



LAWS OF MALAYSIA

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Act 85

**RUBBER INDUSTRY SMALLHOLDERS
DEVELOPMENT AUTHORITY
ACT 1972**

As at 1 December 2011

**RUBBER INDUSTRY SMALLHOLDERS
DEVELOPMENT AUTHORITY ACT 1972**

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LAWS OF MALAYSIA**Act 85****RUBBER INDUSTRY SMALLHOLDERS
DEVELOPMENT AUTHORITY ACT 1972**

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LAWS OF MALAYSIA**Act 85****RUBBER INDUSTRY SMALLHOLDERS
DEVELOPMENT AUTHORITY ACT 1972**

An Act to make provision for the establishment and incorporation of the Rubber Industry Smallholders Development Authority and for connected purposes.

[1 January 1973, P.U. (B) 519/1972]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

Short title

1. (1) This Act may be cited as the Rubber Industry Smallholders Development Authority Act 1972.

(2) This Act shall apply throughout Malaysia.

Interpretation

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

“accounting officer” includes every officer and servant who is charged with the duty of collecting, receiving, or accounting for, or who in fact collects, receives or accounts for, any money of the Fund, or who is charged with the duty of disbursing, or who does in fact disburse, any such money, and every officer and servant who is charged with the receipt, custody or disposal of, or the accounting for, any store and property of the Authority or who in fact receives, holds or disposes of such store and property;

“Director General” means the Director General of the Authority appointed under section 11.

(2) This Act shall be read and construed as one with the Rubber Industry (Replanting) Fund Ordinance 1952 [*Ord. No. 8 of 1952*] as amended by this Act.

PART II THE AUTHORITY

Establishment of the Authority

3. (1) A body to be known as the Rubber Industry Smallholders Development Authority (hereinafter referred to as “the Authority”) is established.

(2) The Authority shall be a body corporate and shall by the name of “The Rubber Industry Smallholders Development Authority” have perpetual succession and shall have and may use a common seal and, by the same name, may sue and be sued in all Courts and in all manner of suits and proceedings and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Authority upon such terms as to the Authority seems fit and may do all other matters and things incidental or appertaining to a body corporate and not inconsistent with the provisions of this Act.

(3) The Authority shall have a common seal and such seal may, from time to time, be broken, changed, altered and made anew.

(4) The common seal of the Authority shall not be used except with the approval of the Authority and shall not be affixed to any instrument except in the presence of the Chairman and one other member of the Authority, who shall sign their names to the instrument, and such signing shall be sufficient evidence that such seal was duly and properly affixed and that the same is the lawful seal of the Authority.

Membership of the Authority

****4.** (1) The Authority shall consist of the following members who, with the exception of the Director General, shall be appointed by the Minister:

- (a) a Chairman;
- (b) a representative of the Ministry of Plantation Industries and Commodities*;
- (c) a representative of the Ministry of Natural Resources and Environment*;
- (d) a representative of the Ministry of Agriculture and Agrobased Industry*;
- (e) a representative of the Ministry of Finance;
- (f) the Director of the Malaysian Rubber Board;
- (g) the Director of the Malaysian Agricultural Research and Development Institute;
- (h) seven representatives of the smallholder sector of the rubber industry one of whom shall be from Sabah and one from Sarawak;
- (i) two representatives of the estate sector of the rubber industry from the nominations of the Rubber Producers' Council†;
- (j) a representative of the Malaysian Rubber Development Corporation Berhad;
- (k) the Director General:

Provided that the Authority shall be deemed to be duly and properly constituted notwithstanding that in addition to the appointment of all the representatives referred to in paragraphs (a), (b), (c), (d), (e), (f), (g) and (i) only four representatives referred to in paragraph (h) have been appointed.

*NOTE—See P.U. (A) 206/2004

†NOTE—This Council has since been dissolved and no other body has been appointed or established in its place.

