directions of the Magistrate.

(6) The Board shall not be liable to any person for any deterioration, no matter how arising, in the quality of any cocoa seized under this Act.

23M. Release of seized cocoa, etc.

Notwithstanding section 23L, the Director-General or any officer authorized by the Director-General may, if he thinks fit, at any time direct that any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Part be released to the person from whose possession, custody or control the cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article was seized.

23N. Cost of holding seized cocoa, etc.

If any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act is held in the custody of the Board or the Government pending completion of any proceedings in respect of an offence under this Act, the cost of holding it in custody shall, in the event of any person being found

guilty of an offence, be a debt due to the Board or the Government, as the case may be, by such person and shall be recoverable accordingly.

23O. No costs or damages arising from seizure to be recoverable.

No person shall, in any proceedings before any court in respect of the seizure of any cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

23P. Additional powers.

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

(a) to require the production of records, accounts, computerized data and documents and to inspect, examine and copy any of them;

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

(c) to make such enquiry as may be necessary to ascertain whether this Act has 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 fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

23Q. Offence to assault or obstruct authorized officer.

A person who-

(a) assaults, obstructs, impedes or interferes with any authorized officer in the performance of his functions under this Act;

(b) rescues or endeavours to rescue any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act; or

(c) before or after any seizure causes the disappearance of or damages or destroys any cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article in order to prevent the seizure or securing of the cocoa, conveyance, machinery, contrivance, equipment, book, record, document or other article,

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 two years or to both.

**PART VB
GENERAL**

23R. Appointment of analysts.

(1) For the purposes of this Act, the Minister may appoint analysts to examine and test any cocoa and to certify its condition, type, method of processing, quality, standard and grade.

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

23S. Proportional examination or testing of seized cocoa.

(1) If it is necessary to examine or test any cocoa seized under this Act, it shall be sufficient to examine or test only a sample not exceeding ten per centum in volume or weight of the cocoa or of each different type or description of the cocoa or, if the cocoa is packed in different packages, of the contents of each package.

(2) The court shall presume that the rest of the type, description or package of the cocoa conforms in condition, type, method of processing, quality, standard, grade or otherwise to the sample of the cocoa examined or tested.

23T. Obligation of secrecy.

(1) Except for the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law or if otherwise authorized by the Board-

(a) no member of the Board or any of its committees or any officer or servant or agent of the Board or any person attending any meeting of the Board or any of its committees, whether during his tenure of office or during his employment or after that, shall disclose any information obtained by him in the course of his duties; and

(b) no person who, by any means, has access to any record, book, register, correspondence, information, document or other material obtained under this Act or relating to the affairs of the Board shall disclose such record, book, register, correspondence, information, document or other material.

(2) A person who contravenes subsection (1) 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 two years or to both.

23U. False information.

A person who makes, orally or in writing, signs or furnishes any declaration, return, certificate or other document or information required under this Act that is untrue, inaccurate or misleading in any particular 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 two years or to both.

23V. Offence by body corporate.

(1) If a body corporate commits an offence under this Act, any person who at the time of the commission of the offence was a director, 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 also be found 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 took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) If any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed-

(a) by his employee in the course of his employment;

(b) by the agent when acting on his behalf; or

(c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

23W. General penalty.

(1) A person who commits an offence under this Act for which no penalty is expressly provided shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(2) For the purposes of this section, "this Act" shall not include the regulations made under this Act.

23X. Abetments and attempts punishable as offences.

(1) A person who abets the commission of or who attempts to commit any offence under this Act commits 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 Act commits that offence and shall on conviction be liable to the punishment provided for the offence but any term of imprisonment imposed shall not exceed one-half of the maximum term provided for the offence.

23Y. Power to compound.

(1) The Director-General may compound any offence committed by any person under this Act that is prescribed to be a compoundable offence by regulations made under this Act by making a written offer to the person reasonably suspected to have committed the offence to compound the offence upon payment to the Director-General of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within the period specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the period specified in the offer or within such extended period as the Director-General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) If an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer was made and any cocoa or the proceeds of sale of any cocoa, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized in connection with the offence may be released or forfeited by the Director-General, subject to such conditions as the Director-General thinks fit.

