

MALAYSIAN PALM OIL BOARD (LICENSING) REGULATIONS 2005
[P.U.(A) 516/2005]

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SCHEDULES

IN exercise of the powers conferred by section 78 of the Malaysian Palm Oil Board Act 1998 [Act 582], the Minister makes the following regulations:

PART I

PRELIMINARY

1. Citation and commencement

- (1) These regulations may be cited as the **Malaysian Palm Oil Board (Licensing) Regulations 2005**.
- (2) These Regulations come into operation on 1st January 2006.

2. Interpretation

In these Regulations, unless the context otherwise requires--

"licensed activities"

means the activities as specified in paragraphs 5(1)(a) to (i) for which a licence is required;

"oil palm seedling"

means seedlings with leaves and roots;

"palm fatty acids"

means fatty acids originating or extracted wholly or partly from palm oil;

"oil palm planting material"

means the oil palm planting material referred to in regulation 4;

"oil palm seed"

means seed of oil palm and includes seed which have been allowed to germinate to a stage where their radicles and plumules are discernible;

"palm kernel cake"

means palm kernel cake in whatever form produced or manufactured after extraction of the oil from the palm kernel;

"throughput"

means the quantity of oil palm fruit processed by the oil palm mill;

"estate"

means an oil palm holding which is not a smallholding;

"palm kernel"

means kernel which may include palm nut whether or not covered with shell, which is biologically dead or cannot be germinated;

"licensing committee"

means a committee established under section 18 of the Act to which the responsibility for licensing under these Regulations have been delegated by the Board under paragraph 17(1)(b) of the Act;

"smallholding"

means--

(a) oil palm holding which is less than 40.46 hectares; or

(b) oil palm holdings which in aggregate amount to less than 40.46 hectares;

"bulking facilities"

means a facility for storing, handling and maintenance of oil palm products;

"oil palm mill"

means a mill for milling oil palm fruit;

"licence"

means a licence issued under these Regulations and subject to regulation 20 includes a temporary licence;

"purchase"

includes an offer to purchase or an agreement to purchase;

"move"

includes transport;

"mill"

means milling of oil palm fruits;

"survey"

means inspecting, measuring, conducting, sampling or superintending any activity relating to export or movement or handling of any oil palm product;

"sell"

includes to sell whether for cash or on credit or otherwise and includes an agreement to sell or an offer to sell; and an offer to sell shall be deemed to include the exposing for sale, the publication of a price list, the affixing of labels, markings or tags on sacks, bags or container or

in proximity thereto indicating the price, the furnishing of a quotation, or any other act or notification whatsoever by which willingness to enter into any transaction of sale is expressed;

"crude palm kernel oil"

means oil in crude form, originating or extracted from the kernel of the oil palm fruit;

"processed palm kernel oil"

means oil (excluding palm oleochemicals) in processed form, originating from crude palm kernel oil;

"sludge palm oil"

includes--

- (a) poor quality deteriorated palm oil as a result of improper or long storage;
- (b) residual or spillage oil recovered from milling, refining, storing or conveyance; or
- (c) any expired palm cooking oil or used palm cooking oil;

"crude palm oil"

means oil in crude form, originating or extracted from the pericarp of the oil palm fruit;

"processed palm oil"

means oil (excluding palm oleochemicals) in processed form, originating or manufactured from crude palm oil;

"palm oleochemicals"

means oil palm based chemicals as prescribed in the First Schedule;

"enforcement circulars of MPOB"

means the circulars listed in the Second Schedule;

"licensee"

means a person in whose name a licence is issued under these Regulations;

"owner"

includes the lessee of a lease;

"determination"

includes decision, requirement, recognition, acceptance or instruction issued under regulation 48;

"legal administrator"

means--

- (a) a person in whose name a letter of administration is issued;
- (b) a person in whose name a grant of probate is issued;
- (c) a receiver or a receiver and manager appointed in accordance with the Companies Act 1965 [Act 125];
- (d) a liquidator appointed in accordance with the Companies Act 1965; or
- (e) in the case of a co-operative society, society, trade union or statutory body, a person who is charged with the responsibility for winding up the affairs of the co-operative society, society, trade union or statutory body, as the case may be, when they are dissolved;

"premises"

means any place whether open or enclosed or whether on land or sea and includes any--

- (a) house;
- (b) factory;
- (c) shop;
- (d) conveyance;
- (e) store;
- (f) room;
- (g) estate;
- (h) smallholding;
- (i) cubicle; or
- (j) shed;

"licensed premises"

means the premises mentioned in a licence issued under these Regulations;

"plant from oil palm tissue"

means oil palm cultured or originating from oil palm tissue.