** NOTE – Paragraph 4(1)(b) was amended to paragraph 4(b) as follows: “a representative of the Ministry of Rural and Regional Development, to be nominated by the Secretary General of the Ministry” vide Act A1363 which is yet to come into force except paragraph 4(b) which is deemed to come into force on 1 November 1990.

(1A) Whenever the office of Director General is vacant, subsection (1) shall be read as if paragraph (k) had been deleted.

(2) The Minister may appoint in respect of each member of the Authority an alternate member who may attend meetings of the Authority when the substantive member is temporarily unable to attend and when so attending such alternate member shall be deemed for all purposes to be the member of the Authority.

(3) Every member of the Authority, other than the Director General, shall, unless he sooner resigns or his appointment is revoked, hold office for such period as may be specified in the letter of appointment and shall be eligible for reappointment.

(4) The Minister shall cause the appointment of every member, other than the Director General, and every alternate member of the Authority to be published in the *Gazette*.

Proceedings of the Authority

5. The Authority may, with the approval of the Minister, make rules relating to meetings of the Authority, quorum and other matters relating to procedure.

Functions of the Authority

6. (1) The Authority shall be responsible for—

- (a) the administration of the Rubber Industry (Replanting) Fund established under section 3 of the Rubber Industry (Replanting) Fund Ordinance 1952;
- (b) the management and successful operation of the Schemes prepared and approved under Part III of the Rubber Industry (Replanting) Fund Ordinance 1952;
- (c) the planning and implementation of all research innovations in the smallholder sector.

(2) For the purpose of the effective performance of its functions as aforesaid—

- (a) the Authority shall—

- (i) implement all agricultural innovations that emanate from research;
 - (ii) co-operate and liaise with all other national agencies responsible for research, extension, provision of agricultural credits, processing and marketing of rubber and effect expeditiously the modernization of the smallholder sector;
 - (iii) carry out the replanting and new planting of the smallholder sector with modern high yielding planting materials in a comprehensive and systematic manner;
 - (iv) ensure that the smallholder sector is modernized in every sense to improve the economic well-being of the smallholders;
 - (v) obtain and keep the necessary statistics relating to the smallholder sector and cause such information to be available to the Government;
 - (vi) take part in such activities as the Minister responsible shall determine from time to time relating to the improvement and development of the smallholder sector;
- (b) the Authority may, with the approval of the Minister, from time to time, by order published in the *Gazette* establish a corporation by such name as may be specified in the order to carry out and have the charge, conduct and management on behalf of the Authority of any Scheme prepared and approved under the Rubber Industry (Replanting) Fund Ordinance 1952 and may in like manner, cancel, vary or amend any such order; and any such order made under this subsection shall make provision in respect of the following:
- (i) the constitution of the corporation;
 - (ii) the finances of the corporation;
 - (iii) repayment of loans to the corporation; and

(iv) the accounts to be kept by the corporation and the audit of the accounts; and

(c) the Authority may, with the approval of the Minister after consultation with the Minister of Finance, from time to time establish corporations under the Companies Act 1965 [Act 125] to carry on activities beneficial to the smallholder sector.

(3) For the purposes of discharging its obligations under subsection (2) and of furthering the objects of this Act the Authority may, notwithstanding section 9 of the Rubber Industry (Replanting) Fund Ordinance 1952, utilize the moneys in the Rubber Industry (Replanting) Fund established under section 3 of the Rubber Industry (Replanting) Fund Ordinance 1952 for the following purposes as may be approved by the Minister:

- (a) contributions to such association or body set up for the benefit of smallholders;
- (b) loans to smallholders for the purpose of improving their holdings;
- (c) loans to or the provision of capital for corporations established or to be established under paragraph (2)(b); and
- (d) such other purposes as are not inconsistent with the provisions of this Act or the Rubber Industry (Replanting) Fund Ordinance 1952.

Extension and amendment of Ordinance No. 8 of 1952

7. The Rubber Industry (Replanting) Fund Ordinance 1952 is extended to the whole of Malaysia and shall continue to have effect subject to the amendments specified in the Schedule to this Act.

