

FEED BILL 2008

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A BILL

*intituled*

An Act to establish the Feed Board, to regulate feed quality by controlling the importation, manufacture, sale and use of feed and feed additive, to ensure that feed satisfies nutritional requirement of animals, is not harmful to animals and is not contaminated so that animals and animal products are safe for human consumption and other usage, and for other matters incidental thereto.

[ ]

**BE IT ENACTED** by the Parliament of Malaysia as follows:

PART I  
PRELIMINARY

**Short title, application and commencement**

1. (1) This Act may be cited as the Feed Act 2008.
- (2) This Act applies only to Peninsular Malaysia and the Federal Territory of Labuan.
- (3) 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 –

“antibiotic” means a substance produced by a micro-organism or any other product produced wholly or partially by chemical synthesis and which in low concentration inhibits the growth of or kills micro-organisms, and used for the purpose of growth stimulation and prevention of diseases;

“chemical” includes an antioxidant, preservative, binding agent, colouring substance, flavouring agent and non-antibiotic medicament;

“feed additive” means any added ingredient including micro-organism and enzyme not normally consumed as feed by itself, whether or not it has nutritive value, which affects the characteristics of feed or animal products;

“package” means anything in which or by which any feed or feed additive is encased, covered, closed or contained;

“prescribed” means prescribed by the Minister by order or regulations made under this Act;

“animal” means –

- (a) any mammal other than human;
- (b) any aquatic animal and includes fish, mollusc and crustacea ;
- (c) any amphibian;
- (d) any reptile;

(e) any bird and includes chicken, duck, quail and ostrich;  
and

(f) any insect,

kept in captivity or under control for any purpose of human usage;

“hormone” means a chemical substance derived from an endocrine gland or through synthetic processing that has a specific effect on tissues;

“sale” includes barter or supply under integrated contract farming arrangement;

“analyst” means a qualified person appointed by the Minister under section 34;

“label” means any written, printed or graphic matter describing the contents of any feed on the package or otherwise on the feed, or accompanying the feed;

“Board” means the Feed Board established under section 3;

“Minister” means the Minister charged with the responsibility for agriculture and agro-based industry;

“feed” means any single or multiple material whether processed, semi-processed or raw, which is intended to be fed to animals;

“authorized officer” means a public officer authorized by the Minister under section 21;

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

“manufacture” in relation to feed, means to formulate, prepare, compound, mix, make, pack, label or to treat the feed with a view to its sale or for own use but does not include a *bona fide* research or experiment relating to feed and any action forming part of or incidental to such research or experiment.

## PART II THE FEED BOARD

### **Establishment of the Feed Board**

**3.** (1) A body to be known as the Feed Board shall be established and shall consist of the following members:

- (a) the Director General of Veterinary Services, who shall be the Chairman;
- (b) a senior officer of the Ministry of Agriculture and Agro-Based Industry appointed by the Minister;
- (c) a senior officer of the Department of Agriculture appointed by the Minister;
- (d) a senior officer of the Department of Fisheries appointed by the Minister;
- (e) a senior officer of the Department of Veterinary Services appointed by the Minister;
- (f) a senior officer of the National Fisheries Development Authority, appointed by the Minister;

- (g) the Director of Pharmaceutical Services, Ministry of Health, or his representative;
- (h) the Director of Food Quality and Safety Division, Ministry of Health, or his representative;
- (i) a senior officer of the Malaysian Agricultural Research and Development Institute appointed by the Minister;
- (j) the Director General of the Department of Chemistry Malaysia, or his representative;
- (k) a senior officer from an institution of higher learning appointed by the Minister;
- (l) the Director General of the Department of Standards, or his representative;
- (m) the Director of the Department of Veterinary Services and Animal Industry Sabah, who shall be an *ex-officio* member; and
- (n) the Senior Assistant Director of Veterinary of the Department of Agriculture Sarawak, who shall be an *ex-officio* member.

(2) The Minister shall appoint a senior officer of the Department of Veterinary Services to be the Secretary to the Board.

(3) Subject to such conditions as may be specified in his instrument of appointment, 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 three years and such member is eligible for reappointment.

(4) The Minister may, in respect of each member appointed by him, appoint an alternate member to attend, in place of that member, meetings of the Board in the event that member is for any reason unable to attend.

(5) When attending meetings of the Board, an alternate member shall, for all purposes, be deemed to be a member of the Board.

### **Functions and powers of the Board**

4. (1) The functions of the Board shall be as follows:

- (a) to administer, enforce and ensure the effective implementation of this Act;
- (b) to advise the Minister in the making of regulations under this Act;
- (c) to regulate the quality and safety of feed and feed additive;
- (d) to regulate the feed industry, particularly in the manufacturing, distributing, utilizing and importing of feed and feed additive; and
- (e) to implement quality and safety assurance programmes for feed.

