



LAWS OF SARAWAK

FORESTS ORDINANCE

CHAPTER 126 (1958 EDITION)

**Incorporating all amendments and modifications up to
31st July, 1998.**

FOR GOVERNMENT OFFICERS' EXAMINATIONS ONLY



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DICETAK OLEH
PERCETAKAN NASIONAL MALAYSIA BERHAD,
KUCHING, SARAWAK
1998

Undang-undang ini telah disediakan oleh:

Bahagian Pengurusan Sumber Manusia,
Jabatan Ketua Menteri Sarawak

dengan kerjasama

Kamar Peguam Besar Negeri Sarawak.

Urusan percetakan dijalankan oleh
Percetakan Nasional Malaysia Berhad,
Cawangan Kuching.

Undang-undang ini disediakan semata-mata untuk membantu calon-calon Peperiksaan Undang-undang Kerajaan dan ia tidak mempunyai kuatkuasa undang-undang.

LAWS OF SARAWAK
FORESTS ORDINANCE
CHAPTER 126
(1958 EDITION)

LIST OF AMENDMENTS

<i>Amending law</i>	<i>Short title</i>	<i>In force from</i>
Ord. No 6/73	The Forests (Amendment) Ordinance, 1973	31.12.1973
Swk. L.N. 113/73	The Forests (Schedule Amendment) Rules, 1973	1.1.1974
Swk. L.N. 72/74	The Forests (Schedule Amendment) Rules, 1974	9.12.1974
Swk. L.N. 43/77	The Forests Department (Change of Titles) Notification, 1977	1.1.1977
Ord. No. 2/79	The Forests (Amendment) Ordinance, 1979	8.12.1979
Swk. L.N. 47/80	The Forests (Schedule Amendment) Rules, 1980	5.6.1980
Ord. No. 1/80	The Forests (Amendment) Ordinance, 1980	26.6.1980
Swk. L.N. 54/81	The Forests (Schedule Amendment) Rules, 1981	1.1.1982
Swk. L.N. 86/82	The Forests (Schedule Amendment) Rules, 1982	1.12.1982
Ord. No. 6/85	The Forests (Amendment) Ordinance, 1985	1.1.1987 (Swk. L.N. 36/87)
Swk. L.N. 8/86	The Forests (Schedule Amendment) Rules, 1986	1.1.1985
Swk. L.N. 57/87	The Forests (First Schedule to the Ordinance) (Amendment) Rules, 1987	1.9.1987
Ord. No. 6/87	The Forests (Amendment) Ordinance, 1987	1.1.1988 (Swk. L.N. 76/87)
Swk. L.N. 41/89	The Forests (First Schedule to the Ordinance) (Amendment) Rules, 1989	1.1.1989
Ord. No. 5/89	The Forests (Amendment) Ordinance, 1989	1.2.1991 (Swk. L.N. 9/91)
Ord. No. 3/91	The Forests (Amendment) Ordinance, 1991	1.9.1991 (Swk. L.N. 59/93)
Swk. L.N. 48/92	The Forests (First Schedule to the Ordinance) (Amendment) Rules, 1992	1.8.1992
Swk. L.N. 19/93	The Forests (First Schedule to the Ordinance) (Amendment) Rules, 1993	1.6.1993
Cap. A9/93	The Forests (Amendment) Ordinance, 1993	1.2.1994 (Swk. L.N. 140/93)
Cap. A18/94	The Forests (Amendment) Ordinance, 1994	1.1.1995
Swk. L.N. 8/95	The Forests (First Schedule to the Ordinance) (Amendment) Rules, 1994	1.4.1995
Cap. A37/96	The Forests (Amendment) Ordinance, 1996	15.1.1997 (Swk. L.N. 1/97)
Swk. L.N. 103/96	The Forests (First Schedule to the Ordinance) (Amendment) Rules, 1996	1.1.1997

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CHAPTER 126
(1958 EDITION)

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LAWS OF SARAWAK
FORESTS ORDINANCE *

CHAPTER 126
(1958 EDITION)

An Ordinance to provide for the protection and management of the forests of Sarawak, and to regulate the taking of forest produce.

[1st January, 1954]

PART I

PRELIMINARY

1. This Ordinance may be cited as the Forests Ordinance.* Short title

2. —(1) In this Ordinance—
 - “alienated land” means land in respect of which there is a subsisting alienation within the meaning the Land Code; Interpretation.
[Am. Ord. No.
10/61]
Cap. 81.
(1958 Ed.).

 - “boundary mark” includes any beacon, post, peg, plate or other object used to define the boundary of a forest reserve or protected forest;

 - “cattle” includes elephants, buffaloes, horses, ponies, mules, asses, pigs, sheep and goats; [Ins. Cap. A9]

 - “company” means a company incorporated and registered under the Companies Act 1965; Act 125.

 - “controlling shares” means shares in a company which, when aggregated, would give the holder of such shares the right to exercise or control the exercise of more than thirty-three per centum of the voting power of that company; [Ins. Cap. A9]

 - “Crown land” see under “State land”;

* Now see also the Sarawak Forestry Ordinance, 1995 (Chapter 17) which came into force on 1.1.1998 (see Swk. L.N. 75/97).

*“Director” means the Director of Forests;

“firewood” means wood, round or cleft, cut into short lengths for use as fuel; [Added Ord. No. 10/61]

“forest offence” means an offence punishable under this Ordinance or by any rules or orders made hereunder;

“forest officer” means the *Director, any person appointed to be Deputy Director of Forests, *Executive Forester, Assistant Forest Officer, Junior Assistant Forest Officer, Forest Ranger, Forester or Forest Guard and any person lawfully entitled to discharge the functions of a forest officer under this Ordinance; [Am. G.N.S. 68/57]

“forest produce” includes—

- (a) the following when found in or brought from a forest reserve, protected or communal forest— [Am. Cap. A9]
- (i) guano, peat, rock, sea-shell and surface soil;
 - (ii) trees and all parts and produce not hereinafter mentioned of trees;
 - (iii) plants including grass, climbers, creepers and all parts and produce of such plants;
 - (iv) tusks, horns, silk-cocoons, honey, wax and edible birds’ nests;
- (b) the following when found in or brought from a forest reserve, protected or communal forest, Government reserve, or other State land or when brought from alienated land— [Am. Cap. A9]
- (i) timber;
 - (ii) firewood;
 - (iii) charcoal;
 - (iv) bark;
 - (v) wild rubbers;

Throughout this Ordinance, the titles of “Conservator of Forests” and “Assistant Conservator of Forests” have been replaced by the titles of “Director of Forests” and “Executive Forester” respectively—see Swk. L 43/77 w.e.f. 11.1977.

“Government reserve” means State land which the Minister has, by notification in the *Gazette*, declared to be a Government reserve; [Mod. Swk. L.N. 68/64]

“hammer mark” means the Government hammer mark “F.D.” or any other mark which may be notified in the *Gazette* by the Minister; [Mod. Swk. L.N. 68/64]

“mangrove” means all trees belonging, to the *genera avicennia, bruguiera, ceriops, kandelia, rhizo phora and xylocarpus*;

“medicinal compound” means any extract, tissue, organism, part or constituent, isolated, taken, derived or extracted from any tree which has the properties for the cure, treatment or relief of any disease or ailment; [Ins. Cap. A9.]

“permanent forests” means all forests reserves, protected forests, communal forests, State land forests, Government reserves and planted forests in the State; [Ins. Cap. A37.]

“pharmaceutical product” means any drug or medicine, in liquid, concentrated, tablet or any other form, used for the treatment of human beings or animals prepared from or through the use of any medicinal compound, including any drug or medicine made by way of synthesis of such compound and other chemical or chemical products; [Ins. Cap. A9.]

“planted forests” means a crop of trees planted or maintained on State land or alienated land under a licence issued pursuant to section 65B and forming part of the permanent forests in the State; [Ins. Cap. A37.]

“prescribed” means prescribed by rules made under section 95;

“property mark” means a mark placed on timber to denote that, after all purchase money or royalties due to the Government have been paid, the person in whose name such mark is registered has, or will have, a right of property in the timber;

“Regional Forests Officer” means any forest officer appointed or assigned to administer the provisions of this Ordinance and any rules made thereunder in one or more Administrative Divisions in Sarawak and to discharge any duties as may be [Ins. Cap. A37.]

assigned to him by the Director;

“sawbench” means the frame carrying a power driven saw and, in the absence of a saw carriage, the table on which the timber is sawn; [Sub. Ord. No. 10/61.]

“sawmill” means any factory, building or premises where timber is—

- (i) sawn into marketable products; or
- (ii) processed for use in the manufacture or production of any type of articles or goods using such timber,

and includes any timber yard or moulding factory and all machinery, plant, equipment and articles used or installed in the factory or premises;

“State land” means State land within the meaning of the Land Code; Cap. 81.
(1958 Ed.)
[Ins. Swk L.N. 68/64.]

“timber” includes trees when they have fallen or have been felled, and all wood whether or not cut up, fashioned or hollowed out for any purpose but does not include firewood; [Am. Ord. No. 10/61.]

*“ton” means fifty cubic feet measured in such manner as the Director may, by order under section 96, direct;

“tree” includes any part of a tree, its fruits, buds, leaves, branches, stems, stumps, bark, trunk, seeds, seedlings, exudate, roots and any plant, palms, bamboos, canes and brushwood.

(2) Where a licence or permit is, under this Ordinance, declared not to be transferable, the licence or permit shall, unless, the Director or a person authorized by him in that behalf otherwise directs, be liable to be cancelled or suspended in accordance with section 51A if— [Added Ord. No. 10/61; Am. Ord. no. 6/87.]

- (a) the holder thereof transfers the licence or permit;
- (b) in the case of a licence or permit issued to a company, the controlling shares in the company are transferred;

* Now see also the Weights and Measures Act 1972 (Act 71).

(c) in the case of a licence or permit issued to a partnership, there is a change, save by operation of law, in the partnership; or

(d) the holder thereof enters into an agreement with any other person, the effect of which is to enable the benefits conferred by the licence or permit to be enjoyed by any other person.

2A. Notwithstanding section 2(2), the Director may, in the event of death, incapacity, bankruptcy or, in the case of a company, liquidation of the holder of such licence or permit, or where a receiver or manager is appointed in relation to the business of the holder of such licence or permit, or where for any reason the Director is satisfied that it would be unjust not to do so, authorize the transfer of such licence or permit.

Transfer of licence or permit to be allowed in certain circumstances.

[*Ins. Ord. No. 6/87.*]

PART II

[*Part II, Sub. Cap. A37*]

FOREST RESERVES

3. A forest reserve may be constituted over any State land in the manner provided in this Part.

Constitution of forest reserve.

4. —(1) Where it is proposed to constitute a forest reserve over any State land, the Minister shall publish in the *Gazette*, a notification—

Procedure for constituting forest reserve.

(a) specifying as accurately as possible the description and limits of the land intended to be constituted a forest reserve;

(b) directing any person claiming any right or privilege in or over such land to submit, within sixty days from the date of publication of such notification, to the Regional Forests Officer for the area in which the land is situated, his claim with evidence in support thereof; and

(c) stating that upon the expiry of a period of sixty days from the date of publication of the notification, all rights and privileges in or over the area intended to be constituted a forest reserve shall be deemed extinguished, and that compensation shall be paid to any person whose rights or privileges have been so

extinguished in accordance with this Part.