Vesting of property and transfer of rights and liabilities

8. All property movable or immovable, which immediately before the commencement of this Act was vested in or held by or for the Rubber Industry (Replanting) Board established and constituted

under the Rubber Industry (Replanting) Fund Ordinance 1952, shall on the coming into force of this Act and without any conveyance, assignment or transfer whatever vest in or pass to the Authority constituted under this Act for the like title, estate or interest and on the like tenure and for the like purposes as the same was vested or held immediately before the coming into force of this Act; and all rights and liabilities which immediately before the said commencement were the rights and liabilities of the Board as aforesaid shall upon the commencement be the rights and liabilities of the Authority constituted under this Act.

Minister's directions

9. The Authority shall be responsible to the Minister and the Minister may, from time to time, issue directives on any aspect of the functions of the Authority and any such directive shall be binding on the Authority.

Power to borrow

10. The Authority may from time to time borrow, at such rate of interest and with such method of repayment as the Minister of Finance may approve, any sums required by the Authority for meeting any of its obligations or for discharging any of its duties.

Appointment of the Director General and other officers and servants of the Authority

11. (1) There shall be a Director General of the Authority who shall be appointed by the Authority with the approval of the Minister.

(2) The Authority shall cause the appointment of the Director General to be published in the *Gazette*.

(3) The Authority may appoint such other officers or servants as it thinks fit for the purpose of carrying out the functions of the Authority.

(4) All members, officers and servants of the Authority shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

Duties of the Director General

11A. (1) The Director General shall be the chief executive officer of the Authority and shall—

- (a) be responsible for putting into execution the policy decisions of the Authority and for the general administration of its affairs;
- (b) exercise supervision and control over all officers and servants of the Authority; and
- (c) perform such other duties as the Authority, subject to any direction of the Minister, may from time to time determine or as the Chairman, subject to any resolution of the Board, may from time to time direct.

(2) The Director General shall be present at and throughout every meeting of the Authority unless—

- (a) he is prevented from doing so by reason of illness or absence from Malaysia; or
- (b) he is excused from doing so by the Chairman or the person presiding over the meeting.

Establishment of Personnel Committee

11B. (1) There shall be established a Personnel Committee which shall consist of the following members:

- (a) the Director General of the Authority who shall be the chairman of the Committee and having a casting vote; and
- (b) three members of the Authority to be appointed by the chairman of the Committee with the approval of the Authority.

(2) The Personnel Committee shall be responsible for matters relating to management, service and human resource development of the Authority, and for that purpose shall have jurisdiction and shall exercise its powers over all officers and servants of the Authority, other than the Director General, in all matters relating to the

appointment, promotion and termination of service of such officers and servants in accordance with any regulations made by the Authority in respect thereof.

Establishment of Personnel Appeal Committee

11c. (1) There shall be established a Personnel Appeal Committee which shall consist of the following members:

- (a) the Chairman of the Authority who shall be the chairman of the Personnel Appeal Committee and having a casting vote; and
- (b) three members of the Authority not being members of the Personnel Committee, to be appointed by the chairman of the Personnel Appeal Committee with the approval of the Authority.

(2) The Personnel Appeal Committee shall have the powers to hear and determine any appeal against any decision of the Personnel Committee with regard to promotion only in accordance with any regulations made by the Authority in respect thereof.

(3) Any officer or servant of the Authority who is aggrieved by a decision of the Personnel Committee may, within fourteen days, appeal against such decision to the Personnel Appeal Committee.

(4) The decision of the Personnel Appeal Committee shall be final.

Disciplinary committees

11d. (1) The Authority shall have disciplinary authority over all its officers and servants and shall exercise disciplinary control in respect of all such persons in accordance with this Act and any regulations made under section 11F.

