

A BILL

i n t i t u l e d

An Act to amend the National Forestry Act 1984.

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WHEREAS it is now expedient for the purpose only of promoting uniformity of the laws of the States of Malaysia to make a law with respect to the administration, management and conservation of forests and forestry development:

NOW, THEREFORE, pursuant to Clause (1)(b) of Article 76 of the Federal Constitution, **IT IS ENACTED** by the Parliament of Malaysia as follows:

Short title, application and commencement

1. (1) This Act may be cited as the National Forestry (Amendment) Act 2022 and shall apply throughout Malaysia.

(2) This Act shall not come into operation in a State unless it has been adopted by a law made by the Legislature of the State pursuant to Clause (3) of Article 76 of the Federal Constitution.

(3) This Act comes into operation in the Federal Territories of Kuala Lumpur, Labuan and Putrajaya on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The National Forestry Act 1984 [*Act 313*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) by deleting the definition of “member of the armed forces”;

(b) in the definition of “forest produce”—

(i) in paragraph (a), by substituting for the word “rock” the words “rock material”;

(ii) in paragraph (b)—

(A) by inserting after subparagraph (ii) the following subparagraph:

“(iii) terrestrial plants specified in the Third Schedule to the International Trade in Endangered Species Act 2008 [*Act 686*];”;

(B) by renumbering the existing subparagraph (iii) as subparagraph (iv);

(c) by inserting after the definition of “minor licence” the following definition:

‘ “minor licence area” means the area or part of the area covered by a minor licence in accordance with section 29A;’;

(d) in the English language text, in the definition of “take”, by substituting for the word “cattle” the word “livestock”;

(e) by inserting after the definition of “assessment” the following definition:

‘ “authorized officer” means an officer authorized under section 3A;’;

(f) by inserting after the definition of “police officer” the following definition:

‘ “premises” includes any house, building, hut, shed, structure, platform and land whether or not enclosed or built upon;’;

(g) in the national language text, in the definition of “ternakan” by deleting the words “gajah,”;

(h) in the English language text, by inserting after the definition of “licensee” the following definition:

‘ “livestock” includes buffalo, horse, pony, mule, ass, pig, sheep and goat;’; and

(i) in the English language text, by deleting the definition of “cattle”.

New section 3A

3. The principal Act is amended by inserting after section 3 the following section:

“Authorized officer

3A. The State Authority may authorize in writing any officer of the Federal Forestry Department to exercise the powers conferred under Part VIII.”.

Amendment of section 4

4. Paragraph 4(e) of the principal Act is amended by substituting for the words “amenity forests” the words “permanent reserved forests classified under subsection 10(1)”.

Amendment of section 5

5. Section 5 of the principal Act is amended by substituting for subsection (1) the following subsection:

“(1) The Director may, in writing and subject to such conditions and restrictions as may be specified in the instrument of delegation, delegate to any forest officer the exercise and performance of any power or duty conferred or imposed on the Director under this Act.”.

Amendment of section 10

6. Subsection 10(1) of the principal Act is amended by inserting after paragraph (j) the following paragraph:

“(ja) state park forest;”.

Substitution of section 11

7. The principal Act is amended by substituting for section 11 the following section:

“State Authority may excise land from permanent reserved forest

11. (1) Subject to section 12, the State Authority may excise any land from a permanent reserved forest.

(2) The State Authority shall, before excising any land from a permanent reserved forest, conduct a public inquiry in the manner as may be prescribed.”.

Substitution of section 12

8. The principal Act is amended by substituting for section 12 the following section:

“State Authority to replace land excised from permanent reserved forest

12. (1) Where the State Authority intends to excise any land from a permanent reserved forest, the State Authority shall identify an equal or a bigger area of land to replace the land to be excised as a permanent reserved forest.

(2) The State Authority shall constitute the area of land identified under subsection (1) as a permanent reserved forest by publishing in the *Gazette* a notification in accordance with section 7 and the notification shall be published together with a notification under subsection 13(1).”.

Amendment of section 15

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

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction—

(a) in relation to a major forest produce—

(i) where the volume is less than five cubic metres, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both;

(ii) where the volume is five cubic metres or more, be liable to imprisonment for a term of not less than five years but not more than twenty years and to a fine of not less than one hundred thousand ringgit but not more than five million ringgit;

(b) in relation to a terrestrial plant specified in the Third Schedule to the International Trade in Endangered Species Act 2008, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding seven years or to both; and

(c) in relation to a minor forest produce other than a terrestrial plant mentioned in paragraph (b), be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both.”.