(2) A copy of the notification shall be published in at least one newspaper circulating in Sarawak, and displayed at the District Office for the area to be constituted a forest reserve.

5. From the date of the notification published under section 4 until the publication of the Proclamation under section 14, no person shall exercise any right or privilege which he intends to make a claim upon in or over, the land proposed to be constituted a forest reserve, and the taking of any forest produce therefrom is prohibited without the prior written approval of the Director. Effect of notification.
6. The rights or privileges that may be claimed in an area to be constituted a forest reserve shall be only those rights or privileges which have been enjoyed or exercised by or accrued to a native or his forefathers or a native community for an uninterrupted period beginning from a date prior to 1st January, 1954 to the date of the notification referred to in section 4. Rights or privileges.
7. —(1) Any person who fails to submit a claim to any right or privilege in or over the land to be constituted a forest reserve within the period stipulated in the notification, shall be deemed to have abandoned or waived such right or privilege and shall not be entitled to any payment of compensation under this Part. Claim.
- (2) A claim to such right or privilege may be submitted to a Regional Forests Officer by a Headman on behalf of any person claiming such right or privilege and must be made in writing and in such form as may be prescribed by the Director.
8. —(1) The Regional Forests Officer shall, within claim, sixty days from the date of receipt of any claim to any right or privilege in or over any land proposed to be constituted a forest reserve, conduct an enquiry into such claim. Enquiry into claim.
- (2) In any such enquiry, the onus of proving the existence of any right or privilege claimed shall be on the claimant.
- (3) The Regional Forests Officer may call for and receive any evidence to verify, confirm or support any claim from

any claimant or any public officer or any other person having knowledge of such claim. In the conduct of such enquiry, the Regional Forests Officer shall have the same powers to summon and examine witnesses as a Magistrate.

(4) Where it is considered necessary and expedient, any enquiry conducted pursuant to this section may be held in public at such time and on such date as may be specified in a notice to be issued by the Regional Forests Officer.

9. —(1) The Regional Forests Officer shall, upon conclusion of the enquiry, furnish a report thereof to the Director. Report.
- (2) The report shall contain the notes of proceedings and evidence recorded at the enquiry together with such findings and recommendations as the Regional Forests Officer may deem fit or proper to make.
10. Where any right or privilege is admitted or found to have subsisted at the time of the notification published under section 4, the Director shall forthwith proceed to assess the compensation payable to the claimant in accordance with section 11. Rights or privileges admitted, etc.
11. In assessing compensation payable under this Part for the extinguishment of any right or privilege in or over the area constituted or to be constituted a forest reserve, the Director shall take into account the following— Assessment of compensation.
- (a) the nature and extent of the right or privilege claimed;
 - (b) whether such right or privilege is still exercised or enjoyed by the claimant at the date of the notification published under section 4;
 - (c) the degree of actual dependency, if any, of the claimant on such right or privilege, as a means of his livelihood;
 - (d) if the right or privilege relates to the planting of any crop, whether alternative site or area has been provided by the Government for the person or the community to which he belongs, for farming; and
 - (e) any other relevant factors or circumstances pertaining to the enjoyment or exercise of such right or

privilege.

12. The decision of the Director on the compensation payable to any claimant under this Part shall be served on the claimant at the address provided by him at the time of submission of his claim or if his claim is submitted through his Headman, the decision shall be served on the claimant by handing a copy thereof to the Headman. Decision on compensation.
13. —(1) Any person aggrieved by the decision of the Director may, within thirty days from the date of service of the decision on him, appeal to a Sessions Court. Appeal.
- (2) An appeal to a Sessions Court shall be by way of originating application and shall follow the procedures prescribed by the Subordinate Courts Rules 1980. P.U. (A) 328/80.
- (3) Subject to the Subordinate Courts Rules 1980, a Judge of the Sessions Court may give such direction as he may deem fit or necessary for the disposal or hearing of any appeal before him under this section.
14. —(1) At any time after the Director has made a decision on the compensation for extinguishment of rights or privileges under section 11, the Minister may publish in the *Gazette*, a Proclamation to constitute the area specified in the notification referred to in section 4, a forest reserve. Proclamation.
- (2) Such Proclamation shall—
- (a) provide a name for the forest reserve;
 - (b) specify the limit of the forest reserve;
 - (c) declare the date on which the Proclamation shall take effect;
 - (d) declare that all rights or privileges in the forest reserve have been extinguished; and
 - (e) stipulate the special conditions, if any, governing the reservation thereof.
15. From the date fixed in the Proclamation, the forest area stipulated therein shall be a forest reserve and shall, together with all the forest produce therein and all things found thereon, belong absolutely to the Government. Effect of Proclamation.

(2) A forest reserve constituted under this Part shall be managed, administered and controlled by the Director, subject to such direction as may be given to him from time to time, by the Minister.

(3) (a) From the date of the constitution of a forest reserve, no person whose rights or privileges have been extinguished in accordance with this Part, shall exercise and enjoy such rights or privileges, and shall not, without the express written consent of the Director or any officer duly authorized by him, enter upon, remain or occupy any part of the forest reserve.

(b) Any person who fails to comply with paragraph (a) may be removed or evicted therefrom by a forest officer duly authorized by the Director, or by a police officer not below the rank of Inspector.

16. Where any right or privilege has been or admitted but was not extinguished at the time of the constitution of the forest reserve (referred to in this rig etc. Part as “subsisting rights or privileges”), the exercise thereof shall be subject to the control of the Director and to such order or direction as he may make to regulate the limit or area within a forest reserve where by the subsisting rights or privileges may be exercised including the mode of exercising thereof and having regard to the natural capacity of the natives to enjoy such rights or privileges.
- Exercise of
subsisting rights,
etc.
17. —(1) The Minister may, by notification in the Gazette and posted on the notice board of the District Office for the area where the forest reserve rights, etc. is situated, revoke or extinguish any subsisting rights or privileges.
- Extinguishment of
subsisting rights,
etc.
- (2) Any person who is affected by the notification issued shall, within thirty days from the date of publication thereof, inform the Regional Forests Officer in writing of the nature and extent of the exercise or enjoyment by him of the subsisting rights or privileges which are intended to be revoked or extinguished.
- (3) The Regional Forests Officer shall, within thirty days from the date of receipt of the information and evidence submitted under subsection (2), transmit the same to the Director who, if satisfied that any person has been affected

by the revocation or extinguishment of any subsisting rights or privileges, pay such compensation to him, to be assessed in accordance under section 11.

18. No subsisting rights or privileges shall be acquired in or over a forest reserve, except by succession or under a grant or contract made by the Government or by some persons in whom such rights or privileges, or the power to create such rights or privileges, were vested when the forest reserve was constituted. Acquisition of rights or privileges.
19. Notwithstanding anything herein contained, no subsisting rights or privileges in a forest reserve shall be transferred by way of grant, sale, lease, mortgage or otherwise, except with the written approval of the Minister. Transfer of rights or privileges.
20. —(1) The inclusion in a forest reserve or protected forest of any alienated land shall be deemed to be a public purpose within the meaning of section 46 of the Land Code. Alienated land.
- (2) Where alienated land has been acquired for the purposes specified in sub (1), the Minister may include the land so acquired in the Proclamation made under section 14 or 33, as the case may be.
21. Subject to section 22, no person shall in a forest reserve— Acts prohibited in forest reserve.
- (a) trespass;
 - (b) pasture cattle or permit cattle to trespass;
 - (c) fell, cut, ring, mark, lop or tap any tree, or injure by fire or otherwise any tree or timber;
 - (d) cause any damage by negligence in felling any tree or cutting or dragging any timber;
 - (e) quarry stone, burn lime or charcoal or search for, collect or remove any forest produce or minerals;
 - (f) erect any building, or clear or break up any land for cultivation or for any other purpose; or
 - (g) kindle, keep or carry any fire or leave any fire burning.
22. Nothing in section 21 shall be deemed to prohibit or render punishable— Saving.

- (a) the exercise of any subsisting rights or privileges;
- (b) the exercise of any right or privilege created by succession, grant or contract in the manner described in section 18; or
- (c) any act done with the permission in writing of the Director.

23. No person shall do or cause to be done any act which is likely to damage or endanger the within a forest reserve. Protection of forest reserve.

24. —(1) The Minister may, by notification in of the Gazette, direct that, from a date to be fixed by such notification, any forest reserve, or any portion thereof, shall cease to be reserved. Revocation of forest reserve.

(2) From the date so fixed—

(a) such forest or portion thereof shall cease to be reserved, but the rights or privileges, if any, which have been extinguished therein shall not be revived; and

(b) any subsisting rights or privileges shall be deemed extinguished and any person affected by the extinguishment may submit his claim for compensation to the Regional Forests Officer with in thirty days from the date of publication of the notification.

(3) Sections 6, 7, 8, 9, 10 and 11 shall apply *mutatis mutandis* in relation to any claim for compensation submitted under this section. [Sub. Cap. A37]

PART III

[Part III, Sub. Cap. A37]

PROTECTED FORESTS

25. A protected forest may be constituted over any State land in the manner provided in this Part. Constitution of protected forest.

26. —(1) Where it is proposed to constitute a protected forest over any State land, the Minister shall publish in the Gazette, a notification— Procedure for constituting protected forest.

(a) specifying as accurately as possible the description and limits of the land intended to be constituted a

protected forest;

(b) directing any person claiming any right or privilege in or over such land to submit, within sixty days from the date of publication of such notification, to the Regional Forests Officer for the area in which the land is situated, his claim with evidence in support thereof;

(c) stating that upon the expiry of a period of sixty days from the date of publication of the notification, all rights and privileges in or over the area intended to be constituted a protected forest shall be deemed extinguished, and that compensation shall be paid to any person whose rights or privileges have been so extinguished in accordance with this Part.

(2) A copy of the notification shall be advertised in at least one newspaper circulating in Sarawak, and displayed at the District Office for the area to be constituted a protected forest.

27. From the date of the notification published under section 26 until the publication of the Proclamation under section 33, no person shall exercise any right or privilege which he intends to make a claim upon in or over the area proposed to be constituted a protected forest, and the taking of any forest produce therefrom is prohibited without the prior written approval of the Director. Effect of notification.
28. The rights or privileges that may be claimed in or over the area to be constituted a protected forest shall be only those rights or privileges which have been enjoyed or exercised by or accrued to a native or his forefathers or a native community for an un interrupted period beginning from a date prior to 1 January, 1954 to the date of the notification referred to in section 26. Rights and privileges.
29. —(1) Any person who fails to submit a claim to any right or privilege in or over the land to be constituted a protected forest within the period stipulated in the notification, shall be deemed to have abandoned or waived such right or privilege and shall not be entitled to any payment of compensation under this Part. Claim.
- (2) Any claim to such right or privilege may be submitted to

a Regional Forests Officer by a Headman on behalf of any person claiming such right or privilege and must be made in writing and in such form as may be prescribed by the Director.

