

LEMBAGA PADI DAN BERAS NEGARA (AMENDMENT) ACT 1986

ACT A647

PREAMBLE

An Act to amend the Lembaga Padi dan Beras Negara Act 1971.

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:

1. Short title and commencement.

(1) This Act may be cited as the **Lembaga Padi dan Beras Negara (Amendment) Act 1986**.

(2) Subject to subsection (3), this Act 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 different provisions of this Act.

(3) Section 9 of this Act shall be deemed to have come into force on the 1st June 1984.

2. Amendment of section 2.

Section 2 of the Lembaga Padi dan Beras Negara Act 1971 (Act 47), which in this Act is referred to as "the principal Act", is amended by substituting for the interpretation of "Director General" the following interpretation:

' "Director General" means the Director General of the Lembaga appointed by the Minister under section 9;'

3. Amendment of section 4.

Section 4 of the principal Act is amended in paragraph (da) of subsection (2) by substituting for the words "to limit" the words "to regulate and control" and substituting for the words "farmers, millers, dealers or consumers" the words "any person".

4. Amendment of section 5.

Section 5 of the principal Act is amended by inserting after subsection (2) the following subsection (2A):

"(2A) A member shall devote such time to the business of the Lembaga as is necessary for the discharge of his duties."

5. Amendment of section 7.

Section 7 of the principal Act is amended -

(a) in subsection (2), by substituting for the words "All deeds, documents and other instruments requiring the seal of the Lembaga shall be sealed accordingly" the words "All deeds, and documents and other instruments which are required to be sealed under this Act, any other law or by the Lembaga shall be sealed with the seal of the Lembaga,"; and

(b) by inserting after subsection (2) the following subsection (3):

"(3) All documents and other instruments which are not required to be sealed under this Act, any other law or by the Lembaga shall be executed on behalf of the Lembaga by any officer or servant of the Lembaga generally or specifically authorised by the Lembaga in that behalf."

6. Amendment of section 8.

Section 8 of the principal Act is amended by substituting therefor the following:

" 8. Delegation of duties and powers of Lembaga.

(1) The Lembaga may, subject to subsection (2) and to such conditions, limitations or restrictions as it thinks fit, by an instrument in writing under the common seal of the Lembaga delegate to any body or person any of its duties or powers except its power to borrow under section 13 and its power to make regulations under section 32.

(2) Such person or body shall have no control over the Fund and shall act in all respects in accordance with the instrument of delegation and the directions of the Lembaga.

(3) A delegation under subsection (1) may be revoked or varied by a subsequent instrument made in the like manner.

(4) The Lembaga may exercise a power or perform a duty notwithstanding that the Lembaga has delegated its exercise or performance to some other person or body."

7. Amendment of section 9.

Section 9 of the principal Act is amended by substituting therefor the following:

" 9. Appointment and duties of Director General.

(1) For the purposes of this Act there shall be a Director General of the Lembaga who shall be appointed by the Minister.

(2) The terms and conditions of appointment of the Director General shall be determined by the Minister and shall be set out in the instrument of appointment.

(3) The Director General shall be responsible for the day to day administration and management of the affairs of the Lembaga and shall perform such duties and exercise such powers as may be entrusted or delegated by the Lembaga or the Chairman of the Lembaga acting on behalf of the Lembaga.

(4) Without prejudice to the generality of subsection (3), the Director General shall be responsible for the preparation of programmes, schemes or projects for the consideration of the Lembaga, the issue of policy guidance or elucidation of the decisions of the Lembaga to the officers and servants of the Lembaga and the supervision and control of the implementation of such decisions.

(5) The Director General shall have all the powers of an authorised officer under this Act."

8. Amendment of section 12

Section 12 of the English text of the principal Act is amended in subparagraph (v) of paragraph (a) by inserting before the word "incidental" the word "matter".

9. New section 12A.

The principal Act is amended by inserting after section 12 the following section 12A:

"12A. Payment of fees, etc. from rice mill licences to the States.

Notwithstanding section 12, fees, charges or other sums collected from the issue of rice mill licences shall become payable to the Government of the State in which the licence holder operates his rice mill."

