

A BILL

intituled

An Act to amend the Malaysian Timber Industry Board
(Incorporation) Act 1973.

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

L This Act may be cited as the Malaysian Timber Industry Board (Incorporation) (Amendment) Act 1990 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Short title
and com-
mencement.

2. Section 2 of the Malaysian Timber Industry Board (Incorporation) Act 1973, which in this Act is referred to as the "principal Act", is amended—

Amendment
of section 2.
Act 105.

(a) by inserting, immediately after the definition of "Board", the following definitions:

"Chairman" means the Chairman of the Board appointed under section 4;

"Director-General" means the Director-General appointed under section 9 and includes the Deputy Director-General;

(b) by substituting for the definition of "grading authority" the following:

"grading authority" means, until otherwise declared by the Minister by notification in the *Gazette*, the Director-General of Forestry, West Malaysia in relation to West Malaysia, the Conservator of Forests, Sabah in relation to Sabah and person or

persons appointed by the Sarawak Timber Industry Development Corporation, in relation to Sarawak;';

- (c) by inserting, after the definition of "jetty operator", the following definition:

Act 235. ' "legal landing place" has the meaning assigned to it in the Customs Act 1967;';

- (d) by deleting the definition of "manufacturer";

- (e) by inserting, immediately before the definition of "mill", the following definition:

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

- (f) by deleting the definition of "packer";

- (g) by inserting, immediately before the definition of "recognized association", the following definition:

' "Quality Control Inspector" means a quality control inspector appointed under section 9;';

- (h) by inserting, immediately after the definition of "timber", the following definition:

' "timber processor" means a person who carries on the business of seasoning or preserving timber;' and

- (i) by substituting for the definition of "yard" the following:

' "yard" means any area or place used for checking, inspecting, seasoning, selling, storing, packaging, preserving or bundling timber, and includes any area, place or premises where timber, intended to be used in the manufacture of any article or in the erection of any building or structure, is seasoned, preserved or offered for sale.'

3. Section 4 of the principal Act is amended by substituting for subsection (1) the following: Amendment of section 4.

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

- (a) a Chairman;
- (b) a representative of the Ministry responsible for the timber industry;
- (c) a representative of the Ministry of Trade and Industry;
- (d) a representative of the Forestry Department Peninsular Malaysia;
- (e) a representative of the Forest Research Institute of Malaysia;
- (f) one representative of each of not more than five of such States as the Minister may determine;
- (g) representatives of recognized associations to be appointed as provided in section 5; and
- (h) not more than two persons who in the opinion of the Minister are able to contribute to the development of the Malaysian timber industry."

4. Section 5 of the principal Act is amended by deleting subsection (2). Amendment of section 5.

5. The principal Act is amended by inserting, immediately after section 5, the following new section 5A: New section 5A.

"Tenure of office. 5A. Each member of the Board shall, unless he sooner resigns his membership or his membership or his appointment is sooner revoked, hold office for a period not exceeding two years, but shall be eligible for reappointment."

6. Section 7 of the principal Act is amended— Amendment of section 7.

(a) by substituting for subsection (1) the following:

"(1) Subject to subsection (4) the Minister may, in respect of each member appointed under

paragraphs (b) to (g) of subsection (1) of section 4, appoint two persons to be alternate members to attend in place of that member, meetings of the Board that that member is for any reason unable to attend.";

(b) by substituting for subsection (2) the following:

"(2) Only one alternate member may attend meetings of the Board at any one time in place of the member whom he is alternate to."; and

(c) by substituting for subsection (4) the following:

"(4) 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 whom he is alternate to ceases to be a member of the Board."

Amendment
of section 8.

7. Section 8 of the principal Act is amended—

(a) in subsection (2)—

(i) by deleting the comma after the word "appointment"; and

(ii) by substituting for the words "the Secretary General of the Ministry for the time being responsible for the timber industry" the words "or in the absence of the Chairman from any meeting of the Board, the representative appointed under section 4 (1) (b)" and

(b) in subsection (3)—

(i) by substituting for the words "the Secretary General of the Ministry for the time being responsible for the timber industry" the words "the representative appointed under section 4 (1) (B)"; and

(ii) by substituting for the words "the Director-General of Forestry, West Malaysia" the words "the representative appointed under section 4 (1) (d)".

MALAYSIAN TIMBER INDUSTRY BOARD
(INCORPORATION) (AMENDMENT)

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8. The principal Act is amended by substituting for section 9 the following: Amendment of section 9.

"Appoint-
ment of
officers
and
servants.

"9. (1) The Minister shall appoint a Director-General of the Board on such terms and conditions and for such specified period as he may determine.