3. Forms

(1) The Forms listed in the Third Schedule shall be used for the purposes mentioned in the respective Forms.

(2) The contents of the Forms listed in the Schedule, shall be such as may, from time to time, be determined by the Board.

PART II

LICENCE

4. Classifications of oil palm products, etc.

(1) For the purpose of these Regulations--

- (a) oil palm products licensed under these Regulations shall be classified and abbreviated as prescribed in Part I of the Fourth Schedule;
- (b) oil palm planting material may be further classified and abbreviated in accordance with item 6 of Part I of the Fourth Schedule;
- (c) oil palm seedling may be further classified and abbreviated in accordance with subitem 6.2 of Part I of the Fourth Schedule; and
- (d) palm oil may be further classified into and abbreviated in accordance with item 7 of Part I of the Fourth Schedule.

(2) The licensed activities may be classified in groups as prescribed in Part II of the Fourth Schedule.

5. Prohibition against producing or selling, etc., without licence

(1) No person shall, unless he is a holder of an appropriate licence issued under these Regulations--

- (a) produce oil palm planting material;
- (b) sell or move oil palm planting material, oil palm fruit, palm oil, palm kernel, palm fatty acids or palm oleochemicals;
- (c) purchase oil palm fruit, palm oil, palm kernel or palm fatty acids;

- (d) store oil palm planting material, palm oil, palm kernel, palm kernel cake, palm fatty acids or palm oleochemicals;
- (e) commence construction of oil palm mill;
- (f) mill oil palm fruit;
- (g) commence construction of bulking facilities for oil palm products;
- (h) survey or test oil palm planting material, oil palm fruit, palm oil, palm kernel, palm kernel cake, palm fatty acids or palm oleochemicals; or
- (i) export or import oil palm planting material, oil palm fruit, palm oil, palm kernel, palm kernel cake, palm fatty acids or palm oleochemicals.

(2) No person, other than a person applying for a licence under the estate and smallholding categories, shall be eligible to be issued a licence unless he has registered his business with the relevant authorities under any written law regulating such business.

(3) Any person who contravenes subregulation (1) commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

6. Activities exempted from licence

Notwithstanding regulation 5, no licence is required--

- (a) to purchase, sell, move or store processed palm oil in the form of package not exceeding 25 kilogrammes nett weight;
- (b) to move oil palm planting material, oil palm fruit, palm kernel, palm fatty acids or palm oleochemicals if the person moves the oil palm planting material, oil palm fruit, palm kernel, palm fatty acids or palm oleochemicals on behalf or for a person who is licensed to move the oil palm planting material, oil palm fruit, palm kernel, palm fatty acids or palm oleochemicals;
- (c) to commence construction of any bulking facilities where the total storage capacity does not exceed ten thousand metric tonnes;
- (d) to store or move oil palm seedling to be planted in one's own plantation;
- (e) to store any palm kernel cake for one's own animal feed;
- (f) to test any oil palm product other than for commercial purpose; or
- (g) to store palm oleochemicals for one's own usage and not for the purpose of selling any palm oleochemicals to any other person.

7. Application for licence by person holding appropriate licence under the revoked Regulations

(1) After the coming into operation of these Regulations, a person holding an appropriate licence issued under regulation 3 of the Palm Oil Industry (Licensing) Regulations 1979 [*P.U. (A) 33/1979*] (the "revoked Regulations") may, before the expiry of the licence, apply for a licence under these Regulations and such application shall be treated as a fresh application and not as an application for renewal of a licence.

(2) If a licence is issued under these Regulations to the person referred to in subregulation (1), the licence issued under the revoked Regulations shall be deemed to be cancelled.

(3) Any person, or a person acting on behalf another person, who immediately before the date of the coming into operation of these Regulations is licensed to move any palm oil, may continue to use Form PL3 as prescribed under the revoked Regulations, until the expiry of three months after the date of the coming into operation of these Regulations after which form MPOB L3 as prescribed in the Third Schedule shall be used.