30. —(1) The Regional Forests Officer shall, within sixty days from the date of receipt of any claim to any right or privilege in or over land to be constituted a protected forest, conduct an enquiry into such claim. Enquiry into claim.

(2) In any such enquiry, the onus of proving the existence of any right or privilege claimed shall be on the claimant.

(3) The Regional Forests Officer may call for and receive any evidence to verify, confirm or support any claim from any claimant or any public officer or any other person having knowledge of such claim. In the conduct of any such enquiry, a Regional Forests Officer shall have the same powers to summon and examine witnesses as a Magistrate.

(4) Where it is considered necessary and expedient, any enquiry conducted pursuant to this section may be held in public at such time and on such date as may be specified in a notice to be issued by the Regional Forests Officer.

31. —(1) The Regional Forests Officer shall, upon conclusion of the enquiry, furnish a report thereof to the Director. Report.

(2) The report shall contain the notes of proceedings and evidence recorded at the enquiry together with such findings and recommendations as the Regional Forests Officer may deem fit or proper to make.

32. —(1) Where any right or privilege is conceded, admitted or found to have subsisted at the time of the notification issued under section 26, the Director shall forthwith proceed to assess the compensation payable to the claimant in accordance with section 11. Compensation for rights, etc.

(2) Sections 11, 12 and 13 shall apply *mutatis mutandis* in relation to assessment of compensation payable for extinguishment of any right or privilege in a protected forest and to any appeal against the quantum of such compensation.

33. —(1) At any time after the Director has made a decision on the compensation for extinguishment of rights or privileges under section 32, the Minister may publish in the *Gazette*, a Proclamation to constitute to the area specified in the notification referred to in section 26, a protected forest. Proclamation.
- (2) Such Proclamation shall—
- (a) provide a name for the protected forest;
 - (b) specify the limit of the protected forest;
 - (c) declare the date on which the Proclamation shall take effect;
 - (d) declare that all rights or privileges in the protected forest have been extinguished; and
 - (e) stipulate the special conditions, if any, governing the protection thereof.
34. —(1) From the date fixed in the Proclamation published under section 33, the forest area stipulated therein shall be a protected forest and shall, together with all the forest produce therein and all things found thereon, belong absolutely to the Government. Effect of
Proclamation.
- (2) A protected forest constituted under this Part shall be managed, administered and controlled by the Director, subject to such direction as may be given to him from time to time, by the Minister.
- (3) (a) From the date of the constitution of a protected forest, no person whose rights or privileges have been extinguished in accordance with this Part, shall exercise and enjoy such rights or privileges, and shall not, without the express written consent of the Director or any officer duly authorized by him, enter upon, remain or occupy any part of the protected forest.
- (b) Any person who fails to comply with paragraph (a) may be removed or evicted therefrom by a forest officer duly authorized by the Director, or by a police officer not below the rank of Inspector.
35. —(1) Where any right or privilege has been admitted but was not extinguished at the time of the constitution of a Exercise of
subsisting rights,
etc.

protected forest (referred to in this Part as “subsisting rights or privileges”), the exercise thereof shall be subject to the control of the Director and to such order or direction as he may make to regulate the limit or area within a protected forest whereby the subsisting rights or privileges may be exercised including the mode of exercising thereof and having regard to the natural capacity of the natives to enjoy such rights or privileges.

(2) The Minister may, by notification in the *Gazette* and posted on the notice board of the District Office for the area where the protected forest is situated, revoke or extinguish any subsisting rights or privileges.

(3) Any person who is affected by the notification issued shall, within thirty days from the date of publication thereof, inform the Regional Forests Officer in writing of the nature and extent of the exercise or enjoyment by him of the subsisting rights or privileges which are intended to be revoked or extinguished.

(4) The Regional Forests Officer shall, within thirty days from the date of receipt of the information and evidence submitted under subsection (2), transmit the same to the Director who, if satisfied that any person has been affected by the revocation or extinguishment of any subsisting right or privilege, pay such compensation to him, to be assessed in accordance with section 11.

(5) No subsisting rights or privileges shall be acquired in or over a protected forest, except by succession or under a grant or contract made by the Government or by some persons in whom such rights or privileges, or the power to create such rights or privileges, were vested when a protected forest was constituted.

(6) Notwithstanding anything herein contained, no subsisting rights or privileges in a protected forest shall be transferred by way of grant, sale, lease, mortgage or otherwise, except with the written approval of the Minister.

36. Subject to section 37, no person shall in a protected forest—

(a) erect any building, or clear or break up any land for

Acts prohibited in
protected forest.

- cultivation or for any other purpose;
- (b) fell, cut, ring, mark, lop or tap any tree, or injure by fire or otherwise any tree, or remove timber, firewood or charcoal;
- (c) take or remove any other forest produce;
- (d) pasture cattle or permit cattle to trespass;
- (e) cause any damage by negligence in felling any tree or cutting or dragging any timber;
- (f) quarry stone, burn lime or charcoal or search for minerals;
- (g) kindle, keep or carry any fire or leave any fire burning; or
- (h) commit any other acts of trespassing.

37. Nothing in section 36 shall be deemed to prohibit or render punishable— Saving.
- (a) the exercise of any subsisting rights or privileges;
 - (b) the exercise of any right created by succession, grant or contract in the manner described in section 35(5);
 - (c) the exercise of the rights specified in section 65; or
 - (d) any act done with the permission in writing of, or in accordance with the terms of a licence or permit issued by the Director.
38. The Minister may constitute a protected forest a forest reserve by notification in the *Gazette*: Power to constitute a protected forest a forest reserve.
- Provided that an interval of not less than three reserves, months shall elapse between the publication of the notification and the date fixed for reservation.
39. —(1) The Minister may, by notification in the *Gazette*, direct that, from a date to be fixed by such notification, any protected forest, or any portion thereof, shall cease to be protected. Revocation of protected forest. [Sub. Cap. A37]
- (2) From the date so fixed—
- (a) such forest or portion thereof shall cease to be protected, but the rights or privileges, if any, which

have been extinguished therein shall not be revived; and

(b) any subsisting rights or privileges shall be deemed extinguished and any person affected by the extinguishment may submit his claim for compensation to the Regional Forests Officer with in thirty days from the date of publication of the notification.

(3) Sections 6, 7, 8, 9, 10 and 11 shall apply mutatis mutandis in relation to any claim for compensation submitted under this section.

PART IV

COMMUNAL FORESTS

40. The Minister may, at the request of a community, constitute any State land, not being a forest reserve, protected forest or other Government reserve, a communal forest in the manner provided in this Part. Power to constitute communal forests.
41. When the Resident is satisfied that it is the desire of a majority of the members of a community that a communal forest shall be constituted, he shall, with the approval of the Minister, publish a Proclamation in the prescribed form which shall— Resident to publish Proclamation.
[Mod. Swk. L.N. 68/64]
- (a) specify as nearly as possible the situation and limits of the forest;
- (b) declare that it is proposed to constitute it a communal forest; and
- (c) call upon any person desirous of making a claim to rights to lodge such claim with the District Officer within a period to be stated in the Proclamation, which period shall not be less than three months.
42. —(1) At the expiration of the period prescribed by the Proclamation, the District Officer shall give notice to the claimant and to the community responsible for the proposed constitution, and shall hear and determine any claim. Claims to be heard.
- (2) The District Officer shall record the proceedings in

writing, and may compel the attendance of witnesses and the production of documents.

(3) The District Officer shall make an order admitting or disallowing such claims as he deems fit, and shall thereupon forward to the Resident a statement of his decision.

(4) Any person aggrieved by a decision of the District Officer may within thirty days appeal to the Resident.

43. —(1) Having heard any appeal, the Resident Procedure shall consider the decisions of the District Officer, and may ratify or vary them. Procedure after hearing.

(2) A schedule of every approved claim shall be attached to the notification under section 45.

44. —(1) The Resident may, at any time before the publication of the notification under section 45, withdraw a proposal to constitute any land a communal forest. Proposal may be withdrawn.

(2) When any such withdrawal is determined on, the Resident shall publish a Proclamation, accordingly, in the same places and in the same manner in which the Proclamation under section 41 was published.

45. —(1) When the period fixed under section 41 has elapsed and any objections and claims have been disposed of, the Resident shall, with the approval of the Minister, publicly proclaim and publish in the *Gazette* a notification which shall— Notification in *Gazette*.

(a) specify the limits of the communal forest;

(b) declare it to be constituted from the date fixed by such notification;

(c) state the rights and privileges admitted or conceded in respect of the said communal forest; and

(d) state the special conditions, if any, governing the constitution of the said communal forest.

(2) From the date so fixed, the forest shall be a communal forest and shall, together with all the produce thereof and things found therein, be set aside for the sole use of the

[*Mod. Swk. L.N.*
68/64]

community by whom it shall be maintained and controlled, subject only to the rights and privileges set out in the notification and to the conditions of section 46.

46. —(1) The community shall undertake to maintain the communal forest in a condition of sustained yield in such a manner as the Director or any forest officer specially authorized by him may reasonably direct and, for this purpose, the Director or any forest officer specially authorized by him may regulate the method and extent of any fellings or other operations.
- Community to maintain communal forest.
[Am. Cap. A9]
- (2) It shall be an offence for any member of the community to do any act which the Director or any forest officer specially authorized by him has the power to prohibit, and has expressly prohibited in writing under subsection (1).
- [Am. Cap. A9]
47. —(1) Subject to any conditions imposed in writing by the Director or any forest officer specially authorized by him under section 46, any member of the community may remove, free of royalty or fee, any forest produce for his own use and not for sale, exchange or direct profit.
- Removal of forest produce
[Am. Cap. A9]
- (2) No other person shall remove any forest produce for any purpose whatsoever.
48. The Minister may, by notification in the *Gazette*, direct that from the date specified in such notification, any communal forest or part thereof shall cease to be a communal forest, and any such direction shall have effect accordingly.
- Power to revoke notification of constitution of communal forest
[Mod. Swk. L.N. 68/64]

PART V

THE TAKING OF FOREST PRODUCE

Forest reserves and protected forests

49. —(1) Subject to sections 22, 37 and 65, the taking of forest produce in forest reserves and protected forests shall be controlled and regulated by the Director who may—
- Power of Director.
[Am. Ord. No. 10/61; Am. Ord. No. 6/87; Cap. A37]
- (a) issue such licences or permits in such form and under such conditions as he may deem expedient;

(b) call for tenders for the right to take forest produce from a specified area;

(c) fix the fees, royalties, premia or other payments to be made in respect of such forest produce in any particular case; and

(d) permit any other works that he may deem necessary for the taking of such forest produce or for the management of the forest:

Provided that no licence or permit issued under this section may be valid for a period exceeding one year after the date of issue or renewal thereof, except with the express permission of the Minister.

[Mod. Swk. L.N.
68/64]

(2) Licences and permits issued under this section shall not be transferable.

[Ins. Ord. No. 6/87]

*State land, other than forest reserves,
protected forests and Government reserves*

50. Except as provided in sections 56 and 65, no forest person shall on any State land other than forest reserve, protected forest or Government reserve—

Workers of forest produce to be licensed.

(a) cut, saw, convert or remove any timber or firewood;

(b) burn or remove any charcoal; or

(c) cut, collect or remove any of the kinds of forest produce mentioned in the First and Second Schedules,

except in accordance with the terms of a licence or permit issued under this Ordinance.

