



LAWS OF MALAYSIA

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Act 656

MALAYSIAN PEPPER BOARD ACT 2006

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ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II

ESTABLISHMENT OF THE BOARD

3. The Board and its objectives
4. Functions of the Board
5. Powers of the Board
6. Membership of the Board
7. Tenure of office
8. Alternate members
9. Temporary exercise of functions of Chairman
10. Revocation of appointment and resignation
11. Vacation of office
12. Protection from personal liability
13. Public Authorities Protection Act 1948
14. Public servant
15. Power of Minister to give directions
16. Returns, reports, accounts and information
17. Delegation of Board's functions and powers
18. Board may establish committees

PART III

DIRECTOR GENERAL, OFFICERS AND SERVANTS OF THE BOARD

Section

19. Powers and duties of Director General
20. Appointment of officers and servants
21. Power to grant loans and make advances to officers and servants
22. Delegation of Director General's duties

PART IV

FINANCE

23. The Fund
24. Expenditure to be charged on the Fund
25. Conservation of Fund
26. Expenditure and preparation of estimates
27. Statutory Bodies (Accounts and Annual Reports) Act 1980

PART V

OTHER POWERS AND FUNCTIONS OF THE BOARD

28. Power to borrow
29. Investment
30. Commercialization of research findings
31. Power to employ agents, *etc.*
32. Power to grant loans
33. Power to establish corporations

PART VI

POWERS RELATING TO ENFORCEMENT, SEIZURE, ARREST, *ETC.*

34. Authorization of officers
35. Power of investigation
36. Authority card
37. Power of arrest
38. Search and seizure with warrant
39. Search and seizure without warrant

Section

40. Power to enter premises
41. Search of persons
42. Seizure of thing, *etc.*
43. Power to stop, search and seize conveyances
44. List of things seized
45. Temporary return of conveyance, *etc.*
46. Sale and disposal of seized pepper, *etc.*
47. Power to require attendance of persons acquainted with case
48. Examination of persons acquainted with case
49. Admissibility of statements in evidence
50. Forfeiture of seized pepper, *etc.*
51. Property in forfeited pepper, *etc.*
52. Release of seized pepper, *etc.*

PART VII

GENERAL

53. Regulation of pepper industry
54. Appointment of analysts
55. Proportional examination or testing of seized pepper
56. Cost of holding seized pepper, *etc.*
57. No costs or damages arising from seizure to be recoverable
58. Additional powers
59. Offence to assault or obstruct authorized officer
60. Duty to maintain secrecy
61. False information
62. Offence committed by body corporate
63. Abetments and attempts punishable as offences
64. Compounding of offences
65. Institution and conduct of prosecution
66. Jurisdiction to try offences
67. Protection against suit and legal proceedings
68. Rewards
69. Protection of informers

Section

70. Power to exempt
71. Amendment of Schedules
72. Regulations
73. Power of Minister to make regulations on marketing
74. Validation of acts done in anticipation of the enactment of this Act

PART VIII

REPEAL, SAVINGS AND TRANSITIONAL

75. Repeal and dissolution
76. Transfer of powers, *etc.*
77. Transfer of property
78. Existing contracts
79. Transfer of moneys in funds
80. Membership of dissolved Board
81. Continuance of officers and servants
82. Savings for licences and registers
83. Continuance of pending applications, *etc.*
84. Continuance of civil and criminal proceedings
85. Reference in law or document to dissolved Board
86. Continuance of use of name
87. Prevention of anomalies

SCHEDULE

LAWS OF MALAYSIA

Act 656

MALAYSIAN PEPPER BOARD ACT 2006

An Act to establish the Malaysian Pepper Board; to make better provisions in respect of the pepper industry of Malaysia; to dissolve the Pepper Marketing Board; and to provide for consequential and incidental matters.

[1 January 2007; P.U. (B) 325/2006]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Malaysian Pepper Board Act 2006.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Interpretation

2. In this Act, unless the context otherwise requires—

“this Act” includes any subsidiary legislation made under this Act;

“member” means a member of the Board and includes an alternate member;

“pepper planting material” means any material or part of the plant used for multiplication or reproduction and includes pepper cuttings, pepper seedlings and plant from pepper tissues;

“pepper berries” means the fruit of pepper or any part thereof and includes the immature fruit which is commonly known as green pepper berries, the dried and usually immature fruit which is otherwise commonly known as black pepper, the dried mature fruit when the outer coating or the pericarp has been removed which is otherwise commonly known as white pepper, and processed pepper berries;

“research findings” means any result or output from research and development activities, and includes new or improved products, inventions, innovations and improvements in any process, technique, apparatus or machine;

“appointed day” means the day on which this Act, or if different dates are appointed for the coming into operation of different provisions of this Act, the day on which Part VIII comes into operation;

“pepper industry” means any activity which involves the planting of pepper, doing research on pepper, marketing, processing, manufacturing and production of pepper and pepper products and derivatives of pepper and any industry or services related thereto;

“analyst” means an analyst appointed under section 54;

“conveyance” means any vehicle, vessel, ship, aircraft or any other mode of transport whether by air, sea or land;

“pepper product” means any product manufactured or derived directly or indirectly from pepper;

“Director General” means the Director General of the Board appointed under section 19;

“Fund” means the Malaysian Pepper Board Fund established under section 23;

“pepper” means the plant species of the *Piper nigrum Linnaeus*, pepper berries or any part thereof, and includes hybrids of this species, hybrids resulting from crossing this species or hybrids with any other species or hybrids of plants and genetically engineered versions of this species or hybrids;

“sea” includes inland waters;

“Board” means the Malaysian Pepper Board established under section 3;

“processing” in relation to pepper means the cleaning of pepper to remove chaff, mouldy or rotten berries, stalks, spikes or other pickings or dust, gravel, filth, mould or other extraneous matter and the performance of any one or more of the activities involved in drying, mixing, blending, milling or crushing and extracting of pepper; but shall not include such activities done at farm level by any pepper farmer to improve the marketability of the pepper from the farm owned by the farmer himself;

“authorized officer” means—

- (a) an officer of the Board authorized under section 34;
- (b) a police officer not below the rank of Inspector; or
- (c) an officer of the Royal Customs and Excise Department Malaysia;

“single purchaser” includes a case where more than one purchaser purchase jointly and are jointly and severally liable for the purchase price;

“Chairman” means the Chairman of the Board appointed under section 6;

“selling in bulk” in relation to pepper means selling a quantity weighing not less than five hundred kilogrammes on any one occasion to any single purchaser;

“spice” means any part of any aromatic plant in whatever form and extracts thereof which are commonly used to impart flavour or aroma in food and non-food items.

