

FOREST RESEARCH INSTITUTE MALAYSIA BILL 2016

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A BILL

i n t i t u l e d

An Act to provide for the continued existence of the Forest Research Institute of Malaysia established by the Malaysian Forestry Research and Development Board which shall be a body corporate under this Act and the dissolution of the Malaysian Forestry Research and Development Board, to set out the administration, functions and powers of the Forest Research Institute Malaysia and to provide for matters connected therewith or incidental thereto.

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ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Forest Research Institute Malaysia Act 2016.

Interpretation

2. In this Act, unless the context otherwise requires—

“the repealed Act” means the Malaysian Forestry Research and Development Board Act 1985 [*Act 319*] repealed under subsection 46(1);

“member of the Institute” means a member of the Institute appointed under section 7 and includes an alternate member appointed under section 9;

“research findings” means any result from any research and development activity, and includes discovery, invention, innovation and improvement in any process, apparatus, machine or technique;

“forest produce” means—

- (a) products in the unprocessed or semi-processed form, and include logs, poles, fuelwood, rubberwood, stems and fibres of oil palms and its residues, coconut and other palms, gaharu and other scented wood, gums, damar and oleoresins, wood oils, leaves, rattans, bamboos, seeds, nuts, shoots, roots, mengkuang, medicinal plants, aromatic plants, soils, microorganisms and other similar products of any description whether present or future;
- (b) products that have undergone processing or whose forms have been altered, and include sawn timber, charcoal, essential oils, wood chips and wood shavings, ground wood, beadings and mouldings, plywood and veneer, particleboards and fibreboards, blockboards, laminboards and other reconstituted wood-based panel products, wood pulp, paper and paper products, glue-laminated timber, tissue cultured plants, chemical and protein extracts, substances or derivatives for production of pharmaceuticals, neutraceuticals, cosmeceuticals and functional food and other processed or altered products that are derived from the products as specified in paragraph (a); and
- (c) products in the finished form, and include attaps, railway and tramway sleepers of wood, furniture, handicrafts and toys of wood, wooden handles of tools, piles, pickets, and stakes of wood, picture frames of wood, packing cases of wood, household utensils of wood, basketwork, wickerwork and other articles of plaiting, pencils and other finished products that are wholly or partially made from the products as specified in paragraph (a) or (b);

“forest-based industries” means all industries engaged in the harvesting, extracting, testing, processing, manufacturing, preservation and seasoning of forest produce, and services related thereto;

“Institute” means the Forest Research Institute of Malaysia which continues to be in existence and with a change of name in the English language to the “Forest Research Institute Malaysia” under section 3;

“Director General” means the Director General appointed under section 15;

“Fund” means the Forest Research Institute Malaysia Fund established under section 23;

“Minister” means the Minister charged with the responsibility for forestry;

“forest development” means the management and development policies and activities for all natural and man-made forests based on sound ecological and socio-economic principles for the expressed purposes of both the production of forest produce and the protection of the environment;

“conservation” means safeguarding genetic resources, species and ecosystem diversity, as well as sustainable use of biological resources and its equitable sharing of benefits to meet the needs and aspiration of present and future generations;

“Chairman” means the Chairman of the Institute appointed under paragraph 7(a) and includes any member of the Institute appointed to perform the function of the Chairman under section 10.

PART II

THE INSTITUTE AND ITS FUNCTIONS, POWERS, ETC.

The Institute established under Malaysian Forestry Research and Development Board Act 1985

3. (1) Notwithstanding the repeal of the Malaysian Forestry Research and Development Board Act 1985 and the dissolution of the Malaysian Forestry Research and Development Board established under the repealed Act by section 46, the Forest Research Institute of Malaysia established by the Malaysian Forestry Research and Development Board under the repealed Act shall continue to be in existence under and subject to the provisions of this Act and with a change of name in the English language to the “Forest Research Institute Malaysia”.

(2) The change of name under subsection (1) shall not affect the identity of the Institute or any rights or obligations of the Institute or render defective any legal proceedings by or against the Institute, and any legal proceedings that might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(3) The Institute shall be a body corporate and have perpetual succession and a common seal, and may sue and be sued in its corporate name.

(4) The provisions of the Schedule shall apply to the Institute.

(5) The Minister may amend the provisions of the Schedule by order published in the *Gazette*.

Functions of the Institute

4. The functions of the Institute shall be—

- (a) to implement policies on research and development programmes to ensure the growth and sustainability of the forest and forest-based industries;
- (b) to conduct and promote research on the multiple roles and functions of forests, including watershed, biotechnology, biodiversity and its sustainable use, conservation, ecotourism, greening of areas, effects of pollutants and climate change, appropriate for a rational and holistic approach to the sustainable and environmentally sound forest development;
- (c) to promote, stimulate, facilitate, undertake and commercialize research findings in order to develop and utilize effectively such research findings in the interest of development of forest-based industries;
- (d) to conduct and promote research on forest development including the production, extraction, processing, storage, transportation and utilization of forest produce, and other fields appropriate to the continued development of the forestry sector and the conservation of the resource base;