(2) The Board may, on such terms and conditions, appoint a Deputy Director-General of the Board and such number of other officers and servants of the Board, including Quality Control Inspectors, as it considers necessary and expedient for the exercise of its functions.

(3) The appointment of the Director-General, the Deputy Director-General and the Quality Control Inspectors shall be published in the *Gazette*".

9. The principal Act is amended by inserting, immediately after section 9, the following new sections 9A and 9B: New sections 9A and 9B.

"Board
may
provide
for
schemes
of service.

9A. The Board may from time to time with the approval of the Minister and the concurrence of the Minister of Finance, after consultation with the Director-General of Public Services, make regulations to provide for any scheme of service for its officers and servants, including the terms and conditions of service and the salaries, any pension scheme, and any scheme relating to allowances and other remunerations payable to its officers and servants.

Powers
and
duties
of the
Director-
General.

9B. (1) The Director-General shall be the chief executive officer of the Board and shall have all the powers and duties necessary for carrying out the administration and technical functions of the Board.

(2) The powers and duties referred to in subsection (1) shall be in addition to any power or duty conferred or imposed on the Director-

General by the Board or by this Act and any regulation made thereunder.

(3) The Director-General shall—

(a) submit for the approval of the Board—

(i) an annual programme of activities of the Board; and

(ii) the estimate of expenditure necessary to carry out the activities of the Board;

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

(c) keep the Board fully informed of the progress of the activities, and prepare and submit to the Board as soon as possible after the end of each financial year a report dealing with the administration of the Board accompanied by a statement of income and expenditure for, together with balance sheets as at the end of, the financial year.

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

(5) Where the Deputy Director-General has not been appointed the Chairman may appoint any officer of the Board to exercise the powers and duties of the Director-General for the purposes of subsection (4)."

10. Section 12 of the principal Act is amended—

Amendment
of section 12.

(a) in subsection (1)—

(i) by inserting, immediately after paragraph (b), the following new paragraph (bb):

"(bb) to co-ordinate activities for effective marketing and shipping of timber;"

(ii) by deleting the words "exploiting and" in paragraph (c);

(ni) by inserting, after the word "services" in paragraph (d), the words "and training";

(iv) by deleting the word "and" at the end of paragraph (e)

(v) by substituting for the full stop at the end of paragraph (f), a semicolon; and

(vi) by inserting, immediately after paragraph (f), the following new paragraphs (g) and (h):

"(g) to gather information on and maintain records of all relevant matters relating to the timber industry; and

(h) generally to do everything within the scope of the objectives of this Act for the betterment and proper conduct of the timber industry."; and

(b) by inserting, in paragraph (a) of subsection (2) immediately after the word "negotiations", the words "and agreements or arrangements" and, immediately after the word "necessary", the words "for carrying out its functions and".

11. Section 13 of the principal Act is amended—

Amendment
of section 13.

(a) by substituting for subsection (4) the following:

"(4) No person shall carry on business as a supplier or timber processor, for the purpose

of export trade, unless he is registered under this Act.";

- (b) by deleting subsections (5) and (6); and
- (c) by substituting for the word "dollars" in subsection (7) the word "ringgit".

New section 13A.

12. The principal Act is amended by inserting, immediately after section 13, the following new section 13

"Exemption.

13A. The Minister may, in the interest of the timber industry and by order published in the *Gazette*, exempt any person from the requirement of registration under section 13."

Amendment of section 14.

13. Section 14 of the principal Act is amended—

- (a) by substituting for subsection (1) the following:

"(1) Any person who desires to export timber or carry on business as an exporter or a jetty operator, any grader who desires to carry on the business of grading timber or any person who desires to carry on business as a supplier or timber processor may, in such manner as may be prescribed, apply to the Board for registration.";
- (b) by substituting for subsection (2) the following:

"(2) The Board may, on payment of such fee as may be prescribed, register an applicant under subsection (1) as an exporter, jetty operator, registered grader, supplier or timber processor, as the case may be, subject to such conditions and restriction as the Board may deem fit to impose."; and
- (c) by substituting for subsection (3) the following:

"(3) Every registration under this section shall be valid for a period of one year, or for such longer period but not exceeding five years as the Board may determine, from the date of registration and shall be renewable, unless sooner cancelled under section 17, at the discretion of the Board for such further period of not less than one year but not exceeding five years as the Board deems fit."

14. The principal Act is amended by inserting, immediately after section 14, the following new section MA: New section 14A.

"Power to vary conditions or restrictions of registration.