PART II

ESTABLISHMENT OF THE BOARD

The Board and its objectives

3. (1) A body corporate by the name of Malaysian Pepper Board is established.

(2) The Board shall have perpetual succession and a common seal, and may sue and be sued in its name.

(3) The objectives of the Board are—

- (a) to promote the planting of pepper;
- (b) to develop and promote the pepper industry;
- (c) to promote the research on pepper, pepper products and the pepper industry;
- (d) to develop national objectives, policies and priorities for the orderly development and administration of the pepper industry of Malaysia; and
- (e) to regulate the pepper industry except the planting of and research on pepper.

(4) The provisions of the First Schedule shall apply to the Board.

Functions of the Board

4. The functions of the Board shall be—

- (a) to implement policies and developmental programmes to ensure the growth and viability of the pepper industry of Malaysia;
- (b) to engage in the trading of pepper, pepper products and to expand to other spices;
- (c) to promote or conduct research and development relating to the pepper industry and to commercialize research findings for the benefit of the pepper industry;

- (d) to promote, control and monitor measures towards attaining high quality pepper, pepper products and other spices;
- (e) to provide technical, advisory, consultancy and related services including training to the pepper industry;
- (f) to gather, manage and disseminate information and maintain records of all relevant matters relating to the pepper industry;
- (g) to liaise and coordinate with the relevant State Governments and other bodies including being members of associations within and outside Malaysia in the interest of the pepper industry; and
- (h) to do such other things as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

Powers of the Board

5. (1) Subject to and for the purpose of this Act, the powers of the Board shall include power—

- (a) to enter into contracts;
- (b) to acquire, purchase, take, hold and enjoy movable or immovable property of every description;
- (c) to convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with any movable or immovable property or any interest therein vested in the Board;
- (d) to undertake and co-ordinate activities relating to research and development into the planting, production, harvesting, extraction, processing, storage, transportation, use, consumption and marketing of pepper and pepper products including pepper wastes and services related thereto;
- (e) to impose fees or any other charges it deems fit for the use of any facility relating to research, investigation, testing, advisory services or any other service provided by the Board;

- (f) to collect and receive any moneys related to its trading activities and the use of its facilities and in consideration of other services rendered by the Board;
- (g) to enter into such negotiations and agreements or arrangements as it deems fit for the discharge of its functions;
- (h) to acquire, hold, dispose of or grant rights in connection with the results of any research conducted by or for the Board or in connection with the results of any research undertaken by any person or organization;
- (i) to provide, with the approval of the Minister, financial or other assistance to the pepper farmers and their related activities;
- (j) to commission any person or body to carry out research or development, or both;
- (k) to award certificates of proficiency in respect of training and accredited programmes;
- (l) to undertake and co-ordinate such activities as it deems necessary for the purpose of protecting and furthering the interests of the pepper industry of Malaysia;
- (m) to regulate the pepper industry, except the planting of and research on pepper, including the implementation and enforcement of any regulation made under this Act;
- (n) to grant licences, certificates, permits and approvals under this Act in respect of the pepper industry;
- (o) to prescribe the standards or grades of pepper and pepper products; and
- (p) to do all things expedient or necessary for or incidental to the performance of its functions under this Act.

(2) The Board may, in discharging any of its functions, in appropriate cases carry out commercial activities for gain or profit through companies which may, from time to time, be established under the Companies Act 1965 [Act 125] and such companies shall only be established after approval by the Minister with the concurrence of the Minister of Finance.

(3) The Minister may make regulations prescribing any activity or interest or prescribing the terms and conditions of any activity or interest of any member, officer or servant of the Board in relation to any company established under subsection (2) or to any other company, enterprise or undertaking.

(4) Any omission or neglect to comply with, and any act done or attempted to be done contrary to, the provisions of such regulations is an offence under this Act and the offender shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Membership of the Board

6. 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 pepper 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 Economic Planning Unit (EPU) of the Prime Minister's Department to be nominated by the Director General of EPU;
- (f) two representatives of the State Government of Sarawak;
- (g) a representative of another State Government other than Sarawak;
- (h) three representatives of the pepper industry of whom at least two shall be from Sarawak;
- (i) two persons who, in the Minister's opinion, are able to contribute to the development of the pepper industry; and
- (j) the Director General.

Tenure of office

7. A member of the Board appointed by the Minister shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding two years on such conditions as may be specified in his instrument of appointment and is eligible for reappointment.

Alternate members

8. (1) The Minister may appoint a person to be an alternate member in respect of each member appointed under paragraphs 6(b) to (i) to attend, in place of that member, meetings of the Board that that 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 his membership or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate member ceases to be a member of the Board.

Temporary exercise of functions of Chairman

9. (1) Where the Chairman is for any reason unable to perform the functions of the Chairman or during any period of vacancy in the office of the Chairman, the Minister may appoint any member of the Board other than the Director General to perform the functions of 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 6(b) shall perform the functions of the Chairman.

(3) A member appointed under subsection (1) or a member referred to in subsection (2), as the case may be, shall, during the period in which he is performing the functions of the Chairman under this section be deemed to be the Chairman.

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

Revocation of appointment and resignation

10. (1) The appointment of any member appointed by the Minister may at any time be revoked by the Minister without assigning any reason therefor.

(2) A member appointed by the Minister may at any time resign his office by a written notice addressed to the Minister.

Vacation of office

11. (1) The office of a member of the Board appointed by the Minister shall be vacated if—

- (a) he dies;
- (b) there has been proved against him, or he has been convicted of, a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (c) he becomes a bankrupt;
- (d) he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) he absents himself from three consecutive meetings of the Board without leave of the Chairman or, in the case of the Chairman, without leave of the Minister;
- (f) his resignation is accepted by the Minister; or
- (g) his appointment is revoked by the Minister.