51. —(1) Licences and permits for the taking of forest produce on State land other than forest reserves or protected forests, may be issued by the Director or any forest or other Government officer generally or specially authorized by him.

Power to issue licences and permits.
[Am. Ord. No.
10/61.]

(2) Such licences and permits may not be issued for a period exceeding one year, except with the express permission of the Minister and under such conditions as he may approve, and shall be applicable only to the areas and kinds of produce named therein.

[Mod. Swk. L.N.
68/64]

(3) Immediately upon the expiration of a licence or permit, it shall be returned to the officer who issued it.

(4) Licences and permits shall not be transferable.

(5) Licences and permits may be refused at the discretion of the officer concerned:

Provided that an appeal may be made to the Director, whose decision shall be final.

(6) No person shall have the right to appeal under the proviso to subsection (5) against the exercise of any discretion vested on the Minister under subsection (2).

[*Ins. Ord. No. 2/70;*
Sub. Ord. No. 1/80.]

(7)

[*Ins. Ord. No. 2/70;*
Sub. Ord. No. 6/87.]

51A. —(1) Notwithstanding section 93, the Minister may, subject to subsection (2), by notice in writing to the holder of the licence or permit, cancel or suspend for such period as he may think fit, a licence or permit issued under this Ordinance where he is satisfied that one of the following grounds exists:

Cancellation or
suspension of
licence or permit.

[*Ins. Ord. No.*
6/87.]

(a) the holder of the licence or permit has failed to pay royalties, premia, fees or cess as stipulated in the licence or permit;

(b) the holder of the licence or permit has contravened the provisions of this Ordinance relating to licences or permits;

(c) the holder of the licence or permit has failed to comply with any conditions specified in the licence or permit;

(d) the holder of the licence or permit has failed to comply with the written direction given by the Director;

(e) the holder of the licence or permit has transferred or assigned his licence or permit without the authorization of the Director under section 2(2) or section 2A;

(f) the holder of the licence or permit has ceased to operate in the area in respect of which the licence or permit was issued;

[*Am. Ord. No. 3/91*]

(g) it is advisable in the public interest, for a special

[*Am. Ord. No. 3/91*]

reason, to do so; or

(h) the holder of the licence or permit has contravened the provisions of section 54A relating to compulsory insurance.

[Am. Ord. No. 3/91]

(2) The Minister shall, before cancelling or suspending any licence or permit under subsection (1) give the holder of the licence or permit notice in writing of his intention to do so and calling upon the person concerned to show cause to him why such licence or permit should not be cancelled or suspended, as the case may be.

(3) Any person aggrieved by the decision of the Minister made under subsection (1) may, within thirty days after being notified of such decision, give notice of appeal in writing to the Majlis Mesyuarat Kerajaan Negeri whose decision shall be final and conclusive, and shall not be challenged, appealed against, reviewed, quashed or called in question in any court or before any other authority, judicial or otherwise, whatsoever.

[Am. Cap. A28]

(4) Section 29 of the Government Proceedings Act 1956 shall apply to any legal proceedings instituted by the aggrieved party against the Government, the Minister and the Director in consequence of the cancellation or suspension of the licence or permit under subsection (1).

Act 359.

(5) A person whose licence or permit has been cancelled or suspended under this section shall, within seven days of being informed of the cancellation or suspension, surrender his licence or permit to the Director.

(6) The holder of a licence or permit shall not have any claim whatsoever or be entitled to compensation for any loss caused to him by the cancellation or suspension of his licence or permit, or by the refusal to renew such licence or permit, except compensation of such amount as may be determined by the Minister for any capital expenditure incurred by the holder of the licence or permit in the execution of any works necessary under the licence or permit and such other claims as may be approved by the Minister.

(7) Subject to subsection (8), the holder of the licence or

permit shall, on the date of revocation or cancellation of his licence or permit, as the case may be, cease to have any claim to, or ownership of, all properties (movable or immovable) and all forest produce cut or collected under such licence or permit remaining within the area covered by the licence or permit.

(8) The holder of the licence or permit shall, within three months of the revocation or cancellation of his licence or permit, remove all his movable properties and all timber felled which has been clearly hammer marked and remaining in the area covered by the licence or permit.

(9) In the event of the failure of the holder of the licence or permit to remove any property or forest produce as aforesaid within the period prescribed in sub section (8) or such further period as the Director may allow, all such property or forest produce remaining in the area covered by the licence or permit shall be the property of the Government and free from all encumbrances, and shall not be removed from such area unless the Director otherwise directs.

(10) On the revocation or cancellation of the licence or permit—

(a) the licence or permit, as the case may be, shall as from the date thereof be deemed to be null and void and of no effect so far as it relates to the holder of the licence or permit and the area covered by the licence or permit; and

(b) the Director may with the approval of the Minister issue a licence or permit to another person in respect of the said area.

52. —(1) No fee shall be chargeable for the issue of a licence, except where the Director may call for tenders for the right to take forest produce from a specified area, in which case such fee shall be payable as may be prescribed.

Royalties, premia
and fees.

(2) Subject to sections 23, 37, 47 and 65, royalty shall be payable on forest produce taken from any forest reserve, protected or communal forest, Government reserves or forest on State land or alienated land, at the rates shown in

[Am. Cap. A9.]

the First Schedule:

Provided that—

(a) in the case of timber, no royalty shall be payable on such portions of a tree as may be declared by a forest officer, generally or specially authorized by the Director, to be unserviceable; [Am. Ord. No. 10/61.]

(b) no royalty shall be payable on forest produce taken under a licence issued by the Director for the purpose of any work of public utility, or other purpose to be specified in such licence, and expressed to be free from payment of royalty; [Am. Cap. A18.]

(c) with the previous approval of the Minister in each case, the Director may, if it appears to him desirable in the public interest, commute or reduce the royalty to be paid on any particular kind of forest produce in any specified locality and for any specified period, not exceeding two years; and [Mod. Swk. L.N. 68/64.]

(d) in any special case, the Majlis Mesyuarat Kerajaan Negeri may— [Ins. Cap. A18; Cap. A28]

(i) exempt any licensee or person from payment of royalty; or

(ii) charge any licensee or person premium, in lieu of royalty, in respect of any forest produce taken from any specified locality.

(3) In respect of any forest produce taken under licence, the Director may, in addition to the royalty, charge such premium as the Minister may in each case approve. [Added Ord. No. 10/61]

[Mod. Swk. L.N. 68/64.]

(4) The Minister may direct the Director to pay any premium received on hill timber under subsection (3) to the credit of the State Consolidated Fund and accounted in the State Consolidated Revenue Account to be applied for the benefit of the natives in Sarawak in such manner as may be determined from time to time by the Chief Minister. [Added Ord. No. 5/72; Sub. Cap. A18.]

(4A) (a) The Director shall in respect of any forest produce taken under licence impose such cess as the Minister may approve. [Ins. Ord. No. 6/85]

(b) All moneys collected as cess under paragraph (a) shall

be credited to the State Consolidated Fund and accounted in the State Consolidated Revenue Account to be applied in such manner and for such purpose as the Chief Minister may from time to time direct.

[*Ins. Ord. No. 6/85;*
Sub. Cap. A18.]

(5) No royalty shall be payable on forest produce taken under permit, but fees at the rates shown in the Second Schedule shall be payable at the time of issue of the permit.

53. —(1) Before the issue of any licence under this Ordinance the applicant shall, if the officer issuing the licence so requires, deposit with such officer such sum of money as such officer may require.

Deposits.
[*Sub. Ord. No.*
21/56.]

(2) If default is made by the licensee in the payment at the prescribed time of any royalty or other payment accrued due under the terms of such licence, the sum so accrued due may be withdrawn by the said officer from the sum deposited and shall then be credited to forest revenue.

(3) If default has been made in any such payment and the sum or part of the sum accrued due has been withdrawn from the sum deposited, the balance, if any, remaining shall be refunded to the licensee on the determination of the licence.

(4) If no default is made in any such payment, the sum deposited shall be refunded on the determination of the licence.

54. —(1) When a licensee employs workmen for the Sub-purpose of his licence there shall be issued a sub-licence in the prescribed form for every workman so employed.

Sub-licences.

(2) No such sub-licence shall be valid for a period exceeding six months, nor shall it remain in force after the termination of the licence in respect of which it was issued or the termination of the employment of any such workman by the licensee.

54A. —(1) For the purpose of this section—

Employers to
insure.

“employer” means any person or body of persons whether statutory or incorporated or not who holds a licence or permit issued under this Ordinance to take, collect or

[*Ins. Ord. No. 3/91.*]

remove timber from any State land, Forest Reserve, Protected Forest, Government Reserve or alienated land, and includes a logging contractor under agreement with the holder of a timber licence or permit, and a logging sub contractor engaged by or associated with the logging contractor;

“policy of insurance” means a policy of insurance issued by an insurer registered under the Insurance Act 1996 and includes a covering note;

Act 553.

“workman” means any person who has, either before or after the commencement of the Forests (Amendment) Ordinance, 1991, entered into or works under a contract of service or of apprenticeship with an employer, whether by way of manual labour or otherwise, whether the contract is expressed or implied or is oral or in writing, whether the remuneration is calculated by time or by work done and whether by the day, week, month or any longer period.

Ord. No. 3/91 – 1.9.91.

(2) Every employer shall insure and keep insured all his workmen in respect of any personal injury or death caused by accident arising out of or in the course of their employment or any loss or damage which his workmen may suffer or sustain as a result of their employment with the employer.

[Sub. Cap. A9]

(3) Subject to this section, no person shall be employed or continue to be employed as a workman to take, collect or remove timber from any State land, Forest Reserve, Protected Forest, Government Reserve or alienated land, unless there is a policy of insurance or such a security or other benefits in respect of the workman as complies with the requirements specified in sub section (4).

(4) A policy of insurance issued for the purposes of this section shall be a policy which—

(a) insures the workman employed by the employer against any bodily injury, death, damage or loss suffered or sustained by the workman as a result of any accident arising out of his employment with the employer; and

[Sub. Cap. A9]

(b) covers the following specific benefits payable to

employer's workmen, subject to such rates and on such terms and conditions and up to such amount as may be determined from time to time by the Director of Forests with the approval of the Minister—

- (i) death benefit;
- (ii) medical and hospitalisation benefit;
- (iii) temporary disablement benefit;
- (iv) permanent disablement benefit;
- (v) travelling and constant attendance benefit;
- (vi) dependants benefit;
- (vii) funeral benefit;
- (viii) rehabilitation benefit; and
- (ix) other benefits as may be considered necessary from time to time by the Minister.

(4A) The fees and premia chargeable under the policy which complies with the requirements specified under subsection (4) shall be paid by the employer. *[Ins. Cap. A9]*

(5) An employer who has insured his workmen in accordance with this section shall furnish the Director of Forests with a copy of the policy of insurance as complies with the requirements specified in subsection (4) or evidence that he has so insured his workmen and has complied with the requirements of this section. *[Am. Cap. A9.]*

(6) Nothing contained in this section shall prejudice any workman from receiving benefits from other insurance policies or compensation under the Workmen's Compensation Act 1952 or the Employees' Social Security Act 1969. *[Am. Cap. A9.]*
Act 273.
Act 4.

