

D.R. 12/98

Naskhah Sahih—Bahasa Kebangsaan

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Ordinan Kumpulan Wang
Perusahaan Getah (Penanaman Semula) 1952.

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MAKA INILAH DIPERBUAT UNDANG-UNDANG
oleh Seri Paduka Baginda Yang di-Pertuan Agong dengan
nasihat dan persetujuan Dewan Negara dan Dewan Rakyat
yang bersidang dalam Parlimen, dan dengan kuasa
daripadanya, seperti berikut:

1. (1) Akta ini bolehlah dinamakan Akta Kumpulan Wang
Perusahaan Getah (Penanaman Semula) (Pindaan)
1998.

Tajuk
ringkas dan
mula berkuat
kuasa.

(2) Akta ini hendaklah mula berkuat kuasa pada tarikh
yang ditetapkan oleh Menteri melalui pemberitahuan dalam
Warta, dan Menteri boleh menetapkan tarikh yang
berlainan bagi peruntukan yang berlainan dalam Akta
ini.

2. Ordinan Kumpulan Wang Perusahaan Getah
(Penanaman Semula) 1952, yang disebut "Ordinan" dalam
Akta ini, adalah dipinda—

Pindaan
seksyen 2.
Ord. 8/52.

(a) dengan memasukkan selepas takrif "Authority"
takrif yang berikut:

' "authorized officer" means—

(a) an officer of the Authority
authorized under section 28;

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

(c) an officer of customs;

"cess" means the cess imposed and collected by order made under section 7;

"Director General" means the Director General of the Authority appointed under *Act ss. section 11 of the Rubber Industry Smallholders Development Authority Act, 1972;*

(b) dalam takrif "Minister", dengan menggantikan perkataan "rubber industry" dengan perkataan "Authority";

(c) dengan memotong takrif "Penang", "quarter" dan "rubber plant";

(d) dengan menggantikan takrif "rubber" dengan takrif yang berikut:

"rubber" means all natural rubber in liquid, solid or blended form derived from any latex-bearing plant and includes all elastomers derived from natural rubber;'; dan

(e) dengan memotong takrif "the Rubber Producers' Council".

Pindaan
seksyen 3.

3. Perenggan 3(2)(a) Ordinan adalah dipinda dengan menggantikan perkataan "section 7" dengan perkataan "sections 7, 33 and 38".

Pindaan
seksyen 7.

4. Ordinan adalah dipinda dengan menggantikan seksyen 7 dengan seksyen yang berikut:

"Cess on
rubber.

7. (1) The Minister may after consultation with the Minister of Finance, make orders for the imposition, variation or cancellation of a cess on rubber produced in or exported from Malaysia, for replanting purposes, and the orders may specify the nature, amount and rate of the cess and the manner of collection of the cess.

Act 235. (2) Except in so far as may otherwise be provided in any order imposing a cess, such cess shall be deemed for the purposes of its collection and the enforcement of the collection to be a customs duty imposed under the Customs Act 1967.

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

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

(5) A person who fails or refuses to pay any cess imposed under this section commits an offence and shall, on conviction, be liable to a fine not exceeding ten times the amount of cess due or to imprisonment for a term not exceeding three years or to both.

(6) The institution of proceedings under subsection (5) shall not relieve any person from liability for the payment of any cess for which he is or may be liable under this Ordinance."

5. Perenggan 25(b) Ordinan adalah dipinda dengan menggantikan perkataan "to the dismissed" dengan perkataan "to be dismissed". Pindaan seksyen 25.

6. Ordinan adalah dipinda dengan memasukkan selepas seksyen 27 Bahagian yang berikut: Bahagian baru V dan VI.

"PART V

Authori-
zation of
officers.

Act 551.

28. (1) The Director General may in writing authorize any officer of the Authority not below the rank of Assistant Enforcement Officer or, with the concurrence of the Director-General of the Malaysian Rubber Board, any officer authorized under section 46 of the Malaysian Rubber Board (Incorporation) Act 1996 to exercise the powers under this Part.

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

Power of investigation.

29. An authorized officer shall have the power to investigate the commission of any offence under this Ordinance.

Search by warrant.

30. (1) If it appears to a Magistrate upon written information on oath and after such enquiry as he considers necessary that there is reasonable cause to believe that in any premises there is or has been any contravention of this Ordinance, 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, if need be by force, and there to—

- (a) search for and seize any rubber, book, document, or other article that is reasonably believed to furnish evidence of the contravention of this Ordinance;
- (b) take samples of any rubber found in the premises for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed; and make copies of or take extracts from any book, document or other article found in the premises.

(2) Where, by reason of its nature, size or amount, it is not practicable to remove any rubber, book, document or other article seized under subsection (1), the authorized officer shall, by any means seal such rubber, book, document or other article in the premises or container in which it is found.

(3) It shall be an offence for any person without lawful authority to break, tamper with or damage the seal referred to in subsection (2) or to remove any rubber, book, document or other article under seal or attempt to do so.

(4) 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.

(5) 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 and enter thereinto;
- (b) forcibly enter the premises and every part thereof;
- (c) remove by force any obstruction to entry, search, seizure and removal as he is empowered to effect; and
- (d) detain every person found in the premises until the place has been searched.

List of things seized.

31. (1) Except as provided in subsection (2), where any rubber, book, document or other article is seized under this Part, the seizing officer shall prepare a list of the things seized and immediately deliver a copy signed by him to the occupier of the premises which has been searched under section 30 or to his agent or servant, at those premises.

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

Forfeiture
of rubber,
etc. seized.