(2) Where any member appointed by the Minister ceases to be a member by reason of any of the provisions of this Act, another person shall be appointed in his place in accordance with sections 6 and 7.

Protection from personal liability

12. No member of the Board or of any committee, and no officer, servant or agent of the Board, shall incur personal liability for any loss or damage caused by any act or omission in carrying out his powers or duties under this Act, unless such loss or damage is occasioned by an intentionally wrongful act or omission on his part.

Public Authorities Protection Act 1948

13. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Board or of any committee or against any member, officer, servant or agent of the Board in respect of any act, neglect or default done or committed by him in such capacity.

Public servant

14. Every member of the Board or any of its committees or any officer, servant or agent of the Board, while discharging his duties as such member, officer, servant or agent shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

Power of Minister to give directions

15. (1) The Board shall be responsible to the Minister.

(2) The Minister may give directions consistent with this Act to the Board.

(3) The Board shall give effect to all directions given under this section as soon as possible.

Returns, reports, accounts and information

16. (1) The Board shall furnish to the Minister, and such public authority as may be directed by the Minister, such returns, reports, accounts and information with respect to its property and activities as the Minister may require or direct.

(2) Without prejudice to the generality of subsection (1), the Board, shall as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister and, if so directed by the Minister, to any other public authority, a report dealing with the activities of the Board during the preceding financial year and the report shall be in such form and shall contain such information relating to the proceedings and policy of the Board as the Minister may specify.

Delegation of Board's functions and powers

17. (1) The Board may, subject to such conditions, limitations or restrictions as it deems fit to impose, delegate any of its functions or powers, except the power to borrow money, grant loans, establish corporations or make regulations, to—

- (a) any member of the Board;
- (b) any committee established by the Board; or
- (c) any officer or servant of the Board,

and any function or power so delegated may be performed or exercised by the member, officer or servant, as the case may be, in the name and on behalf of the Board.

(2) A delegation under this section shall not preclude the Board itself from performing or exercising at any time any of the functions or powers so delegated.

(3) Without prejudice to the generality of subsection (1) and the other provisions of this Act, the Board may delegate to the Director General—

- (a) the power to grant loans and make advances to the officers and servants of the Board under section 21; and

- (b) the authority to sanction expenditure from the Fund or any other moneys vested in or under the control of the Board up to such limit as the Board shall specify.

Board may establish committees

18. (1) The Board may establish such committees as it considers necessary or expedient to assist it in the performance of its functions under this Act.

(2) The Board may appoint any person to be a member of any committee established under subsection (1).

(3) A committee established under this section may elect any of its members to be chairman and may regulate its own procedure and, in the exercise of its powers under this subsection, such committee shall be subject to and act in accordance with any direction given to the committee by the Board.

(4) Meetings of a committee established under this section shall be held at such times and places as the chairman of the committee may, subject to subsection (3), determine.

(5) A committee may invite any person who is not a member of the committee to attend any meeting of the committee for the purpose of advising it on any matter under discussion but that person is not entitled to vote at the meeting.

(6) Members of a committee or any person invited under subsection (5) to attend any meeting of a committee may be paid such allowances and other expenses as the Board may determine.

(7) A member of a committee shall hold office for such term as may be specified in his instrument of appointment and is eligible for reappointment.

(8) The appointment of any member of a committee may at any time be revoked by the Board without assigning any reason therefor.

(9) A member of a committee may at any time resign his office by a written notice addressed to the Chairman of the Board.

PART III

DIRECTOR GENERAL, OFFICERS AND SERVANTS OF
THE BOARD

Powers and duties of Director General

19. (1) The Minister shall appoint a Director General of the Board on such terms and conditions as the Minister may determine.

(2) The Board shall vest in the Director General such powers and shall impose upon him such duties as the Board may determine.

(3) The Director General shall be responsible for—

(a) the proper administration and management of the affairs of the Board;

(b) the preparation of—

(i) all programmes, schemes, projects and activities;

(ii) an estimate of expenditure for the implementation of the annual programmes; and

(iii) an estimate of income,

for the approval of the Board;

(c) the execution of the annual programmes of the Board; and

(d) the carrying out of the decisions and directions of the Board.

(4) The Director General shall have general control of the officers and servants of the Board.

(5) The Director General shall perform such further duties as the Board may direct.

(6) In discharging his duties, the Director General shall act under the general authority and direction of the Board.

(7) If the Director General is temporarily absent from Malaysia or is temporarily incapacitated through illness or for any other reason from performing his duties, or if the office of the Director General is for the time being vacant, the Board may direct the Deputy Director General to perform his duties during such temporary absence, incapacity or vacancy.

(8) For the purposes of subsection (7)—

- (a) if there is more than one Deputy Director General the Board shall nominate a Deputy Director General to perform the duties; and
- (b) if the office of Deputy Director General is vacant, the Board may direct any other officer of the Board to perform the duties.

Appointment of officers and servants

20. (1) Subject to any regulations made under subsection (3), the Board may—

- (a) with the consent of the Minister, appoint such number of Deputy Directors General;
- (b) appoint such number of other officers and servants as may be necessary for carrying out the purposes of this Act,

on such terms and conditions as the Board considers desirable.

(2) No person shall be eligible for employment as an officer or servant of the Board if he has, directly or indirectly, by himself or his partner, any share or interest in any contract or proposed contract with, for or on behalf of the Board.

(3) The Board may, with the approval of the Minister, make regulations with respect to the conditions of service of its officers and servants.

Power to grant loans and make advances to officers and servants

21. The Board may grant loans and make advances to its officers and servants on such terms and conditions as the Board may determine.

Delegation of Director General's duties

22. (1) The Director General may in writing delegate any of the powers or duties assigned to him under this Act to any officer of the Board, subject to such terms and 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 powers or duties so delegated.

PART IV

FINANCE

The Fund

23. (1) For the purposes of this Act, a fund to be known as the "Malaysian Pepper Board Fund", is established.

(2) The Fund shall be controlled, maintained and operated by the Board.