14A. The Board shall have the power to vary any condition or restriction imposed on any registration under subsection (2) of section 14:

Provided that the Board shall not vary any condition or restriction of the registration unless a reasonable notice and an opportunity of being heard on any objection as to the intended variation has been given to a registered person likely to be affected by such variation.

(2) The Board may, upon hearing any objection under subsection (1), dismiss the objection if it considers it of no merit and shall proceed to vary the condition or restriction of registration as intended.

(3) If a registered person is dissatisfied with the decision of the Board under subsection (2), he may appeal to the Minister within thirty days of the date the decision was communicated to him and the decision of the Minister shall be final and binding.

(4) No variation of any condition or restriction of registration made pursuant to this section shall be enforced until the appeal, if any, under subsection (3) has been determined in favour of the Board."

15. The principal Act is amended by substituting for section 15, the following: Substitution of section 15.

"Register. 15. The Board shall keep or cause to be kept a register of exporters, jetty operators, registered graders, suppliers and timber processors in such manner as it may determine."

16. Section 17 of the principal Act is amended— Amendment of section 17.

(a) by inserting the word "suspend," immediately after the words "Power to", in the marginal note;

- (b) by inserting the word "suspend," immediately after the words "thereunder," in subsection (1);
- (c) by inserting the words "suspended or", immediately after the words "should not be", in subsection (2);
- (d) in subsection (4)—
 - (i) by inserting the words "suspend or" immediately after the words "against him,"; and
 - (ii) by substituting for the full stop at the end thereof a colon and adding immediately thereafter the following new proviso:

"Provided that any suspension of registration under this provision shall not exceed a period of six months."; and
- (e) by inserting, immediately after subsection (5), the following new subsection (5A):

"(5A) (a) The Board shall not refuse to renew the registration of a registered person under subsection (1) without first giving such person an opportunity of being heard.

(b) Where the Board refuses to renew the registration of a registered person under subsection (1) it shall notify such person in writing to that effect stating the reasons for the refusal."

Amendment
of section 18.

17. Section 18 of the principal Act is amended by substituting for subsection (1), the following:

"(1) Any person who is aggrieved by the decision of the Board, to refuse to effect registration under section 14 or to suspend, cancel or to refuse to renew registration under section 17, may, within thirty days of the date the decision was communicated to him, appeal to the Minister."

18. Section 19 of the principal Act is amended—

Amendment
of section 19.

(a) in subsection (2)—

- (i) by substituting for paragraph (d) the following:

"(d) all monies received by the Board by way of grants from the Federal Government or any State Government;"

- (ii) by inserting, immediately after paragraph (d), the following new paragraph (dd):

"(dd) all monies received by the Board by way of grants, donations or contributions from recognized institutions or international agencies;"

- (iii) by deleting the word "and" at the end of paragraph (e) \ and

- (iv) by inserting, immediately after paragraph (e), the following new paragraph (ee):

"(ee) all monies received as fees and charges for advice or services rendered pursuant to section 20A; and";

(b) in subsection (3)—

- (i) by substituting for the full stop at the end of paragraph (c) a semicolon;

- (ii) by inserting, immediately after paragraph (c), the following new paragraphs (d) and (e):

"(d) repaying monies borrowed by the Board under section 22; and

(e) subject to the approval of the Minister given after consultation with the Minister of Finance, making contributions to any local

or international organization, for the purpose of promoting the trade, utilisation and processing, and ensuring adequate supply, of timber to the industry."; and

- (c) by substituting for the words "provided by Parliament" in subsection (4) the words "received by way of grants from the Federal Government or any State Government".

New section 20A.

19. The principal Act is amended by inserting, immediately after section 20, the following new section 20A:

"Power to impose and collect fees and other forms of payments.

20A. The Board may, from time to time, fix and collect fees and charges in respect of any technical advisory services or other services provided by the Board pursuant to this Act."

Amendment of section 22.

20. Section 22 of the principal Act is amended by inserting, immediately after the word "by", the words "the Minister, with the concurrence of.

Amendment of section 23.

21. Section 23 of the principal Act is amended by substituting for the words "who shall act after consulting" the words "given with the concurrence of.

Amendment of section 24.

22. Section 24 of the principal Act is amended by substituting for the word "Chairman" wherever it appears, the word "Director-General".

Amendment of section 25.

23. The principal Act is amended by substituting for section 25, the following:

"Audit and annual report.
Act 240

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

Amendment of section 26.

24. The principal Act is amended by deleting section 26.

Amendment of section 27.