- (e) to secure, where the public interest or the interest of forest development and forest-based industries so require, the development and advancement of research findings which appear to the Institute not to have been developed or explored or sufficiently developed or explored;
- (f) to control, co-ordinate and monitor the activities of any person undertaking research and development programmes and any other programmes, schemes, projects and activities financed wholly or mainly from the Fund;
- (g) to provide technical, advisory, consultancy and any other services in relation to forest and forest-based industries to any government, body or organization within or outside Malaysia;
- (h) to administer and manage the Fund;
- (i) to collect, collate and disseminate information relating to research findings, forest development, forest produce and its utilization by way of publishing or sponsoring the publication of periodicals, journals, books, booklets and any other means available;
- (j) to provide courses of study and training programmes in the field of forestry or any other related fields, and to take such other actions as may appear necessary or desirable for education;
- (k) to act as a testing body and a certification body for forest produce upon being accredited as a conformity assessment body under the Standards of Malaysia Act 1996 [*Act 549*] or being accredited by any other accreditation body outside Malaysia;
- (l) to liaise, co-ordinate and collaborate with the Federal Government, any State Government or any body or organization in research and development programmes in the interest of the forest and forest-based industries including being members of any body or organization within and outside Malaysia; and

- (m) to do such other things as the Institute thinks fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

Powers of the Institute

5. (1) The Institute shall have the power to do all things expedient or reasonable for and incidental to the performance of its functions.

(2) The powers of the Institute shall include power—

- (a) to enter into contracts;
- (b) to acquire, purchase, take, hold and enjoy movable and immovable property of every description;
- (c) to convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with any movable or immovable property and any interest in any movable or immovable property, vested in the Institute;
- (d) to solicit and accept for the purposes of the Institute any money, land or other property from any person by way of grant, subsidy, donation, gift, subscription, endowment or otherwise, and where it accepts any such money, land or other property, extend to the person such concessions or benefits as the Institute thinks fit;
- (e) to acquire, hold, dispose of or grant rights in connection with the research findings of any research and development activity conducted by or for the Institute or by any person;
- (f) to undertake, co-ordinate or commission any person to undertake or co-ordinate research and development activities relating to forestry;
- (g) to determine the priority of the research and development activities of the Institute and approve the annual programmes of research and estimates of expenditure necessary for carrying out the programmes, schemes, projects and activities and for the administration of the Institute;

- (h) to ensure that the programmes, schemes, projects and activities approved by the Institute are duly carried out and the expenditure incurred is in accordance with the estimates of expenditure;
- (i) to collect and receive any moneys for services provided by the Institute and the use of its facilities;
- (j) to enter into negotiations, agreements or arrangements as the Institute thinks fit for the performance of its functions;
- (k) to conduct courses or technical and non-technical training in the field of forestry or any other related fields and to confer certificates upon persons who have followed such courses or training;
- (l) to collaborate with any institution or organization within or outside Malaysia;
- (m) to award scholarships, bursaries, medals, prizes and other forms of distinctions, awards or assistance to any person in respect of the courses or technical and non-technical training referred to in paragraph (k) or the collaboration referred to in paragraph (l) or any course of study or training programme conducted by any institution of higher learning, whether public or private, within or outside Malaysia;
- (n) to undertake and co-ordinate such activities as the Institute thinks necessary for the purpose of protecting and furthering the interests of the forest and forest-based industries; and
- (o) to do all things expedient or necessary for or incidental to the performance of its functions and exercise of its powers.

(3) The Institute may delegate any of its powers under this Act to the Director General of the Institute.

Branches and research centres of the Institute

6. (1) The Institute may establish branches or research centres of the Institute within or outside Malaysia for the purpose of carrying out the provisions of this Act.

(2) The branches or research centres shall be headed by officers appointed by the Director General from amongst the officers appointed under section 17.

(3) The heads of branches or research centres shall be responsible to the Director General and shall perform such duties as may be assigned to them by the Director General.

Membership of the Institute

7. The Institute shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman;
- (b) a representative of the Ministry responsible for forestry;
- (c) a representative of the Treasury;
- (d) a representative of the Department or Unit responsible for national socio-economic development;
- (e) a representative of the Ministry responsible for plantation and commodities industries;
- (f) a representative of the Forestry Department Peninsular Malaysia;
- (g) a representative of the State Government of Sabah;
- (h) a representative of the State Government of Sarawak;
- (i) a representative of the Malaysian Timber Industry Board;
- (j) two representatives of the forest-based industries;

(k) not more than four other persons who, in the opinion of the Minister, are able to contribute to forestry research and development; and

(l) the Director General.

Tenure of office

8. A member of the Institute appointed under paragraph 7(a), (j) or (k) shall, unless he sooner resigns or vacates his office, hold office for a term not exceeding two years on such conditions as may be specified in his instrument of appointment and shall be eligible for reappointment.

Alternate members

9. (1) Any member of the Institute appointed under paragraph 7(b) to (i) may appoint an alternate member to attend meetings of the Institute if the member of the Institute is for any reason unable to attend.

(2) When attending meetings of the Institute, the alternate member shall for all purposes be deemed to be a member of the Institute.

(3) An alternate member shall, unless he sooner vacates his office, cease to be an alternate member when the member in respect of whom he is an alternate member resigns or vacates his office.

Temporary exercise of functions of Chairman

10. (1) Where the Chairman is for any reason unable to perform his functions or during any period of vacancy in the office of the Chairman, the Minister may appoint any member of the Institute, other than the Director General, to perform the functions of the Chairman.

(2) Until an appointment under subsection (1) is made or in default of such appointment or in the absence of the Chairman from any meeting of the Institute, the member of the Institute appointed under paragraph 7(b) shall perform the functions of the Chairman.

(3) A member appointed under subsection (1) or a member referred to in subsection (2) shall be deemed to be the Chairman during the period in which he is performing the functions of the Chairman under this section.