(3) The Fund shall consist of—

- (a) such sums as may be provided for the purposes of this Act by the Federal or any State Government;
- (b) moneys earned by the operation of any project, scheme or enterprise financed from the Fund;
- (c) moneys earned or arising from any property, investment, mortgage, lease, tenancy, charge or debenture acquired by or vested in the Board;
- (d) any property, investment, mortgage, lease, tenancy, charge or debenture acquired by or vested in the Board;
- (e) sums borrowed by the Board for the purposes of meeting any of its obligations or discharging any of its duties;
- (f) moneys earned from the consultancy, advisory or any other services provided by the Board;
- (g) moneys collected or paid under section 64;

- (h) moneys collected by the Board under the regulations made under this Act and specified therein as sums payable into the Fund;
- (i) moneys distributed as dividends from the corporations established under this Act;
- (j) donations and contributions received from within or outside Malaysia and includes moneys received from any government or organization outside Malaysia; and
- (k) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its functions and powers.

Expenditure to be charged on the Fund

24. The Fund shall be expended for the purpose of—

- (a) paying any expenditure lawfully incurred by the Board, including—
 - (i) the remuneration of the officers and servants of the Board, including the granting of loans, superannuation allowances, pensions or gratuities;
 - (ii) insurance coverage for the officers and servants of the Board;
 - (iii) costs incurred in providing for the welfare of the officers and servants of the Board; and
 - (iv) legal fees and costs and any other fees and costs;
- (b) financing research and development activities;
- (c) contributing to bodies or organizations of which the Board is a member;
- (d) contributing to such organizations related to the pepper industry as the Minister may determine;
- (e) providing financial assistance to the pepper farmers with the approval of the Minister;

- (f) financing such scholarships for higher education as may be approved by the Board;
- (g) providing loans or grants to institutions of higher learning within or outside Malaysia for the purpose of human resource development in the pepper industry;
- (h) granting loans or providing capital for corporations established under this Act;
- (i) paying any other expenses, costs or expenditure properly incurred or accepted by the Board in the performance of its functions or the exercise of its powers under this Act;
- (j) subject to the approval of the Minister, making contributions to any organization, whether within or outside Malaysia, for the purpose of promoting the marketing of pepper products;
- (k) purchasing or hiring equipment, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers under this Act;
- (l) repaying any moneys borrowed under this Act and the interest due on such moneys;
- (m) paying any reward under section 68; and
- (n) generally, paying any expenses for carrying into effect the provisions of this Act.

Conservation of Fund

25. It shall be the duty of the Board to conserve the Fund by so performing its functions and exercising its powers under this Act as to secure that the total revenues of the Board are sufficient to meet all sums properly chargeable to its revenue account including depreciation and interest on capital taking one year with another.

Expenditure and preparation of estimates

26. (1) The expenditure of the Board up to such amount as may be authorized by the Minister for any one year shall be defrayed out of the Fund.

(2) Before the beginning of the month of June of each year, the Board shall submit to the Minister an estimate of the expenditure (including the expenditure for research and development activities) for the following year in such form and containing such particulars as the Minister may direct; and the Minister shall, before the beginning of the month of December of that year, notify the Board of the amount authorized for expenditure generally or of the amounts authorized for each description of expenditure.

(3) The Board may at any time submit to the Minister a supplementary estimate for any one year and the Minister may allow the whole or any part of the additional expenditure included in the supplementary estimate.

Statutory Bodies (Accounts and Annual Reports) Act 1980

27. The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Board and any corporation established under this Act.

PART V

OTHER POWERS AND FUNCTIONS OF THE BOARD

Power to borrow

28. The Board may, with the approval of the Minister and the Minister of Finance, borrow, at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise as the Minister and the Minister of Finance may approve, any sums required by the Board for meeting any of its obligations or discharging any of its duties.

Investment

29. (1) The moneys of the Board shall, in so far as they are not required to be expended by the Board under this Act, be invested in such manner as the Minister and the Minister of Finance may approve.

(2) Without prejudice to the generality of subsection (1), the Board may, with the approval of the Minister, acquire and develop land and property for or in connection with the exercise of its powers and for this purpose may enter into such negotiations, arrangements or agreements as may be necessary for generating income required for the operation of the Board.

Commercialization of research findings

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

Power to employ agents, etc.

31. The Board may employ and pay agents and technical advisers, including advocates and solicitors, bankers, stockbrokers, surveyors, valuers and other persons, to transact any business or to do any act required to be transacted or done in the performance of its functions, the exercise of its powers or the discharge of its duties or for the better carrying into effect of the purposes of this Act.

Power to grant loans

32. The Board may, with the approval of the Minister and the Minister of Finance, grant loans at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise as the Minister and the Minister of Finance, may approve.

Power to establish corporations

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

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

PART VI

POWERS RELATING TO ENFORCEMENT, SEIZURE, ARREST, *ETC.*

Authorization of officers

34. The Director General may in writing authorize any officer of the Board to exercise the powers of enforcement under this Act.

Power of investigation

35. An authorized officer may investigate the commission of any offence under this Act.

Authority card

36. (1) There shall be issued to each officer authorized under section 34 an authority card to be signed by the Director General.

(2) Whenever such officer exercises any of the powers under this Act, he shall, on demand produce to the person against whom the power is being exercised the authority card issued to him under subsection (1).

Power of arrest

37. (1) An authorized officer may arrest without warrant any person—

- (a) found committing or attempting to commit or abetting the commission of an offence under this Act; or
- (b) whom the authorized officer reasonably suspects of being engaged in committing or attempting to commit or abetting the commission of an offence under this Act.

(2) An authorized officer making an arrest under subsection (1) shall, without unnecessary delay, bring the person arrested to the nearest police station, and thereafter the person shall be dealt with in accordance with the law relating to criminal procedure for the time being in force.

Search and seizure with warrant

38. (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—

- (a) any premises has been used or are about to be used for;
or
- (b) there is in any premises evidence necessary to the conduct of an investigation into,

the commission of an offence under this Act, the Magistrate may issue a warrant authorizing any authorized officer named therein, at any reasonable time by day or by night and with or without assistance, to enter the premises and if need be by force.

(2) A warrant issued under subsection (1) may authorize the authorized officer to—

- (a) search the premises for, and to seize or remove from the premises any pepper, pepper product, 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 pepper, pepper product 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.

(3) 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.

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

(a) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry into the premises;

(b) remove by force any obstruction to entry, search, seizure or removal as he is empowered to effect under this section; and

(c) detain any person found in the premises until the search has been completed.