New section 19A

10. The principal Act is amended by inserting after section 19 the following section:

“Issuance of licences by Director

19A. Licences may, subject to any contrary direction by the State Authority and to any rules, be issued or renewed on behalf of the State Authority by the Director.”.

Amendment of section 21

11. Subsection 21(1) of the principal Act is amended by substituting for the words “of twelve months” the words “not exceeding twelve months”.

Amendment of section 25

12. Subsection 25(2) of the principal Act is amended by substituting for the words “shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and if the offence is a continuing one” the words “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 seven years or to both, and in the case of a continuing offence”.

New section 29A

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

“Minor licence area

29A. Before any minor licence is issued, the Director shall require an applicant to submit a plan of the area or part of the area within which operations will be carried out by the applicant.”.

New section 31A

14. The principal Act is amended by inserting after section 31 the following section:

“Ceasing of operation, suspension and revocation of minor licence

31A. The provisions relating to ceasing of operation in a licensed area in sections 25 and 26 and the provisions relating to suspension and revocation of licence in section 27 shall apply to a minor licence.”.

Amendment of section 32

15. Section 32 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(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 seven years or to both.”.

Amendment of section 40

16. Section 40 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction—

(a) in relation to a major forest produce—

(i) where the volume is less than five cubic metres, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both; or

(ii) where the volume is five cubic metres or more, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both; and

(b) in relation to a minor forest produce, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.”.

Amendment of section 43

17. Section 43 of the principal Act is amended—

(a) in subsection (1), by inserting after the words “issue thereof” the words “and in accordance with subsection (2A), may be renewed from time to time”;

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

“(2A) The Director may, on the application of a holder of a removal licence made not later than thirty days before the expiry of the removal licence, renew the removal licence for a term not exceeding six months, and the Director may vary, delete or add to the provisions contained in the removal licence.”; and

(c) in subsection (3), by inserting after the words “Form 5” the words “and if a removal licence is renewed, it shall be endorsed with a note of such renewal and the date of its expiry”.

Amendment of section 47

18. Section 47 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting after paragraph (a) the following paragraph:

“(aa) a holder of a minor licence, his servants or agents, but only for the purpose of exercising the rights granted by the minor licence;”;

(ii) in paragraph (d), by deleting the word “and” at the end of the paragraph; and

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

“(da) a holder of a road permit, his servants or agents, but only for the purpose of exercising the rights granted by the road permit; and”;

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

“(4) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.”.

Amendment of section 48

19. Section 48 of the principal Act is amended by substituting for the words “47(a), (c) and (d)” the words “47(a), (aa), (c), (d) and (da)”.

Amendment of section 50

20. Section 50 of the principal Act is amended—

(a) in subsection (1), by inserting after the words “the Director” the words “or by a forest officer authorized by the Director to issue a road permit”; and

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

“(4) Any person who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding three years or to both.”.

New section 50A

21. The principal Act is amended by inserting after section 50 the following section:

“Durations, conditions, etc., and renewal of road permits

50A. (1) Except in so far as it is otherwise prescribed, every road permit shall be issued for a term expiring not later than the end of the calendar year in which it commences, and in accordance with subsection (3), may be renewed from time to time.

(2) Every road permit shall have effect subject to such provisions as may be contained in the road permit, and so far as not inconsistent therewith, to any other provision which may be prescribed.

(3) The Director may, on the application of a holder of a road permit made not later than thirty days before the expiry of the road permit, renew the road permit for a term not exceeding one calendar year, and the Director may vary, delete or add to the provisions contained in the road permit.”.

Amendment of section 58

22. Section 58 of the principal Act is amended—

(a) in paragraph (d)—

(i) by substituting for the words “amenity forests” the words “permanent reserved forests”; and

(ii) by deleting the word “and” at the end of the paragraph;

(b) in paragraph (e), by substituting for the full stop the words “; and”; and

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

“(f) any expenses incurred by the State Authority in managing and carrying out sustainable development of permanent reserved forests.”.

New section 60A

23. The principal Act is amended by inserting after section 60 the following section:

“Power to reduce, waive or exempt forest development cess

60A. (1) Notwithstanding section 60, the State Authority may reduce, commute or waive a forest development cess, or exempt payment of a forest development cess, in respect of

any forest produce specified in the Third Schedule, which is removed from any permanent reserved forest, State land, reserved land, mining land or alienated land.