(4) If at any meeting of the Institute, neither the Chairman nor the person exercising the functions of the Chairman is present, the members present shall elect one of their members, other than the Director General, to preside at the meeting.

Directions by Minister

11. (1) The Institute shall be responsible to the Minister.

(2) The Minister may, after consultation with the Institute, give such directions of a general character consistent with the provisions of this Act to the Institute and the Institute shall give effect to such directions.

Returns, reports, accounts and information

12. (1) The Institute shall furnish to the Minister, and such public authority as the Minister may be direct, such returns, reports, accounts and information with respect to its property and activities as the Minister may require or direct.

(2) Without prejudice to the generality of subsection (1), the Institute shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister and, if so directed by the Minister, to any other public authority, a report dealing with the activities of the Institute during the preceding financial year and the report shall be in such form and shall contain such information relating to the proceedings and policy of the Institute as the Minister may determine.

Secretary

13. The Director General shall appoint a person from among the officers appointed under section 17 to be the Secretary to the Institute.

Institute may establish committees

14. (1) The Institute may establish any committee as the Institute thinks necessary or expedient to assist it in the performance of its functions and exercise of its powers under this Act.

(2) The Institute may appoint any person to be a member of any committee established under subsection (1).

(3) A committee established under this section may elect any of its members to be the chairman and may regulate its own procedure and, in the exercise of its powers under this subsection, such committee shall be subject to and act in accordance with any direction given to the committee by the Institute.

(4) Meetings of a committee established under this section shall be held at such times and places as the chairman of the committee may, subject to subsection (3), determine.

(5) A committee may invite any person who is not a member of the committee to attend any meeting of the committee for the purpose of advising it on any matter under discussion but that person is not entitled to vote at the meeting.

(6) Members of a committee or any person invited to attend any meeting of a committee under subsection (5) may be paid such allowances and other expenses as the Institute may determine.

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

(8) The appointment of any member of a committee may at any time be revoked by the Institute.

(9) A member of a committee may, at any time, resign his office by written notice addressed to the Chairman of the Institute.

PART III

DIRECTOR GENERAL, OFFICERS AND SERVANTS OF THE
INSTITUTE**Powers and duties of Director General**

15. (1) The Minister shall appoint a Director General of the Institute on such terms and conditions as the Minister may determine.

(2) The Institute shall vest in the Director General such powers and shall impose upon him such duties as the Institute may determine.

(3) The Director General shall be responsible for—

- (a) the proper administration and management of the affairs of the Institute;
- (b) the preparation of programmes, schemes, projects and activities for the consideration of the Institute;
- (c) the execution of all programmes, schemes, projects and activities of the Institute;
- (d) keeping the Institute fully informed of the progress of the programmes, schemes, projects and activities of the Institute;
- (e) the issue of policy guidance and elucidation of the decisions of the Institute to officers and servants of the Institute;
- (f) implementing the policy decisions of the Institute; and
- (g) the supervision and control over the implementation of the decisions of the Institute.

(4) The Director General shall have general control of the officers and servants of the Institute.

(5) The Director General shall perform such further duties as the Institute may direct.

(6) In discharging his duties, the Director General shall act under the general authority and direction of the Institute.

Appointment of Deputy Director General

16. (1) The Institute may appoint such number of Deputy Directors General from among the officers appointed under section 17 to assist the Director General in the exercise of his powers and the performance of his duties under this Act.

(2) If for any reason the Director General is unable to exercise his powers and to perform his duties, the Institute may appoint one of the Deputy Directors General to exercise the powers and to perform the duties of the Director General.

Appointment of officers and servants

17. (1) The Institute may appoint and employ such number of officers and servants as the Institute thinks necessary and upon such terms and conditions as the Institute considers appropriate for carrying out the purposes of this Act.

(2) No person shall be eligible for employment as an officer or servant of the Institute if he has, directly or indirectly, by himself or his partner, any share or interest in any contract or proposed contract with, for or on behalf of the Institute.

(3) The Institute may, with the approval of the Minister, the Treasury and the Public Services Department, determine the terms and conditions of service of the officers and servants of the Institute.

Statutory Bodies (Discipline and Surcharge) Act 2000

18. The Statutory Bodies (Discipline and Surcharge) Act 2000 [*Act 605*] shall apply to the Institute.

Loans, scholarships and advances

19. The Institute may grant loans, scholarships and advances to the officers and servants of the Institute for such purposes and on such terms and conditions as the Institute may determine.

Payment of retirement benefit, gratuity, etc.

20. The Institute may make arrangements for the payment to the officers and servants of the Institute and their dependants such retirement benefits, gratuities and other allowances as the Institute may determine.

Institute may adopt regulations, rules, etc.

21. The Institute may, with the approval of the Minister, adopt with such modifications as the Institute thinks fit any regulations, rules, policies, circulars and directives enacted or issued by the Federal Government.

Delegation of Director General's duties

22. (1) The Director General may in writing delegate any of the powers or duties assigned to him under this Act, not including the powers so delegated from the Institute, to any officer of the Institute, subject to such conditions as the Director General thinks fit.

(2) A delegation under this section shall not preclude the Director General himself from performing or exercising at any time any of the powers or duties so delegated.

PART IV**FINANCE****The Fund**

23. (1) For the purposes of this Act, a fund to be known as the "Forest Research Institute Malaysia Fund" is established.

(2) The Fund shall be controlled, maintained and operated by the Institute.