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

(6) A person who, without lawful authority breaks, tampers with or damages the seal referred to in subsection (5) or removes the pepper, pepper product, 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 one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Search and seizure without warrant

39. Whenever an authorized officer has reasonable cause to believe that any pepper, pepper product, conveyance, machinery, contrivance, equipment, book, record, document or other article in respect of which an offence under this Act has been committed is likely to be found in or on any place, premises, person, vehicle, vessel or conveyance and that by reason of delay in obtaining a warrant under section 38 the object of the search may be frustrated, he may, without warrant, with such assistance and force as is necessary—

- (a) enter and search such place or premises;
- (b) stop and search such person, vehicle, vessel or conveyance; and
- (c) seize any pepper, pepper product, conveyance, machinery, contrivance, equipment, book, record, document or other article which may be found and may be evidence of the commission of such offence.

Power to enter premises

40. Notwithstanding sections 38 and 39, an authorized officer may at any time enter any premises for the purpose of—

- (a) inspecting any pepper, pepper product, 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 pepper or pepper product.

Search of persons

41. No person shall be searched except by another person of the same gender, and such search shall be conducted with strict regard to decency.

Seizure of thing, etc.

42. Without prejudice to subsection 38(2) and section 39, any pepper, pepper product, conveyance, machinery, contrivance, equipment, book, record, document or other article that an authorized officer reasonably suspects has been used or will be used in the commission of any offence under this Act may be seized and detained by the authorized officer.

Power to stop, search and seize conveyances

43. (1) If an authorized officer has reasonable cause to suspect that any conveyance is carrying any pepper, pepper product, machinery, contrivance, equipment, book, record, document or any other article in respect of which an offence 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 pepper, pepper product, 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) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

List of things seized

44. (1) Where any seizure is made under this Part, the authorized officer making the seizure shall prepare a list of every pepper, pepper product, conveyance, machinery, contrivance, equipment, book, record, document or other article seized and of the place in which it is found and shall sign the list.

(2) The list prepared in accordance with subsection (1) shall be delivered immediately to—

(a) the occupant of the place or premises where the pepper, pepper product, conveyance, machinery, contrivance, equipment, book, record, document or other article seized is found; and

(b) the person in control or in charge of the conveyance, where the seizure is made under section 43.

(3) Where the seizure is made in or from any place or premises which are unoccupied, the authorized officer shall whenever possible post a list of things seized conspicuously at the place or premises.

(4) Where any pepper, pepper product, conveyance, machinery, contrivance, equipment, book, record, document or other article is seized otherwise than in or from any place or premises, the authorized officer making the seizure shall give a notice in writing of the seizure and the grounds of the seizure to the owner of the pepper, pepper product, conveyance, machinery, contrivance, equipment, book, record, document or other article seized by delivering a copy of such notice to the owner in person or by post at his place of business or residence.

(5) A notice under subsection (4) need not be given if the seizure is made in the presence or with the knowledge of the owner.

Temporary return of conveyance, etc.

45. (1) Where 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 terms and 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 terms and conditions, if any, shall be complied with.

(2) Where any seized conveyance, machinery, contrivance or equipment is temporarily returned under subsection (1), a person who—

- (a) fails, on demand, to surrender the conveyance, machinery, contrivance or equipment to the court; or
- (b) contravenes any of the terms or conditions imposed under subsection (1),

commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Sale and disposal of seized pepper, etc.

46. (1) The Director General may at any time direct that any pepper or pepper product 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 where—

- (a) the pepper or pepper product is of a perishable nature or easily deteriorates in quality;
- (b) the custody of the pepper or pepper product involves unreasonable expense and inconvenience;
- (c) there is a lack or absence of adequate or proper facilities for the storage of the pepper or pepper product; or
- (d) the pepper or pepper product is believed to cause an obstruction or to be a hazard to the public.

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

Power to require attendance of persons acquainted with case

47. (1) The authorized officer making an investigation under this Act may, by order in writing, require the attendance before himself of any person who appears to him to be acquainted with the facts and circumstances of the case, and such person shall attend as required.

(2) If any such person refuses to attend as required by an order made under subsection (1), the authorized officer may report his refusal to a Magistrate who shall issue a warrant to secure the attendance of such person as may be required by the order.

Examination of persons acquainted with case

48. (1) An authorized officer making an investigation under this Act may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) Such person shall be bound to answer all questions relating to such case put to him by the authorized officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) The authorized officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb print, as the case may be, after—

- (a) it has been read to him in the language in which he made it; and

- (b) he has been given an opportunity to make any correction he may wish.

Admissibility of statements in evidence

49. (1) In any trial or inquiry by a court into an offence under this Act, any statement, whether the statement amounts to a confession or not, is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of an investigation under this Act or not and whether or not wholly or partly in answer to questions, by an accused person to or in the hearing of an authorized officer and whether or not interpreted to him by any other authorized officer or any other person, whether concerned or not in the arrest of that person, shall, notwithstanding any written law or rule of law to the contrary, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement under subsection (1) shall be admissible or used as provided for in that subsection if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person proceeding from a person in authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested or is informed that he may be prosecuted for any offence under this Act, he shall be served with a notice in writing, which shall be explained to him, to the following effect:

“You have been arrested/informed that you may be prosecuted for (the possible offence under this Act). Do you wish to say anything? If there is any fact on which you intend to rely in your defence in court, you are advised to mention it now. If you hold it back till you go to court, your evidence may be less likely to be believed and this may have a bad effect on your case in general. If you wish to mention any fact now, and you would like it written down, this will be done.”

(4) Notwithstanding subsection (3), a statement by any person accused of any offence under this Act made before there is time to serve a notice under that subsection shall not be rendered inadmissible in evidence merely by reason of no such notice having been served on him if such notice has been served on him as soon as is reasonably possible thereafter.

(5) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (3) shall be construed as a statement caused by any inducement, threat or promise as is described in subsection (2), if it is otherwise voluntary.