25. Section 27 of the principal Act is amended—

- (a) by substituting for subsection (1), the following:

"(1) The Director-General or any officer of the Board, with the consent of the Chairman,

may, if he has reasonable cause to believe that an offence has been committed under this Act, enter any business premises of, any mill or yard being used by, an exporter and carry out inspection and examination as he may consider necessary, and seize and detain any book, document or other thing found in the premises, mill or yard that may furnish evidence of the commission of an offence under this Act or the rules or regulations thereunder.";

(b) by substituting for subsection (3) the following;

"(3) Notwithstanding subsection (1), a Quality Control Inspector acting thereunder on the written authority of the Director-General may only carry out such inspection and examination as he may consider necessary for the purpose of checking or verifying the actual and the desired quality of any timber of an exporter found in any premises, mill or yard, and may, if he has reasonable grounds to believe that an offence has been committed under this Act relating to the quality of timber, seize and detain only those books, documents or other things that may furnish evidence of the commission of the offence relating to the quality of timber.";

(c) in subsection (4)—

(i) by substituting for the words "Chairman or any officer of the Board authorized", the words "Director-General or any officer of the Board, having obtained the consent of the Chairman,"; and

(ii) by inserting, immediately before the word "sale", the word "removal,";

(d) by inserting, immediately after the word "who", in subsection (5), the word "removes,"; and

(e) by inserting immediately after subsection (5), the following new subsections (6) and (7):

"(6) If the Director-General has reason to believe that an offence under this Act or the rules

or regulations thereunder has been committed in respect of any timber found in the course of the inspection and examination under this section, he may where necessary cause the timber to be committed into the custody of the Board.

(7) Where the Director-General has obtained the consent of the Chairman for the purposes of subsection (1) he may authorize any officer of the Board to exercise the powers conferred under subsection (1), (4) or (6)."

New sections
27A, 27B, 27c,
27D, 27E, 27F,
27G, 27H, 27I,
27J and 27K.

26. The principal Act is amended by inserting, immediately after section 27, the following new sections 27A, 27B, 27c, 27D, 27E, 27F, 27G, 27H, 27I, 27J and 27K:

"Director-General to carry out inspection at legal landing place.

27A. The Director-General or any officer of the Board so authorized in writing by the Director-General may, if he has reason to believe that an offence under this Act or the rules or regulations made thereunder has been committed, carry out inspection and examination at any legal landing place as he considers necessary and may seize and detain any timber, book, document or other thing found thereat.

List of seizures.

27B. Where any timber, book, document or other thing is seized under section 27 or 27A, the officer effecting the seizure shall prepare a list of the things seized and forthwith deliver a copy signed by him to the owner or the person from whom the things were seized.

Return of timber seized.

27c. (1) Where timber is seized under this Act, the Director-General or any officer of the Board so authorized in writing by him, may in his discretion—

- (a) temporarily return the timber to the owner or to the person from whose possession, custody or control it was seized, subject to such terms and conditions as may be imposed by the Director-General and in any case, subject to sufficient security being furnished to

the satisfaction of the Director-General that the timber shall be surrendered to the Director-General or any authorized officer of the Board on demand and that the said terms and conditions, if any, shall be complied with; or

- (b) return the timber to the owner or to the person from whose possession, custody or control it was seized with liberty for the person to whom the timber is so returned to dispose of the same, such return being subject to security being furnished to the satisfaction of the Director-General in an amount not less than an amount which, in the opinion of the Director-General represents the open market value of such timber on the date on which it is so returned for the payment of the amount so secured to the Director-General in the event of the court making an order for forfeiture of such amount under section 27E; or
- (c) to sell the timber if in the opinion of the Director-General that it is likely to deteriorate in quality or value and in such case the Director-General shall hold the proceeds of sale pending the result of any prosecution or claim and in relation to such proceeds of sale to abide by the outcome of such prosecution or claim.

(2) No person shall be entitled to maintain any action on account of any act done or any decision taken by or on behalf of the Board under this section, and no court shall have any jurisdiction to entertain any such action.

Things
liable to
forfeiture.

27o. All things liable to seizure under this Act, shall be liable to forfeiture.

Court to
order
forfeiture.

27E. (1) If there is no prosecution with regard to any timber seized under this Act, such timber shall be taken and deemed to be forfeited at the

expiration of one calendar month from the date of seizure unless a claim thereto is made before that date under and in accordance with this Act.

(2) Any person asserting that he is the owner of the timber seized or entitled to the proceeds of sale of the timber and that the timber is not liable to forfeiture may personally or by his agent authorized in writing give written notice to the Director-General that he claims the timber seized or the proceeds of the sale of the timber.