(2) Subject to any contrary direction by the State Authority, the Director may reduce, commute or waive a forest development cess, or exempt payment of a forest development cess—

(a) in respect of any forest produce or class of forest produce for the following purposes:

(i) for scientific, or other non-commercial purposes;

(ii) to encourage the utilization of various dimensions and species of forest produce having little or no market demand and which would otherwise be uneconomical to take;

(iii) to encourage the taking of forest produce damaged by fire, pest, disease or other causes;
or

(iv) for the construction of forest roads or any work of public utility;

(b) in respect of any forest produce or class of forest produce removed from any State land or alienated land by any aborigine—

(i) for the construction and repair of temporary huts on any land lawfully occupied by such aborigine;

(ii) for the maintenance of his fishing stakes and landing places;

(iii) for fuelwood or other domestic purposes; or

(iv) for the construction or maintenance of any work for the common benefit of the aborigines.”.

Amendment of section 66

24. Section 66 of the principal Act is amended—

(a) in the shoulder note, by inserting after the words “**licence area**” the words “**or minor licence area**”;

(b) in subsection (1)—

(i) by inserting after the words “the licence area” the words “or minor licence area”; and

(ii) by inserting after the words “the licence” wherever appearing the words “or minor licence”;

(c) in subsection (2)—

(i) by inserting after the words “the licence” the words “or minor licence”; and

(ii) by inserting after the words “the licence area” the words “or minor licence area”; and

(d) in subsection (4)—

(i) in paragraphs (a), (b) and (c), by inserting after the words “licence area” wherever appearing the words “or minor licence area”; and

(ii) by substituting for the words “shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment” the words “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 seven years or to both”.

Amendment of section 67

25. Section 67 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(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 seven years or to both.”.

Amendment of section 68

26. Section 68 of the principal Act is amended—

(a) in subsection (3), by inserting after paragraph (a) the following paragraph:

“(aa) a minor licence area;”;

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

“(4) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both.”; and

(c) by inserting after subsection (4) the following subsection:

“(5) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.”.

Amendment of section 69

27. Section 69 of the principal Act is amended—

(a) by substituting for subsection (3) the following subsection:

“(3) 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 seven years or to both.”; and

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

“(4) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.”.

New section 70A

28. The principal Act is amended by inserting after section 70 the following section:

“Pass other than removal pass

70A. Notwithstanding anything contained in this Act, the State Authority may issue any pass other than a removal pass in the form and manner as may be prescribed by the State Authority to any person who has in his possession, custody or control any forest produce.”.

Amendment of section 73

29. Paragraph 73(a) of the principal Act is amended by substituting for the words “the licence and forest produce” the words “the licence, minor licence, use permit and forest produce”.

Amendment of section 75

30. Section 75 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “or use permit” wherever appearing the words “, use permit or road permit”;

(b) in subsection (2)—

(i) by substituting for paragraph (b) the following paragraphs:

“(b) bank draft;

(ba) banker's cheque;

(bb) money by electronic fund transfer; or";
and

(ii) in paragraph (c), by substituting for the words
“(a) and (b)” the words “cash, bank draft, banker's
cheque or money by electronic fund transfer”;

(c) in subsection (3), by substituting for the words “use permit
or minor licence” the words “minor licence, use permit
or road permit”; and

(d) by inserting after subsection (3) the following subsection:

“(4) Where a licensee or a holder of a minor licence,
use permit or road permit contravenes any provisions
of this Act or the provisions of the licence,
minor licence, use permit or road permit, the Director
may forfeit the whole or part of the deposit paid by
the licensee or the holder of the minor licence, use
permit or road permit.”.

New section 75A

31. The principal Act is amended by inserting after section 75
the following section:

“Power to charge and receive fees

75A. The State Authority shall have the power to charge
and receive any fee for any service rendered by the
State Authority.”.

Amendment of section 81

32. Section 81 of the principal Act is amended—

(a) in the English language text, in paragraph (1)(a),
by substituting for the word “cattle” wherever appearing
the word “livestock”; and

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

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable—

(a) if the offence is under paragraph (a), to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both;

(b) if the offence is under paragraph (b) or (c), to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding seven years or to both;

(c) if the offence is under paragraph (d), (e) or (f), to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding seven years or to both; and

(d) if the offence is under paragraph (g), to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.”.

Amendment of section 82

33. Section 82 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “in such a manner as to endanger such reserved forest” the words “except with the permission of the Director”; and

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

“(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 seven years or to both.”.

Amendment of section 83

34. Section 83 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

“Prohibition of littering”;

(b) in subsection (1), by deleting the word “offensive”;

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

“(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.”; and

(d) in subsection (3), by deleting the word “offensive”.

Amendment of section 84

35. Subsection 84(1) of the principal Act is amended by substituting for the words “shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both”.