(7) Any employer who—

- (a) fails to insure and keep all his workmen insured under subsection (2); *[Am. Cap. A9.]*
- (b) fails to comply with subsection (3); or
- (c) makes default in complying with the requirements of

subsection (4) or (5);

shall be guilty of an offence: Penalty, imprisonment for two years and a fine of five thousand ringgit, and if the employer is convicted of an offence under this section, his timber licence or permit issued under this Ordinance may be cancelled or suspended in accordance with section 51A.

(8) Where the logging contractor or logging sub contractor engaged by the employer is convicted of an offence under this section, the employer who engages the logging contractor or sub-contractor shall be liable to the same penalties as if he had committed the offence.

55. Nothing contained in section 51 or 52 shall be deemed to prohibit the Director, with the approval of the Minister, from issuing licences under special conditions, and for periods exceeding one year, in cases where he may deem such licences expedient. Special licences may be issued in certain cases.
56. —(1) The Director or any officer duly authorized by him may exempt from section 50 any person whom he considers to be a casual worker. Exemption of and payment of royalty by casual workers.
- (2) Royalty shall be paid on all forest produce disposed of by any casual worker to whom subsection (1) applies: [Sub. Ord. No. 10/61]
- Provided that, in the case of forest produce (other than timber) which the Director or an officer duly authorized by him is satisfied is to be used personally by the person obtaining the same from such casual worker and not to be disposed of by him to any third party, there may be paid, in lieu of the royalty, a monthly fee equal in amount to the appropriate fee specified in the Second Schedule.
- (3) Royalties and monthly fees payable in respect of forest produce to which this section applies shall be paid either by the casual worker or by the person obtaining the forest produce as the Director or an officer authorized by him may generally or specially direct. [Sub. Ord. No. 10/61]
57. No person shall, except with the express trees not to permission in writing of the Director, cut for conversion be used as fuel, into firewood or charcoal, or convert into firewood or charcoal when cut, any timber included in Timber trees not to be used as fuel.

items A, B and C of Class I (i) of the First Schedule, other than branchwood and timber which has been declared by a forest officer, not below the rank of Forest Ranger, to be useless for any other purpose.

[Am. Ord. No.
12/58]

*Government reserves other than forest reserves or
protected forests*

58. Sections 50 to 64 inclusive shall apply also to Government reserves other than forest reserves and protected forests:

Government
reserves.

Provided that no licence or permit shall be issued under this Ordinance, except with the express permission in writing of the officer responsible for the maintenance of such reserve.

Alienated land

59. Sections 50, 51, 52, 53, 54, 56, 61, 62 and 63, shall apply also to the taking of forest produce from land alienated for purposes of sale or barter:

Alienated land.

Provided that no licence or permit in respect of such land shall be issued under this Ordinance, except to the owner of such land or with the express permission in writing of the owner of such land or his accredited representative.

60. Nothing in section 59 shall be deemed to prohibit cutting of trees, or the taking of timber and other forest produce, on alienated land for lawful works of improvement and management of such land or, with the permission of a forest officer authorized by the Director, of any other land of which he is the owner.

Saving.

General

61. Permits shall be issued only to individuals and shall be personal to the holders.

Permits personal
to holders.

62. The person named in any licence, sub-licence, or permit issued under this Ordinance shall, within a reasonable time after demand by any forest officer, produce the same for

Licences, etc., to be
produces.

inspection by such officer.

63. No person shall have any right, upon the Renewal. Renewal.
 expiration of the period of a licence or permit issued under [Sub. Ord. No. 2/79]
 this Ordinance, to any renewal, whether upon the same
 conditions or otherwise, of the licence or permit:

Provided that nothing in this section shall be deemed to
 prohibit a renewal of the licence or permit by the [Mod. Swk. L.N.
 Director on such terms and conditions as may be 68/64]
 approved by the Minister.

64. On the expiry of a licence to take forest produce, royalty Removal of forest
 shall be payable on all produce cut or collected under such produce after
 licence and remaining within the forest on the date of expiry of licence.
 expiry, and the licensee shall have no further right of
 possession in such produce:

Provided that the Director may at his discretion grant to
 the licensee a further period not exceeding three months
 for the removal of such forest produce.

65. Subject to section 57, and to any rules made under section Timber and other
 95, and to any order made under section 96, any inhabitant produce for
 of Sarawak may, without licence or permit, cut and remove domestic use.
 from State land which is not a forest reserve any timber or
 other forest produce required by him exclusively for his [Am. Ord. No. 2/79;
 own domestic use and not for sale, barter or profit. Cap. A37]

- 65A. —(1) Subject to any rules made under section 95 or to any Trees and timber
 order made under section 96, no person shall, without the produce fro
 written authorization granted by the Director with the scientific research.
 approval of the Minister —

(a) cut, remove or take any tree found in any State land [Ins. Cap. A9.]
 or in any forest reserve, protected or communal forest
 for undertaking or conducting any research, study,
 experiment, process or test in relation to the production
 or development or intended production or development
 of any pharmaceutical product or medicinal compound;

(b) take out, export or repatriate from the State of
 Sarawak any tree or any compound, extract, by product,
 sample or tissue of any tree for use in any research,
 study, experiment, process or test in connection with the
 production or development of any pharmaceutical

product or medicinal compound or intended production or development thereof;

(c) cultivate, grow, germinate, propagate any tree which the Director has declared by notification in the Gazette to be protected for the development or production of pharmaceutical product or medicinal compound or for its medicinal or pharmaceutical value or properties; or

(d) fell, injure, damage or destroy any tree protected under paragraph (c).

(2) Any authorization granted under this section may contain such conditions as the Director deems fit, including, but not limited to—

(a) the submission to the Director of any report, finding, data or thesis made, prepared, published or written in connection with any research, study, experiment, test or process carried out using any tree authorized, permitted or licensed by the Director for such purposes under subsection 1(a);

(b) the right of the State Government to any patent or copyright in relation to any works authorized under subsection (1) including any literary work thereof, or to any invention, pharmaceutical product or medicinal compound developed or produced from such research, study, experiment, test or process;

(c) the right of the State Government to any royalty or other payment for the use of any tree or any compound, by-product, sample or tissue of such tree for research, study, experiment, test or process, or derived from the sale or manufacture of any pharmaceutical products or medicinal compound;

(d) specifying the laboratories, research centres or facilities where any such research, study, experiment, test or process is to be carried out; and

(e) the participation training of any scientists nominated by the Director with the approval of the Minister in such research, study, experiment, test or process.

(3) The Director may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, make rules under section 95 to regulate the research into trees for medicinal or scientific

[Am. Cap. A37.]

purposes or usage.

- 65B. —(1) Subject to subsection (2), the Director may, with the approval of the Minister, grant by way of licence, to any person to establish, maintain and harvest a crop of trees on land (whether State land or alienated land) to be specified in the licence together with any ancillary rights of constructing thereon and using such roads, tracks, culverts, bridges and buildings and other facilities as may be necessary to establish, maintain and harvest that crop.
- Licence for establishment of planted forests.
[Ins. Cap. A37]
- (2) (a) No licence for planted forests shall be granted over alienated land, except to the registered proprietor thereof, or to a person who has secured the written consent of the registered proprietor of such land to establish or maintain a planted forest thereon.
- (b) No licence for planted forests shall be granted over State land over which native customary rights have been lawfully claimed by the natives, except with their consent or unless such rights have been extinguished pursuant to section 5(3) of the Land Code.
- Cap. 81.
(1958 Ed.)
- (3) All planted forests established under licence issued pursuant to this section shall form part of the permanent forests of the State.
- (4) A licence for planted forests shall be for such period as the Director may, with the approval of the Minister, specify therein.
- (5) A licence for planted forest shall contain such terms and conditions as the Director may specify therein and the establishing, maintaining and harvesting of the trees in the tree plantation shall comply with such rules as the Director may make under section 95.
- (6) A licence granted under this section may, with the prior written approval of the Minister, be pledged, assigned, charged or mortgaged by the holder thereof to any person approved by the Minister.
- (7) The Director shall maintain a Register of all licences issued under this section and of all pledges, assignments,

charges or mortgages affecting such licences.

66. —(1) No sawmill and no plant for the manufacture of veneers, plywood, mouldings or any other products from timber shall be built or operated except under and in accordance with a licence issued by the Director.
- Sawmills and certain plant to be licensed.
[Sub. Ord. No. 10/61;
Am. Cap. A9]
- (2) A licence under this section shall be valid for a period not exceeding one year from the date of issue, or for such longer period as the Minister may in any particular case, approve.
- [Mod. Swk. L.N. 68/64]
- (3) A licence under this section may contain such conditions as the Director thinks fit including conditions providing—
- (a) that the sawmill or plant shall be built on an approved site and to an approved plan;
- (b) for the quantity and nature of sawbenches and other machinery to be used;
- (c) for a minimum output of timber; and
- (d) for an annual fee for any machinery installed for use in the sawmill based on the estimated production capacity of such machinery.
- [Sub Cap. A9]
- (4) No log or rough sawn timber shall be sawn at boat-building yard, timber yard or furniture factory without the permission in writing of the Director.
- [Am. Cap. A9]
67. The Director may by rule under section 95 prohibit the export from Sarawak of any timber, or of timber of a particular class or description or destination, unless such timber is accompanied by a certificate of inspection in the prescribed form.
- Power to provide that timber exported shall be accompanied by a certificate of inspection.
- 67A. —(1) The Director may, in consultation with the Minister, by notice in writing to every holder of a licence or permit—
- Power to impose production limit and restriction on sales of timber.
- (a) fix or impose a limit on the volume of timber to be produced, taken, felled or removed from any area covered by such licence or permit (hereinafter referred to as “the production limit”) for such period as may be specified in the notice and may, in like manner, cancel, vary or amend any such production limit;
- [Ins. Cap. A9.]

(b) direct that a proportion of the timber from the production limit referred to in paragraph (a), as may be determined from time to time (hereinafter referred to as “the reservation quota”) shall be reserved for use or processing by licensed sawmills within Sarawak;

(c) direct that all or such quantity of the timber within the reservation quota referred to in paragraph (b) be sold to an agency appointed by the Director with the approval of the Minister (hereinafter referred to as “an authorized agency”) for such purposes as are prescribed under subsection (5).

(2) The production limit and the reservation quota referred to in subsection (1) shall be in such proportion and calculated in such manner as the Director may, in consultation with the Minister from time to time, determine.

(3) Any person aggrieved by the production limit or the reservation quota fixed or imposed under subsection (1) may, within twenty-one days from the date of receipt of such notice, appeal to the Minister to review or reconsider or vary such production limit or reservation quota and the decision of the Minister shall be final and conclusive.

(4) Subject to any particular condition or limitation on reservation imposed in the notice under subsection (1), no holder of a licence or permit to which the notice apply shall—

(a) fell, extract or remove from any forest area covered by his licence or permit any timber in excess of the production limit fixed or imposed under subsection (1)(a) for the period specified in the notice; or

(b) export or caused to be exported or removed from Sarawak any timber forming or constituting part of the reservation quota referred to in subsection 1(b).