(3) The Fund shall consist of—

(a) such sums as the Federal Government or any State Government may provide for the purposes of this Act;

- (b) moneys collected under section 29;
- (c) moneys distributed as dividends from the companies established under section 30;
- (d) fees, royalties and other consideration under sections 31 and 37 and moneys earned from any intellectual property rights, shares, equities and licensing agreements;
- (e) moneys earned from the entrance fees and any other fees or charges for services provided by the Institute and the use of its facilities under section 32;
- (f) moneys borrowed by the Institute under section 33;
- (g) moneys earned by the operation of any programmes, schemes, projects or activities financed from the Fund;
- (h) moneys earned or arising from any sale, disposal, investment, mortgage, lease, tenancy, charge or debenture or any other dealing with any property, acquired by or vested in the Institute;
- (i) moneys from any sources, contributions, endowments, gifts or bequests as may be made to or in favour of the Institute;
- (j) donations and contributions received from any government, body or organization within or outside Malaysia; and
- (k) all other moneys, sums or property which may in any manner become payable to or vested in the Institute in respect of any matter incidental to its functions and powers.

Expenditure to be charged on the Fund

24. The Fund shall be expended for the purpose of—

- (a) paying any expenditure lawfully incurred by the Institute, including—
 - (i) the allowances and other expenses of the members of the Institute or any of its committees;

- (ii) the remuneration of the officers and servants of the Institute, including the granting of loans, scholarships and advances, retirement benefits, gratuities and allowances;
 - (iii) insurance coverage for the officers and servants of the Institute;
 - (iv) costs incurred in providing for the welfare of the officers and servants of the Institute; and
 - (v) paying any other expenses, costs and expenditure in relation to the procurement of goods and services, including the engagement of consultants, legal fees and costs, and other fees and costs;
- (b) financing research and development activities;
- (c) providing funds to any body or organization which the Institute thinks expedient to commission research and development activities, development projects or publicity activities;
- (d) contributing to any body or organization within or outside Malaysia which promotes research and development in forest development and forest-based industries;
- (e) financing such scholarships for higher learning, research assistantship, scientist grants, fellowships, medals, prizes and other forms of distinctions, awards or assistance for serving as well as prospective officers and servants of the Institute;
- (f) paying any other expenses, costs or expenditure properly incurred or accepted by the Institute in the performance of its functions or the exercise of its powers under this Act;
- (g) meeting the expenses incurred by the Institute in setting up branches or research centres of the Institute;

- (h) purchasing or hiring equipment, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers under this Act;
- (i) granting loans or providing capital for companies established under section 30;
- (j) repaying any moneys borrowed under section 33 and the interest due on such moneys; and
- (k) generally, paying any expenses for carrying into effect the provisions of this Act.

Conservation of the Fund

25. It shall be the duty of the Institute to conserve the Fund by so performing its functions and exercising its powers under this Act as to secure that the total revenues of the Institute are sufficient to meet all sums properly chargeable to its revenue account, including depreciation and interest on capital, taking one year with another.

Expenditure and preparation of estimates

26. (1) The expenditure of the Institute up to such amount as the Minister may authorize for any one year shall be defrayed out of the Fund.

(2) Before the beginning of the month of June of each year, the Institute shall submit to the Minister an estimate of the expenditure (including the expenditure for research and development activities and development projects) for the following year in such form and containing such particulars as the Minister may direct.

(3) The Minister shall, before the beginning of the month of December of that year, notify the Institute of the amount authorized for expenditure generally or of the amounts authorized for each description of expenditure.

(4) The Institute may, at any time, submit to the Minister a supplementary estimate for any one year and the Minister may allow the whole or any part of the additional expenditure included in the supplementary estimate.

Reserve fund

27. The Institute shall establish and maintain a reserve fund within the Fund.

Statutory Bodies (Accounts and Annual Reports) Act 1980

28. The Statutory Bodies (Accounts and Annual Reports) Act 1980 [Act 240] shall apply to the Institute.

PART V

OTHER POWERS OF THE INSTITUTE

Power to impose, etc., research cess

29. (1) The Minister may, with the concurrence of the Minister of Finance, make orders for the imposition, variation or cancellation of a research cess on the exportation of all or any forest produce, and the order may specify the nature, amount and rate of the cess, person or class of persons on whom the cess is imposed and the manner of the collection of the cess.

(2) An order made under subsection (1) shall be published in the *Gazette*.

(3) Except as may be otherwise provided in an order made under subsection (1), such cess shall be deemed for the purposes of collecting and enforcing the collection thereof to be a customs duty imposed under the Customs Act 1967 [Act 235].

Power to establish companies

30. The Institute may, with the approval of the Minister and the Minister of Finance, establish or expand or promote the establishment or expansion of companies under the Companies Act 1965 [Act 125]—

(a) to perform any of its functions or exercise any of its powers; or

- (b) to carry out and have the charge, conduct and management of any programme, scheme, project or activity which has been planned or undertaken by the Institute in the performance of its functions or exercise of its powers.

Power to commercialize research findings

31. (1) The Institute may, subject to such terms and conditions and the payment of such fees, royalties or other consideration, if any, as the Institute may determine, commercialize or cause to be commercialized any research findings or make available any research findings to any person for the purpose of its commercialization.

(2) For the purpose of subsection (1), the Institute may enter into any arrangement for sharing of profits, union of interest, co-operation, joint-venture or equity participation with any person.