Amendment of section 85

36. Section 85 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “an authorized officer” the words “the Director or by a forest officer authorized by the Director”; and

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

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

Amendment of section 86

37. Section 86 of the principal Act is amended by substituting for the words “shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five hundred thousand ringgit and to imprisonment for a term which shall not be less than one year but shall not exceed twenty years” the words “commits an offence and shall, on conviction, be liable to imprisonment for a term of not less than five years but not more than twenty years and to a fine not exceeding one million ringgit”.

New sections 86A, 86B, 86C and 86D

38. The principal Act is amended by inserting after section 86 the following sections:

“Obstructing duties and powers

86A. Any person who voluntarily obstructs any forest officer, authorized officer or police officer in the execution of any duty imposed or power conferred by 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 two years or to both.

False declaration, etc.

86B. Any person who makes, orally or in writing, signs or furnishes any declaration, statement, certificate or other document or information required under this Act which is untrue, inaccurate or misleading in any particular commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding seven years or to both.

Attempting to commit offence

86c. Any person who attempts to commit any forest offence commits an offence and shall, on conviction, be liable to the punishment provided for the offence provided that the punishment imposed shall not exceed half of the maximum fine and imprisonment provided for the offence.

Abetment

86d. Any person who abets the commission of any forest offence commits an offence and shall, if the act abetted is committed in consequence of the abetment, be liable with the punishment provided for the offence.”.

Substitution of section 87

39. The principal Act is amended by substituting for section 87 the following section:

“General penalty

87. Any person commits a breach of any rules made under this Act, for the breach of which no penalty is expressly provided 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 seven years or to both.”.

Amendment of section 88

40. Section 88 of the principal Act is amended—

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

“(1) A forest officer not below the rank of Forester, an authorized officer or a police officer may—

(a) arrest without warrant—

(i) any person whom he has reason to believe to have committed a forest offence which is a seizable offence within the meaning of the Criminal Procedure Code [*Act 593*]; or

(ii) any person whom he has reason to believe to have committed a forest offence other than the offence specified in subparagraph (i), if the person refuses to furnish his name and 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; and

(b) seize any thing which he considers necessary to seize in relation to the evidence necessary to establish the commission of any such offence.”; and

(b) in subsection (3), by inserting after the words “Assistant District Forest Officer,” the words “any authorized officer,”.

Amendment of section 89

41. Section 89 of the principal Act is amended by inserting after the word “Forester” the words “, any authorized officer”.

Amendment of section 90

42. Section 90 of the principal Act is amended—

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

“(1) If it appears to a Magistrate, upon a written information from a forest officer not below the rank of Assistant District Forest Officer, an authorized officer or a police officer not below the rank of Sergeant and after such inquiry as the Magistrate considers necessary, that there is reasonable cause to believe that any premises has been used for or that in any premises there is concealed or deposited any forest produce in respect of which a forest offence is being or has been committed, the Magistrate may issue a warrant authorizing any forest officer not below the

rank of Assistant District Forest Officer, any authorized officer or any police officer not below the rank of Sergeant named in the warrant, by day or night and with or without assistance, to enter the premises and if need be by force.”;

(b) by inserting after subsection (1) the following subsection:

“(1A) Without affecting subsection (1), the Magistrate may issue a warrant authorizing the forest officer not below the rank of Assistant District Forest Officer, the authorized officer or the police officer not below the rank of Sergeant to—

(a) search the premises for, and to seize or remove from the premises any forest produce, receptacle, package, conveyance, machinery, tool, equipment, book, record, document or other thing that is reasonably believed to furnish evidence of the commission of such offence;

(b) take samples of any forest produce or other thing found in the premises for the purpose 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.”;

(c) in subsection (2)—

(i) by substituting for the words “Any forest officer or police officer acting under subsection (1) may—” the words “Any forest officer not below the rank of Assistant District Forest Officer, any authorized officer or any police officer not below the rank of Sergeant acting under this section may—”;

(ii) by substituting for paragraph (a) the following paragraph:

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

(iii) in paragraph (b), by substituting for the words “subsection (1)” the words “this section”; and

(iv) in paragraph (c), by substituting for the words “building or place or on the land until it” the words “premises until the premises”; and

(d) by inserting after subsection (2) the following subsection:

“(3) A forest officer not below the rank of Assistant District Forest Officer, an authorized officer or a police officer not below the rank of Sergeant conducting search under this section may, for the purpose of investigating into the forest offence, search any person who is in or on the premises.”.