(2) For the purposes of this section—

- (a) there shall be established a disciplinary committee of the Authority in respect of the Director General consisting of—

- (i) the Secretary General of the Ministry who shall be the chairman of the committee; and
 - (ii) two members of the Authority to be appointed by the Authority; and
- (b) the Authority may, by notification in the *Gazette*, establish different disciplinary committees for different categories of officers or servants of the Authority.
- (3) The following shall apply to any disciplinary committee established pursuant to paragraph (2)(b):
- (a) such committee shall consist of any number of members of the Authority, other than the Chairman of the Authority, or officers of the Authority, or any combination of such members and officers; and
 - (b) an officer who is a member of a disciplinary committee shall not be lower in rank than any officer or servant over whom the committee of which he is a member has disciplinary authority.
- (4) The committee established pursuant to paragraph (2)(b) shall exercise its powers in all matters relating to the discipline of officers and servants placed under its jurisdiction.
- (5) In the exercise of its disciplinary functions and powers, a disciplinary committee referred to under subsection (2) shall have the power to take disciplinary action and impose any disciplinary punishment or any combination of two or more of disciplinary punishments as may be provided for under any regulations that may be made under section 11F.

Appeal against decision of disciplinary committee

11E. (1) A decision of the disciplinary committee under paragraph 11D(2)(a) shall be appealable to the Minister.

(2) A decision of the disciplinary committee under paragraph 11D(2)(b) shall be appealable to the Disciplinary Appeal Committee which shall consist of the following members:

- (a) the Chairman of the Authority, who shall be the chairman of the Disciplinary Appeal Committee and having a casting vote; and
 - (b) three members of the Authority, not being members of the disciplinary committee whose decision is the subject matter of the appeal, to be appointed by the chairman of the Disciplinary Appeal Committee with the approval of the Authority for the purpose of the appeal.
- (3) The Minister or the Disciplinary Appeal Committee, as the case may be, may confirm, reverse or vary the decision of the disciplinary committee.
- (4) When the Disciplinary Appeal Committee considers an appeal under subsection (2), a member of the disciplinary committee against whose decision the appeal is made who is also a member of the Authority shall not be present or in any way participate in any proceedings relating to that appeal.
- (5) The decision of the Minister or the Disciplinary Appeal Committee under subsection (3) shall be final and conclusive.

Power to make disciplinary regulations

11f. (1) The Authority may, with the approval of the Minister, make such regulations as it deems necessary or expedient to provide for the discipline of the Director General, officers and servants of the Authority.

- (2) The disciplinary regulations made under this section—
- (a) may create disciplinary offences;
 - (b) may provide for disciplinary punishments as the Authority may deem appropriate, and the punishments may extend to warning, fine, forfeiture of emoluments, deferment of salary movement, reduction of salary, reduction in rank and dismissal;
 - (c) shall provide for an opportunity to the person against whom disciplinary proceedings are taken to make representations against the disciplinary charge laid against

him before a decision is arrived at by the disciplinary committee except in the following cases:

- (i) where an officer or servant of the Authority is dismissed or reduced in rank on the ground of conduct in respect of which a criminal charge has been proved against him;
 - (ii) where the Authority, on the recommendations of the Minister charged with home affairs, is satisfied that in the interest of the security of Malaysia or any part thereof it is not expedient to carry out the requirements of this paragraph; or
 - (iii) where there has been made against an officer or servant of the Authority any order of detention, supervision, restricted residence, banishment or deportation, or where there has been imposed on such officer or servant of the Authority any form of restriction or supervision by bond or otherwise, under any law relating to the security of Malaysia or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls;
- (d) may provide for the interdiction with reduced emoluments of an officer or servant of the Authority during the pendency of a criminal proceedings against him or disciplinary proceedings against him with the view to his dismissal or reduction in rank; and
- (e) may provide for the suspension without emoluments of an officer or servant of the Authority where the officer or servant has been convicted by any criminal court or where an order of detention or restriction has been made in respect of or imposed on the officer or servant.
- (3) For the avoidance of doubt, “officer” in this section includes the Director General.