(2) The Board shall have the powers to do all things expedient or reasonably necessary for or in connection with or incidental to the performance of its functions.

(3) Without prejudice to the generality of subsection (2), the Board shall have the power –

- (a) to conduct surveys and investigations in respect of the feed industry;
- (b) to require any person dealing in feed or feed additive to submit reports;
- (c) to regulate the importation of feed and feed additive; and
- (d) to prevent any fraudulent actions in connection with the manufacture, supply and sale of feed and feed additive.

### **Committees**

5. The Board may establish committees, which consist of persons who are not members of the Board, to advise and assist the Board in the performance of its functions and the exercise of its powers.

### **Delegation of functions and powers of the Board**

6. The Board may, subject to such conditions and restrictions as it may impose, delegate to a committee established under section 5 or to any public officer, any of its functions and powers other than this power of delegation.

### **Power of Minister to give directions**

7. The Minister may, from time to time, give directions to the Board consistent with the provisions of this Act and the Board shall give effect to all such directions.

## **Meetings of the Board**

8. (1) The Board shall meet at such time and place as the Chairman may determine.

(2) At any meeting of the Board, six members shall form a quorum.

(3) The Chairman shall preside at all meetings of the Board.

(4) If the Chairman is not present at a meeting of the Board, the members present shall elect one of them to preside over the meeting.

(5) The Chairman or other member presiding at a meeting shall have a deliberative vote and shall, in the event of an equality of votes, have a casting vote.

(6) The Board may invite any person to attend any meeting of the Board, but that person has no right to vote at the meeting.

(7) Subject to this section, the Board may regulate its own procedure.

## **PART III LICENSING**

### **Prohibition on importation of feed and feed additive**

9. (1) No person shall import any feed or feed additive unless he possesses a valid licence under this Act.

(2) Notwithstanding subsection (1), the Minister may, by order published in the *Gazette*, prohibit either absolutely or conditionally, the importation, from any country or territory or any part of any country or territory,

of any feed or feed additive that is likely to convey diseases or to affect the health of animals or humans or both.

(3) Any person who imports any feed or feed additive without a licence or in contravention of an order by the Minister under 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 and for a second or subsequent offence, to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding four years or to both.

### **Application and issuance of licence**

**10.** (1) An application for a licence to import feed or feed additive shall be made to the Board-

(a) in the manner as may be determined by the Board; and

(b) by submitting together with the application any information, particulars or documents as may be required by the Board.

(2) Where an application for a licence is approved, the licence shall be issued in the name of the applicant upon payment of the prescribed fee and the Board may impose such terms and conditions as it may deem necessary.

(3) A licence issued under this section shall, unless suspended or revoked, be valid for a period of not more than one year and shall expire on the 31 December of the year in which it is issued.

## **Refusal to issue licence**

**11.** The Board shall not issue a licence to import feed or feed additive under this Act –

- (a) if the country of origin from which the feed or feed additive is to be imported is unknown;
- (b) if the specification for the feed or feed additive is not provided or does not comply with the prescribed specifications;
- (c) if the Board has reasonable grounds to believe that the feed or feed additive to be imported is contaminated or is likely to convey diseases and cause ill-health to animals or humans; or
- (d) if any other licence or certificate necessary for importation as required under any other written law has not been obtained.

## **Renewal of licence**

**12.** (1) A licensee may make an application for a renewal of licence not later than thirty days before the date of expiry of the licence—

- (a) in the manner as may be determined by the Board; and
- (b) by submitting together with the application any information, particulars or documents as may be required by the Board.

(2) When an application for a renewal of licence is approved by the Board, the licence shall be renewed upon payment of the prescribed fee and

the Board may vary the terms and conditions of the licence or impose additional terms and conditions.

- (3) The Board may refuse to renew a licence if the licensee—
  - (a) has failed to comply with any of the provisions of this Act or any regulations made under this Act; or
  - (b) has failed to comply with any term or condition of the licence.

#### **Licence not transferable**

**13.** (1) A licence to import feed or feed additive issued under this Act shall not be transferable.

(2) Any person who contravenes subsection (1) or any person who uses a licence of another person commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

#### **Suspension or revocation of licence**

**14.** (1) The Board may suspend or revoke a licence to import feed or feed additive under any of the following circumstances:

- (a) the licensee has failed to comply with any of the provisions of this Act or any regulations made under this Act;

- (b) the licensee has failed to comply with any term or condition of the licence;
- (c) the licensee has improperly or illegally obtained the licence; or
- (d) there has been any act or omission by the licensee or there has been a change of circumstances such that the licensee would no longer be entitled to be granted a licence under this Act.