Substitution of section 91

43. The principal Act is amended by substituting for section 91 the following section:

“Search without warrant

91. If it appears to a forest officer not below the rank of Forester, an authorized officer or a police officer that there is reasonable cause to believe that in any premises or any State land, mining land, reserved land, alienated land or land under temporary occupation licence there is concealed or deposited any evidence in respect of which a forest offence is being or has been committed, and if he has reasonable grounds for believing that by reason of the delay in obtaining a warrant under section 90 the evidence is likely to be tampered

with, removed, damaged or destroyed, he may exercise in, upon, and in respect of the premises or State land, mining land, reserved land, alienated land or land under temporary occupation licence all the powers mentioned in section 90 as if he were authorized to do so by a warrant issued under that section.”.

New section 91A

44. The principal Act is amended by inserting after section 91 the following section:

“Search of person

91A. A forest officer not below the rank of Assistant District Forest Officer, an authorized officer or a police officer not below the rank of Sergeant making a search on a person under section 90 or 91 may seize or take possession of, and place in safe custody all things, other than the necessary clothing found upon the person, and any of those things which there is reason to believe were the instruments or other evidence of the forest offence may be detained until the discharge or acquittal of the person.”.

Amendment of section 92

45. Section 92 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**and search**” the words “**, search and seize**”;

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

“(1) If a forest officer not below the rank of Forester, an authorized officer or a police officer has reasonable cause to suspect that any conveyance is carrying any forest produce, receptacle, package, machinery, tool, equipment, book, record, document or other thing in respect of which a forest offence is being or has been committed, the forest officer not below the rank of Forester, the authorized officer or the police officer may stop and search the conveyance and may, if on examination he has reasonable cause

to believe that the conveyance is or has been used in the commission of such offence, seize the conveyance and any forest produce, receptacle, package, machinery, tool, equipment, book, record, document or other thing found in the conveyance that is reasonably believed to furnish evidence of the commission of such offence.”;

(c) in subsection (2), by substituting for the words “the forest officer or police officer” wherever appearing the words “the forest officer not below the rank of Forester, the authorized officer or the police officer”;

(d) by inserting after subsection (2) the following subsection:

“(2A) The forest officer not below the rank of Forester, the authorized officer or the police officer may, in the exercise of his powers under this section, if it is necessary to do so, detain any person found in the conveyance until the search is completed.”; and

(e) by deleting subsection (3).

Amendment of section 93

46. Section 93 of the principal Act is amended—

(a) by substituting for paragraph 1(b) the following paragraph:

“(b) prepare a list of the things seized and of the place in which the thing is found and shall sign the list.”;

(b) by inserting after subsection (1) the following subsections:

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

(a) the occupier of the premises where the thing seized is found; or

(b) the person in control or in charge of the conveyance or thing carried in the conveyance where the seizure is made under section 92 or 96A.

(1B) Where the seizure is made in or from any premises which is unoccupied, the seizing officer shall, whenever possible, post a list of things seized conspicuously at or on the premises, or deliver a copy of the list to the owner of the things seized personally or by post at his usual or last-known place of abode or business.

(1c) Where, by reason of its nature, size or amount, it is not practicable to remove any thing seized under subsection (1), the seizing officer shall, by any means, seal or mark such thing seized in the premises or container in which it is found.”; and

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

“(2) Any person who, without lawful authority—

(a) tampers with, removes, damages or destroys any thing marked under subsection (1); or

(b) tampers with, damages or breaks the seal or mark under subsection (1c) or removes the sealed or marked thing seized, or attempts to do so,

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

New section 95A

47. The principal Act is amended by inserting after section 95 the following section:

“Cost of holding seized forest produce, etc.

95A. Where any forest produce, receptacle, package, conveyance, machinery, tool, equipment, book, record, document or other thing seized under this Act is held in the custody of the State Authority pending completion of any proceeding in respect

of a forest offence, the cost of holding it in custody shall, in the event of any person being convicted of such offence, be a debt due to the State Authority, by such person and shall be recoverable accordingly.”.

Amendment of section 96

48. Section 96 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**Forest officer may**” the words “**Power to**”;

(b) in subsection (1), by substituting for the words “any forest officer” the words “a forest officer not below the rank of Forester, an authorized officer or a police officer”; and

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

“(2) Any person who impedes or obstructs any forest officer not below the rank of Forester, any authorized officer or any police officer exercising his powers under subsection (1) or who refuses to render such assistance as is required by such officer, 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 seven years or to both.”.