(3) On receipt of a notice under subsection (2) the Director-General may direct that the timber seized or the proceeds of sale thereof be released or may refer the matter to a Magistrate.

(4) The Magistrate shall issue a summons requiring the Board and the person asserting that he is the owner of the timber seized or the proceeds of sale thereof and the person from whom the timber was seized to appear before him, and upon their appearance or default to appear, due service of the summons being proved, the Magistrate shall proceed to the examination of the matter and on proof that an offence has been committed under this Act and that the timber seized was the subject matter of the offence shall order the timber seized or the proceeds of sale thereof to be forfeited or, in the absence of such proof, shall order its release.

(5) In any proceedings under this Act the Board may be represented by the Director-General or an officer or servant of the Board authorized in writing in that behalf by the Director-General.

Things
forfeited
to be the
property
of the
Federation.

27F. Any thing or proceeds of sale thereof forfeited or taken and deemed to be forfeited under this Act shall be the property of the Federation or paid to the Federal Consolidated Fund, less any sum that may be certified by the Director-General as having been incurred by the

Board in effecting the provisions of section 27 or 27A and in carrying out the sale under this Act.

No costs of proceedings shall be allowed

27G. No person shall, in any proceedings before any court in respect of the seizure of any timber or any other thing seized in exercise of any power conferred under this Act, be entitled to the cost of such proceedings or to any damages or other relief other than an order for the return of the timber or any other thing seized or the payment of its value unless such seizure was made without reasonable or probable cause.

False or misleading information.

27H. Where any person who is required to give any information under this Act gives information which he has reason to believe is false or misleading or which he believes is not true in relation to any matter under this Act or the rules or regulations made thereunder, he shall be guilty of an offence.

Authority card to be produced.

27I. An officer exercising his powers under section 27 shall, if so required by a person in charge or control of any business place or premises, mill or yard into which entry is to be made or inspection or tests are to be conducted, produce proof of his identity and authorization in writing to such person.

Obstruction of authorized officers.

27J. Any person who in any way obstructs, hinders, prevents or interferes with the Director-General or any officer of the Board, in the exercise of his powers or carrying out his duties under this Act or who fails to afford such assistance as is reasonably required by the Director-General or any officer of the Board, commits an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Examination of witnesses.

27K. (1) The Director-General or any officer of the Board may, in carrying out inspection and examination pursuant to the provisions of this Act, examine orally any person whom he

believes to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined and such person shall be bound to answer all questions relating to such case put to him by such officer:

Provided that such person may refuse to answer any question the answer to which would have tendency to expose him to a criminal charge, penalty or forfeiture.

(2) 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 any question."

Amendment
of section 28.

27. Section 28 of the principal Act is amended by substituting for the word "Chairman" in subsection (2) the word "Director-General".

Amendment
of sections 29,
30 and 33.

28. Sections 29, 30 and 33 of the principal Act are amended by substituting for the word "dollars" wherever appearing therein the word "ringgit".

New
section 29A.

29. The principal Act is amended by inserting, immediately after section 29, the following new section 29A:

"Protection
against
legal
pro-
ceedings. 29A. The Board or any of its members, officers or servants shall not be liable for any loss or damage caused to any person by reason of any act or omission or statement made in pursuance of the execution or intended execution of their functions under this Act, unless the act or omission or statement was done or made *mala fide* or through recklessness or negligence of such members, officers or servants."

New
sections 30A
and 30B.

30. The principal Act is amended by inserting, immediately after section 30, the following new sections 30A and 30B:

"Prosecu-
tion of
offences. 30A. Prosecution in respect of offences under this Act or any regulation made thereunder may

be conducted by the Director-General or any officer of the Board so authorized in writing in that behalf by the Director-General.

Power to compound.

30e. (1) Any offence against this Act or against any regulation made thereunder which is prescribed to be a compoundable offence may be compounded by the Director-General or by any officer of the Board specially authorized in writing in that behalf by accepting from the person reasonably suspected of having committed the offence a sum of money not exceeding two thousand ringgit.

(2) Upon receipt of the payment under subsection (1) no further proceedings shall be taken against such person and any timber which is subject to a prohibitory notice under section 27 shall be released subject to any term and condition as to the proper rectification of the contravention, unless the timber consists of products the export of which is prohibited by any written law, in which case such timber shall be forfeited."

31. The principal Act is amended by inserting, immediately after section 33, the following new sections 33A and 33e:

New sections 33A and 33B.

"Offence committed by corporation.