(4) All monies received by the Director-General under this section shall be paid into and form part of the Fund.

23Z. Institution and conduct of prosecution.

(1) No prosecution for or in relation to any offence under this Act shall be instituted without the written consent of the Public Prosecutor.

(2) Any officer of the Board authorized in writing by the Public Prosecutor may conduct the prosecution for any offence under this Act.

23AA. Representation in civil proceedings.

Notwithstanding any other written law-

(a) in any civil proceedings by or against the Board; or

(b) in any other civil proceedings in which the Board is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any person authorized by the Board for the purpose may, on behalf of the Board, institute such proceedings or appear in such proceedings and may make all appearances and applications and do all acts in respect of such proceedings on behalf of the Board.

23BB. Jurisdiction to try offences.

Notwithstanding any written law to the contrary, a Court of a Magistrate of the First Class shall have jurisdiction to try any offence under this Act and to impose the full punishment for any such offence.

23CC. Protection of officers.

No action or prosecution shall be brought, instituted or maintained in any court against-

(a) the Director-General or any other officer duly appointed under this Act for or on account of or in respect of any act ordered or done for the purpose of carrying this Act into effect; and

(b) any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Director-General or any other officer duly appointed under this Act if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it.

23DD. Reward.

The Director-General may order such rewards as he thinks fit to be paid to any person for services rendered in connection with the detection of any offence under this Act or in connection with any seizures made under this Act.

23EE. Protection of informers.

(1) Except as provided in subsections (2) and (3), no witness in any civil or criminal proceeding shall be obliged or permitted to disclose the name or address of an informer or the substance of the information received from him or to state any matter that might lead to his discovery.

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

(3) If on the trial for any offence under this Act or any regulations made under this Act the court after full enquiry into the case believes that the informer wilfully made in his complaint a material statement that he knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of the opinion that justice cannot be fully done between the parties in that proceeding without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit enquiry and require full disclosure, concerning the informer.

PART VI SUPPLEMENTARY AND TRANSITIONAL PROVISIONS

24. (Deleted).

[Deleted by Act A1103 - Prior text read - "24. Property in discoveries and improvement.

(1) The property in every discovery or an improvement in any process or apparatus by the Director-General, any member of the staff or any expert employed by the Board, in the course of his official duties or during the period when the officer or person concerned is under the employment or in the service of the Board, shall vest in the Board, but the Board may reward the officer or person concerned for the discovery or improvement in such manner as it deems fit.

(2) The Board may make available any discovery or improvement vested in the Board 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."]

25. Amendment of Act 11.

The Malaysian Agricultural Research and Development Institute Act 1969 is amended by substituting for the words "rubber and oil palm" in section 3(a), the words "rubber, oil palm, and cocoa save as to research on inter-cropping of cocoa with coconuts and coffee by smallholders".

25A. Further amendment of Act 11.

The Malaysian Agricultural Research and Development Institute Act 1969 is amended in paragraph (a) of section 3 by deleting the words "save as to research on inter-cropping of cocoa with coconuts and coffee by smallholders".

26. Amendment of Act 141.

The Federal Agricultural Marketing Authority Act 1965 is amended by substituting for the words "and tobacco" in the definition of "agricultural produce" in section 1A, the words ", "tobacco and cocoa".

26A. Transfer of property.

(1) All lands that before the appointed day were vested in, or reserved under any written law relating to land for the purposes of, MARDI and used for the purposes of the Hilir Perak MARDI station shall on that day vest in or be deemed to be reserved for the purposes of the Board.

(2) All property and assets other than land that before the appointed day were vested in MARDI or in any person on behalf of MARDI, as the case may be, and used for the purposes of the Hilir Perak MARDI station shall on that day vest in the Board.

26B. Existing contracts.

All deeds, bonds, agreements, instruments and working arrangements subsisting before the appointed day and affecting any of the land, property or assets transferred under section 26A shall have full force and effect against or in favour of the Board and shall be enforceable as fully and effectually as if, instead of MARDI or the Hilir Perak MARDI station or any person acting on behalf of MARDI or the Hilir Perak MARDI station, the Board had been named in or been a party to the deed, bond, agreement, instrument or working arrangement.