(2) Before the Board makes a decision under subsection (1), the Board shall give the licensee -

- (a) a written notice of the intention to suspend or revoke the licence; and
- (b) an opportunity to make written representation within a period specified in the written notice which shall not be less than fourteen days from the date of the notice.

(3) The Board shall, after considering the representation made by the licensee under subsection (2), if any, decide whether to suspend the licence for any period or to revoke the licence.

(4) The Board shall give the licensee a written notice of its decision under subsection (3) as soon as practicable.

(5) If a licence is suspended under subsection (3), the Board may require the licensee to remedy the breach or the contravention within the time specified in the notice issued under subsection (4) and if the Board considers necessary, it may impose additional terms and conditions on the licence.

(6) If the Board is satisfied that the licensee fails to remedy the breach or contravention within the specified time or the licensee has breached the additional terms and conditions under subsection (5), or the breach or contravention continues after the licence is suspended under subsection (3), the Board shall revoke the licence.

(7) A licensee whose licence is –

(a) suspended or revoked shall not be entitled to any compensation for any loss suffered by him as a consequence of the suspension or revocation of the licence under this Act; and

(b) revoked shall not be entitled to any refund of the prescribed fee paid under section 10 or 12.

### **Appeal to Minister**

**15.** (1) Any person aggrieved by the refusal of the Board to issue or renew any licence, or by the suspension or revocation of any licence, may appeal to the Minister in the prescribed manner against such refusal, suspension or revocation within thirty days from the date of such refusal, suspension or revocation.

(2) The Minister may, after considering the appeal, make such order as he deems fit and that order shall be final.

### **Power of court to order revocation of licence**

**16.** (1) Where any person is convicted of an offence under this Act, the court may, in addition to the penalty that it may impose, order his licence to be revoked.

(2) Where any person to whom a licence has been issued under this Act is convicted of a second or subsequent offence under this Act, the court may, in addition to the penalty that may be imposed, direct that such person be disqualified from holding a licence under this Act for a period not exceeding five years as the court may specify.

(3) Any person who obtains or attempts to obtain a licence while he is disqualified under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one month or to both and for a second or subsequent offence, to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both.

## **PART IV**

### **FEED SPECIFICATIONS AND CONDITIONS FOR PROPER KEEPING, STORING, PACKAGING, LABELLING AND TRANSPORTING**

#### **Compliance with specifications**

**17.** (1) All feeds imported, manufactured, distributed, possessed, sold or utilized for the feeding of animals shall comply with the prescribed feed specifications.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty

thousand ringgit or to imprisonment for a term not exceeding one year or to both, and for a second or subsequent offence, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

**Compliance with conditions for proper keeping, storing, packaging, labelling and transporting**

**18.** (1) All feeds or feed additives kept, stored, packaged, labelled or transported shall comply with the prescribed conditions for proper keeping, storing, packaging, labelling and transporting of feed or feed additives.

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

PART V  
CONTROL OF USE OF ANTIBIOTICS, HORMONES OR OTHER  
CHEMICALS

**Manner and levels of inclusion**

**19.** (1) No person shall –

(a) incorporate any antibiotic, hormone or other chemical into feed; or

(b) introduce any antibiotic, hormone or other chemical directly or through a medium into animals,

unless in accordance with the prescribed manner and at the prescribed level.

(2) Any 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, and for a second or subsequent offence, to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding four years or to both.

(3) Notwithstanding subsection (1), any antibiotic, hormone or other chemical may be incorporated into feed or introduced directly or through medium into animals, at a level higher than the prescribed level if prescribed as such by a veterinary surgeon in writing and only for the purpose of treatment, control or eradication of disease.

(4) For the purpose of this section, a veterinary surgeon means a veterinary surgeon as defined in the Veterinary Surgeons Act 1974 [Act 147].

**Possession of feed or feed additive containing antibiotics, etc.**

**20.** (1) No person shall possess any feed or feed additive which contains antibiotics, hormones or other chemicals the addition of which are not permitted under this Act or any regulations made under this Act.

(2) Any 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, and for a second or subsequent offence, to a fine not exceeding two

hundred thousand ringgit or to imprisonment for a term not exceeding four years or to both.

## PART VI ENFORCEMENT

### **Authorized officer**

**21.** (1) The Minister may appoint in writing such number of public officers to be authorized officers as he thinks necessary for the purpose of this Act.

(2) An authorized officer may exercise all powers vested in him under this Act or any regulations made under this Act.

### **Authority card**

**22.** (1) There shall be issued to each authorized officer an authority card to be signed by the Chairman of the Board.