(5) An authorized agency—

(a) shall be charged with the responsibility for the purchase, collection, sale and transmission of timber to local licensed sawmills in the State;

(b) may, subject to such terms and conditions, including

the method, measure and manner to be adopted, as the Director may approve, enter into arrangements for the purchase of timber direct from the holders of a licence or permit;

(c) shall observe and obey Part VII of the Sarawak Rivers (Traffic) Regulations, 1993, relating to the transmission and transportation of timber to local licensed sawmills through any river and shall carry out such activities which appear to it to be requisite for or in connection with the discharge of its functions; and *Swk. L.N. 130/93.*

(d) may appoint sub-agents or contractors for the purposes of carrying out its functions:

Provided that any sub-agent or contractor so appointed by an authorized agency shall not export or caused to be exported or removed from Sarawak or dispose of any timber purchased or otherwise acquired by it except to local licensed sawmills or otherwise in accordance with instructions and directions given by or on behalf of the authorized agency.

(6) Any sub-agent or contractor appointed by an authorized agency shall be entitled to receive such commission, fees or other considerations as the authorized agency deems fit in respect of the amount of timber purchased by it and delivered to the local licensed saw mills, but such commission, fees or other considerations may be varied by the Director, after consultation with the Minister, from time to time.

(7) (a) No timber shall be loaded or transmitted onto any vessel for export or removal from Sarawak until a certificate (hereinafter referred to as "Export Clearance Certificate") has been issued by the Director of Forests or any person specially authorized by him certifying that the timber does not form part of the reservation quota referred to in subsection 1(b).

(b) The master of every vessel carrying or towing timber for export or removal from Sarawak shall not leave or attempt to leave any port until and unless he has in his possession an Export Clearance Certificate provided to him by the person exporting or removing the timber from Sarawak.

(c) An Export Clearance Certificate shall not be issued unless the Director or his duly authorized forest officer is satisfied that—

- (i) all royalties, premia, cess and other dues chargeable on any timber to be exported or removed from Sarawak have been duly paid;
- (ii) such timber carried or towed by the vessel have, been taken under licence or permit as indicated in the Forest Produce Removal Pass and other documents produced by the master of the vessel in support of such claim; and
- (iii) the master of the vessel carrying or towing such timber has not contravened any of the requirements of Part VII of the Sarawak Rivers (Traffic) Regulations, 1993.

Swk. L.N. 130/93.

(8) The Export Clearance Certificate shall be in such form as shall be determined by the Director.

(9) (a) The master of any vessel in Sarawak waters shall obey any signal made to him from a preventive or police vessel, or any instructions given by a forest officer or any person authorized by the Controller of Rivers from any vessel or any place, requiring him to stop, or heave to or to perform any other act.

(b) Any timber found by a forest officer or any person authorized by the Controller of Rivers in any vessel in Sarawak waters and not correctly accounted for in the log book required to be carried on board a vessel under regulation 47 of the Sarawak Rivers (Traffic) Regulations, 1993, or in the Export Clearance Certificate or other documents shall be liable to seizure.

Swk. L.N. 130/93.

(10) Nothing in this section shall interfere with the operation of the Sarawak Rivers (Traffic) Regulations, 1993, relating to the navigation of any vessel in any river.

Swk. L.N. 130/93.

(11) Any timber or vessel seized or detained under this section shall be dealt with, sold or disposed of in accordance with such rules as may be prescribed under section 95.

(12) For the purpose of this section—

“Controller of Rivers” means the Controller of Rivers appointed under section 10 of the Sarawak Rivers Ordinance, 1993. *Cap. 4.*

PART VI

PENALTIES AND PROCEDURE

68. —(1) Any forest officer or police officer may, without a warrant, arrest any person reasonably suspected of having been concerned in any forest offence if such person refuses to give his name and residence, or gives a name and residence which there is reason to believe is false, or if there is reason to believe that he will abscond. Power to arrest.
- (2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested to the officer in charge of the nearest police station or, if the offence is compoundable under section 70, to an officer empowered under that section to accept compensation:
- Provided that, in the latter case, if the arrested person refuses to compound the alleged offence, he shall forth with be sent to the officer in charge of the nearest police station.
- (3) Whenever a forest officer has reasonable cause to suspect that a forest offence has been committed, he may search any conveyance, building or enclosure under the control of the suspect, his agents or servants.
69. Any forest officer not below the rank of Executive Forester may, by notice in writing, require the attendance before him for purposes of investigation, at a time and place to be specified in such notice, of any person suspected of being concerned in a forest offence. Power to hold inquiry and require attendance.
70. —(1) The Director, and any other forest officer empowered by the Director by notification in the *Gazette*, may accept from any person who has committed a forest Power to compound offences.
[Am. Ord. No. 5/89]

offence—

(a) in the case of an offence against section 79, 80, 85 or 86, a sum of money not exceeding twice the value (as estimated by the Director or a person authorized by him in that behalf) of the forest produce in respect of which the offence has been committed; or

(b) in respect of any other offences punishable under this Ordinance except for section 83(1), a sum of money not exceeding two hundred ringgit; or [Am. Cap. A9.]

(c) in the case of an offence punishable by any rules or orders made under this Ordinance, the actual value (as estimated by the Director or a person authorized by him in that behalf) of the forest produce in respect of which the offence has been committed, [Ins. Cap. A9.]

by way of compensation for the offence committed.

(2) When any property has been seized as liable to confiscation as provided in this Part, the officer compounding the offence may release such property on payment of the value thereof as estimated by such officer.

(3) On the payment of such sum of money or such value or both, as the case may be, the suspected person shall be discharged, the property, if any, shall be released and no further proceedings shall be taken against such person or property.

(4) All sums of money received under this section as compensation or in respect of confiscated property shall be credited to the Consolidated Fund of Sarawak.

(5) Any power vested in a forest officer by notification under subsection (1) may, at any time, be withdrawn by the Director by notification in the *Gazette*. [Am. Swk. L.N. 68/64.]

71. —(1) Where there is reason to believe that a forest offence has been committed, any forest produce concerned, together with all tools, boats, conveyances and medicinal compounds or property used in the commission of such offence, may be seized by any forest officer or police officer. Power to seize forest produce and other property. [Am. Cap. A9.]

(2) Every officer seizing any property under this section or section 90A shall place on such property, or on the [Am. Ord. No. 2/79.]

receptacle, if any, in which it is contained, a mark indicating that it has been so seized and shall, without undue delay, make a report of such seizure to a Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, in any case where such property has been seized in connection with an offence dealt with under section 70 or committed by some person unknown or who cannot be found, it shall not be necessary to report to a Magistrate the seizure thereof.

72. —(1) In the event of the failure of any person to make payment of any lawful fees or royalties when called upon to do so, any forest produce in the possession of such person may be seized under an order signed by a forest officer not below the rank of Executive Forester.
- Procedure on failure to pay fees or royalties.
- (2) Such produce may be redeemed by the owner within fifteen days upon settlement of all outstanding fees or royalties, together with any costs which may have been incurred by Government on account of such seizure.
- (3) In the event of failure of the owner of such produce to redeem the same within the period prescribed, the produce shall be sold and the proceeds, less any costs incurred by Government, shall be credited to the owner's account.
73. Any forest officer not below the rank of Executive Forester may direct the sale of any property seized under section 71, 72 or 90A and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property had it not been sold.
- Sale of perishable property seized.
[Am. Ord. No. 2/79.]
74. —(1) When there is reason to believe that a forest offence has been committed by a person who is unknown or who cannot be found, all property seized in respect thereof under section 71 or 90A shall be taken possession of and may be disposed of by a forest officer not below the rank of Executive Forester:
- Disposal of property seized in respect of an offence when the offender cannot be found.

Provided that, except as provided in section 73, no such property shall be sold or otherwise disposed of until the expiration of one month from the date of seizure of such property, or without hearing the person, if any, claiming

any right thereto and the evidence, if any, which he may produce in support of his claim.

(2) When possession is taken of any property under subsection (1), the forest officer so taking possession shall either cause a notice thereof to be served upon any person whom he has reason to suspect to be interested in the property, or publish such notice in any way he thinks fit.

75. When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed, together with any tools, boats, conveyances and cattle seized pursuant to section 71 or 90A shall, if they are the property of the Government, be delivered to such forest officer as the court may order and, in any other case, may be forfeited to the Government of the Federation or otherwise disposed of as the court may order.
- Disposal by court of property connected with forest offences. [Sub. Ord. No. 10/61; Am. Ord. No. 2/79.]
76. A forest officer, officer of customs or police officer may stop and examine any forest produce found in any place in which such officer may lawfully be, and, forest if he has reason to believe that money is payable to Government in respect thereof, he may detain such produce until such money is paid or he has reason to believe that it is not in fact so payable.
- Power to stop, examine and detain forest produce.
77. Whoever does any act in contravention of section 21(a) shall be guilty of an offence: Penalty, a fine of fifty ringgit.
- Penalty for trespassing in forest reserves. [Am. Ord. No. 16/57]
78. Whoever does any act in contravention of for offences section 21(b) or (g), or of section 23, shall be guilty of reserves and an offence: Penalty, a fine of two hundred ringgit.
- Penalties of offences in forest reserves and protected forests. [Am. Ord. No. 16/57; Cap. A37.]
79. Whoever does any act in contravention of section 5, or of 21(c), (d), (e) or (f) or of section 27, or of section 36(a), (b) or (c), or of section 46(2), shall be guilty of an offence: Penalty, imprisonment for one year and a fine of ten times the value (as estimated by the Director or a person authorized by him in that behalf) of the forest produce in respect of which the offence has been committed or two thousand ringgit,
- Penalties for offences in forest reserves and protected forests. [Am. Ord. No. 16/57; Am. Ord. No. 2/79.]

whichever is the greater.

80. Whoever, in contravention of section 47, 50, 58 or 59, unlawfully cuts, collects or removes any forest produce from any State land, Government reserve, communal forest or alienated land shall be guilty of an offence: Penalty, imprisonment for one year and a fine of ten times the value (as estimated by the Director or a person authorized by him in that behalf) of the forest produce in respect of which the offence, has been committed or two thousand ringgit, whichever is the greater.
- Penalty for illegal collection of forest produce in other cases.
[*Am. Ord. No. 10/61;*
Am. Ord. No. 2/79;
Am. Cap. A9.]
81. Whoever commits any act in contravention of this Ordinance relating to licences, royalties and fees, as set forth in sections 51, 52, 54, 56, 61, 62, 64 and 66, shall be guilty of an offence: Penalty, imprisonment for one year and a fine of two thousand ringgit.
- Penalties for revenue offences.
[*Am. Ord. No. 16/57.*]
82. Whoever does any act in contravention of section 57 shall be guilty of an offence: Penalty, a fine of one hundred ringgit.
- Penalty for converting timber trees to fuel.
83. —(1) Any person who—
- (a) exports or causes to be removed from Sarawak any timber in contravention of section 67A(7) (a) without an Export Clearance Certificate issued pursuant to section 67A(7) (a); or
- (b) knowingly assists in the transportation for export or removal from Sarawak any timber without an Export Clearance Certificate,
- shall be guilty of an offence: Penalty, imprisonment for a term of not less than one year but not exceeding 5 years, and shall also be liable to a fine of fifty thousand ringgit.
- (2) The master of any vessel who sends or attempts to send any vessel out of the port without an Export Clearance Certificate in contravention of section 67A(7) (b), and also the owner and any person who is party or privy to the offence, shall be guilty of an offence, and liable to the same penalty as that prescribed under sub section (1), and the vessel used in the commission of the offence may be detained and dealt with in accordance with such rules as
- Penalty for illegal export of logs.
[*Sub. Cap. A9.*]

may be prescribed under section 95.