26C. Continuance of officers and servants.

The persons who on the appointed day are employed as officers and servants in cocoa research at MARDI, whether stationed at the Hilir Perak MARDI station or otherwise, who have accepted the option to serve with the Board shall continue to be officers and servants of the Board under this Act as if those persons had been appointed under section 15 of this Act on the same terms and conditions on which they were employed by MARDI immediately before the appointed day.

27. Validation of acts done in anticipation of the Act.

(1) All acts and things done by any person in preparation for or in anticipation of this Act and any expenditure incurred in relation thereto shall be deemed to have been authorized under this Act, provided the acts and things done are not inconsistent with the general intention and purposes of this Act and all rights and obligations acquired or incurred as a result of the doing of those acts or things, including any expenditure incurred in relation thereto 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 proper appointments are made under this Act.

28. Power of Minister to give exemption.

The Minister may exempt any person or class of persons by notification in the Gazette from any of the provisions of this Act subject to such conditions or restrictions as he may think fit to impose.

FIRST SCHEDULE

(Section 3(3))

SUPPLEMENTARY PROVISIONS IN RESPECT OF 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 of the Board 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) of this paragraph other than subparagraph (1)(a), shall apply mutatis mutandis to an alternate member.

5. No member of the Board shall incur personal liability for any loss or damage caused by any act or omission in administering the affairs of the Board unless the loss or damage was occasioned intentionally or through recklessness or gross negligence.

6. The Chairman and members of the Board may be paid such allowances as may be determined by the Minister with the concurrence of the Minister of Finance.

7. (Deleted)

[Deleted by Act A1103 - Prior text read - "7. 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 same is the lawful seal of the Board."]

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

SECOND SCHEDULE

(Section 10(3))

1. Power of Board to make regulations in respect of a corporation.

The Board shall, on or before the date on which any corporation is established under section 10, make regulations in respect of such corporation defining?

(a) the purposes and objects for which such corporation is established;

(b) the rights, powers, duties and functions of such corporation;

(c) the system of management thereof; and

(d) the relations between such corporation and the Board and its rights of control over such corporation.

2. Savings.

Nothing in paragraph 1 shall be deemed to authorize the Board to make regulations to establish any corporation for any purpose or object more extensive in scope than the purposes or objects for which the Board was constituted or to confer on any corporation any right, duty, power or function which is not within the rights, duties, powers or functions of the Board under this Act.

3. Regulation subject to the Act.

Subject to the provisions of this Act and of any regulations made thereunder any regulations made under paragraph 1 shall be binding on the corporation in respect of which they were made and shall have effect for all purposes as if they had been enacted in this Act.

4. Amendment of the regulations.

The Board may at any time amend, revoke, or add to, any regulations made in respect of any corporation under paragraph 1 and section 34 of the Interpretation Act 1967, shall apply to any such amended or revoked regulations as if such regulations had been written law.

5. Register of corporation.

The Board shall keep a register in the prescribed form of all corporations established by it under section 10 and such register together with copies of all regulations made under paragraph 1 shall be open to public inspection at such place or places and at such times as it may prescribe.

6. Winding-up.

(1) The Board may by order published in the Gazette direct that any corporation established by it shall be wound up and dissolved.

(2) Upon the dissolution of any corporation under this paragraph the assets of the corporation after payment of all liabilities shall be transferred to and vested in the Board.

(3) The winding up of a corporation under this paragraph shall be conducted in such manner as the Board may prescribe.

7. Corporation to be bodies corporate.

Every corporation established under section 10 shall be a body corporate by such name as the Board shall give to such corporation and shall have perpetual succession and a common seal and may sue and be sued in such name, and for the purpose of carrying into effect the registered development project for which it has been established may enter into contracts and may hold and deal in or with any immovable or movable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provision of this Act and subject to such restrictions or limitations as may be prescribed by the Board in each case.

8. Common seal of the corporation.

Every corporation shall have a common seal, which shall bear such device as the corporation, with the approval of the Board may approve, and such seal may from time to time be broken, changed, altered and made a new by the corporation, with the approval of the Board, as the corporation shall think fit.