(2) Whenever an authorized officer exercises any of the powers under this Act or any regulations made 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**

**23.** (1) An authorized officer may arrest without warrant any person who commits or attempts to commit, or whom the authorized officer reasonably suspects of committing or attempting to commit, any offence under this Act or

any regulations made under this Act if such person refuses to furnish his name or address or furnishes an address out of Malaysia or there are reasonable grounds for believing that he has furnished a false name or address or that he is likely to abscond.

(2) Where any person is arrested under subsection (1), he shall thereafter be dealt with as provided by the Criminal Procedure Code [Act 593].

### **Search and seizure with warrant**

**24.** (1) If it appears to a Magistrate, upon written information on oath from an authorized officer and after such inquiry as the Magistrate considers necessary, that there is reasonable cause to believe that —

- (a) any premises has been used for 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 or any regulations made 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, and seize any feed, feed additive, receptacle, package, conveyance, contrivance, book,

document or other thing that is reasonably believed to furnish evidence of the commission of such offence;

- (b) take samples of any feed, feed additive 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 thing 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 and 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 feed, feed additive, receptacle, package, conveyance, book, document or other thing seized under this section, the authorized officer shall seal the conveyance, container or premises in which

such feed, feed additive, receptacle, package, book, document or other thing is found.

### **Search and seizure without warrant**

**25.** Whenever an authorized officer has reasonable cause to believe that any feed, feed additive, receptacle, package, conveyance, book, document or other thing in respect of which an offence has been committed is likely to be found in or on any place, premises, person or conveyance and that by reason of delay in obtaining a warrant under section 24 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 or conveyance; and
- (c) seize any feed, feed additive, receptacle, package, conveyance, book, document or other thing which may be found and may be evidence of the commission of such offence.

### **Power to enter premises**

**26.** Notwithstanding sections 24 and 25, an authorized officer may at any time enter any premises for the purpose of—

- (a) inspecting any feed, feed additive, receptacle, package, conveyance, book, document or other thing as he considers necessary;
- (b) verifying the accuracy of records or statement or any information given to an authorized officer; or

- (c) collecting samples of any feed, feed additive or other substance found in the premises for the purpose of ascertaining, by testing or otherwise, whether an offence has been committed.

### **Access to computerized data**

27. (1) Any authorized officer conducting a search under this Act shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purpose of this section, the authorized officer shall be provided with the necessary password, encryption code, decryption code, software or hardware or any other means required for his access to enable the comprehension of the computerized data.

### **Power to stop, search and seize conveyances**

28. (1) If an authorized officer has reasonable cause to suspect that any conveyance is carrying any feed, feed additive, receptacle, package, book, document or other thing in respect of which an offence under this Act or any regulations made under this Act, is being or has been committed, he may stop and examine the conveyance and may, if on examination he has reasonable cause to believe that such conveyance is or has been used for the commission of such offence, seize the conveyance and any feed, feed additive, receptacle, package, book, document or other thing 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 ten thousand ringgit or to imprisonment for a term not exceeding three months or to both.

#### **List of things seized**

**29.** (1) Where any seizure is made under this Act, the authorized officer making the seizure shall prepare a list of feed, feed additive, receptacle, package, conveyance, book, document or other thing seized and of the premises 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 premises where the feed, feed additive, receptacle, package, book, document or other thing seized is found; and
- (b) the person in control or in charge of the conveyance, where the seizure is made under section 28.

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

(4) Where the feed, feed additive, receptacle, package, conveyance, book, document or other thing is seized otherwise than in or from any 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 feed, feed additive, receptacle, package, conveyance, book, document or other thing 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 from the owner, in the presence of the owner or with the knowledge of the owner.

### **Power of investigation**

**30.** (1) An authorized officer shall have all the powers necessary to carry out an investigation of the commission of an offence under this Act or any regulations made under the Act.

(2) For the purpose of subsection (1), the Criminal Procedure Code shall apply and an authorized officer shall have all the powers as provided for under the Criminal Procedure Code.

### **Authorized officer may seek assistance to examine things relating to offence**

**31.** An authorized officer may seek the assistance of any person to examine any feed, feed additive, receptacle, package, conveyance, book, document or other thing seized or detained under this Act if such person has the necessary qualification to examine such feed, feed additive, receptacle, package,

conveyance, book, document or other thing for the purposes of an investigation under this Act.

### **Power to take sample**

**32.** (1) An authorized officer may demand, select, take or obtain samples of any feed or feed additive for the purposes of analysis without payment from any person importing, manufacturing, distributing, selling, utilizing or having possession of such feed or feed additive or his or its agent or servant from whom the feed or feed additive is procured.

(2) The procedure for taking and dealing with the samples shall be as prescribed.