32. (1) Any rubber, book, document or other article seized in exercise of any power conferred under this Ordinance shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any rubber, book, document or other article seized in exercise of any power conferred under this Ordinance shall be made by the court before which the prosecution with regard thereto has been held and an order for the forfeiture of the rubber, book, document or other article shall be made if it is proved to the satisfaction of the court that an offence under this Ordinance has been committed and that the rubber, book, document or other article was the subject-matter of or was used in the commission of the offence, notwithstanding that no person may have been convicted of such offence.

(3) If there is no prosecution with regard to any rubber, book, document or other article seized in exercise of any power conferred under this Ordinance, such rubber, book, document or other article shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of service of a notice to the last-known address of the person from whom the rubber, book, document or other article was seized indicating that there is no prosecution in respect of such rubber, book, document or other article, unless before that date a claim thereto is made in the manner set out in subsections (4), (5) and (6).

(4) Any person asserting that he is the owner of the rubber, book, 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 rubber, book, document or other article is held that he claims the same.

(5) On receipt of the notice referred to in subsection (4), the authorized officer shall refer the matter to a Magistrate for a decision.

(6) The Magistrate to whom a matter is referred under subsection (5) shall issue a summons requiring the person asserting that he is the owner of the rubber, book, document or other article and the person from whom it was seized, to appear before the Magistrate and on their appearance or default to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter and on proof that an offence under this Ordinance has been committed and that such rubber, book, document or other article was the subject-matter of or was used in the commission of such offence, shall order the same to be forfeited and shall, in the absence of such proof order its release.

(7) Any rubber, book, 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.

(8) Where any rubber seized in exercise of the powers conferred under this Ordinance is of a perishable nature or is subject to speedy and natural decay or where the custody of such rubber involves unreasonable expense and inconvenience, or is believed to cause obstruction or hazard to the public, the Director General may direct that such rubber product be sold at any time and the proceeds of the sale held to abide by the result of any prosecution under this Ordinance.

(9) The Authority shall not be liable to any person for any deterioration, however caused, in the quality of any rubber seized under this Ordinance.

Property in forfeited rubber, *etc.* 33. Any rubber or proceeds of sale thereof, book, document or other article forfeited, or taken and deemed to be forfeited, under this Part shall be the property of the Authority.

Cost of holding rubber, *etc.* seized. 34. Where any rubber, book, document or other article seized under this Ordinance is held in the custody of the Government or Authority pending completion of any proceedings in respect of an offence under this Ordinance, the cost of holding such thing in custody shall, in the event of any person being found guilty of an offence, be a debt due to the Government or Authority, as the case may be, by such person and shall be recoverable accordingly.

No costs or damages arising from seizure to be recoverable. 35. No person shall, in any proceeding before any court in respect of the seizure of any rubber, book, document or other article seized in the exercise or the purported exercise of any power conferred under this Ordinance, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Obstruction of authorized officer. 36. Any person who obstructs, impedes, assaults or interferes with any authorized officer in the performance of his functions under this Ordinance commits an offence.

PART VI

General penalty. 37. Any person who commits an offence under this Ordinance for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Compound-
ing of
offences.

38. (1) The Director General may compound any offence committed by any person under this Ordinance, by making a written offer to such person to compound the offence upon payment to the Director General 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) Any offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and where the amount specified in the offer 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.

(3) 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.

(4) Notwithstanding the payment of a compound under subsection (1) for an offence under section 7, no person shall be relieved from liability for the payment of any cess for which he is or may be liable under this Ordinance.

Institution
and conduct
of prose-
cution.

39. No prosecution for or in relation to any offence under this Ordinance shall be instituted without the written consent of the Public Prosecutor.

Jurisdiction to try offences. 40. 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 Ordinance and to impose the full punishment for any such offence.

Power to exempt. 41. (1) The Minister may by order published in the *Gazette* exempt any person or class of person or any rubber or class of rubber, from all or any of the provisions of this Ordinance.

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

Pindaan am. 7. Ordinan adalah dipinda dengan menggantikan perkataan "dollars" di mana jua terdapat di dalamnya dengan perkataan "ringgit".

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Ordinan Kumpulan Wang Perusahaan Getah (Penanaman Semula) 1952 {"Ordinan"}.

2. *Fasal 1* mengandungi tajuk ringkas dan peruntukan mengenai permulaan kuat kuasa Akta yang dicadangkan.

3. *Fasal 4* bertujuan untuk meminda seksyen 16 Ordinan untuk memberi Menteri kuasa selepas berunding dengan Menteri Kewangan untuk mengenakan dan memungut ses atas getah bagi maksud penanaman semula.

4. *Fasal 6* bertujuan untuk memasukkan Bahagian baru V dan VI ke dalam Ordinan.

Bahagian V mengandungi peruntukan yang berhubungan dengan penguatkuasaan, penyiasatan, keterangan dan kesalahan.

Bahagian VI memperkatakan perkara am seperti pengkompaunan kesalahan, pemulaan pendakwaan di bawah Akta, bidang kuasa untuk membicarakan kesalahan di bawah Akta dan kuasa untuk memberikan pengecualian.

5. Pindaan yang tidak diperkatakan dengan khusus dalam Huraian ini adalah pindaan yang kecil atau berbangkit.

Kumpulan Wang Perusahaan Getah 11
(Penanaman Semula) (Pindaan)

IMPLIKASI KEWANGAN

Rang Undang-Undang ini akan melibatkan Kerajaan dalam perbelanjaan wang tambahan yang amaunnya belum dapat ditentukan sekarang ini.

[PN. (U²) 2062.J