33A. Where any offence against any provision of this Act or any regulation made thereunder has been committed by a body of persons, incorporated or otherwise, any person who at the time of the commission of the offence was a director, secretary, controller or any other similar officer having charge of such body of persons or was purporting to act in such capacity shall be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he has exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Offences
committed
by servant,
agent, etc.

33B. Where any person (who in this section is referred to as the "principal") would be liable under this Act to any punishment or penalty for any offence, act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such offence, act, omission, neglect or default of any of his clerk, servant or agent or of the clerk or servant of such agent:

Provided that such offence, act, omission, neglect or default was committed by the principal's clerk or servant in the course of the employment, or by the agent when acting on behalf of the principal, or by the clerk or servant of such agent in the course of his employment by such agent or otherwise on behalf of the agent."

Amendment
of section 34.

32. Section 34 of the principal Act is amended—

(a) in subsection (1)—

- (i) by deleting the word "and" at the end of paragraph (b)
- (ii) by substituting for the full stop at the end of paragraph (c) a semicolon and inserting thereafter the word "and"; and
- (iii) by inserting after paragraph (c) the following new paragraph (d):

"(d) specify the offences that are compoundable and prescribe the compounding and the methods thereof.";

(b) in subsection (2)—

- (i) by substituting for the word "standards" in paragraph (b), the words "standards of processing";
- (ii) by inserting, immediately after paragraph (f), the following new paragraph (ff):

"(ff) prescribe the procedure to be followed for the administration of the Fund;"

- (iii) by deleting paragraph (*h*);
- (iv) by substituting for the full stop at the end of paragraph (*i*) a semicolon and inserting thereafter the word "and"; and
- (v) by inserting, immediately after paragraph (*i*), the following new paragraph (*j*):
"*j*) provide for all procedural and other matters, in so far as they do not fall within any of the preceding paragraphs, which by this Act are required or permitted to be prescribed or which are necessary to be prescribed for the carrying out of or giving effect to the provisions of this Act."

33. The principal Act is amended by inserting, immediately after section 34, the following new sections 34A, 34B and 34c. New sections 34A, 34s and 34c.

"Discipline of officers and servants.

34A. (1) There shall be a Disciplinary Committee of the Board which shall consist of two members to be elected by and from the members of the Board, one of whom shall be elected chairman, and the Director-General appointed under subsection (1) of section 9.

(2) The disciplinary authority in respect of every officer and servant of the Board other than the Director-General shall be the Disciplinary Committee of the Board established under subsection (1).

(3) The Disciplinary Committee in respect of the Director-General shall consist of the Secretary-General of the Ministry responsible for the timber industry as chairman and two members to be elected by and from the members of the Board.

(4) The Director-General shall not be a member of the Disciplinary Committee in any proceedings before it in which he is the

complainant; his place shall be taken by a member to be elected by and from members of the Board.

(5) In the exercise of its disciplinary functions, the Disciplinary Committee shall have the power to impose such disciplinary punishment as may be provided for under any regulation that may be made under section 34c.

(6) The Disciplinary Committee may, subject to subsection (7), delegate any of its disciplinary functions, powers or duties to any committee of officers or servants of the Board, in respect of any particular officer or servant of the Board or in respect of any class or category of officers or servants of the Board, and the committee delegated with such functions, powers or duties shall carry out, exercise or discharge them under the direction and control of the Disciplinary Committee which shall have the power to review, rescind or vary any decision or finding of such committee.

(7) No delegation shall be made under subsection (6) so as to enable an officer or servant of the Board to be a member of a committee which may exercise any disciplinary authority over an officer or servant who is superior to him in rank.

(8) Any officer or servant of the Board who is dissatisfied with the decision of the Disciplinary Committee or of any committee delegated with functions, powers or duties under subsection (6) may, within fourteen days, appeal in writing against such decision to the Board which may thereupon affirm, reverse or give such directions on the matter as it deems fit and proper.

(9) The decision of the Board upon such appeal shall be final.

Surcharge. 34B. (1) If it appears to the Board that any person who is or was in the employment of the Board—

- (a) has failed to collect any monies owing to the Board for the collection of which he is responsible;
- (b) is or was responsible for any payment from the Fund of monies which ought not to have been made or for any payment of monies which is not duly vouched;
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any monies, stamps, securities, stores or other property of the Board;
- f d) being or having been an accounting officer, fails or has failed to keep proper accounts or records;
- (e) has failed to make any payment, or is or was responsible for any delay in the payment, of monies from the Fund to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Board,

the Board shall serve on him a written notice calling on him to show cause why he should not be surcharged, and if a satisfactory explanation is not, within fourteen days from the date of service of the notice as aforesaid, furnished to the Board with regard to the failure to collect, payment which ought not to have been made, payment not duly vouched, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the Board may surcharge against the said person a sum not exceeding the

amount of any such amount not collected, such payment, deficiency, or loss or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, of the failure to make payments, or the delay in making payment, the Board may surcharge against the said person such sum as the Board may think fit.

