



LAWS OF SARAWAK

CHAPTER 17

SARAWAK FORESTRY CORPORATION ORDINANCE, 1995



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The following Ordinance passed by the Dewan Undangan Negeri on 31st October, 1995, and assented to by Tunis Yang Terutama Yang di-Pertua Negeri on 17th November, 1995, is hereby published pursuant to Article 26(3) of the Constitution of the State:

<i>Chapter No.</i>		<i>Short Title</i>
Chapter 17	Sarawak Forestry Corporation Ordinance, 1995

**SARAWAK FORESTRY CORPORATION
BILL, 1995**

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SCHEDULE — Proceedings of the Boned.

A BILL

intituled

An Ordinance to establish and incorporate the Sarawak Forestry Corporation, to provide for its functions and powers, and for matters connected therewith.

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Enacted by the Legislature of Sarawak—

PART I

PRELIMINARY

1. This Ordinance may be cited as the Sarawak Forestry Corporation Ordinance, 1995, and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Short title and commencement.

2. In this Ordinance—

Interpretation.

“appointed day” means the day on which this Ordinance comes into force;

“Board” means the Board of Directors established under section 6;

“Chairman” means the Chairman of the Board of Directors and includes any temporary Chairman,

“Corporation” means the Sarawak Forestry Corporation established under section 3;

“Director” means the Director of Forests appointed under the Forests Ordinance and includes Deputy Director of Forests;

Cap. 126
(1958 Ed.)

“forest produce” shall have the same meaning assigned to that expression by the Forests Ordinance;

“Fund” means the Fund established under section 25;

“Government” means the Government of the State of Sarawak;

“liabilities” means liabilities, debts, charges, duties and obligations of every description whether present or future, actual or contingent, and whether payable or to be observed or performed in Sarawak or elsewhere;

“member” means a member of the Board of Directors and includes the Chairman referred to under section 6;

“Minister” means the Minister for the time being charged with the responsibility for resource planning in Sarawak;

“property” includes all property, movable or immovable, and all estates, interests, easements or rights, whether equitable or legal in, to or out of property, patent and copyright, choses-in-action, money and goodwill; and “vested”, in relation to property, includes rights to property which are future or ‘contingent and ‘rights in reversion and remainder;

“rights” means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

“Secretary” means the Secretary of the Board appointed pursuant to section 6(6);

“vesting date” means the date on which property, rights and liabilities specified by the Minister in the order under section 4(1) to which the Government of Sarawak was entitled or subject to, are transferred to and vested in the Corporation.

PART II
ESTABLISHMENT OF THE
SARAWAK FORESTRY CORPORATION

3. —(1) There is hereby established a body corporate by the name “Sarawak Forestry Corporation” with perpetual succession and a common seat, and which may sue and be sued in its name and, subject to and for the purposes of this Ordinance, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Corporation upon such terms as it deems fit.
- Establishment of
the Sarawak
Forestry
Corporation
- (2) The Corporation shall for the purpose of the Land Code be deemed a native.
- Cap. 81.
(1958 Ed.)*
4. —(1) Subject to this Ordinance, the Minister may, from time to time, by order published in the *Gazette*, appoint a vesting date and on such date all property, rights or liabilities of the Government specified by the Minister in such order shall, by virtue of this Ordinance, be transferred to and vested in the Corporation without any conveyance, assignment or transfer whatever.
- Vesting
provisions.
- (2) Every property vested by virtue of subsection (1) in the Corporation shall be so vested in the Corporation for the like title, estate or interest and on the like tenure as the same was vested or held immediately before the vesting date.
- (3) Every chose-in-action vested by virtue of subsection (1) in the Corporation may, after the vesting date, be sued on, recovered or enforced by the Corporation in its own name and it shall not be necessary for the Corporation or the Government to give notice to the person bound by the chose-in-action of the vesting effected by subsection (1).
- (4) Every right and liability vested by virtue of subsection (1) in

the Corporation may, on and after the vesting date, be sued on, recovered or enforced by or against the Corporation in its own name and it shall not be necessary for the Corporation or the Government to give notice to the person whose right or liability is affected by the vesting under subsection (1).

(5) Any pending legal proceedings by or against the Government which relate to any property, right or liability transferred to and vested in the Corporation by virtue of subsection (1) may, on and after the vesting date be continued by or against the Corporation.