Power to impose fees and charges

32. The Institute may impose entrance fees and any other fees or charges as the Institute thinks fit for any technical, advisory, consultancy and any other services in relation to forest and forest-based industries, and any other services provided by the Institute and the use of its facilities.

Power to borrow

33. (1) The Institute may, with the approval of the Minister and the Minister of Finance, borrow any sums required by it for the proper performance of its functions or exercise of its powers.

(2) The Statutory Bodies (Power to Borrow) Act 1999 [Act 598] shall apply to the Institute.

Power to invest, etc.

34. (1) The Institute may, with the approval of the Minister and the Minister of Finance, invest the Fund or any part thereof, not being immediately required to be expended under this Act, in any investment or securities.

(2) The Institute may deposit, either on deposit account or current account, any moneys for the time being uninvested, in—

- (a) any licensed bank or licensed investment bank under the Financial Services Act 2013 [*Act 758*]; or
- (b) any licensed Islamic bank under the Islamic Financial Services Act 2013 [*Act 759*].

Power to employ agents, etc.

35. The Institute may employ and pay agents, consultants and technical advisers, including advocates and solicitors, bankers, stockbrokers, surveyors, valuers or any other persons, to do all things expedient or necessary for or incidental to the performance of the functions of the Institute or the exercise of its powers.

Power to make regulations

36. The Institute may, with the approval of the Minister, make such regulations as may be necessary or expedient for the purpose of carrying into effect the provisions of this Act.

PART VI

MISCELLANEOUS

Property in research findings, etc.

37. (1) Where a research and development activity conducted by the Institute is funded by—

- (a) the Federal Government, the property in every research finding of such research and development activity shall vest in the Institute; or
- (b) any State Government, individual, company, body or organization, the property in every research finding of such research and development activity shall vest in accordance with the agreement between the Institute and the State Government, individual, company, body or organization.

(2) Where a research and development activity is conducted by an officer or servant of the Institute in the course of his duties, the property in every research finding of such research and development activity shall vest in the Institute.

(3) The Institute may, as it thinks fit, give rewards or incentives to the officer or servant of the Institute referred to in subsection (2).

(4) The Institute may make available any research finding the property of which is vested in the Institute to the Federal Government or any State Government, individual, company, body or organization subject to such conditions and to the payment of such fees, royalties or other consideration, if any, as the Institute may determine.

(5) Subsection (4) shall be in addition to and not in derogation of the provision of section 31.

Access to research findings and facility, etc.

38. The Institute may, subject to such conditions, restrictions or limitations as the Institute may determine, including the imposition of fees, allow access to its research findings, premises and facilities.

Prohibition against reproduction or publication

39. (1) No person shall reproduce or publish or cause to be reproduced or published the contents of any research findings or any part thereof except—

(a) with the prior written consent of the Director General;
and

(b) in accordance with any terms and conditions as the Director General may determine.

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

Secrecy

40. (1) Except for the purposes of this Act or of any proceedings, any member of the Institute or any of its committees or any officer, servant or agent of the Institute shall not disclose any information relating to any matter which has been obtained by him in the course of his duties and which is not published pursuant to this Act.

(2) All information obtained by any member of the Institute or any of its committees, or any officer, servant or agent of the Institute in respect of any formula, process or practice in connection with the administration of this Act shall be treated as confidential.

(3) Any person who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Restriction on the use of words

41. (1) Except with the approval of the Institute, no person shall use for whatever purpose the name that contains the words “Institut Penyelidikan Perhutanan Malaysia”, “Forest Research Institute Malaysia”, “Forest Research Institute of Malaysia” or the letters “FRIM” or any abbreviation or misleading abbreviation thereof or any mark of the Institute or any resemblance thereof.

(2) Any person who contravenes this section commits an offence and shall, on conviction, be liable to a fine of not less than two hundred thousand ringgit.

Protection against suits and legal proceedings

42. No action, suit, prosecution or proceedings shall lie or be brought, instituted or maintained in any court—

(a) against the Institute; or

(b) against any member of the Institute or any of its committees or any officer, servant or agent of the Institute,

in respect of any act, neglect, default or omission done or omitted by it or him in good faith in such capacity.

Public Authorities Protection Act 1948

43. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Institute or against any member of the Institute or any of its committees, or any officer, servant or agent of the Institute in respect of any act, neglect or default done or committed by it or him in such capacity.

Public servants

44. Every member of the Institute or any of its committees, or any officer, servant or agent of the Institute, while discharging his duties as such member, officer, servant or agent shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

PART VII

REPEAL, DISSOLUTION, SAVINGS AND TRANSITIONAL PROVISIONS, ETC.

Interpretation

45. For the purpose of this Part—

- (a) “dissolved Board” means the Malaysian Forestry Research and Development Board dissolved under subsection 46(2);
- (b) “commencement date” means the date on which this Act comes into operation.

Repeal and dissolution

46. (1) The Malaysian Forestry Research and Development Board Act 1985 is repealed.

(2) The Malaysian Forestry Research and Development Board established under the repealed Act is dissolved.

Transfer of powers, etc.

47. All powers, rights, privileges, liabilities, obligations and duties that before the commencement date were those of the dissolved Board shall devolve as from the commencement date on the Institute.

Transfer of property

48. (1) All lands that before the appointed date were vested in, or reserved under any written law relating to land for the purposes of the dissolved Board shall on the commencement date vest in or be deemed to be reserved for the purposes of the Institute.

(2) All properties and assets, other than land, that before the commencement date were vested in the dissolved Board or in any person on behalf of the dissolved Board shall on the commencement date vest in the Institute.