(4) Any person who immediately before the coming into operation of these Regulations was lawfully carrying out a licensed activity referred to in these Regulations, excluding such activity that was licensed under the revoked Regulations, shall apply for a licence in respect of such licensed activity within a period of ninety days from the date of the coming into operation of these Regulations.

(5) Pending the determination of the application for a licence under subregulation (4), such applicant may continue to carry out the licensed activity and shall in those circumstances be deemed to be lawfully carrying out the licensed activity.

(6) The acknowledgement letter issued by an authorized officer in respect of an application under subregulation (4) shall be sufficient proof of the making of such application.

8. Application for licence

(1) An application for a licence shall be made to the Board in the appropriate form as prescribed in the Third Schedule and subject to subregulation 9(2) shall be recorded by the Board.

(2) The applicant shall furnish the following information and document together with the application form:

- (a) legal entity of the applicant;
- (b) legal right to use a premise for the licensed activity;
- (c) proof of the financial position of the applicant; and
- (d) such other information and document to support the application.

(3) An application under subregulation (1) may be withdrawn at any time before the licence is issued or refused.

(4) Where any information or document required under subregulation (2) is not provided by the applicant within the time specified or any extension granted by the Board, the application shall be deemed to be withdrawn and shall not be further proceeded with, without prejudice to a fresh application being made by the applicant.

9. Further particulars or other information or documents

(1) At any time after receiving an application in the appropriate form, the Board may, if it requires further particulars or other information or document to enable it to fairly consider the application, require the applicant to--

- (a) supply the particulars, information or documents; or
- (b) appear in person or by another person authorized in writing by the person to appear on his behalf before the licensing committee or authorized officer to be interviewed, or
- (c) comply with such other requirement as may be determined by the Board.

(2) The Board may refuse to record, proceed with or hear the application and may require that the application be appropriately amended or completed and resubmitted or that a fresh application be submitted if--

- (a) the application form is not duly completed by reason of any omission or misdescription;
- (b) the application form contains any error or alteration; or
- (c) the application does not comply with any requirement as may be determined by the Board.

10. Issue or refusal of licence

(1) Upon giving due consideration to the application made in accordance with regulation 8, the Board may approve or refuse the application.

(2) The Board shall not issue a licence if it is satisfied that the issuance of licence would be contrary to the Act or any enforcement circulars of MPOB or any determination of the Board or Minister.

- (3) Where the Board approves the application, the Board shall require the applicant to pay the fees as prescribed in the Fifth Schedule.
- (4) Upon receipt of the fee referred to in subregulation (3), the Board shall issue to the applicant the appropriate licence, subject to the conditions which may be imposed by the Board in addition to the conditions specified in the Sixth Schedule and enforcement circulars of MPOB.
- (5) Any conditions imposed by the Board under subregulation (4) may differ from one licensee to another notwithstanding that the licence is of the same category or activity.
- (6) The licence issued by the Board shall be signed by the Director General or an authorized officer.
- (7) The Board may, at any time, vary, add to, delete from or otherwise amend such conditions imposed on the licence.
- (8) Where the Board refuses the application, the Board may notify the applicant of the refusal in writing without assigning any reason for such refusal.
- (9) Where there are two or more applicants applying for a licensed activity in respect of the same premises and there is a dispute between those applicant as to the legal right to use such premises, the Board may, in its discretion, issue the licence to only one of the two or more applicants unless the Board has been informed earlier of any decision of any court in respect of the dispute.

11. Categories of licence

- (1) A licence may be issued in respect of one or more licensed activities, and categories as prescribed in the Seventh Schedule.
- (2) The Board may, from time to time and where appropriate, amend the licensed activity or the category in relation to a particular licence.

12. Form of licence

The licence shall be in Form MPOB L1 as prescribed in the Eighth Schedule.

13. Duration of licence

A licence issued or renewed under these Regulations shall be valid for a period of one year unless--

- (a) otherwise specified in the licence; or
 - (b) suspended or cancelled under regulation 15,
- whichever is earlier.