New section 96A

49. The principal Act is amended by inserting after section 96 the following section:

“Power to set up roadblocks

96A. (1) Notwithstanding anything contained in any other law, any forest officer not below the rank of Forester in uniform authorized in writing by a District Forest Officer or any authorized officer in uniform authorized in writing by the Director may, if he considers it is necessary to do so for the enforcement of this Act, erect or place or cause to be erected or placed any barrier on or across any road in

such manner as he thinks fit; and the officer may take all reasonable measures to prevent any conveyance from being driven past the barrier, including any measure to pursue and stop any such conveyance where, having regard to the circumstances at a given moment of time, it is apparent that if such measure is not taken the escape of such conveyance to avoid detection or otherwise is likely to be imminent.

(2) Any person who fails to comply with any signal of a forest officer not below the rank of Forester in uniform or an authorized officer in uniform under subsection (1) requiring such person or conveyance to stop before reaching any such barrier, or attempts to cross or knock any such barrier, 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 six months or to both.

(3) No officer referred to in subsection (1) shall be liable for any loss, injury or damage caused to any person or property consequent upon the taking of the steps mentioned in subsection (1).”.

Amendment of section 97

50. Subsection 97(2) of the principal Act is amended by substituting for the words “shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment” the words “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 seven years or to both”.

Amendment of section 98

51. Subsection 98(2) of the principal Act is amended by substituting for the words “shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment” the words “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 seven years or to both”.

Amendment of section 99

52. Section 99 of the principal Act is amended by inserting after the words “forest officer” wherever appearing the words “or authorized officer”.

Amendment of section 100

53. Section 100 of the principal Act is amended—

- (a) by inserting after the words “forest officer” the words “or an authorized officer”; and
- (b) by substituting for the words “shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment” the words “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 seven years or to both”.

Amendment of section 101

54. Section 101 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “compound any offence under this Act except any offence under section 86 or 107” the words “, with the consent of the Public Prosecutor, compound any offence under this Act except any offence under section 86”; and
- (b) in subsection (3)—
 - (i) in paragraph (c), by deleting the word “and” at the end of the paragraph;
 - (ii) in paragraph (d), by substituting for the full stop at the end of the paragraph the words “; or”; and

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

“(e) a combination of any of the payment, cost or charge referred to in paragraphs (a), (b), (c) and (d).”.

Substitution of section 103

55. The principal Act is amended by substituting for section 103 the following section:

“Institution of prosecution

103. No prosecution for an offence under this Act shall be instituted except by or with a written consent of the Public Prosecutor.”.

Amendment of section 104

56. Section 104 of the principal Act is amended—

(a) in paragraph (d)—

(i) by deleting the words “found within a permanent reserved forest or State land”; and

(ii) by deleting the word “and” at the end of the paragraph;

(b) in paragraph (e), by substituting for the full stop a semicolon; and

(c) by inserting after paragraph (e) the following paragraphs:

“(f) that any person found within or next to a permanent reserved forest or State land where the taking of forest produce has occurred without a licence issued under this Act, has taken the forest produce; and

- (g) that any machinery, equipment or conveyance specified in the Sixth Schedule found within or next to a permanent reserved forest or State land where the taking of forest produce has occurred without a licence issued under this Act, is used for the taking of forest produce.”.

Amendment of section 106

57. Section 106 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**police officers, members of the armed forces**” the words “**authorized officers, police officers**”; and
- (b) by substituting for the words “police officer or member of the armed forces” wherever appearing the words “authorized officer or police officer”.

Deletion of section 107

58. The principal Act is amended by deleting section 107.

Substitution of section 109

59. The principal Act is amended by substituting for section 109 the following section:

“Offences committed by corporations

109. Where any person who commits a forest offence is a body corporate, a person who at the time of the commission of the offence was a director, compliance officer, partner, manager, secretary or other similar officer of the body corporate or was purporting to act in the 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 its management—

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and

- (b) if the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence and shall be liable to the same punishment or penalty as an individual unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—
- (i) that the offence was committed without his knowledge; and
 - (ii) that the offence was committed without his consent or connivance and that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.”.

Amendment of section 111

60. Subsection 111(2) of the principal Act is amended—

- (a) in paragraph (e), by substituting for the words “licensee in taking forest produce on and from a licence area” the words “licensee or holder of a minor licence in taking forest produce on and from a licence area or a minor licence area”;
- (b) by inserting after paragraph (h) the following paragraph:
 - “(ha) prescribe the form of a pass other than a removal pass and provide for the issuance, production and return of such pass;”;
- (c) by substituting for paragraph (s) the following paragraph:
 - “(s) provide for matters relating to the administration, development and activity of the permanent reserved forests classified under subsection 10(1);”;
- (d) by inserting after paragraph (u) the following paragraph:
 - “(ua) prescribe the manner to conduct a public inquiry before the State Authority excises any land from a permanent reserved forest;”;

- (e) in paragraph (v), by substituting for the words “provided such penalties shall not exceed those prescribed by section 87” the words “with a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both”.