Imposition of surcharge

11g. (1) A person who is or was in the employment of the Authority may be surcharged if it appears to the Authority that the person—

- (a) has failed to collect money owing to the Authority for the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of money from the Authority or for any payment of money which is not duly approved;
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any money, store or other property of the Authority;
- (d) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
- (e) has failed to make any payment, or is or was responsible for any delay in the payment from the Authority, of money to any person to whom such payment is due under any law or under any contract, agreement or arrangement entered into between that person and the Authority.

(2) The Authority shall, before the person is surcharged, serve on him a written notice calling on him to show cause why he should not be surcharged.

(3) If a satisfactory explanation is not received within fourteen days from the date of service of the aforesaid notice, the Authority may—

- (a) in the case of paragraphs (1)(a), (b) and (c), surcharge against the person a sum not exceeding the amount not collected, or of the improper payment made, or of the deficiency in or destruction of the property caused; and
- (b) in the case of paragraphs (1)(d) and (e), surcharge against the person, such sum as the Authority may think fit.

Notification of surcharge

11H. The Authority shall notify the person surcharged in respect of any surcharge made under subsection 11G(3).

Withdrawal of surcharge

11I. Notwithstanding subsection 11G(3) and section 11H, the Authority may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Authority shall forthwith notify the person surcharged of the withdrawal.

Recovery of surcharge

11J. The amount of any surcharge made under subsection 11G(3) and not withdrawn under section 11I shall be a debt due to the Authority from the person surcharged and may be sued for and recovered in any court at the suit of the Authority and may also, if the Authority so directs, be recovered by deduction—

(a) from the salary of the person surcharged; or

(b) from the pension of the person surcharged,

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

Composition of the Authority in special cases

11K. In any action for surcharge against the Director General, the composition of the Authority for the purposes of sections 11G and 11I shall not include the Director General.

Saving

12. Nothing in this Act shall affect any act or thing done under or by virtue of the Rubber Industry (Replanting) Fund Ordinance 1952 and such act or thing shall continue to have effect subject to this Act.

SCHEDULE
[Section 7]

AMENDMENTS TO THE RUBBER INDUSTRY (REPLANTING)
FUND ORDINANCE 1952

Sections	Amendments
2	<p>Substitute for the definition “the Board” the following:</p> <p>‘ “the Authority” means the Rubber Industry Smallholders Development Authority established under the Rubber Industry Smallholders Development Authority Act 1972.’</p>
3	<p>Re-number section 3 as subsection 3(1) and add the following new subsection 3(2);</p> <p>“(2) The Fund shall consist of—</p> <ul style="list-style-type: none">(a) all moneys collected under section 7;(b) such grants as may be paid into it from the Federal Consolidated Fund;(c) such moneys as may be borrowed by the Authority under section 10 of the Rubber Industry Smallholders Development Authority Act 1972; and(d) proceeds from any investment made under section 8.”
4	<p>Delete the whole.</p>
5	<p>Delete the whole.</p>
6	<p>Delete the whole.</p>
7	<p>Substitute for the words “Board” and “the States of Malaya” appearing in subsections (1) and (3) the words “Authority” and “Malaysia” respectively.</p>
9	<p>Re-number section 9 as subsection 9(1) and add the following new subsection 9(2):</p> <p>“(2) Without prejudice to subsection (1) all other expenditure which may be authorized by the Authority, with the approval of the Minister, may be chargeable to the Fund with respect to any of the following matters:</p> <ul style="list-style-type: none">(a) travelling and other allowances to members and officers and servants of the Authority; and

(b) loans to officers and servants of the Authority for the purchase or building of dwelling houses or the purchase of conveyances on such terms and conditions as may be prescribed by the Authority.”.

10 Substitute therefore the following:

“10. (1) The Authority may, with the approval of the Minister, by regulations prescribe schemes for the purpose of utilising the Fund.