14. Renewal of licence

- (1) A licence may be renewed upon application being made in the form prescribed in the Third Schedule.
- (2) A licensee who intends to renew a licence shall, within a period of not less than one month but not earlier than three months before the date of the expiry of the licence, apply for such renewal.
- (3) A person who applies for renewal after the expiry of the time specified in subregulation (2) shall pay a late fee of one percent of the licence fee or ten ringgit, whichever is greater, for every day of the delay and including the date of the expiry of the licence.
- (4) Subregulation (3) shall not apply to owners of smallholding.

(5) Where any application for renewal is made after the expiry of the licence, the Director General may refuse to renew the licence or may renew the licence subject to an imposition of an expiry fee not exceeding five hundred percent of the licence fee or five thousand ringgit, whichever is greater.

(6) The expiry fee payable by owners of smallholding is fifty ringgit.

(7) The expiry fee imposed under subregulation (5) shall be in addition to the imposition of late fee under subregulation (3).

(8) Where an application is made by post, the date on the postmark on the envelope shall be deemed to be the date on which the application was made and if the Director General is unable to ascertain the date on the postmark, the application shall be deemed to have been made three days before the date on which such application was received by the Board.

(9) Where an application for renewal of licence is made electronically, the date on the time stamp attached to the application shall be deemed to be the date on which the application was made and where there is no time stamp attached or the Director General is unable to ascertain the date on the time stamp, the application shall be deemed to have been made on the date the application was received by the Board.

(10) No licence shall, in any circumstances, be renewed after the expiry of three months from the date of the expiry of the licence except owners of smallholding after the expiry of one year from the date of the expiry of the licence.

(11) Regulations 4, 8, 9 to 13, shall apply *mutatis mutandis* to an application for renewal of licence.

15. Suspension, cancellation and non-renewal of licence

(1) The Board, the licensing committee or the Director General may call upon the licensee to show cause why the licence should not be cancelled, suspended or renewed if the Board, the licensing committee or the Director General is satisfied that--

- (a) any condition imposed on a licence has not been complied with or has been contravened;
- (b) the continuance of the licence would contravene the Act or any enforcement circulars of MPOB;
- (c) the grant of the licence was induced by a false representation of fact by or on behalf of the licensee;
- (d) the licence has been or is intended to be used for an unlawful purpose;
- (e) the original purpose for which the licence was issued no longer exists;
- (f) the licensee has contravened or has failed to comply with any of the provisions of the Act or any enforcement circulars of MPOB or any written laws in Malaysia whether or not there has been a prosecution for an offence in respect of such contravention or failure;
- (g) the licensee has contravened or has failed to comply with any law whether or not there has been a prosecution for an offence in respect of such contravention or failure;
- (h) he has been convicted by a court outside Malaysia for any offence under any law relating to oil palm;
- (i) the licensee has ceased to carry on the activity for which he is licensed;
- (j) the licensee has tarnished the good image of the oil palm industry;
- (k) any determination of the Minister, Board, Director General, licensing committee or authorized officer has not been complied with; or
- (l) there exists any other circumstances to warrant such action.

(2) The Board, the licensing committee or the Director General shall furnish the licensee with particulars of the alleged contravention or circumstances in writing.

(3) The licensee may, if he so desires, be present personally or be represented by a person authorized by him in writing at the hearing before the Board, the licensing committee or the Director General.

(4) If after the hearing the Board, the licensing committee or the Director General is of the opinion that the licensee has failed to show cause as to why the license should not be cancelled, suspended or renewed or that the licensee has failed to be present at the hearing, the Board, the licensing committee or the Director General may cancel, suspend or refuse to renew the licence.

(5) The Board, the licensing committee or the Director General shall inform the licensee of its decision in writing.

(6) If a licence has been cancelled or suspended, it shall have no effect from the date of cancellation or during the period of suspension, as the case may be.

(7) A person whose licence has been cancelled or whose application for renewal has been refused--

- (a) shall not be licensed again for such period not exceeding two years from the date of the cancellation or refusal to renew as the Board, the licensing committee or the Director General shall determine at the time of the cancellation or refusal; or
- (b) shall on being so required by the Board, the licensing committee or the Director General, surrender to the Board, the licensing committee or the Director General his licence within such period as may be specified by the Board, the licensing committee or the Director General, as the case may be.