Amendment of Second Schedule

61. The Second Schedule to the principal Act is amended in PART A—

- (a) by substituting for paragraph (c) the following paragraph:

“(c) Converted timber”; and

- (b) by deleting paragraph (e).

Amendment of Sixth Schedule

62. The Sixth Schedule to the principal Act is amended—

- (a) in PART A – MACHINE, by inserting after paragraph (e) the following paragraph:

“(f) Excavator”; and

- (b) in PART C – CONVEYANCE, by inserting after subparagraph 1(c) the following subparagraphs:

“(d) Lorry

(e) Low loader”.

EXPLANATORY STATEMENT

This Bill seeks to amend the National Forestry Act 1984 (“Act 313”).

2. *Clause 1* contains the short title and provisions on the commencement of the proposed Act.

3. *Clause 2* seeks to amend section 2 of Act 313 to introduce new definitions and to amend existing definitions of certain words and expressions used in Act 313.
4. *Clause 3* seeks to introduce a new section 3A into Act 313 to provide that the State Authority may authorize any officer of the Federal Forestry Department to exercise the powers under Part VIII of Act 313.
5. *Clause 4* seeks to amend section 4 of Act 313 to empower the Director to prepare and implement programmes relating to permanent reserved forests classified under subsection 10(1) of Act 313.
6. *Clause 5* seeks to amend subsection 5(1) of Act 313 to allow the Director to delegate the exercise and performance of his power and duty under Act 313 to any forest officer. Currently, the Director may delegate such power only to any forest officer not below the rank of Assistant District Forest Officer.
7. *Clause 6* seeks to amend section 10 of Act 313 to introduce state park forest as a new classification of permanent reserved forests.
8. *Clause 7* seeks to substitute section 11 of Act 313 to require the State Authority to conduct a public inquiry before the State Authority excises any land from a permanent reserved forest.
9. *Clause 8* seeks to substitute section 12 of Act 313 to require the State Authority to identify any area of land that is equal or bigger than the land to be excised to replace the land as a permanent reserved forest before the State Authority excises any land from a permanent reserved forest.
10. *Clause 9* seeks to amend section 15 of Act 313 to increase the penalty for the offence of taking any forest produce from permanent reserved forests without a licence.
11. *Clause 10* seeks to introduce a new section 19A into Act 313 to empower the Director to issue or renew any licence on the direction of the State Authority.
12. *Clause 11* seeks to amend subsection 21(1) of Act 313 to impose a new maximum validity period for a licence issued under Act 313 that is for a period not exceeding twelve months.
13. *Clause 12* seeks to amend subsection 25(2) of Act 313 to increase the penalty for the offence of failure to cease operations in the licence area as required under subsection 25(1) of Act 313 to a fine not exceeding one hundred thousand ringgit and to imprisonment not exceeding seven years.
14. *Clause 13* seeks to introduce a new section 29A into Act 313 to require the applicant of a minor licence to submit a plan of the area or part of the area covered by the minor licence to the Director.
15. *Clause 14* seeks to introduce a new section 31A into Act 313 to provide for the procedure of ceasing of operation, suspension and revocation of minor licence.

16. *Clause 15* seeks to amend section 32 of Act 313 to increase the penalty for the offence of occupying or carrying out any activity on any land within a permanent reserved forest without a use permit.
17. *Clause 16* seeks to amend section 40 of Act 313 to detail out the penalty for offences relating to major forest produce and minor forest produce.
18. *Clause 17* seeks to amend section 43 of Act 313 to provide for renewal of a removal licence.
19. *Clause 18* seeks to amend section 47 of Act 313 to allow a holder of minor licence, his servants or agents, and a holder of a road permit, his servants or agents to enter any closed forest for the purpose of exercising the rights granted by the minor licence or road permit. This *clause* also seeks to increase the penalty for the offence under section 47 of Act 313.
20. *Clause 20* seeks to amend section 50 of Act 313 to empower the Director to authorize a forest officer to issue a road permit. This *clause* also seeks to increase the penalty for the offence under section 50 of Act 313.
21. *Clause 21* seeks to introduce a new section 50A into Act 313 to provide for duration, condition and renewal of a road permit.
22. *Clause 22* seeks to amend section 58 of Act 313 to extend the use of the Forest Development Fund to the expenses incurred by the State Authority in managing and carrying out sustainable development of permanent reserved forests.
23. *Clause 23* seeks to introduce a new section 60A into Act 313 to empower the State Authority to reduce, commute or waive a forest development cess or to exempt the payment of a forest development cess.
24. *Clause 24* seeks to amend section 66 of Act 313 to extend the requirement to measure all forest produce prior to its removal from the licence area to a minor licence. This *clause* also seeks to increase the penalty for the offence under section 66 of Act 313.
25. *Clauses 25, 26 and 27* seek to amend sections 67, 68 and 69 of Act 313 respectively to increase the penalties for the offences under those sections.
26. *Clause 28* seeks to introduce a new section 70A into Act 313 to empower the State Authority to issue any pass other than a removal pass to any person who has in his possession, custody or control any forest produce.
27. *Clause 29* seeks to amend section 73 of Act 313 to provide that ownership to any forest produce shall not be passed to any person unless all royalty, premium, cess and other charges payable in respect of a minor licence, use permit and forest produce have been paid to the State Authority and a removal pass has been issued in respect of the forest produce.
28. *Clause 30* seeks to amend section 75 of Act 313 to introduce new forms of paying a deposit under Act 313. This *clause* also seeks to introduce subsection (4) into section 75 of Act 313 to provide for forfeiture of deposit.