(6) Where in any criminal proceedings against a person for an offence under this Act, evidence is given that the accused, on being informed that he might be prosecuted for it, failed to mention any such fact, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention when so informed, the court, in determining whether the prosecution has made out a *prima facie* case against the accused and in determining whether the accused is guilty of the offence charged, may draw such inference from the failure as appear proper; and the failure may, on the basis of those inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

(7) Nothing in subsection (6) shall in any criminal proceedings—

- (a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence of it would be admissible apart from that subsection; or
- (b) be taken to preclude the drawing of any inference from any such silence or other reaction of the accused which could be drawn apart from that subsection.

Forfeiture of seized pepper, etc.

50. (1) Any pepper or pepper product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act shall be liable to forfeiture.

(2) An order for the forfeiture of the pepper or pepper product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the pepper or pepper product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article was the subject-matter of or was used in the commission of the offence, even though no person has been convicted of such offence.

(3) If there is no prosecution with regard to any pepper or pepper product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article seized under this Act, such pepper or pepper product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article shall be taken and deemed to be forfeited at the expiration of a period of one calendar month from the date of service of a notice to the last known address of the person from whom the pepper or pepper product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article was seized indicating that there is no prosecution in respect of such pepper or pepper product or the proceeds of sale thereof, or any conveyance, machinery, contrivance, equipment, book, record, document or other article unless before the expiration of that period a claim thereto is made in the manner set out in subsections (4), (5), (6) and (7).

(4) Any person asserting that he is the owner of the pepper or pepper product or the proceeds of sale thereof, or of the conveyance, machinery, contrivance, equipment, book, record, document or other article referred to in subsection (3) 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 possession such pepper or pepper product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article is held that he claims the pepper or pepper product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article.

(5) On receipt of the notice referred to in subsection (4), the authorized officer shall refer the matter to the Director General who may direct that the pepper or pepper product or the proceeds

of sale thereof, 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.

(6) The Magistrate to whom a matter is referred under subsection (5) shall issue a summons requiring the Board and the person asserting that he is the owner of the pepper or pepper product or the proceeds of sale thereof, or of the conveyance, machinery, contrivance, equipment, book, record, document or other article and the person from whom it was seized to appear before the Magistrate, and when they appear or they fail to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter.

(7) If it is proved that an offence under this Act has been committed and that the pepper or pepper product or the proceeds of sale thereof, or the conveyance, machinery, contrivance, equipment, book, record, document or other article referred to in subsection (6) was the subject-matter of or was used in the commission of such offence, the Magistrate shall order the pepper or pepper product or the proceeds of sale thereof, 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.

(8) Any pepper or pepper product or the proceeds of sale thereof, 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.

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

Property in forfeited pepper, etc.

51. Any pepper or pepper product or the proceeds of sale thereof, 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.

Release of seized pepper, etc.

52. Notwithstanding section 50, the Director General or any officer authorized by the Director General may, where he thinks fit, at any time direct that any pepper or pepper product or the proceeds of sale thereof, 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 it was seized.

PART VII

GENERAL

Regulation of pepper industry

53. (1) The pepper industry, except the planting of and research on pepper, shall be regulated in accordance with the regulations made under this Act.

(2) The regulations under subsection (1) shall be made after consultation with the relevant States' Government.

Appointment of analysts

54. (1) For the purposes of this Act, the Minister may appoint analysts to examine and test any pepper or pepper product 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.

Proportional examination or testing of seized pepper

55. (1) Where it is necessary to examine or test any pepper or pepper product 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 pepper or pepper product or of each different type or description of the pepper or pepper product or, if the pepper or pepper product 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 pepper or pepper product conforms in condition, type, method of processing, quality, standard, grade or otherwise to the sample of the pepper or pepper product examined or tested.

Cost of holding seized pepper, etc.

56. Where any pepper or pepper product or the proceeds of sale thereof, 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.

No costs or damages arising from seizure to be recoverable

57. No person shall, in any proceedings before any court in respect of the seizure of any pepper or pepper product or the proceeds of sale thereof, or any 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.

Additional powers

58. (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 the provisions of this Act have been complied with.

(2) A person who fails to comply with a request made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Offence to assault or obstruct authorized officer

59. 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 pepper or pepper product or the proceeds of sale thereof, 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 pepper, pepper product, conveyance, machinery, contrivance, equipment, book, record, document or other article in order to prevent the seizure thereof or the securing of the pepper, pepper product, 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.

Duty to maintain secrecy

60. (1) Except for the purposes of this Act, no person who has access to any record, book, register, correspondence, information, document or other material obtained under this Act shall disclose such record, book, register, correspondence, information, document or other material to any other person.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

False information

61. A person who makes, orally or in writing, signs or furnishes any declaration, return, certificate or other document or information required under this Act which 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.

Offence committed by body corporate

62. (1) Where 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) where the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where 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.

Abetments and attempts punishable as offences

63. (1) A person who abets the commission of or who attempts to commit any offence under this Act shall be guilty of that offence and shall, on conviction, be liable to the punishment provided for the offence.

(2) A person who does any act preparatory to or in furtherance of the commission of any offence under this Act shall be guilty of that offence and shall, on conviction, be liable to the punishment provided for the offence:

Provided that any term of imprisonment imposed shall not exceed one-half of the maximum term provided for the offence.

Compounding of offences

64. (1) The Director General may, with the consent in writing of the Public Prosecutor, compound any offence committed by any person under this Act and prescribed to be a compoundable offence by regulations made under this Act by making a written offer to such person to compound the offence upon payment to the Board of such amount not exceeding fifty per centum of the amount of maximum fine for that offence within such time as may be 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.

(3) If the amount specified in the offer under subsection (1) is not paid within the time 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 thereafter against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made and any pepper or pepper product or the proceeds of sale thereof, 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 terms and conditions as the Director General thinks fit to impose in accordance with the conditions of the compound.

Institution and conduct of prosecution

65. (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.

Jurisdiction to try offences

66. 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.

Protection against suit and legal proceedings

67. No action shall lie or prosecution shall be brought, instituted or maintained in any court against—

- (a) the Director General, Deputy Directors General, or any other officer duly appointed under this Act; 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, a Deputy 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 and for carrying into effect the provisions of this Act.

Rewards

68. 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.

Protection of informers

69. (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, which might lead to his discovery.

(2) If any book, record, account, document or computerized data which 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 which might lead to his discovery, the court shall cause all such entries 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 the court after full enquiry into the case believes 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 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.