(6) In the case of rights and liabilities arising under any loans which is vested in the Corporation on the vesting date, the Corporation may enter into such arrangements or agreements over such rights and liabilities with the Government or any third party.

(7) On and after the vesting date, any agreement relating to any property, rights and liabilities transferred to and vested in the Corporation under subsection (1) to which the Government was a party immediately before the vesting date, whether in writing or not, and whether or not of such a nature that rights and liabilities thereunder could be assigned by the Government, shall have effect as if the Corporation has been a party to the agreement.

5. –(1) The common seal of the Corporation shall bear such device as the Corporation may approve and such seal may from time to time be broken, changed, altered and made anew by the Corporation as it may think fit. Common seal.

(2) The common seal shall be kept in the custody of the Secretary and shall be authenticated by the Chairman or one member generally or specially authorized by the Board for the purpose and the Secretary.

(3) All deeds, documents and other instruments purporting to be sealed with the common seal and authenticated in accordance with subsection (2) shall, until the contrary is proved, be deemed to have been validly executed.

(4) The common seal of the Corporation shall be officially and

judicially noticed.

6. —(1) There shall be a Board of Directors constituted under this section which shall be responsible for the general management and administration of the affairs and business of the Corporation and to exercise all the powers and perform the functions vested by this Ordinance on the Corporation. Membership of the Board.
- (2) The Board shall consist of the following members—
- (a) the Chairman, who shall be appointed by the Yang di-Pertua Negeri;
- (b) the Deputy Chairman, who shall be the Permanent Secretary to the Ministry having responsibility over forestry; and
- (c) not more than eight and not less than five other members so to be appointed by the Minister, of whom at least there must be officers in the State Public Service.
- (3) The members appointed under subsection (2) (c) who are not public officers, shall be from among persons with experience or knowledge in forestry, financial, commercial or legal matters.
- (4) The Deputy Chairman shall discharge and perform all duties and functions of the Chairman if the Chairman is unable for reason of illness or in capacity so act.
- (5) In the event of both the Chairman and Deputy Chairman being absent or unable to act due to illness or any other cause, the Minister shall appoint any member of the Board to be the temporary Chairman.
- (6) The Secretary of the Board shall be appointed by the Chairman after consultation with the Minister. The Secretary shall hold office for such term the Chairman shall determine and may be paid such salaries and remuneration as the Board shall decide.
- (7) The provisions of the Schedule shall apply to the Board. Terms of office.
7. Subject to such terms as the Minister may determine, a

member, other than the Deputy Chairman, shall hold office for a term not exceeding three years and shall be eligible for reappointment

Disqualification of member.

8. No person shall continue to hold office as a member if he—

(a) is convicted of an offence involving fraud, dishonesty or moral turpitude;

(b) is of unsound mind or is otherwise incapable of discharging his duties;

(c) is adjudicated a bankrupt; or

(d) absents himself from three consecutive meetings of the Board without leave of the Chairman.

Revocation and resignation of member.

9. —(1) The Minister may, at any time, revoke the appointment of any member, other than the Deputy Chairman, without giving any reason therefore.

(2) Any member or the Secretary may, at any time, resign from his office by giving notice in writing to the Chairman.

PART III

FUNCTIONS AND POWERS OF THE CORPORATION

10. The functions of the Corporation shall be—

Functions of the Corporation.

(a) In act as agent of the Government and to provide services in administering, assessing, collecting and enforcing payment of royalty, premia, fees and other dues or levies chargeable under, and to perform other functions conferred by, the Forests Ordinance, the National Parks and the Nature Reserves Ordinance and the Wild Life Protection Ordinance, 1990;

Cap. 126
(1958 Ed.)
Cap. 127.
(1958 Ed.)
Ord. No. 2/90

(b) to act as agent of the Government to enforce compliance by all licensees, contractors, subcontractors, operators and those involved in the logging and timber processing industry of all laws and regulations governing their operations, and the conditions, directives, plans and schemes contained or imposed on any permit or licence

issued to them under the Forests Ordinance;

(c) to act as agent of the Government to enforce provisions under the Forests Ordinance, the National Parks and Nature Reserves Ordinance and the Wild Life Protection Ordinance, 1990;