(3) Any person who knowingly fells, extracts or removes from any forest area, timber in excess of the production limit imposed under subsection (1)(a), or under section 67A (4), shall be guilty of an offence: Penalty, imprisonment for five years and a fine of fifty thousand ringgit.

(4) When a person is convicted of any offence under this section, the convicting court shall, in addition to any penalty which it may impose, order such person to pay to the State Government—

(a) a sum not exceeding ten times the royalty, premium and cess chargeable on the timber exported or removed from the State without an Export Clearance Certificate;

(b) a sum not exceeding ten times the value (as estimated by the Director or any person specially authorized by him in that behalf) of the timber felled, extracted or removed in excess of the production limit; and

(c) any other charges payable in accordance with this Ordinance,

and any sum ordered to be so paid shall be recoverable as if it were a fine imposed.

(5) Notwithstanding sections 173A and 294 of the Criminal Procedure Code, any offence under this section shall be inquired into and tried according to the provisions herein contained.

*F.M.S.
Cap. 6.*

84. Whoever, without the authority of the Director—

(a) alters, moves, defaces or destroys any marks and boundary mark;

(b) knowingly counterfeits on any tree or timber, or has in his possession any instrument for counterfeiting, any Government hammer-mark; or

(c) alters, defaces or destroys any property mark registered in accordance with any rule made under section 95,

shall be guilty of an offence: Penalty, imprisonment for two

Penalty for offence concerning Government marks and property marks. [Am. Ord. No. 21/56; 16/57.]

years and a fine of five thousand ringgit.

85. —(1) Any person found in possession of any forest produce upon which the royalty, or other payment to the Government due in respect of such forest produce, has not been paid or made shall be guilty of an offence: Penalty, imprisonment for five years and a fine of fifty thousand ringgit, and the convicting court shall, in addition to the penalty imposed under this subsection, order the person convicted of the offence to pay to the State Government a sum not exceeding ten times the value (as estimated by the Director or any person authorized by him in that behalf) of the forest produce in respect of which the offence has been committed, and any sum ordered to be paid shall be recoverable as if it were a fine imposed.

Penalty for unlawful possession of forest produce. [Am. Ord. No. 5/89; Am. Cap. A9..]

(2) In any prosecution under this section, the onus of proving that the royalty or other payment in respect of such forest produce has been made shall be upon the person found in possession of such forest produce.

86. —(1) Any person found in unlawful possession of any forest produce not bearing or bearing a property mark registered in accordance with any rule made under section 95 shall be guilty of an offence: Penalty, imprisonment for five years and a fine of fifty thousand ringgit, and the convicting court shall, in addition to the penalty imposed under this subsection, order the person convicted of the offence to pay to the State Government a sum not exceeding ten times the value (as estimated by the Director or any person authorized by him in that behalf) of the forest produce in respect of which the offence has been committed, and any sum ordered to be paid shall be recoverable as if it were a fine imposed.

Penalty for unlawful possession of forest produce not bearing or bearing property mark. [Am. Ord. No. 16/57; Am. Ord. No. 5/89; Am. Cap. A9.]

(2) In any prosecution under this section, the onus of proving lawful possession shall be upon the person found in possession of such forest produce.

87. Whoever commits a breach of this Ordinance or of any rules or orders made hereunder—

Double penalty in certain cases.

(a) after sunset and before sunrise; or

(b) after a previous conviction of the offender for a like

offence,

shall be liable to double the penalty prescribed for such offence.

88. —(1) Any person who would have been guilty of an offence against this Ordinance, or of any rule or order made hereunder, if anything had been done or omitted by him personally shall be guilty of such offence and be liable to the same penalty if such thing had been done or omitted by his partner, agent or servant, unless he proves to the satisfaction of the court that he took all reasonable precautions to prevent the doing or omission of such thing:

Liability of partners, employers and of officers of a body corporate.

Provided that—

- (a) nothing in this subsection shall affect the liability of such partner, agent or servant; and
- (b) the liability of such person shall not extend to imprisonment unless he is privy to the offence.

(2) Where a body corporate is guilty of an offence under this Ordinance or any rule or order made hereunder, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in such capacity, any of the aforementioned person concerned as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

[Sub. Cap. A9]

89. —(1) When any person is convicted of removing, felling, cuffing, ringing, marking, lopping or tapping any tree or timber, or of injuring them by fire or otherwise, in contravention of this Ordinance, the convicting court shall, in addition to any other penalty which it may award, order such person to pay to the Government a sum of money amounting to ten times the value of the forest produce (as estimated by the Director or a person authorized by him in that behalf) thereof, in compensation for the offence committed or two thousand ringgit, whichever is the greater.

Compensation for damage caused by commission of an offence.

[Am. Ord. No.

10/61;

Am. Ord. No. 1/80.]

(2) If the person convicted of the offence committed it as the

agent or servant of another person, the convicting court may, unless after hearing such other person it is satisfied that the commission of the offence was not a consequence of his instigation or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in subsection (1).

90. —(1) When any person is convicted of an offence against section 21, 36 or 50 the court shall, if application is made to it in that behalf by or on behalf of the Director of Forests, issue a warrant addressed to all police officers or forest officers requiring them forthwith to evict such person from the forest reserve, protected forest or State land in which the offence was committed, and to take possession, on behalf of the Government, of all buildings, animals, crops and other property used in the commission of the offence; and the persons to whom such warrant is addressed shall forthwith carry the same into execution.

Eviction from forest reserves, protected forests and State land.
[Sub Ord. No. 2/79.]

(2) An application under subsection (1) may be made without further process if made before the court recording a conviction adjourns but, if not so made, shall be made by summons before that court, and the court shall make no further order unless proof of the service of such summons upon the person convicted is forth coming.

- 90A. —(1) When there is reason to believe that an offence against section 21(a), (b) or (f), or against section 36(a) or (b) has been committed, any forest officer specially authorized in writing by the Director may-

Senior forest officers to exercise powers of eviction, etc.
[Sub Ord. No. 2/79; Am. Cap. A9.]

(a) remove from the forest reserve or protected forest any person whom he has reason to believe to be committing the offence;

(b) seize any vehicle, tractor, chainsaw or other implement or thing which he has reason to believe was used or is being used in the commission of the offence; and

(c) demolish or remove any building, or take possession in the name of the Government of all buildings, cattle, crops and other property.

- (2) No forest officer or police officer shall be liable for any

loss, injury or damage caused to any person or property consequent upon his taking the steps mentioned in section 71 or in subsection (1).

(3) Every officer in the exercise of the powers conferred under subsection (1) may call upon any police officer or forest officer for assistance and it shall be the duty of every such officer to comply with such request.

90B. —(1) Any person who—

(a) lays, erects or sets up or causes to be laid, erected or set up any structure, stone, log, tree, or any other article on any road used or intended to be used for logging or transportation of timber so as to cause a barrier or obstruction to the passage of that road; or

(b) wilfully prevents, obstructs or molests any forest officer or police officer in the execution of his duties or the holder of a licence or permit or his employee or agent from removing the barrier or obstruction or in the exercise of his rights within the area covered by the licence or permit,

shall be guilty of an offence: Penalty, imprisonment for two years and a fine of six thousand ringgit and, in the case of a continuing offence, a further fine of fifty ringgit in respect of every day during which the offence continues.

(1A) In the prosecution of an offence under subsection (1) (a) where it is proved that the person charged was, at the time of his arrest, present at any structure, stone, log, tree or any other article laid, erected or set up on any road used or intended to be used for logging or transportation of timber, it shall be presumed, until the contrary is proved, that the person charged had so laid, erected or set up that structure, stone, log, tree or any other article.

(2) When there is reason to believe that an offence against subsection (1) has been committed, any forest officer specially authorized by the Director or any police officer not below the rank of Assistant Superintendent of Police may order in writing any person whom he has reason to believe to be committing the offence to remove the barrier or obstruction.

Offences relating to obstruction of road.

[*Ins. Ord. No. 6/87; Am. Cap. A9*]

[*Ins. Cap. A9*]

[*Am. Cap. A9*]

(3) Any person who fails or neglects to comply with or obey an order issued under subsection (2) shall be guilty of an offence: Penalty, imprisonment for two years and a fine of five thousand ringgit. [Sub. Cap. A9]

(4) Any forest officer may, without a warrant, arrest any person who was or is being concerned in an offence against subsection (1) or if such person refuses to give his name and address or gives a name and address which there is reason to believe is false, or if there is reason to believe that he may escape.

(5) A person arrested under this section may be detained until his name or address is properly ascertained or until he can furnish security in the of a bond or in such other form as may be acceptable to the officer arresting him to secure his attendance in court: [Sub. Cap. A9]

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a court of competent jurisdiction, unless an order of such court for his continued detention is obtained.

(6) Every forest officer in the exercise of the powers conferred under subsections (3) and (4) may call upon any police officer for assistance and it shall be the duty of every such officer to comply with such request.

91. Any person who aids and abets the commission of a forest offence shall be liable on conviction to the same penalties as if he had committed the offence. Abettors liable to penalties.
92. Notwithstanding anything hereinbefore, any forest officer empowered under section 70 to compound offences may, at any time, direct the release of any property seized under section 71 or section 90A, which is not the property of the Government, and the withdrawal of any charge made in respect of such property. Power to withdraw charges and release property seized
[Am. Ord. No. 2/79;
Am. Cap. A9]
- *92A. Prosecution in respect of offences under this Ordinance or any subsidiary legislation made hereunder may be conducted by— Conduct of prosecution
[Ins. Cap. A9;
Sub. Cap. A37.]
- (a) the State Attorney-General or any legally qualified officer authorized by him;

(b) the Director; or

(c) any forest officer or any other public officer generally or specially authorized in that behalf by the Director.

93. Upon conviction of the holder of a licence or permit issued under this Ordinance of a forest offence— and suspension
- Cancellation and suspension of licences and permits.
- (a) the court may of its own motion cancel or suspend, for such period as it may think fit, such licence or permit; and
- (b) the Director may, unless the court has either made an order under paragraph (a) or directed that the Director shall not exercise the power hereby given, terminate such licence or permit by two months' notice in writing to the holder thereof.
- 93A. The Director may order such sums by way of reward or reimbursement as he may deem fit to be paid to any officer or other person for services rendered or expenses incurred in connection with the detection or investigation of offences under this Ordinance or in connection with any seizures made under this Ordinance.
- Rewards, etc.
[Ins. Ord. No. 10/61.]

* See also section 377 of the Criminal Procedure Code (F.M.S. Cap. 6).