Power to exempt

70. (1) The Minister may by order published in the *Gazette* exempt any person or class of persons or any activity in the pepper industry or any pepper or pepper product or other thing from all or any of the provisions of this Act.

(2) The Minister may impose any terms and conditions as he thinks fit on any exemption under subsection (1).

Amendment of Schedules

71. The Minister may, after consultation with the Board, amend the First Schedule and Second Schedule by order published in the *Gazette*.

Regulations

72. (1) The Minister may make regulations for all or any of the following purposes:

- (a) prescribing the manner of applying for licences, certificates, permits and approvals under this Act, the particulars to be supplied by an applicant, the manner of licensing and certification, the fees payable therefor, the conditions to be imposed and the form of licences, certificates, permits and approvals;
- (b) prescribing the standards of processing and methods of preserving, grading or packaging pepper and pepper product;
- (c) prescribing the standards or grades of pepper and pepper product and making provision for giving effect to such standards and grades, including provisions for or relating to labelling;
- (d) prescribing the procedure to be followed by traders in trading pepper and pepper product;
- (e) providing for the maintenance of proper standards of conduct in the carrying out of the pepper trade and pepper industry and for dealing with infringements thereof;

- (f) prescribing the practices to be observed or avoided in the pepper industry, except the planting of and research on pepper;
- (g) prescribing the procedure to be followed for the administration of the Fund;
- (h) prescribing the offences which may be compounded;
- (i) prescribing the records and documents to be kept and the returns to be submitted;
- (j) prescribing the forms for the purposes of this Act;
- (k) prescribing the fees and charges payable under this Act and the manner for collecting and disbursing such fees;
- (l) providing for the regulation of all or any of the activities of the Board and generally the performance of the functions and the exercise of the powers of the Board under this Act;
- (m) providing for such other matters as are contemplated by, or necessary for giving full effect to, the provisions of this Act and for their due administration.

(2) Regulations made under subsection (1) may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding two hundred and fifty thousand ringgit or imprisonment for a term not exceeding three years or both for such offence.

Power of Minister to make regulations on marketing

73. The Minister may make regulations to regulate, manage, control and develop the market and to improve the marketing of pepper and pepper products.

Validation of acts done in anticipation of the enactment of this Act

74. (1) Subject to subsection (2), all acts and things done by any person in preparation for or in anticipation of the enactment of this Act and any expenditure incurred in relation thereto shall be deemed to have been authorized under this Act, provided that

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) Subsection (1) does not extend to authorizing the appointment of members, officers or servants of the Board except in so far as to authorize the temporary appointment of such persons until the proper appointments are made under this Act.

PART VIII

REPEAL, SAVINGS AND TRANSITIONAL

Repeal and dissolution

75. The Pepper Marketing Board Regulations 1971 [*P.U. (A) 447/1971*], the Pepper Marketing Scheme 1971 [*P.U. (B) 426/1971*] (the “repealed Regulations”) are repealed and the Pepper Marketing Board (the “dissolved Board”) is dissolved.

Transfer of powers, etc.

76. The powers, rights, privileges, liabilities, obligations and duties that before the appointed day were those of the dissolved Board shall devolve as from that day on the Board.

Transfer of property

77. (1) All lands that before the appointed day were vested in, or reserved under any written law relating to land for the purposes of the dissolved Board 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 the dissolved Board or in any person on behalf of the dissolved Board, as the case may be, shall on that day vest in the Board.

Existing contracts

78. All deeds, bonds, agreements, instruments and working arrangements subsisting before the appointed day and affecting any of the property transferred under section 77 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 the dissolved Board or any person acting on behalf of the dissolved Board, the Board had been named therein or been a party thereto.

Transfer of moneys in funds

79. All moneys standing in or due to be paid to the funds of the dissolved Board established under the repealed Regulations shall on the appointed day be transferred to and be deemed to be part of the Fund established under section 23 of this Act.

Membership of dissolved Board

80. (1) Notwithstanding anything to the contrary, the members of the dissolved Board and the members of any committee appointed under the repealed Regulations who held office before the appointed day shall cease to hold office on that day.

(2) Nothing in subsection (1) shall affect the accountability of the outgoing members of the dissolved Board and as soon as practicable after the appointed day, the dissolved Board shall prepare and submit to the Minister a report including the financial statements required under the respective repealed Regulations, but the report shall be limited to the period from 1 January of the relevant year to the day before the appointed day.

(3) Notwithstanding section 75, the dissolved Board shall continue in existence for the purposes of subsection (2).

Continuance of officers and servants

81. The persons who on the appointed day are employed as officers and servants of the dissolved Board under the repealed Regulations shall continue to be officers and servants of the Board under this Act as if those persons had been appointed under

subsection 20(1) of this Act on the same terms and conditions for a term expiring on the day on which their appointments under the repealed Regulations would expire.

Savings for licences and registers

82. (1) Notwithstanding the repeal and dissolution under section 75 or any provision of this Act to the contrary, every person who, before the appointed day, held a valid licence issued to him under the repealed Regulations shall be deemed to be licensed under this Act until the expiry date of the licence and subject to the terms and conditions attached thereto.

(2) Every licence by virtue of which a person is deemed under subsection (1) to be licensed under this Act shall be deemed to have been issued under this Act; and the Board may alter the terms and conditions attached to the licence for the purpose of bringing them into conformity with the policy of the Board regarding the imposition of conditions on licensing under this Act.

(3) The provisions of this Act relating to the cancellation of licences shall apply to all persons deemed under subsection (1) to be licensed under this Act.

(4) If a person deemed to be licensed under this Act under subsection (1) desires to be licensed under this Act after the expiration of the period for which he is deemed to be licensed under this Act, he may apply to the Board for a licence in accordance with the regulations made under this Act, notwithstanding anything to the contrary, and his application shall be made and treated as a fresh application and not as an application for renewal of licence.

(5) All registers kept and maintained under the repealed Regulations shall be deemed to be registers kept and maintained under this Act and shall be deemed to form part thereof.

Continuance of pending applications, etc.

83. (1) All applications, approvals or decisions, on appeal or otherwise, pending before the dissolved Board under the repealed Regulations shall on the appointed day be dealt with by the Board under this Act.