(d) to carry out and implement plans and policies of the Government for the sustainable forest management, forestry development, reforestation, and rehabilitation and research of any nature into forest produce and resources;

(e) to undertake research on all aspects of forestry including the management of wild life and other non-timber resources in the forests;

(f) to advise the Government on all matters relating to forestry, management of forests, forestry research and development and enhancement of the utilisation of forest produce;

(g) to manage and administer, on behalf of the Government, all forest reserves, protected forests, communal forests, national parks, nature reserves, wild life sanctuaries, and areas reserved for forestry research, recreation and conservation;

(h) to provide consultancy services; —

(i) to plan for and undertake human resource development in forestry and timber processing industries;

(j) to perform such other functions as are conferred on the Corporation by any other written law.

11. —(1) The Corporation shall have power to do all things necessary or convenient to be done for or in connection with the performance of its functions,

Powers of the Corporation.

(2) Without prejudice to the generality of sub section (1), the powers of the Corporation shall include power—

(a) to utilise all property of the Corporation, movable and immovable, in such manner as the Corporation may think expedient including the raising of loans by mortgaging such property;

(b) to engage in any activity, either alone or in conjunction

with other organisations or international agencies, to promote better understanding of forestry;

(c) to provide technical advice or assistance, including training and training facilities, to the forest and timber industry sector;

(d) to impose fees or charges for services rendered by the Corporation;

(e) to grant loans to employees of the Corporation for any purpose specifically approved by the Board;

(f) to provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of employees of the Corporation;

(g) to provide training for employees of the Corporation and to award scholarships or otherwise pay for such training;

(h) to pay such fees and allowances to members as the Board may determine; and

(i) to do anything incidental to any of its powers.

(3) For the avoidance of doubt, the powers of the Corporation shall not include the powers vested in the Director under the Forests Ordinance or the National Parks and Nature Reserves Ordinance or the Wild Life Protection Ordinance, 1990.

*Cap. 126
(1958 Ed.)
Cap. 127.
(1958 Ed.)
Ord. No. 2/90*

12. —(1) For the purposes of performing its functions, the Board may establish such committees as it considers necessary, and with such terms of reference as it may specify.

*Appointment of
committees.*

(2) Members of a committee established under subsection (1) may be appointed from amongst members of the Board or such other persons as the Board thinks fit.

(3) Persons who are disqualified from being members of the Board under section 3 shall also be disqualified from being members of a committee.

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

(5) The Board may revoke the appointment of any member of a committee without assigning any reason therefor.

(6) A member of a committee may at any time resign by giving notice in writing to the Chairman of the Board.

13. —(1) The Board may by direction in writing delegate to any committee established under section 12 such of its functions as it may deem necessary or expedient.

Delegation of functions.

(2) Any functions delegated under this section—

(a) may be so delegated subject to such conditions or restrictions as the Board may either generally or specifically impose;

(b) shall be performed by the committee in the name and on behalf of the Board.

(3) No delegation made under this section shall preclude the Board itself from performing at any time any of the functions so delegated.

14. —(1) The Corporation may, from time to time, with the written approval of the Minister, incorporate or establish companies by such name as the Corporation may determine to carry out and have the charge, conduct and management on behalf of the Corporation of any project, scheme or enterprise as may be decided by the Corporation in the discharge of its functions and the exercise of its powers.

Formation of companies, etc.

(2) Any company incorporated or established by the Corporation may be wholly owned by the Corporation or may be a subsidiary or related or associated company of the Corporation.

15. —(1) The Minister may give to the Corporation such directions of a general character not inconsistent with this Ordinance relating to the performance of the Corporation's functions and the Corporation shall give effect to all such directions.

Power of Minister to give directions and require information.

(2) The Corporation shall furnish the Minister with such returns, accounts and other information as he may from time to time, require.

PART IV

PROVISIONS RELATING TO EMPLOYEES

16. —(1) The Corporation shall on the appointed day accept into its employment every person who immediately before that date is in the employment or service of the Forests Department, Sarawak and who was given an option by - the Government and has opted to serve as an employee of the Corporation. Employment.

(2) Every such person who opts under subsection (1) to serve as an employee of the Corporation shall be employed by the Corporation on terms and conditions of service not less favourable than the terms and conditions of service to which he is entitled to immediately before the date mentioned in subsection (1).