PART VII

SUBSIDIARY LEGISLATION

94. A Sessions Court shall have jurisdiction to hear and determine all prosecutions under this Ordinance and, notwithstanding anything to the contrary in the Criminal Procedure Code, a Sessions Court shall have power to impose the full penalty or punishment provided by this
- Jurisdiction

F.M.S. Cap. 6

Ordinance.

- *95. —(1) The Director may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, make rules generally for carrying out the provisions of this Ordinance and, in particular, such rules may provide for—
- Rules.
[Am. Ord. No. 9/76;
Cap. A28.]
- (a) prohibiting or regulating the felling, collection, removal or transport of timber and forest produce, and regulating the measurement and checking of timber and forest produce;
- (b) the registration of property marks with the Director, and prescribing fees in respect thereof;
- (c) the payment of the like royalties in the event of any contravention of such rules, or of the conditions of any licence or permit, as would have been payable had such rules and conditions been observed;
- (d) the payment of a surcharge, in the event of failure to pay on the due date any royalty, fee or other payment prescribed by or under this Ordinance; [Am. Ord. No. 6/73.]
- (e) granting exemption from anything provided by such rules;
- (f) the survey and demarcation of forest reserves, protected forests and communal forests;
- (g) exempting from the payment of royalty timber used for, or taken for use and subsequently used for, any purpose specified in such rules; [Sub. Ord. 12/58]
- (h) requiring the holders of licences and permits to render returns and accounts, and to submit theft books for inspection;
- (i) restricting the kind or species of timber and other forest produce which may be used for the construction of any extraction route;
- (h) requiring the holders of licences and permits to render returns and accounts, and to submit theft books for inspection;

* See Forest Rules (Vol. VIII, 1958 Edition, p. 459—Am. by G.N.S. 29162, Swk. L.N. 62/65, 65/65, 24/71 and 112/73).

Forest (Forms) Rules (Vol. VUI, 1958 Edition, p. 471—Am, by G.N.S. 28/62).

Forests (Planted Forests) Rules, 1997 (Swk. L.N. 6/97/Am, by Swk. L.N. 13/ 97).

For other rules see Table 11 of the latest Annual Cumulative Indexes of Subsidiary Legislation of the Laws of Sarawak.

- (i) restricting the kind or species of timber and other forest produce which may be used for the construction of any extraction route;
- (j) appeal against, or review of, the exercise of any discretion vested by the rules in any forest officer;
- (k) amending any of the Schedule; [Am. Cap. A9]
- (l) anything which requires to be prescribed or provided for by rule;
- (m) the registration of holders of licence or permit issued by the Director under this Ordinance, and their contractors, sub-contractors or agents; [Paras. (m) to (v),
Ins. Cap. A9]
- (n) the procedure for any arbitration to be conducted pursuant to any clause contained in any such licence or permit;
- (o) the use, cultivation, propagation or export of any tree or any medicinal compound from any tree for any research, study, test, experiment or process in connection with the development or manufacture of any pharmaceutical product;
- (p) prohibiting, regulating or controlling the export or sale of forest produce;
- (q) limiting the production on the volume of timber to be taken or trees to be felled or removed for export or sale;
- (r) regulating or controlling the distribution and sale of timber to local sawmills;
- (s) regulating the transportation of timber logs for export or sale including the delivery by the seller or purchaser under a contract of sale;
- (t) regulating the construction, maintenance, usage or passage through or control over any road or bridges used for and in connection with the transportation of timber;
- (u) regulating the registration of vehicles, machinery or equipment used or belonging to the holder of any licence or permit or his contractor or sub-contractor in any forest area covered by such licence or permit; [Am. Cap. A37]
- (v) regulating the disposal, sale, release or handling of

any timber, vessel or other things seized or detained under this Ordinance, unless otherwise already provided in this Ordinance;

[*Am. Cap. A37*]

(w) regulating the establishment of planted forests and the harvesting of trees therein and the pledge, assignment, charge or mortgage of any issued under section 65B and the procedure for the enforcement of such pledge, assignment, charge or mortgage; and

[*Am. Cap. A37*]

(x) providing for the registration, control and administration of any nurseries and research facilities established for or to facilitate tree planting or cultivation of any species of trees in planted forests.

[*Am. Cap. A37*]

(2) Such rules may be of general or special application:

Provided that, notwithstanding that any rule is not made applicable to a forest reserve or protected forest, it shall be lawful to incorporate it in the conditions of any licence, sub-licence or permit by providing therein that such rule shall be applicable.

(3) Such rules may provide that the contravention of any particular rule shall constitute an offence and may provide for the punishment of any such offence by penalties not exceeding imprisonment for a term of five years and a fine

[*Sub. Cap. A9.*]

96. —(1) The Director, with the approval of the Minister, may by orders in the Gazette—

Orders

(a) prohibit the felling of any trees, or of any particular kinds of tree, in any specified locality where the existence of such trees is of value for the prevention of erosion, or of value for any other purpose for the public benefit;

[*Mod. Swk. L.N. 68/64.*]

(b) regulate or prohibit the export of any specified kind, form, grade or quantity of timber or other forest produce:

Provided that any order made under this paragraph shall not be inconsistent with any regulations made under the Customs Act 1967;

Act 235.

(c) regulate the method of measurement of forest produce for purposes of royalty assessment; and

(d)

[Deleted Cap. A37.]

(e) prescribe any matter which he is empowered by this Ordinance to regulate by order.

(2) Any such order may provide that the contravention of any of the provisions thereof shall constitute an offence and may provide for the punishment of any such offence by penalties not exceeding imprisonment for a term of five years and a fine of twenty-five thousand ringgit.

[Am. Ord. No.
16/57; Sub. Cap.
A9.]

* See Table I of the latest Annual cumulative Indexes of Subsidiary Legislation of the Laws of Sarawak.

FIRST SCHEDULE

(Section 52(2))

PRODUCE TAKEN UNDER LICENCE**RATES OF ROYALTY****CLASS I(i)**

[Sub. Swk.
L.N. 19/93;
Am. Swk.
L.N. 8/95;
Am. Swk.
L.N. 103/96.]

	<i>Botanical Name</i>	<i>Standard Vernacular or Trade Name</i>
A.	Rates of Royalty: RM65.00 per cubic metre converted or RM32.50 per cubic metre in the round.	
	<i>Eusideroxylon malagangai</i>	Malagangai
	<i>Eusideroxylon zwageri</i>	Belian
	<i>Inisia bijuga</i>	Ipil
	<i>Intsia palenethanica</i>	Merbau
B.	Rates of Royalty: RM84.00 per cubic metre converted or RM42.00 per cubic metre in the round.	
	<i>Gonystylus</i> spp.	Ramin
C.	(i) Rates of Royalty: RM180.00 per cubic metre converted or RM90.00 per cubic metre in the round.	
	<i>Shorea</i> spp. (light, white, yellow or red)	Meranti (Hill spp.)
	(ii) Rates of Royalty: RM126.00 per cubic metre converted or RM63.00 per cubic metre in the round.	
	<i>Dryobalanops</i> spp	Kapur (Hill Spp.)
	<i>Dipterocarpus</i> spp	Keruing (Hill spp.)
	<i>Agathis</i> spp	Bindang
	<i>Dacrydium</i> spp	Sempilor
	<i>Melia excelsa</i>	Ranggu
	<i>Upuna borneensis</i>	Penyau
D.	Rates of Royalty: RM108.00 per cubic metre converted or RM54.00 per cubic metre in the round.	
	<i>Shorea albida</i>	Alan and Alan bunga
E.	Rates of Royalty: RM72.00 per cubic metre converted or RM36.00 per cubic metre in the round.	
	<i>Palaguium & Payena</i> spp.	Nyatoh
	<i>Anisoptera</i> spp.	Mersawa
	<i>Copaifera & Sindora</i> spp.	Sepetir
	<i>Dactylocladus</i> spp.	Jongkong
	<i>Hopea</i> spp.	Giam, Chengal
	<i>Shorea inaeguilateralis</i>	Semayur
	<i>Shorea pachyphylla</i>	Kerukup
	<i>Shorea</i> spp. (heavy red)	Red Selangan
	<i>Shorea</i> spp. (heavy yellow)	Selangan Batu
	<i>Shorea</i> spp.	Meranti (Swamp spp.)

Dyera spp. Jelutong

F. (i) Rates of Royalty: RM54.00 per cubic metre converted or RM27.00 per cubic metre in the round. All Hill species not included in A, B, C, D and E above.

(ii) Rates of Royalty: RM43.00 per cubic metre converted or RM21.50 per cubic metre in the round. Swamp species of *Cotylelobium* and *Vatica* (Resak), *Dipterocarpus* spp. (Keming), *Dryobalanops* spp. (Kapur) and all other swamp species not included in A, B, C, D and E above.

G. Rates of Royalty: RM2.00 per tonne green weight

<i>Rhizophora</i> spp.	Bakau
<i>Bruguiera</i> spp.	Berus (Lenggadai)
<i>Excoecaria</i> spp.	Buta-Buta
<i>Carapa</i> spp.	Nyireh

Other mangrove species

CLASS I(ii)

Shingles

(i) of Class I (i) A timbers, per 1000	RM4.00
(ii) of other timbers, per 1000	1.00
Bark, per tonne	3.50

CLASS I(iii)

Poles

(i) 10 cm and less than 20 cm in diameter over-bark at bigger end, per 100 ...	RM8.00
(ii) 3 cm and less than 10 cm in diameter over-bark at bigger end, per 100	2.00
(iii) less than 3 cm in diameter over-bark at bigger end and split nibong, per 100	1.00
(iv) 30 cm and less than 40 cm in diameter over-bark at bigger end, per piece	12.00
(v) 20 cm and less than 30 cm in diameter over-bark at bigger end, per piece	5.00

CLASS II

Firewood, per tonne	RM0.50
Charcoal, per tonne.....	5.00
Firewood, partly converted into charcoal, per tonne	1.70
Cordwood, other than for use as fuel, per tonne	0.50
Wood or timber of whatever specie, used for the manufacture of pulp, per tonne	0.50

CLASS III

MISCELLANEOUS

Jelutong	10% of the current export value
Other forest produce not specified above	10% <i>ad valorem</i>

SECOND SCHEDULE

(Section 52 (4))

PRODUCE TAKEN UNDER PERMIT

		<i>Per month</i>
A.	Timber:	
	(a) Logs, sawn and hewn stock	RM5.00
	(b) Poles	2.00
B.	Firewood:	
	(a) Mangrove and Casuarina (Ru)	3.00
	(b) Other sorts	1.00
C.	Charcoal:	
	(a) Mangrove	3.00
	(b) Other sorts	1.00
D.	Getah:	
	(a) Jelutong	1.00
	(b) Other sorts	1.00
E.	Bamboo:	2.00
F.	Bark:	
	(a) Mangrove	2.00
	(b) Other sorts	1.00
G.	Nibong	2.00
H.	Other forest produce	1.00

Provided that where charcoal is produced in a kiln other than a kiln of a purely temporary nature there shall be charged in lieu of the fees specified for item C above a fee for such kiln of a sum in ringgit calculated to the nearest ringgit, equivalent to one and a half times the square of the interior diameter of the kiln calculated in feet*.

[Am. Ord.
No. 21/56]

* Now see also the Weights and Measures Act 1972 (Act 71).