(2) The Chairman shall cause the Director-General to be notified of any surcharge made under subsection (1) and the Director-General shall thereupon notify in writing the person surcharged.

(3) The Board may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Chairman shall at once cause the Director-General to be notified of such withdrawal.

(4) The amount of any surcharge made under subsection (1) and not withdrawn under subsection (3) shall be a debt due to the Board from the person against whom the surcharge is made and may be sued for and recovered in any court at the suit of the Board and may also be recovered by deduction—

(a) from the salary of the person surcharged if the Board so directs; or

(b) from the pension of the person surcharged if the Board so directs,

by equal monthly instalments not exceeding one fourth of the total monthly salary or pension, as the case may be, of the person.

Power to
make
disciplinary
regulations.

34c. (1) The Board may, with the approval of the Minister, make such disciplinary regulations as it deems necessary or expedient to provide for the discipline of the officers and servants of the Board.

(2) The disciplinary regulations made by the Board under this section may include provisions for the interdiction with reduction in salary or in other remuneration, or provisions for the suspension without salary or other remuneration, of an officer or servant of the Board during the pendency of the disciplinary proceedings.

(3) The disciplinary regulations made under this section shall create such disciplinary offences and provide for such disciplinary punishments as the Board may deem appropriate, and the punishment so provided may extend to dismissal or reduction in rank.

(4) The disciplinary regulations made under this section shall, in prescribing the procedure for disciplinary proceedings, provide for an opportunity for representation to be made by the person against whom disciplinary proceedings are taken before a decision is arrived at by the disciplinary authority on the disciplinary charge laid against such person."

34. The principal Act is amended by substituting for the First Schedule, the following:

Amendment
of First
Schedule.

"FIRST SCHEDULE

(Section 2)

DEFINITION OF TIMBER

<i>Products</i>	<i>Harmonised Commodity Description and Coding System</i>
Wood waste, including sawdust	44.01
Fuel wood	44.01
Wood Charcoal	44.02
Round logs (including round wood and poles)	44.03
Roughly squared/half squared logs	44.03
Rough sawn timber	44.06/44.07

<i>Products</i>	<i>Harmonised Commodity Description and Coding System</i>
Woodchip	44.01
Fibreboard	44.11
Ground wood	44.05
Dressed timber	44.09
Mouldings, including headings	44.09
Veneer	44.08
Plywood	44.12
Blockboard/Laminboard	44.12
Battenboard	
Reconstituted wood product (e.g. Chipboard Woodwool, Cementboard, Waferboards, Flakeboards)	44.10
Wooden picture frames	44.14
Complete wooden cases/boxes, crates (assembled)	44.15
Wooden pallets (assembled)	44.15
Joinnery	44.18
Prefabricated buildings, including houses	94.06
Parquet flooring panels (assembled)	44.18
Wooden doors (unassembled/ assembled)	44.18
Articles of furniture of wood, rattan and bamboo	44.20
Rattan and bamboo	14.01
Other articles of wood	44.21
Chairs and other seats (of wood, rattan and bamboo)	94.01
Other furniture and furniture components (of wood, rattan and bamboo)	94.03
	(sub-code 30/40/50/60/80)".

Amendment
of Second
Schedule.

35. Paragraph 1 of the Second Schedule to the principal Act is amended—

- (a) by deleting the words "other than a member specified in paragraph (b), (c) or (d) of subsection (1) of section 4," in subparagraph (1); and

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- (b) by substituting for the words "a proper alternate member" the words "an alternate member, if any" in subparagraph (1) (a).

36. The Third Schedule to the principal Act is amended— Amendment
of Third
Schedule. .

- (a) by substituting for the words "Federation of Malaya Timber Exporters Association" the words "Timber Exporters Association, Malaysia";
- (b) by substituting for the words "Malay Timber Industry Association" the words "Bumiputra Timber Traders Association, Malaysia"; and
- (c) by inserting, below the words "Malaysia Plywood Manufacturers Association", the following:

"Malaysian Wood Moulding Council 1
Malaysian Furniture Industry Council 1".

EXPLANATORY STATEMENT

This Bill seeks to amend certain provisions of the Malaysian Timber Industry Board (Incorporation) Act 1973 (hereinafter referred to as the "Act").