(3) Until such time as the terms and conditions of service including the conduct and discipline of its employees are drawn up for and by the Corporation, the scheme and terms and conditions of service including the conduct and discipline of officers in the State Public Service shall *mutatis mutandis* continue to apply to every person employed by the Corporation under subsection (1).

17. —(1) The terms and conditions to be drawn up by the Corporation shall take into account the salaries and terms and conditions of service, including any accrued rights and entitlements, enjoyed by the persons while in the employment of the Government before opting into the service of the Corporation; and any such term or condition relating to the length of service with the Corporation shall provide for the recognition of service with the Government by the persons making the option as service with the Corporation. Salaries, terms and conditions of service of Government employees to be taken into account.

(2) Where any person in the service of the Corporation whose case does not fall within the scope of any pension or other schemes established under this section retires or dies whilst in the service of the Corporation or is discharged from such service, the Corporation may grant to him or to such other person or persons wholly or partly dependent on him, as the

Corporation thinks fit, such allowance or gratuity as the Corporation may determine.

18. – (1) Subject to such regulations as may be made under section 20, the Corporation may, from time to time, appoint and employ on such terms and conditions as the Corporation may think fit such other employees as may be necessary for carrying out the purposes of this Ordinance.

Appointment of other employees, agent and consultants.

(2) The Board may appoint and employ such consultants and agents to transact any business or to do any act required to be transacted or done in the execution of its functions or for the better carrying into effect the purposes of this Ordinance.

19. – (1) The Corporation shall, with the approval of the Minister, appoint a chief executive officer, who shall be known as the General Manager of the Corporation and such appointment shall be on such terms and conditions as may be approved by the Minister.

Appointment of General Manager.

(2) The General Manager shall be responsible for—

- (a) the proper administration and management of the Corporation in accordance with the policies laid down by the Corporation;
- (b) the supervision and control over the implementation of all decisions and policies of the Corporation;
- (c) the general control of all officers and servants of the Corporation;
- (d) the issue of policy guideline or elucidation of decisions of the Corporation to officers and servants of the Corporation;
- (e) the execution of all programmes, plans, - schemes and projects of the Corporation.

(3) The General Manager shall perform such further duties as the Board may from time to time direct.

(4) If the General Manager is temporarily absent from Malaysia or is temporarily incapacitated through illness or for any other sufficient cause, from the performance of his duties, the Board with the approval of the Minister, may direct another officer to

perform his duties during such temporary absence or incapacity of the General Manager.

20. —(1) The Board may, from time to time, with the approval of the Minister, make regulations with respect to the discipline of employees of the Corporation.

Regulations with respect to discipline.

(2) The regulations made under this section may include provision of—

(a) the interdiction with reduction in salary in salary or in other remuneration; or

(b) the suspension without salary or other remuneration,

of an employee of the Corporation during the pendency of disciplinary proceedings against him.

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

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

21. —(1) Where an the appointed day any disciplinary proceedings is pending or existing against any employee of the Government who has opted into the service of the Corporation, such proceedings shall be continued and completed by the Board.

Continuation and completion of disciplinary proceedings.

(2) An order, ruling or direction made or given by any committee established by the Board to conduct disciplinary proceedings shall be treated as an order, ruling or direction of the Board and have the same force or effect as if it had been made or given by the Board pursuant to the authority vested in the Board under this Ordinance.

22. —(1) If the Board is satisfied that any person who is or was in

Imposition of

the employment of the Corporation—

surcharge.

- (a) is or was responsible for any improper payment of moneys from the Fund or for any payment of such moneys which is not duly vouched;
- (b) is or was responsible for any deficiency in, or for the destruction of, any moneys, securities, stores or other property of the Corporation;
- (c) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
- (d) has failed to make any payment, or is or was responsible for any delay in the payment, of moneys from the Corporation to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Corporation.

and if a satisfactory explanation is not furnished to the Board within a period specified by the Board, with regard to the failure to collect, improper payment, payment not duly vouched, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the Board may surcharge against the said person a sum not exceeding the amount of any such amount not collected, such payment, deficiency, or loss or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, or the failure to make payment, or the delay its making payment, the Board may surcharge against the said person such sum as the Board may think fit.

(2) The Board shall notify the person surcharged of its decision made under subsection (1).

(3) The Board may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and notify the person concerned accordingly.