29. *Clause 31* seeks to introduce a new section 75A into Act 313 to empower the State Authority to charge and receive any fee for any service rendered by the State Authority.
30. *Clause 32* seeks to amend section 81 of Act 313 to increase the penalty for the offence of committing the acts prohibited under that section.
31. *Clause 33* seeks to amend section 82 of Act 313 to prohibit the use of fire within a permanent reserved forest without the permission of the Director and to increase the penalty for the offence under that section.
32. *Clauses 34, 35, 36 and 37* seek to amend sections 83, 84, 85 and 86 of Act 313 respectively to increase the penalties for the offences under those sections.
33. *Clause 38* seeks to introduce new sections 86A, 86B, 86C and 86D into Act 313 to provide for the new offences in relation to obstruction, false declaration, attempting to commit offence and abetment and to provide for the penalties for the offences.
34. *Clause 39* seeks to substitute section 87 of Act 313 to increase the general penalty for breach of any rules made under Act 313.
35. *Clauses 40, 41, 42, 43, 45 and 46* seek to amend sections 88, 89, 90, 91, 92 and 93 of Act 313 respectively to give the forest officers, authorized officers and police officers comprehensive powers to enforce Act 313. *Clause 44* seeks to introduce a new section 91A into Act 313 to empower a forest officer, an authorized officer or a police officer to conduct search on a person.
36. *Clause 47* seeks to introduce a new section 95A into Act 313 to provide for the cost of holding seized item by the State Authority and for the recovery of that cost.
37. *Clause 48* seeks to amend section 96 of Act 313 to increase the penalty for the offence under that section.
38. *Clause 49* seeks to introduce a new section 96A into Act 313 to empower any forest officer not below the rank of Forester or any authorized officer to set up roadblocks.
39. *Clauses 50 and 51* seek to amend sections 97 and 98 of Act 313 respectively to increase the penalties for the offences under those sections.
40. *Clause 53* seeks to amend section 100 of Act 313 to increase the penalty for the offence under that section.
41. *Clause 54* seeks to amend section 101 of Act 313 to provide for the compounding of offences with the consent of the Public Prosecutor.
42. *Clause 55* seeks to substitute section 103 of Act 313 to provide that prosecution of offences under Act 313 must be with the consent from the Public Prosecutor.

43. *Clause 56* seeks to amend section 104 of Act 313 relating to presumptions and to insert two new presumptions into Act 313. The two new presumptions provide that where any person found, or any machinery, equipment or conveyance specified in the Sixth Schedule found, within or next to a permanent reserved forest or State land where the taking of forest produce has occurred without a licence, that person is presumed to have taken the forest produce, or that machinery, equipment or conveyance is presumed to have been used for the taking of forest produce.

44. *Clause 58* seeks to delete section 107 of Act 313 relating to abuse of power by any person in exercising powers under Act 313. With the deletion of this section, any investigation and prosecution for the offence may be made under any other relevant laws.

45. *Clause 59* seeks to substitute section 109 of Act 313 to provide for a comprehensive provisions relating to the offences committed by a body corporate.

46. *Clause 60* seeks to amend subsection 111(2) of Act 313 to widen the power of the State Authority to make rules.

47. *Clauses 61* and *62* seek to amend the Second Schedule to Act 313 to insert converted timber to be part of major forest produce and to amend the Sixth Schedule to Act 313 to add types of machine and conveyance.

48. Other amendments not specifically dealt with in this Explanatory Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

[PN(U2)3213]