### **Designation of laboratories**

**33.** The Minister may designate laboratories as he considers necessary for the purpose of this Act.

### **Appointment of analysts**

**34.** The Minister may appoint any qualified person to be an analyst for the purpose of carrying out an analysis under this Act.

### **Certificate of analysis**

**35.** (1) A certificate of analysis signed by an analyst shall, on production by the Public Prosecutor in any trial under this Act, be sufficient evidence of the facts stated in the certificate unless the accused requires that the analyst be called as a witness, in which case he shall give a written notice

to the Public Prosecutor not less than three clear days before the commencement of the trial.

(2) Where the Public Prosecutor intends to give in evidence any certificate referred to in subsection (1) he shall deliver a copy of such certificate to the accused not less than ten clear days before the commencement of the trial.

### **Examination or testing of seized feed or feed additive**

**36.** (1) When any feed or feed additive is seized under this Act, it shall be sufficient to open and examine five per centum only of each description of the package or receptacle in which such feed or feed additive is contained.

(2) If it is necessary to test any feed or feed additive seized under this Act, it shall be sufficient to test only a sample not exceeding five per centum in volume or weight of the feed or feed additive examined under subsection (1).

(3) The court shall presume that the feed or feed additive contained in unopened packages or receptacles is of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

### **No costs or damages arising from seizure to be recoverable**

**37.** No person shall, in any proceedings before any court in respect of the seizure of any feed, feed additive, receptacle, package, conveyance, book, document or other thing seized in the exercise or the purported exercise of any power conferred by 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.

### **Power of the Board to require information on feed or feed additive**

**38.** (1) The Board may require any person undertaking any activity involving feed or feed additive to furnish to the Board, within the time specified in a notice, any information relating to the feed or feed additive.

(2) Any person who fails to furnish the information as may be required by the Board under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding three months or to both.

### **Release or disposal of feed, feed additive, etc.**

**39.** (1) Where any feed, feed additive, receptacle, package, conveyance, book, document or other thing has been seized under this Act, an authorized officer may-

- (a) release the receptacle, package, conveyance, book, document or other thing seized to the owner or to the person from whose possession, custody or control it was seized, or to such person as the authorized officer may consider entitled to it, subject to such terms and conditions as the authorized officer may impose, and subject, in any case, to sufficient security being furnished to the satisfaction of the authorized officer that the receptacle, package, conveyance, book, document or other thing seized shall be surrendered to the authorized officer on demand being made by the authorized officer

and that the said terms and conditions, if any, shall be complied with;

(b) release the feed, feed additive, receptacle, package, conveyance, book, document or other thing to the owner or to the person from whose possession, custody or control it was seized, or to such person as the authorized officer may consider entitled to it, with liberty for the person to whom the same is so released to dispose of the same, subject to such terms and conditions as the authorized officer may impose, and subject, in any case, to sufficient security being furnished to the satisfaction of the authorized officer in an amount not less than an amount which in the opinion of the authorized officer represents-

(i) the open market value of the feed, feed additive, receptacle, package, conveyance, book, document or other thing on the date on which it is so released;

(ii) the customs duty payable in respect thereof, if any; and

(iii) the tax payable in respect thereof under any written law, if any, for the payment of the amount so secured to the Board in the event of the Court making an order for the forfeiture of such amount under this Act; or

(c) sell or destroy, as appropriate in the circumstances, the feed, feed additive, receptacle, package or other thing, which, in the opinion of the authorized officer is of a

perishable nature or likely to speedily deteriorate in quality or value, and where it is so sold, the authorized officer shall hold the proceeds of sale to abide the result of any prosecution or claim.

(2) Any person who-

(a) fails to surrender on demand to an authorized officer any receptacle, package, conveyance, book or document or other thing released to him under paragraph (1)(a); or

(b) fails to comply with or contravenes any of the terms or conditions imposed under paragraph (1)(a) or (b),

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both.

(3) The criminal liability of a person under subsection (2) shall be in addition to any other liability that the person or any other person may incur under the terms and conditions relating to the release of any receptacle, package, conveyance, book, document or other thing under paragraph (1)(a) or any feed, feed additive, receptacle, package, conveyance, book, document or other thing under paragraph (1)(b).

**Forfeiture or release of feed, etc. seized**

**40.** (1) Any feed, feed additive, receptacle, package, conveyance, book, document or other thing seized in exercise of any power under this Act shall be liable to forfeiture.