(2) Regulations made under subsection (1) shall be published in the *Gazette*.”.

11 Substitute therefore the following new section 11:

“11. (1) The Authority shall cause full and true accounts of the Fund to be kept and shall as soon as possible after the 31 December of each year, issue a report of the Fund together with a balance sheet and an account of income and expenditure during the preceding year, calculated from the 1 January or from the date of the inception of the Fund to the 31 December, and a list of the investments (if any) of the Fund showing their cost price and value at such last mentioned date.

(2) The annual balance sheet, income and expenditure and list of investments (if any) of the Fund shall, prior to the issue thereof, be audited by the Auditor General or such auditor as the Minister may appoint.

(3) The Annual Report of the Authority and the Auditor’s Report shall be transmitted by the Authority to the Minister not later than 30 September of each year and shall be laid on the table of both Houses of Parliament by the Minister and published in the *Gazette*.”.

12(4)
and (5) Substitute therefore the following:

“(4) Any scheme prepared by the Authority under this section shall conform to the principles as the Minister may by regulation prescribe.”

13 (a) Substitute for paragraph (2)(b) the following:

“(b) any scheme expressed to be for the benefit of estates shall conform to the principles as may be approved by the Minister;”;

(b) Delete all the words appearing after the word “Minister” in paragraph (2)(d).

- 15(3) Delete the words “mentioned in paragraph 2 of the Third Schedule to this Ordinance”.
- 16(1) (a) Substitute for the definition “estate” the following—
‘ “estate” means any land of a total area of not less than one hundred acres included in any scheme under this Part and the owner continues so to participate for the duration of such scheme;’;
- (b) Substitute for the definition “smallholder” the following:
‘ “smallholder” means the owner or lawful occupier or lawful representative of the owner or lawful occupier of any land of an area of less than one hundred acres, which is included in any scheme under this Part and the aforesaid person continues so to participate for the duration of such scheme;’.
- 16(2) Delete the words “and of the Third and Fourth Schedules to this Ordinance” wherever appearing.
- 8, 9, 12, 13, 15, 16 and 17 Substitute for the word “Board” wherever appearing the word “Authority”.
- 12(1), 15(4) and 16(2) Delete the words “for Commerce and Industry” immediately after the word “Minister” wherever appearing.
- First Schedule Delete the whole.
- Second Schedule Delete the whole.
- Third Schedule Delete the whole.
- Fourth Schedule Delete the whole.
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LAWS OF MALAYSIA

Act 85

RUBBER INDUSTRY SMALLHOLDERS DEVELOPMENT AUTHORITY ACT 1972

LIST OF AMENDMENTS

Amending law	Short Title	In force from
Act A292	Rubber Statutory Bodies Act 1975	01-01-1973
Act A349	Rubber Statutory Bodies Act 1976	01-01-1973 except for paragraphs 1, 2 and 3 of amendments to ss.4(1): 01-06-1976
Act A448	Rubber Industry Smallholders Development Authority except (Amendment) Act 1979	16-02-1979 except paragraph 2(1)(a): 28-07-1978
Act A965	Rubber Industry Smallholders Development Authority (Amendment) Act 1996	27-09-1996
P.U. (A)206/ 2004	Ministers of The Federal Government (No. 2) Order 2004	27-03-2004
Act A1363	Rubber Industry Smallholders Development Authority (Amendment) Act 2010	not yet in force except paragraph 4(b); 01-11-1990

LAWS OF MALAYSIA**Act 85****RUBBER INDUSTRY SMALLHOLDERS
DEVELOPMENT AUTHORITY ACT 1972****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
2	Act A448 Act A965	28-07-1978 27-09-1996
4	Act A292 Act A349 Act A448	01-01-1973 01-06-1976 16-02-1979
6	Act A349	01-01-1973
11	Act A448	16-02-1979
11A	Act A448	16-02-1979
11B-11K	Act A695	27-09-1996