Existing contracts

49. All deeds, bonds, agreements, instruments and working arrangements subsisting before the commencement date and affecting any of the property transferred under section 48 shall have full force and effect against or in favour of the Institute and shall be enforceable as fully and effectually as if, instead of the dissolved Board or any person acting on behalf of the dissolved Board, the Institute had been named therein or been a party thereto.

Dissolution of Forestry Research and Development Fund, etc.

50. (1) The Forestry Research and Development Fund established under the repealed Act is dissolved.

(2) All moneys standing in or due to be paid to the Forestry Research and Development Fund shall on the commencement date be transferred to and vested in and be deemed to be part of the Fund.

Membership of dissolved Board

51. (1) All members and alternate members of the dissolved Board appointed under the repealed Act and all members of any committee set up under the repealed Act, who held office before the commencement date shall cease to hold office on the commencement date.

(2) Nothing in subsection (1) shall affect the accountability of the outgoing members of the dissolved Board and as soon as practicable after the commencement date, the dissolved Board shall prepare and submit to the Minister a report including the financial statements required under the repealed Act, but the report shall be limited to the period from 1 January of the relevant year to the date before the commencement date.

(3) Notwithstanding subsection (1), the dissolved Board shall continue in existence for the purpose of subsection (2).

Officers continue to hold office

52. All persons holding office under the repealed Act immediately before the commencement date as—

(a) Director General;

(b) Deputy Director General;

(c) officers and servants of the Institute,

shall be deemed to have been appointed under this Act and shall continue to hold such office on the same terms and conditions for a term expiring on the date on which their appointments under the repealed Act would expire.

Continuance of pending applications, etc.

53. (1) All applications, approvals and decisions, on appeal or otherwise, pending before the dissolved Board shall on the commencement date be dealt with by the Institute.

(2) All applications, approvals and decisions, on appeal or otherwise, pending before the Minister under the repealed Act shall on the commencement date be dealt with by the Minister under this Act.

(3) All instruments, certificates and documents lodged with the dissolved Board before the commencement date shall on the commencement date be lodged with the Institute.

Continuance of civil and criminal proceedings

54. (1) Nothing contained in this Act shall affect any person's liability to be prosecuted or punished for the offences committed before the commencement date, or any proceedings brought before the commencement date in respect of such offences.

(2) Any proceedings, whether civil or criminal, or cause of action pending or existing before the commencement date by or against the dissolved Board or any person acting on behalf of the dissolved Board may be continued or instituted by or against the Institute as it might have been by or against the Institute or such person if this Act had not been enacted.

(3) Any appeal brought or any leave to appeal applied for on or after the commencement date against a decision given before the commencement date in any legal proceedings to which the dissolved Board was a party may be brought by or against the Institute.

Validation and indemnity

55. (1) Notwithstanding the absence of any provision on the imposition and collection of fees by the dissolved Board except for the fixing of fees under section 22 of the Malaysian Forestry Research and Development Board Act 1985, the following fees shall be deemed to have been validly imposed and collected:

- (a) entrance fees which were imposed and collected by the dissolved Board during the period from 1 November 1996; and
- (b) other fees and charges for any use of facilities which were imposed and collected by the dissolved Board during the period from 1 January 1986,

to the day preceding the commencement date.

(2) No action or legal proceeding shall be brought, instituted or maintained against the dissolved Board or any officer of the dissolved Board or any person acting under them in respect of any fees or charges which were imposed and collected, and if any such action or legal proceeding has been brought, instituted or maintained, it shall be discharged and made void and no refund in respect of the fees or charges imposed and collected as stated in this Act shall be made.

Reference in law or document to dissolved Board

56. A reference in any law or document in force before the commencement date to the dissolved Board shall be construed as a reference to the Institute.

SCHEDULE

[Subsection 3(4)]

Revocation of appointment and resignation

1. (1) The appointment of any member of the Institute may at any time be revoked by the Minister.

(2) Subject to subparagraph (3), a member of the Institute may at any time resign his office by written notice addressed to the Minister.

(3) The Minister may, upon receipt of the notice under subparagraph (2), accept or reject the resignation of the member of the Institute.

Vacation of office

2. (1) The office of a member of the Institute shall be vacated if—

(a) he dies;

(b) there has been proved against him, or he has been convicted of, a charge in respect of—

(i) an offence involving fraud, dishonesty or moral turpitude;

(ii) an offence under any law relating to corruption; or

(iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;

(c) he becomes a bankrupt;

- (d) his conduct, whether in connection with his duties as a member of the Institute or otherwise, has been such as to bring discredit on the Institute;
- (e) he is of unsound mind or is otherwise incapable of discharging his duties;
- (f) he absents himself from three consecutive meetings of the Institute without leave of the Chairman or, in the case of the Chairman without leave of the Minister;
- (g) his resignation is accepted by the Minister; or
- (h) his appointment is revoked by the Minister.

(2) Where the office of any member of the Institute is vacated by any reason referred to in subparagraph (1), the Minister may appoint another person to fill the vacancy.

Meetings

3. (1) The Institute shall meet at least four times a year at such time and place as the Chairman may appoint.

(2) At least fourteen days' notice in writing shall be given to the members.

(3) The Chairman shall preside at a meeting of the Institute.

(4) The quorum of the Institute shall be six.

(5) Every member present shall be entitled to one vote.

(6) If on a question to be determined by the Institute there is an equality of votes, the Chairman shall have a casting vote.