(2) An order for the forfeiture of the feed, feed additive, receptacle, package, conveyance, book, document or other thing seized 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 feed, feed additive, receptacle, package, conveyance, book, document or other thing seized 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 feed, feed additive, receptacle, package, conveyance, book, document or other thing seized under this Act, such feed, feed additive, receptacle, package, conveyance, book, document or other thing shall be taken and deemed to be forfeited at the expiration of a period of thirty days from the date of service of a notice to the last-known address of the person from whom the feed, feed additive, receptacle, package, conveyance, book, document or other thing seized indicating that there is no prosecution in respect of such feed, feed additive, receptacle, package, conveyance, book, document or other thing 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 feed, feed additive, receptacle, package, conveyance, book, document or other thing referred to in subsection (3) and that it is not liable to forfeiture may personally or by his agent authorized in writing, give a written notice to the authorized officer in whose custody such feed, feed additive, receptacle, package, conveyance, book, document or other thing is held that he claims the feed, feed additive, receptacle, package, conveyance, book, document or other thing.

(5) On receipt of the notice referred to in subsection (4), the authorized officer shall refer the claim to a Magistrate for his 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 feed, feed additive, receptacle, package, conveyance, book, document or other thing and the person from whom it was seized to appear before him, 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 feed, feed additive, receptacle, package, conveyance, book, document or other thing referred to in subsection (6) was the subject-matter of or was used in the commission of such offence, the Magistrate shall order the feed, feed additive, receptacle, package, conveyance, book, document or other thing to be forfeited, and shall, in the absence of such proof, order its release.

(8) Any feed, feed additive, receptacle, package, conveyance, book, document or other thing forfeited or deemed to be forfeited shall be delivered to the authorized officer and shall be disposed of in accordance with the direction of the Board.

## PART VII GENERAL

### **Offence by partner, agent or servant**

**41.** Any person who would have been liable to any penalty under this Act or any regulations made under this Act for any act, omission, neglect or default, if the act, omission, neglect or default is committed by him personally shall be liable to the same penalty if the act, omission, neglect or default was committed by his partner, agent or servant unless he proves-

- (a) that the act, omission, neglect or default was committed without his knowledge, consent or connivance; and
- (b) that he took all reasonable precautions and had exercised due diligence to prevent the act, omission, neglect or default.

### **Offence by body corporate**

**42.** Where a body corporate commits an offence under this Act or any regulations made under this Act, any person who at the time of the commission of the offence was a director, chief executive officer, 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 shall, as well as the body corporate, be deemed to have committed that offence unless he proves that the offence was committed without his knowledge, consent or connivance and that he had taken all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

### **Failure to comply with lawful order**

**43.** Any person who fails to comply with any written order issued by the Minister or the Board or any authorized officer commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one month or to both, and for a second or subsequent offence, to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both.

### **Information or informer not to be disclosed**

**44.** (1) Except as provided in this section, no witness in any civil or criminal proceedings pursuant to this Act shall be obliged or permitted to disclose the name or address of any informer or the substance and nature of the information received from him or state any matter which might lead to his discovery.

(2) If a book or document which is in evidence or is liable to inspection in any civil or criminal proceedings whatsoever contains any entry which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) If in a trial for an offence under this Act the court, after full inquiry into the case, is of the opinion that the informer willfully 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 proceedings the court is of the opinion that justice cannot be fully done between the parties to the proceedings without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit an inquiry and require full disclosure concerning the informer.

### **Protection against legal proceedings**

**45.** No action or prosecution shall be brought, instituted or maintained in any court against –

- (a) any member of the Board, analyst or any authorized officer for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Act; and

- (b) any other person for or an account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Minister, the Board or any officer duly authorized 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.

### **Compounding of offences**

**46.** (1) The authorized officer may, with the consent of the Public Prosecutor, compound any offence committed by any person under this Act or regulations made under it and prescribed by the Minister to be a compoundable offence by making a written offer to the person to compound the offence upon payment to the authorized officer of such amount not exceeding fifty per centum of the amount of maximum fine for that offence within the period specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer is not paid within the period specified in the offer or within such extended period as the authorized officer may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) If an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made and any feed, feed additive or the proceeds of its sale, or any receptacle, package, conveyance, book, document or other thing seized in connection with the offence may be

released or forfeited by the authorized officer in accordance with the terms and conditions of the compound.

### **Giving or making false information or statement**

**47.** Any person who gives information or makes a statement on the requirement of this Act, that is false in any material particular, unless he proves that he did not know and had no reason to suspect that the information or statement is false and had taken all reasonable steps to ascertain the truth of the information or statement, commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### **Interference with official marks**

**48.** Any person who without authority opens, alters, breaks, removes or erases any mark, fastening or seal placed by an authorized officer pursuant to the provisions of this Act upon any feed or feed additive, or upon any package, place, door or opening containing or affording access to the feed or feed additive commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### **Obstruction of authorized officers in the execution of their duties**

**49.** Any person who obstructs or assaults any authorized officer in the execution of his duties under this Act commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### **Secrecy**

**50.** (1) Except for the purposes of this Act or for the purposes of any criminal proceedings under this Act, no authorized officer shall disclose any information relating to any matter which has been obtained by him in the course of his duties and which is not published in any *Gazette* pursuant to this Act.