10. Amendment of section 15

Section 15 of the principal Act is amended by substituting for subsection (2) the following:

" (2) Before the beginning of September of each year the Lembaga shall submit to the Minister an estimate of the expenses (including those for development projects) for the following year in such form and containing such particulars as the Minister may require, and the Minister shall before the beginning of the following year notify the Lembaga of the amount authorised for expenses generally or of the amounts authorised for each description of expenditure."

11. Amendment of section 22

Section 22 of the principal Act is amended by substituting therefor the following:

"22. Seizure of padi or rice, etc. the subject of an offence.

(1) All padi and rice in respect of which there has been, or there is reasonable cause to suspect that there has been, committed any offence against this Act or any regulation made thereunder or any breach of any of the provisions of this Act or any regulation made thereunder, or of any restriction or condition subject to or upon which any licence or permit has been granted, together with any receptacle, package, conveyance, vessel or other article, in which the same may have been found or which have been used in connection with such offence or breach, and any book or document which may reasonably be believed to have a bearing on the case, may be seized by any authorised officer or police officer in any place either on land or in territorial waters.

(2) All such padi and rice and such receptacles, packages, conveyances, vessels or other articles shall, as soon as is convenient, be delivered into the care of an authorised officer of the Lembaga whose duty is to receive the same.

(3) An authorised officer or a police officer who makes any seizure under this Act or any regulation made thereunder shall forthwith give notice in writing of such seizure and the grounds thereof to the owner, if known, either by delivering the notice to him or by sending the notice by registered post to his last known address:

Provided that no notice shall be necessary where the seizure is made in the presence of the offender or the owner or his agent, or in the case of a vessel in the presence of the master.

(4) The provisions of this section relating to the seizure of padi and rice shall apply to all the contents of any receptacle or package in which the same are found and to any article used to conceal the same.

(5) In this section, "territorial waters" means the territorial waters of Malaysia determined in accordance with the Emergency (Essential Powers) Ordinance, No. 7 1969 (P.U.(A) 307 A/69.)".

13. New section 28A.

The principal Act is amended by inserting after section 28 the following section 28A:

"28A. Protection of informers from discovery.

(1) Except as hereinafter provided, no witness in any civil or criminal proceeding whatsoever under this Act or any regulation made thereunder shall be obliged or permitted to disclose the name or address of an informer or the information received from him or to state any matter which might lead to his discovery.

(2) If any book, document or paper which is in evidence or is liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the Court shall cause all such entries to be concealed from view or to be obliterated so far as is necessary to protect the informer from discovery.

(3) If in the trial for any offence under this Act or any regulation made thereunder the Court, after full enquiry into the case, is of the opinion that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if justice cannot be fully done between the parties thereto 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."

14. Amendment of section 29.

Section 29 of the principal Act is amended by substituting therefor the following:

"29. Goods seized in respect of which there is prosecution.

(1) Where criminal proceedings are instituted against any person for any offence under this Act or any regulation made thereunder the Court may order the forfeiture in whole or in part of -

(a) any padi or rice in respect of which the offence has been committed which has been seized by, or has otherwise come into the possession of the Director General or any authorised officer or police officer, or any receptacle, package, conveyance, vessel or other article by means of which the offence has been committed or which is intended to be used for the commission of an offence under this Act or any regulation made thereunder; or

(b) the amount secured under paragraph (a) of subsection (1) of section 22B where the receptacle, package, conveyance, vessel or other article released is not surrendered on demand being made, or the amount secured under paragraph (b), or the amount realised by sale under paragraph (c), of the same subsection.

(2) Where no order of forfeiture is made under subsection (1) the Court shall make such order as it thinks fit for the disposal of the padi, rice, receptacle, package, conveyance, vessel or other article specified in paragraph (a) of subsection (1), and the amount, if any, specified in paragraph (b) of subsection (1)."

15. New section 29A.

The principal Act is amended by inserting after section 29 the following section 29A:

"29A. Effect of forfeiture.

Any padi, rice, receptacle, package, conveyance, vessel or other article ordered or deemed to be forfeited under this Act, shall be delivered to an authorised officer and shall be disposed of in accordance with the directions of the Director General."