Allowance

4. The Chairman and all other members of the Institute shall be paid such as meeting allowances at such rates as the Minister may determine.

Institute may invite others to meetings

5. (1) The Institute may invite any person to attend a meeting or deliberation of the Institute for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting or deliberation.

(2) A person invited under subparagraph (1) may be paid such fees as the Institute may determine.

Disclosure of interest

6. A member of the Institute having, directly or indirectly, by himself or his partner, any interest in any company or undertaking with which the Institute proposes to make any contract or having any interest in any such contract or in any matter under discussion by the Institute shall disclose to the Institute the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Institute and, unless specifically authorized thereto by the Chairman, such member shall take no part in any deliberation or decision of the Institute relating to the contract or matter.

Validity of acts and proceedings

7. No act done or proceedings taken under this Act shall be questioned on the ground of—

- (a) a vacancy in the membership of, or a defect in the constitution of, the Institute;
- (b) the contravention of paragraph 6 by any member of the Institute; or
- (c) an omission, a defect or an irregularity not affecting the merit of the case.

Common seal

8. (1) The Institute shall have a common seal which shall bear such device as the Institute shall approve and such seal may be broken, changed, altered or made anew as the Institute thinks fit.

(2) The common seal shall be kept in the custody of the Director General or such other person as the Institute may authorize, and shall be authenticated by the Director General or such authorized person or by any officer authorized by either of them in writing, and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the Institute, and any such document or instrument may be executed on behalf of the Institute by any officer or servant of the Institute generally or specially authorized by the Institute on that behalf.

(3) The common seal of the Institute shall be officially and judicially noticed.

Minutes

9. (1) Minutes of meetings of the Institute shall be prepared by the Secretary to the Institute.

(2) The Institute shall cause minutes of all its meetings to be maintained and kept in proper form.

(3) Minutes made of meetings of the Institute shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.

(4) Every meeting of the Institute in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Procedure

10. Subject to this Act, the Institute shall determine its own procedure.

Member of Institute to devote time to business of Institute

11. Every member of the Institute shall devote such time to the business of the Institute as may be necessary to discharge his duties effectively.

EXPLANATORY STATEMENT

The Forest Research Institute Malaysia Bill 2016 (“the proposed Act”) seeks to provide for the continued existence of the Forest Research Institute of Malaysia with a change of name in the English language to the “Forest Research Institute Malaysia” (“the Institute”). The Forest Research Institute of Malaysia was established by the Malaysian Forestry Research and Development Board (“the Board”) under the Malaysian Forestry Research and Development Board Act 1985. With the coming into operation of the proposed Act, the Board will be dissolved and the Institute will undertake the functions and powers of the Board. For the better performance of its functions, the proposed Act seeks to provide for the Institute to be a body corporate.

Being a research institution in the development of the forestry sector both upstream and downstream, the Institute has conducted various researches which have resulted in numerous research findings. At present, the research findings are not being commercialized by the Institute but by the companies appointed by the Institute. The Institute is collecting royalty of only three to five percent from these companies. Hence, the proposed Act empowers the Institute itself to commercialize these findings. Through commercialization, the Institute will be able to generate its own income. The Institute aims to self-sustain at least thirty percent of its operational cost, thus reducing its reliance on Government funding.

To strengthen the command of the Institute, the proposed Act also seeks to allow the Institute to act as a testing and certification body for forest produce. The Institute intends to provide this facility to both the local and international forest-based industry.

For many years the Institute has been a referral centre to university students who seek the Institute's assistance to co-supervise their research for postgraduate studies and the Institute provides such assistance at no cost. With the proposed Act, the Institute is empowered to offer technical and non-technical courses or training and subsequently to confer certificates upon persons who have followed such courses or training. The proposed Act further allows the Institute to collaborate with any institution or organization within or outside Malaysia.

PART I

2. Part I deals with preliminary matters.

Clause 1 provides for the short title of the proposed Act.

Clause 2 contains the definitions of the words and expressions used in the proposed Act.

PART II

3. Part II contains provisions relating to the Institute, its functions and powers.

Clause 3 seeks to provide for the continued existence of the Institute despite the repeal of the Malaysian Forestry Research and Development Board Act 1985 and the dissolution of the Board. This *clause* also seeks to provide for the Institute to be a body corporate.

Clause 4 seeks to state the functions of the Institute including the function to conduct and promote research and to act as a testing body as well as a certification body locally and internationally.

Clause 5 seeks to provide the Institute with certain powers including the power to collaborate with any institution or organization within or outside Malaysia.

Clause 6 enables the Institute to set up branches and research centres.

Clause 7 seeks to provide for the membership of the Institute.

Clause 8 contains provisions on the tenure of office of members of the Institute.

Clause 9 seeks to provide for the appointment of alternate members in respect of particular members of the Institute.

Clause 10 provides for the temporary exercise of the functions of the Chairman if he is unable to perform his functions or during the vacancy of his office.

Clause 11 seeks to empower the Minister to give general directions to the Institute.

Clause 12 requires the Institute to furnish returns, reports, accounts and information to the Minister and such other public authority as the Minister may direct.

Clause 13 provides for the appointment of the Secretary of the Institute.

Clause 14 seeks to empower the Institute to establish committees to assist in the performance of its functions and exercise of its powers under the proposed Act.

PART III

4. Part III contains provisions relating to the Director General, officers and servants of the Institute.

Clause 15 contains provisions in respect of the appointment, powers and duties of the Director General of the Institute.