2. *Clause 2* seeks to amend section 2 of the Act by redefining certain expressions and terms used in the Act as well as to define certain new expressions and terms to be used in the Act. Some of the new expressions and terms now defined are "Chairman" which is defined to mean the chairman appointed under section 4 of the Act; "Director-General" which is defined to mean the Director-General appointed under section 9 of the Act and shall include the Deputy Director-General; and the expression "legal landing place" which is defined as to have the meaning assigned to it in the Customs Act 1967.

3. *Clauses 3,4* and 6 seek to amend sections 4,5 and? respectively of the Act which relate to the composition of the Board and the appointment of alternate members to the Board.

4. *Clause 5* introduces a new section 5A into the Act. This new provision stipulates the tenure of a member of the Board appointed under section 4 of the Act which is two years but shall be eligible for reappointment.

5. *Clause 7* of the Bill seeks to amend section 8 of the Act in order to facilitate the proper functioning of the Board by designating the person that can chair the meeting of the Board in the circumstances stated in that section.

6. *Clauses 8 and 9* seek to amend section 9 of the Act and to introduce new sections 9A and 9s respectively. These sections deal with appointment of the Director-General, terms and conditions of services for officers and servants of the Board and the functions and responsibilities of the Director-General.

7. *Clause 10* seeks to amend section 12 of the Act. *Clause 10 (a)* introduces three new paragraphs to subsection (1) of section 12 of the Act, expanding the functions of the Board. *Clause 10 (b)* adds the words "agreements and arrangements" to enable the Board to be more effective in discharging its function.

8. *Clauses 11, 13, 15, 16 and 17* seek to amend sections 13, 14, 15, 16 and 18 of the Act respectively. These sections deal with registration of persons under the Act who carry on activity as timber exporter, grader, jetty operator, timber processor, etc. Subsection (3) of section 14 provides that a registration under this Act shall be valid for one year or for such longer period not exceeding five years. The discretion is with the Board. Section 16 of the Act on the other hand empowers the Board to refuse or suspend registration. But a new subsection (5A) of section 16 (*clause 16 (e)*) and section 18 allow for appeal to be made to the Minister in the event of a refusal of registration.

9. *Clause 12* introduces a new section 13A into the Act. This section empowers the Minister to exempt any person from registration under the Act.

10. *Clauses 18 and 19* seek to amend section 19 of the Act and to introduce a new section 20A respectively. Section 19 is amended to clearly state some of the sources of the Fund that can be obtained by the Board. Section 20A empowers the Board to levy fee and charges for its technical advisory services given to the industry.

11. *Clauses 20, 21 and 22* seek to amend sections 22, 23 and 24 respectively to further clarify the existing provisions.

12. *Clause 23* seeks to amend section 25 so that the Statutory Bodies (Accounts and Annual Reports) Act 1980 may be made applicable to the Board. *Clause 24* is a consequential amendment.

13. *Clause 25* seeks to amend section 27 to empower the Director-General with the consent of the Chairman of the Board to conduct inspection at any premises, mill or yard of a timber exporter and to commit into custody any timber which is found in the course of such investigation connected with the commission of any offence under the Act.

14. *Clause 26* seeks to introduce several new provisions namely sections 21A, 27B, 27C, 27D, 27E, 27F, 27G, 27H, 27I, 27J and 27K. These provisions deal with the powers of the Director-General or any officer of the Board authorized by him to inspect and examine any legal landing place and to detain or seize any document or timber found in the course of such inspection or examination which is connected with the commission of an offence under this Act. Provisions are also made to enable the Director-General to deal with the timber seized as he sees proper and fit, and empowers him to examine witnesses and to record statements.

15. *Clauses 27, 28 and 32* seek to amend sections 28, 29, 30, 33 and 34 of the Act so as to bring them in line with other provisions of the Act.

16. *Clauses 29 and 30* introduce new provisions namely sections 29A, 30A and 30B respectively. These new provisions deal with protection given to the Board, its members, officers, and servants against any law suit arising from any act done in the course of carrying out its or their duties, except in cases involving negligence and *mala fide*. Sections 30A and 30B deal with the power to, conduct prosecution, and, compound offences.

17. *Clause 31* introduces new sections 33A and 33B which deal with offences by a body of persons incorporated or otherwise, as well as the liability of principals for the act of their agents.

18. *Clause 33* seeks to introduce provisions relating to the setting up of a disciplinary authority and power to make regulations on discipline and power to impose surcharge. These provisions are namely new sections 34A, 34B and 34c.

19. *Clauses 34, 35 and 36* seek to amend the First, Second and Third Schedules respectively.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure. [PN. (U²) 1597.]