(2) Any authorized officer who knowingly contravenes the provisions of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### **Jurisdiction to try offences**

**51.** Notwithstanding any written law to the contrary, a Magistrate Court shall have jurisdiction to try any offence under this Act or any regulations made under this Act, and to impose full punishment for any such offence.

## **Prosecution**

**52.** No prosecution for an offence under this Act or any regulations made under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

## **Power to make regulations**

**53.** (1) The Minister may, after consulting the Board, make such regulations as may be necessary or expedient for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of subsection (1), regulations may be made for the following purposes:

- (a) to prescribe the analyst's qualifications, conduct and duties;
- (b) to prescribe all matters relating to application, renewal, suspension and revocation of licence to import feed or feed additive;
- (c) to prescribe the terms, conditions and restrictions of licence to import feed or feed additive;
- (d) to prescribe all matters relating to feed specifications and standards and make provisions for giving effect to such specifications and standards;
- (e) to prescribe all matters relating to the transporting, storing, keeping, labelling and packaging of feed or feed additive;

- (f) to prescribe all matters relating to the use of feed additive, antibiotics, hormones or other chemicals;
- (g) to regulate the manufacture, sale, advertisement and use of feed or feed additive;
- (h) to prescribe the method of analysis of feed and the form of certificate of analysis;
- (i) to designate laboratories and provide for its functions; and
- (j) to prescribe the fees payable under this Act;
- (k) to prescribe the offences which may be compounded;
- (l) to provide 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.

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

### **Transitional provisions**

**54.** (1) Any person who, on the date of the coming into operation of this Act, has been importing feed or feed additive and intends to continue importing feed or feed additive shall, within six months from the date of the coming into operation of this Act, apply for a licence under section 10.

(2) Upon receipt of an application under subsection (1) the Board shall issue an acknowledgement of receipt to such person.

(3) Where an application for a licence is refused, the Board shall send a notice to the applicant notifying the applicant of the refusal and the notice shall also direct the applicant to cease to carry out the importation of feed or feed additive within the period specified in the notice

(4) Any person aggrieved by the decision of the Board in refusing to issue a licence pursuant to an application under this section may appeal to the Minister in accordance with section 15.

(5) Any person who has been importing feed or feed additive and intends to continue importing feed or feed additive may continue to undertake such activity pending determination of his application for a licence or of his appeal to the Minister.

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EXPLANATORY STATEMENT

The Feed Act 2008 (“the proposed Act”) as proposed by this Bill seeks to regulate the quality of animal feed to ensure quality feed for animals so that animals and animal products are safe for human consumption or human usage; and to provide for other matters incidental thereto.

PART I

2. Part I contains preliminary matters.

*Clause 1* contains the short title and application and seeks to allow the Minister to appoint the date of commencement of the proposed Act.

*Clause 2* contains the definitions of several expressions used in the proposed Act.

## PART II

3. Part II contains provisions relating to the Feed Board (“the Board”).

*Clause 3* seeks to provide for the establishment of the Board and constitution of the Board.

*Clause 4* spells out the functions and powers of the Board

*Clause 5* seeks to enable the Board to establish committees to advise and to assist the Board in performing its functions and exercising its powers.

*Clause 6* seeks to provide for the delegation of the Board’s functions and powers to a committee.

*Clause 7* seeks to empower the Minister to give directions to the Board.

*Clause 8* seeks to provide for meetings of the Board.

## PART III

4. Part III of the Bill contains licensing provisions to import feed and feed additive.

*Clause 9* seeks to prohibit the importation of feed or feed additive without licence and to empower the Minister to make orders to prohibit the

importation of feed or feed additive from any country or territory if the feed or feed additive is likely to convey diseases or to affect the health of animals or humans.

*Clause 10* requires that any application for a licence to import feed or feed additive shall be made to the Board.

*Clause 11* seeks to empower the Board to refuse to issue a licence under certain circumstances.

*Clause 12* contains provisions on the renewal of a licence.

*Clause 13* seeks to prohibit the transfer of a licence.

*Clause 14* seeks to empower the Board to suspend or revoke a licence in certain circumstances.

*Clause 15* seeks to allow any person aggrieved by the decision of the Board to appeal to the Minister.

*Clause 16* seeks to empower the court to order revocation of a licence in addition to other penalty imposed after conviction of any offence under the proposed Act.