Clause 16 provides for the appointment of such number of Deputy Directors General of the Institute.

Clause 17 seeks to allow the Institute to employ such number of officers and servants and also empowers the Institute, with the approval of the Minister, the Treasury and the Public Services, to determine the terms and conditions of service of its officers and servants.

Clause 18 provides for the application of the Statutory Bodies (Discipline and Surcharge) Act 2000 to the Institute.

Clause 19 contains provisions for the granting of loans, scholarships and advances by the Institute to its officers and servants.

Clause 20 provides for arrangement for payment of retirement benefits, gratuities and other allowances to officers and servants of the Institute and their dependants.

Clause 21 sets out provisions for the adoption of regulations, rules, policies, circulars and directives enacted or issued by the Federal Government by the Institute.

Clause 22 seeks to empower the Director General to delegate his duties but the delegation shall not preclude the Director General himself from performing the duties so delegated.

PART IV

5. Part IV deals with financial matters.

Clause 23 provides for the establishment of the “Forest Research Institute Malaysia Fund” (“the Fund”).

Clause 24 specifies the expenditure that may be charged on the Fund.

Clause 25 places a duty on the Institute to conserve the Fund.

Clause 26 deals with the expenditures and preparation of estimates of the Fund.

Clause 27 requires the Institute to establish and maintain a reserve fund.

Clause 28 seeks to provide for the application of the Statutory Bodies (Accounts and Annual Reports) Act 1980 to the Institute.

PART V

6. Part V deals with other powers of the Institute.

Clause 29 seeks to empower the Institute to impose research cess on the exportation of forest produce.

Clause 30 seeks to enable the Institute to establish companies or to expand or promote the establishment or expansion of companies.

Clause 31 seeks to empower the Institute to commercialize research findings and for that purpose, the Institute may enter into arrangements for the sharing of profits, union of interest, co-operation, joint-venture or equity participation with any person.

Clause 32 seeks to empower the Institute to impose entrance fees and any other fees or charges for services provided by the Institute and the use of its facilities.

Clause 33 seeks to enable the Institute to borrow moneys required by the Institute for the performance of its functions and exercise of its powers.

Clause 34 seeks to empower the Institute, with the approval of the Minister and the Minister of Finance, to invest the Fund of the Institute which is not being immediately required to be expended under the proposed Act.

Clause 35 seeks to allow the Institute to employ and pay agents, consultants and technical advisers, including advocates and solicitors, bankers, and stockbrokers.

Clause 36 seeks to empower the Institute, with the approval of the Minister, to make regulations.

PART VI

7. Part VI deals with miscellaneous matters.

Clause 37 deals with the property in research findings.

Clause 38 sets out provisions for access to research findings, premises and facility of the Institute.

Clause 39 contains provisions for the prohibition against reproduction or publication of research findings except with the written consent of the Director General. This *clause* also provides for the contravention of this *clause* to be an offence.

Clause 40 seeks to provide for the secrecy and confidentiality of information. This *clause* further provides for the contravention of this *clause* to be an offence.

Clause 41 provides for the restriction on the use of words containing the name of the Institute or the mark of the Institute. This *clause* also provides for the contravention of this *clause* to be an offence.

Clause 42 seeks to provide for the protection of members and officers of the Institute against suits and legal proceedings.

Clause 43 provides for the application of the Public Authorities Protection Act 1948 to the Institute and its members and officers.

Clause 44 provides that every member, officer and servant of the Institute shall be deemed to be public servants within the meaning of the Penal Code while discharging his duties as such.

PART VII

8. Part VII deals with repeal, dissolution, savings and transitional provisions, etc.

Clause 45 contains the definition of “dissolved Board” and “commencement date”.

Clause 46 seeks to provide for the repeal of the Malaysian Forestry Research and Development Board Act 1985 and the dissolution of the Board.

Clause 47 sets out the transfer of powers, rights, privileges, liabilities, obligations and duties of the Board to the Institute on the commencement date of the proposed Act.

Clause 48 seeks to provide for the transfer of properties of the Board to the Institute on the commencement date of the proposed Act.

Clause 49 provides that existing contracts subsisting before the commencement date of the proposed Act may be enforced against or in favour of the Institute.

Clause 50 seeks to provide for the dissolution of the fund of the Board and the transfer of moneys in the fund of the Board to the Fund of the Institute.

Clause 51 provides that membership of the Board and any of its committees shall cease.

Clause 52 seeks to deem the Director General, Deputy Director General, officers and servants of the Institute to have been appointed under the proposed Act and also provides for the continuance of their employment.

Clause 53 provides for the continuance of pending applications, approvals and decisions on any matter and the lodgment of all instruments, certificates and documents with the Institute on the commencement date of the proposed Act.

Clause 54 contains provisions for the continuance of civil and criminal proceedings by or against the Board or any person acting on behalf of the Board.

Clause 55 seeks to validate the collection of entrance fees which were imposed and collected during the period from 1 November 1996 (that is from the day on which the entrance fees were first collected) to the day preceding the commencement date. This *clause* further seeks to validate collection of other fees and charges in respect of any use of facilities which were imposed and collected during the period from 1 January 1986 (that is from the day on which the other fees and charges were first collected) to the day preceding the commencement date of the proposed Act.

Clause 56 seeks to provide that any reference in law or document to the Board shall be construed as a reference to the Institute.

The Schedule sets out provisions relating to the Institute.

FINANCIAL IMPLICATIONS

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

[PN(U2)2664]