(2) All applications, approvals or decisions, on appeal or otherwise, pending before the Minister under the repealed Regulations shall on the appointed day be dealt with by the Minister under this Act.

(3) All instruments, certificates or documents lodged with the dissolved Board under the repealed Regulations before the appointed day shall on the appointed day be lodged with the Board.

Continuance of civil and criminal proceedings

84. (1) Neither the repeal under section 75 nor anything contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the repealed Regulations before the appointed day, or any proceedings brought before that day in respect of such offences.

(2) Any proceedings, whether civil or criminal, or cause of action pending or existing before the appointed day by or against the dissolved Board or any person acting on behalf of the dissolved Board may be continued or instituted by or against the Board as it might have been by or against the dissolved Board or such person if this Act had not been enacted.

(3) Any appeal brought or any leave to appeal applied for on or after the appointed day against a decision given before that day in any legal proceedings to which the dissolved Board was a party may be brought by or against the Board.

Reference in law or document to dissolved Board

85. A reference in any law or document in force before the appointed day to the dissolved Board shall be construed as a reference to the Board.

Continuance of use of name

86. (1) Notwithstanding sections 75 and 85, the Board may continue to use the name "Pepper Marketing Board" for the purpose of maintaining goodwill or for any purpose the Board deems fit.

(2) No other person may use the name “Pepper Marketing Board” except with the prior written approval of the Board.

(3) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Prevention of anomalies

87. (1) The Minister may, after consultation with the Board, whenever it appears to him necessary or expedient to do so, whether for the purpose of removing difficulties, preventing anomalies or in consequence of the enactment of this Act, by order published in the *Gazette* make such modifications to any provisions in any existing laws as he thinks fit.

(2) The Minister shall not exercise the powers conferred by subsection (1) after the expiration of two years from the appointed day.

FIRST SCHEDULE
[Subsection 3(4)]

Meetings

1. (1) The Board shall meet at least once in every three months at such time and place as may be appointed by the Chairman.

(2) At least fourteen days notice in writing shall be given to the members.

(3) The Chairman shall preside at a meeting of the Board.

(4) The quorum of the Board shall be seven.

(5) Every member of the Board present shall be entitled to one vote.

(6) If on a question to be determined by the Board there is an equality of votes, the Chairman shall have a casting vote.

Allowance

2. Members of the Board shall be paid such allowances as the Minister may determine.

Board may invite others to meetings

3. (1) The Board may invite any person to attend a meeting or deliberation of the Board for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting or deliberation.

(2) A person invited under subparagraph (1) may be paid such fee as the Board may determine.

Common seal

4. (1) The Board shall have a common seal which shall bear such device as the Board shall approve and such seal may be broken, changed, altered or made anew as the Board deems fit.

(2) Until a seal is provided by the Board, a stamp bearing the words “Malaysian Pepper Board” or “Lembaga Lada Malaysia” may be used and shall be deemed to be the common seal of the Board.

(3) The common seal shall be kept in the custody of the Director General or such other person as may be authorized by the Board, and shall be authenticated by the Director General or such authorized person or by any officer authorized by either of them in writing; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the Board; and any such document or instrument may be executed on behalf of the Board by any officer or servant of the Board generally or specially authorized by the Board in that behalf.

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

Disclosure of interest

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

Minutes

6. (1) The Board shall cause minutes of all its meetings to be maintained and kept in a proper form.

(2) Minutes made of meetings of the Board shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.

(3) Every meeting of the Board in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Validity of acts and proceedings

7. No act done or proceeding taken under this Act shall be questioned on the ground of—

- (a) a vacancy in the membership of, or a defect in the constitution of, the Board;
- (b) the contravention by any member of the Board of the provisions of paragraph 5; or
- (c) an omission, a defect or an irregularity not affecting the merit of the case.

Procedure

8. Subject to this Act, the Board shall determine its own procedure.

Member of Board to devote time to business of Board

9. Every member of the Board shall devote such time to the business of the Board as may be necessary to discharge his duties effectively.

Appointment to be published

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

SECOND SCHEDULE
[Subsection 33(2)]

Power of Board to make regulations in respect of corporation

1. The Board shall, on or before the date on which any corporation is established under section 33, make regulations in respect of such corporation defining—

- (a) the purposes and objects for which the 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 the Board's rights of control over such corporation.

Limitation on power to establish corporation

2. Nothing in paragraph 1 shall be deemed to authorize the Board to make regulations for any purpose or object more extensive in scope than the purposes or objects for which the Board has been 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.

Effect of regulations

3. Subject to the provisions of this Act and of any regulations made under section 72, 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.

Amendment of regulations

4. The Board may at any time amend, revoke or add to any regulations made under paragraph 1 in respect of any corporation.

Register of corporations

5. The Board shall keep a register in the prescribed form of all corporations established by it under section 33 and such register, together with copies of all regulations made under paragraphs 1 and 4, shall be open to public inspection at such place or places and at such time as it may prescribe.

Winding up

6. (1) The Board may, with the approval of the Minister, by order published in the *Gazette*, direct that any corporation established by it be wound up and dissolved.

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

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

Corporations to be bodies corporate

7. Every corporation established under section 33 shall be a body corporate by such name as the Board shall give to it 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 project, scheme or enterprise 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 provisions of this Act and subject to such restrictions or limitations as may be prescribed by the Board in each case.

Common seal

8. (1) 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 be broken, changed, altered or made anew as the corporation, with the approval of the Board, deems fit.

(2) Until a seal is provided by the corporation, a stamp bearing the name of the corporation may be used and shall be deemed to be the common seal of the corporation.

(3) The common seal shall be kept in the custody of such person as may be authorized by the corporation, and shall be authenticated by such person; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the corporation; and any such document or instrument may be executed on behalf of the corporation by any officer or servant of the corporation generally or specially authorized by the corporation in that behalf.

(2) The common seal of every corporation shall be officially and judicially noticed.

LAWS OF MALAYSIA

Act 656

MALAYSIAN PEPPER BOARD ACT 2006

LIST OF AMENDMENTS

Amending law

Short title

In force from

– NIL –

LAWS OF MALAYSIA**Act 656****MALYSIAN PEPPER BOARD ACT 2006**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
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– NIL –