## PART IV

5. Part IV deals with feed specifications and conditions for proper keeping, storing, packaging, labelling or transporting, of feed.

*Clause 17* seeks to provide for the obligation to comply with the feed specifications.

*Clause 18* seeks to require any person who keeps, stores, packs, labels or transports any feed or feed additive to comply with the prescribed conditions for proper keeping, storing, packing, labelling and transporting of feed or feed additive.

## PART V

6. Part V deals with the control of antibiotic, hormones or other chemicals in feed.

*Clause 19* seeks to prohibit any person from utilizing any antibiotic, hormone or other chemical directly or indirectly into animals unless in accordance with the prescribed manner and at the prescribed level. This *clause* allows any person to incorporate into feed or introduce directly or indirectly into animal any antibiotic, hormone or other chemical at the level higher than the prescribed level if permission is given by a veterinary surgeon for the purpose of treatment for disease control or eradication only.

*Clause 20* seeks to prohibit any person from possessing any feed which contains antibiotics, hormones or other chemicals the addition of which is not permitted by the proposed Act or any regulations made under the proposed Act.

## PART VI

7. Part VI of the Bill contains provisions relating to enforcement, seizure, etc.

*Clause 21* seeks to empower the Minister to appoint authorized officers for the purpose of exercising the powers of enforcement under the proposed Act.

*Clause 22* provides that each officer authorized under *clause 21* shall be issued with an authority card and shall on demand produce the authority card.

*Clauses 23, 24, 25, 26 and 28* seek to provide for the power of the authorized officer to arrest without warrant in a particular case, power to search and seizure with or without warrant, power to enter premises and power to stop and search conveyances respectively under the proposed Act.

*Clause 27* seeks to enable an authorized officer to have access to computerized data.

*Clause 29* seeks to impose a duty on an authorized officer to prepare a list of things seized.

*Clause 30* provides for the power of the authorized officer to investigate any offence under the proposed Act and that an authorized officer shall have all the powers of investigation as provided for under the Criminal Procedure Code.

*Clause 31* provides that the authorized officer may seek assistance to examine things related to offences.

*Clause 32* seeks to empower an authorized officer to demand, select, take or obtain samples of any feed or feed additive for analysis.

*Clause 33* seeks to empower the Minister to designate laboratories.

*Clause 34* seeks to empower the Minister to appoint an analyst to carry out analysis on any feed or feed additive.

*Clause 35* seeks to deal with the certificate of analysis.

*Clause 36* provides that for the purpose of testing of seized feed or feed additive it shall be sufficient to test only a sample not exceeding five per centum in volume or weight of the feed or feed additive.

*Clause 37* provides that no costs or damages arising from the seizure of anything in the exercise or the purported exercise of any power under the proposed Act shall be recoverable in any proceedings before any court unless the seizure was done without reasonable cause.

*Clause 38* seeks to empower the Board to require any information relating to the feed or feed additive.

*Clause 39* provides for the release or disposal of anything seized under the proposed Act.

*Clause 40* provides that things seized under the proposed Act may be forfeited. Where there is no prosecution, this *clause* sets out the procedure for the court to determine whether the things seized are to be forfeited or released to the person entitled to it.

## PART VII

8. Part VII of the Bill contains general provisions.

*Clause 41* deals with offences committed by partners, agents or servants.

*Clause 42* deals with offences committed by a body corporate.

*Clause 43* seeks to prohibit any person from disobeying any lawful order issued by the Minister, the Board or an authorized officer.

*Clause 44* seeks to provide for the protection of information and informers.

*Clause 45* seeks to protect any member of the Board, analyst, authorized officer or any other person who acted in good faith under the proposed Act from any legal proceedings.

*Clause 46* seeks to empower the authorized officer to compound offences.

*Clause 47* makes it an offence for any person to give or make false information or statement.

*Clause 48* makes it an offence for any person to interfere with official marks.

*Clause 49* makes it an offence for any person to obstruct an authorized officer in the execution of his duties.

*Clause 50* prohibits an authorized officer from disclosing any information which has been obtained in the course of his duties to any person.

*Clause 51* provides jurisdiction to the Magistrate Court to try offences under the proposed Act.

*Clause 52* provides that no prosecution for any offence under the proposed Act may be instituted except by or with the written consent of the Public Prosecutor.

*Clause 53* seeks to empower the Minister to make regulations after consulting the Board.

*Clause 54* deals with transitional provisions. By virtue of this provision, any person undertaking an activity of importation of feed or feed additive, shall make an application for a licence within six months from the date of coming into operation of the proposed Act.

#### *FINANCIAL IMPLICATIONS*

This Bill will involve the Government in extra financial expenditure the amount of which cannot be at present be ascertained.

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