(4) The amount of any surcharge imposed under subsection (1) and not withdrawn under subsection (3) shall be a debt due to the Corporation from the person against whom the surcharge

is imposed and may be sued for and recovered in any court at the suit of the Corporation and may also be recovered by deduction—

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

(b) from the pension or any retirement benefits of the person surcharged if the Board so directs,

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

23. No suit or other legal proceedings shall lie personally against any member of the Board or any officer or employee of the Corporation or any other person under the direction of the Corporation for any thing which is done in good faith or intended to be done in the execution or purported execution of this Ordinance. Protection from personal liability.
24. All members of the Board and its committees and all officers, employees or agents of the Corporation shall be deemed to be public servants within the meaning of the Penal Code. Public servants.
F.M.S.
Cap. 45.

PART V

FINANCIAL PROVISION

25. —(1) There shall be established, for the purposes of this Ordinance, a Fund to be administered and controlled by the Corporation. Fund of the Corporation.
- (2) The Fund of the Corporation shall consist of—
- (a) all moneys received by the Corporation for services rendered by the Corporation to the Government as its agent or for services rendered by the Corporation to any person;
- (b) all moneys received by the Corporation by way of grants from the Government;
- (c) all moneys derived from the disposal, lease or hire of, or any other dealing with, any property vested in or acquired

by the Corporation;

(d) all moneys derived as income from investment by the Corporation;

(e) all moneys borrowed by the Corporation wider this Ordinance; and

(f) all other moneys lawfully received by the Corporation.

26. —(1) The expenditure of the Corporation up to such amount as may be authorized by the Majlis Mesyuarat Kerajaan Negeri for any year shall be defrayed out of the Fund. Expenditure and preparation of estimates.

(2) Before the beginning of each year the Corporation shall submit to the Majlis Mesyuarat Kerajaan Negeri an estimate of the expenditure for the following year in such form and containing such particulars as the Majlis may direct, and the Majlis shall, before the beginning of that following year, notify the Corporation through the Minister of the amount authorized for expenditure generally or of the amounts authorized for each description or expenditure.

(3) The Corporation may at any time submit to the Majlis Mesyuarat Kerajaan Negeri a supplementary estimate for any one year and the Majlis may allow the whole or any parts of the additional expenditure included therein.

27. —(1) The Corporation may, from time to time for the purposes of this Ordinance, raise loans from the Government or with the consent of the Majlis Mesyuarat Kerajaan Negeri, from any other source. Power to borrow.

(2) The Corporation shall not provide guarantee or security to secure the debt or liabilities of any person or party without the prior approval of the Majlis Mesyuarat Kerajaan Negeri.

28. For the purposes of enabling the Corporation to carry out its functions under this Ordinance, the Majlis Mesyuarat Kerajaan Negeri may, from time to time, make grants-in-aid to the Corporation of such sums of money as the Majlis may determine out of moneys to be provided by the Dewan Undangan Negeri. Grants.

29. —(1) The Corporation shall open and maintain an account or Bank accounts and

accounts with such bank or banks as the Corporation thinks fit; and every such account shall be operated upon as far as practicable by cheque signed by such persons or persons as may, from time to time, be authorized by the Corporation.

application of
revenue

(2) The moneys of the Corporation shall be applied only in payment of discharge of the expenses, obligations and liabilities of the Corporation and in making any payment that the Corporation is authorized or required to make.

30. The Corporation may, with the approval of the Minister, invest any of its funds available for investment in the following manner:

(a) by depositing in—

(i) Bank Negara Malaysia;

(ii) banks duly licensed under the Banking and Financial Institutions Act 1989; or

(iii) any other financial institution duly licensed under the Banking and Financial Institutions Act 1989;

(b) by investing in bonds, mortgage papers, commercial notes, banker's acceptance, money market papers, certificates of deposits and promissory notes and bills of exchange within the meaning of the Bills of Exchange Act 1949;

Act 204.

(c) by investing in accordance with the provisions of the Trustee Act 1949:

Act 208.

Provided however, where the Corporation invests in or upon titles to immovable property in Malaysia in accordance with section 4(1)(c) of the Trustee Act 1949, such immovable property may or may not yield any income at the time of such investment.