16. Amendment of section 32.

Section 32 of the principal Act is amended -

(a) in paragraph (b), by deleting the word "and";

(b) in paragraph (c), by substituting for the full stop a semicolon and inserting the word "and" immediately thereafter;

(c) by inserting after paragraph (c) the following paragraph (d):

"(d) prescribe for matters relating to appeals by officers and servants of the Lembaga aggrieved by any decision of the Director General or any person or body in the exercise of any power delegated to the person or body by the Lembaga."

17. New section 37A.

The principal Act is amended by inserting after section 37 the following section 37A:

"37A. Statutory Bodies (Accounts and Annual Reports) Act 1980 to apply.

The provisions of Statutory Bodies (Accounts and Annual Reports) Act 1980(Act 240) shall apply to the Lembaga."

18. Amendment of the Schedule.

The Schedule to the principal Act is amended -

(a) by inserting below the words "(Section 5)" the words "PART I";

(b) by inserting before paragraph 1 the following heading:

"MEMBERS, MEETING AND DISCLOSURE OF INTEREST"; and

(c) by inserting after paragraph 7 the following paragraphs 8 and 9:

"8. A member having, directly or indirectly, by himself or his partner, any interest in any company or undertaking with which the Lembaga proposes to make any contract or in any matter under discussion by the Lembaga shall disclose to the Lembaga the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Lembaga, and unless specifically authorised thereto by the Chairman, such member shall take no part in any deliberation or decision of the Lembaga relating to the contract or matter.

9. Any minutes made of any meeting of the Lembaga shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every such meeting shall be deemed to have been duly convened and held and all members present at such meeting shall be deemed to have been duly qualified to act."; and

(d) by inserting after paragraph 9, which has been introduced into the Schedule by paragraph (c) of this section, a new Part II as follows:

PART II

SECRETARY, COMMITTEES AND SUB-COMMITTEES

10. (1) The Lembaga shall appoint a Secretary of the Lembaga on such terms and conditions as the Lembaga may determine.

(2) The Secretary shall perform such duties and shall be paid such remuneration as the Lembaga may determine.

11. (1) The Lembaga may appoint committees for any purpose arising out of or connected with any of its powers, duties and functions under this Act; any committee so appointed shall include not less than one member of the Lembaga, and there may be appointed to such committee such other persons as the Lembaga may think fit.

(2) Any committee appointed under subparagraph (1) may appoint one or more sub-committees; any sub-committee so appointed shall include not less than one member of the committee appointing it, and there may be appointed to such subcommittee such other persons as the committee appointing it may think fit.

(3) Any committee or sub-committee so appointed shall conform to any instruction from time to time given to it by the Lembaga, and the Lembaga may at any time discontinue or alter the constitution of any committee or sub-committee so appointed.

(4) Subject to subparagraph (3), any subcommittee shall conform to any instructions from time to time given to it by the committee appointing it, and such committee may at any time discontinue or alter the constitution of any sub-committee so appointed.

12. There may be paid to members of any committee or sub-committee such remuneration or allowances as the Lembaga may from time to time determine with the approval of the Minister.

13. (1) The Lembaga, a committee or a sub - committee may, respectively, invite any person who, in its opinion, is possessed of special knowledge of advantage to it, to attend any meeting of the Lembaga, committee or sub-committee.

(2) No person so invited shall be entitled to vote at any such meeting.

14. A member of my committee or subcommittee, having, directly or indirectly, by himself or his partner, any interest in any matter under discussion by the committee or sub-committee of which he is a member shall disclose to the committee or sub-committee of which he is a member the fact of his interest and .the nature thereof, and such disclosure shall be recorded in the minutes of the committee or sub-committee and, unless specifically authorised by the Chairman of the committee or sub-committee, such member shall take no part in any deliberation or discussion of the committee or sub-committee relating to the matter.

15. Any minutes of any meeting of any committee or sub-committee shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every such meeting shall be deemed to have been duly convened and held and all members of the committee or sub-committee present at such meeting shall be deemed to have been duly qualified to act."