31. —(1) No action or legal proceedings shall be brought against the Corporation in respect of any act or deed carried out by the Corporation, as agent of the Government under the Forests Ordinance, National Parks and Nature Reserves Ordinance, the Wild Life Protection Ordinance, 1990, and in respect of all other duties carried out by the Corporation under the same Ordinances.

Immunity from
legal action or
proceeding.
Cap.126.
(1958 Ed.)
Cap. 127.
(1958 Ed.)
Ord. No. 2/90.

(2) Any action or legal proceedings in respect of the collection or recovery of royalty, premia, fees and other dam or levies on forest produce shall be instituted or taken by or in the name of or against the Government

32. —(1) Except as provided in this Ordinance or for the purpose of any civil or criminal proceedings under any written law, no member of the Board and no officer, employee or agent of the Corporation, whether during his tenure of office, or during his employment or thereafter, and no other person who has by any means access to any confidential information or document whatsoever relating to the affairs of the Corporation shall give, divulge, reveal or otherwise disclose such information or document to any person.

Obligation of secrecy.

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

33. The provisions of the Statutory Bodies (Accounting and Financial Procedure) Ordinance, 1995, shall apply to the Corporation.
34. The Minister may, by order published in the *Gazette*, amend the Schedule to this Ordinance.
35. —(1) The Corporation may, with the approval of the Yang di-Pertua Negeri, make such regulations as may be expedient or necessary for carrying out the purposes of this Ordinance.

Statutory Bodies (Accounting and Financial Procedure) Ordinance, 1995 to apply.
Cap. 15.

Power of Minister to amend the Schedule.

Regulations.

(2) Without prejudice to the generality of sub section (1), the Corporation may make regulations for or with respect to all or any of the following matters:

- (a) the manner of appointment, and the terms and conditions of service of the officers and employees of the Corporation;
- (b) the payment of gratuities and other benefits to officers and employees of the Corporation; and
- (c) the fees or charges to be imposed in respect of anything done under or by virtue of this Ordinance.

SCHEDULE

(Section 6(7))

PROCEEDINGS OF THE BOARD

1. —(1) The Board shall meet for the despatch of its business as least once in three months at such time and place as the Chairman may, from time to time, determine. Meetings of the Board.
 - (2) At every meeting of the Board, three members shall form a quorum.
 - (3) A decision at a meeting of the Board shall be adopted by a simple majority of the members present and voting except that, in the case of an equal of votes, the Chairman shall have a casting vote in addition to his original vote.

2. —(1) A member of the Board who is in any way, directly or indirectly, having any interest in any transaction or project of the Corporation shall disclose the nature of his interest at a meeting of the Board; and such disclosure shall be recorded in the minutes of the meeting and the member shall take no part in any deliberation or decision of the Board with respect to that transaction or project. Disclosure of interest by members.
 - (2) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that under subparagraph (1) he cannot vote or has withdrawn from the meeting.

3. The Board may act notwithstanding any vacancy in its membership. Vacancies.

4. —(1) Subject to the provisions of this Ordinance, the Board may, with the approval of the Minister, make rules to regulate its own procedure generally and, in particular, regarding the holding and proceedings of meetings, the notice to be given of such meetings, the keeping of minutes and the custody, production and inspection of each minutes. Procedures at meetings.
 - (2) Any minutes made of meetings of the Board or any

committee, if duly signed by the Chairman, shall, in any legal proceedings, be admissible as evidence of the facts stated therein and every meeting of the Board on any committee in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

5. The validity of any proceeding of the Board shall not be affected by any contravention of paragraph 2 by any member. Validity of proceedings.
6. The Board may invite any person to attend any meeting or deliberation of the Board for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the said meeting or deliberation. The Board may invite others to meetings.
7. There may be paid to the members of the Board or any other person invited to attend any meeting of the Board such remuneration or allowances out of the fund of the Corporation as the Minister may determine. Allowance payable to members of the Board.

EXPLANATORY STATEMENT

The object of this Bill is to establish and incorporate the Sarawak Forestry Corporation, to provide for its functions and powers and for related matters.

2. Part I contains the preliminary provisions. *Clause 1* provides for the short title and seeks to allow the Minister to appoint the date of commencement of the proposed Ordinance. *Clause 2* defines certain words and expressions used in this Bill.
3. Part II contains provisions relating to the establishment of the Sarawak Forestry Corporation. *Clause 3* provides that the Corporation shall be a body corporate with perpetual succession and common seal and may sue and be sued in its name. *Clause 4* contains provisions relating to the vesting of all property, rights or liabilities of the Government to the Corporation on such date to be appointed by the Minister by order published in the *Gazette*.
4. *Clause 5* provides for the common seal of the Corporation. *Clauses 6, 7, 8 and 9* spell out the membership of the Board of Directors, their terms of office, disqualification of members of the Board and the revocation of the appointment and resignation of the members of the Board respectively.
5. Part III contains provisions relating to the functions and powers of the Corporation which are provided for in *Clauses 10 and 11*. *Clause 12* seeks to empower the Board to appoint committees for purposed of performing its functions under the proposed

Ordinance. This clause also provides for the qualification, appointment and revocation of appointment of members of the committee so appointed.

6. *Clause 13* provides for delegation of functions by the Board to the committees set up to assist the Board in exercising its functions. *Clause 14* empowers the Corporation to incorporate or establish companies, with the written approval of the Minister. *Clause 15* provides for the power of the Minister to give direction of a general character to the Corporation and to require the Corporation to furnish such returns, accounts and other information as he may, from time to time, require.

7. Part IV contains provisions relating to staff employed by the Corporation. *Clause 16* requires the Corporation on the appointed day, to accept into its employment every person who immediately before that date is in the employment or service of the Forest Department of Sarawak and who has exercised an option to serve as an employee of the Corporation.

8. *Clause 17* seeks to give protection of the privileges, accrued rights and entitlements of employees who were previously in the employment of the Government before opting into the service of the Corporation: and empowers the Corporation to pay such allowance or gratuity, as the Corporation may determine, to any such employees.

9. *Clause 18* empowers the Corporation to employ other employees, agents and consultant necessary for carrying out the functions of the Corporation under the proposed Ordinance.

10. *Clause 19* provides for the appointment of the General Manager of the Corporation.

11. *Clause 20* empowers the Board, with the approval of the Minister, to make regulations with respect to the discipline of employees of the Corporation.

12. *Clause 21* gives power to the Board to continue pending disciplinary proceeding against any employees of the Corporation.

13. *Clause 22* seeks to empower the Board to impose surcharge on any person who is or was in the employment of the Corporation with regard to the failure to collect improper payment or deficiency or delay in payment of moneys or other property of the Corporation.

14. *Clause 23* seeks to give protection to any officer or employee of the Corporation, or any member of the Board or any other person under the direction of the Corporation for anything done in the execution or purported execution of the proposed Ordinance.

15. *Clause 24* deems the members of the Board and its committees and all officers, employees or agents of the Corporation to be public servants within the meaning of the Penal Code.

16. Part V contains financial provisions governing the Corporation. *Clause 25* establishes a Fund to be administered and controlled by the Corporation. *Clause 26* requires the Corporation to submit to the Majlis Mesyuarat Kerajaan Negeri the yearly estimate of its expenditure and supplementary estimate, if any.

17. *Clause 27 and 28* empower the Corporation to borrow money and for the Majlis Mesyuarat Kerajaan Negeri to make grants-in-aid to the Corporation respectively.
18. *Clause 29* seeks to require the Corporation to open and maintain an account with such banks as it thinks fit and to use such money only for the payment of its expenses and the discharge of its obligations and liabilities. *Clause 30* provides for the power of the Corporation to invest its moneys with the approval of the Minister.
19. *Clause 31* provides immunity to the Corporation against any action or legal proceedings in respect of any act or anything done or carried out by it as agent of the Government under the Forests Ordinance, National Parks and Nature Reserves Ordinance and the Wild Life Protection Ordinance, 1990.
20. *Clause 32* provides for the obligation of secrecy on the employees, agents and officers of the Corporation and members of the Board.
21. *Clause 33* provides that the provisions of the Statutory Bodies (Accounting and Financial Procedure) Ordinance, 1995, shall be applicable to the Corporation.
22. *Clause 34* provides the Minister with the power to amend the Schedule.
23. *Clause 35* empowers the Corporation with the approval of the Yang di-Pertua Negeri to make regulations.

FINANCIAL IMPLICATIONS

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

AG/5/429

Note: This Bill replaces the Sarawak Forestry Corporation Bill, 1995, published on 21st October, 1995.