(8) Any person who contravenes paragraph 7(b) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

16. Amendment of licence on request

(1) A licensee may apply to the Board in writing to amend--

- (a) the particulars of the licence; or
- (b) the conditions imposed on the licence.

(2) An application under subregulation (1) shall be accompanied by the fee as prescribed in the Fifth Schedule.

(3) If the Board approves the amendment, the Board shall amend the licence accordingly and allow the licence to continue to have effect as amended until expiry.

17. Assignment of licence

(1) A licensee shall not assign a licence issued to him to another person.

(2) A licensee who assigns any licence shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty thousand ringgit or imprisonment for a term not exceeding three years or to both.

18. Surrender of licence

(1) A licensee may surrender his licence by forwarding it to the Director General together with a written notice of the surrender.

- (2) The surrender shall take effect on the date the Director General receives the licence and the notice referred to in subregulation (1) or on a later date as specified in the notice.
- (3) The licensee is not allowed to withdraw the surrender unless it is expressed to take effect on a later date and before that date the Director General by notice allows the surrender to be withdrawn.
- (4) Any fee paid in relation to the licence so surrendered shall be returned in the amount and manner determined by the Board.

19. Partnerships

- (1) Where a licence is issued to a partnership, the names of all the partners shall be stated in the licence.
- (2) Where any change occurs on the partnership, any of the remaining partners shall, within twenty-one days of such change, inform the Director General or any authorized officer in writing of such change.
- (3) An application to admit a new partner or to remove an existing partner shall be submitted to the Director General or any authorized officer in the appropriate form.
- (4) Where an application is made under subregulation (3), the Director General or any authorized officer may add to or delete from the existing names accordingly and allow the licence to continue during the unexpired period if the Director General or authorized officer is satisfied, in the case of a new partner who is an individual, that such new partner is a fit and proper person to whom a licence may be granted as if he is an individual applicant for a licence under these Regulations.
- (5) For the purpose of subregulation (4), the licensee shall return the licence to the Director General or to any authorized officer for the necessary changes to be endorsed on that licence.
- (6) Where a licence is issued to a partnership, every partner shall be deemed to be liable jointly and severally for any act or omission of any other partner unless the partner who is deemed to be liable proves to the satisfaction of the Court that he acted *bona fide* and in no way contributed directly or indirectly to that act or omission.
- (7) This regulation shall apply *mutatis mutandis* where an application is made by a licensee to change the status of the licensee from a sole proprietor to a partnership or *vice versa*.

20. Temporary licence

- (1) The Director General may issue a temporary licence to permit an applicant to carry on a licensed activity--
 - (a) where the applicant is applying for a licence to be issued in relation to the activities of selling and moving oil palm fruit;
 - (b) where the applicant is a legal administrator for a licensee whose licence has been cancelled under regulation 29; or
 - (c) in such circumstances as the Director General may determine.
- (2) Before the Director General issues a temporary licence to the applicant, he shall be satisfied that the following have been complied with:
 - (a) in the case where the applicant is applying for a licence to be issued in relation to the activities of selling and moving oil palm fruit--
 - (i) that the applicant has made an application for the appropriate licence to the Board under these Regulations and it has been recorded under subregulation 8(1);

- (ii) that the registered and issued document of title or any document of title issued under the provisions of the laws for the time being in force in any state has not been issued; and
 - (iii) that the applicant has complied with such requirements as the Board may determine.
- (b) in the case where the applicant is a legal administrator for a licensee whose licence has been cancelled under regulation 29--
- (i) that the applicant has applied in writing to the Board;
 - (ii) that the applicant undertakes to wind down the business of the licensee; and
 - (iii) that the applicant has complied with such requirements as the Director General may determine.
- (3) The Director General shall, on an application having been duly made in accordance with this regulation and after being provided with all the particulars, information and document, consider the application.
- (4) After considering the application, the Director General may--
- (a) issue the temporary licence to the applicant, subject such the conditions as may be imposed by the Director General; or
 - (b) refuse to issue the temporary licence.
- (5) Notwithstanding subregulation (4), the Director General shall not issue a temporary licence if he is satisfied that the issuance of a temporary licence would be contrary to the Act or any enforcement circulars of MPOB or the determination of the Minister.
- (6) The Director General may notify the applicant of the refusal to issue a temporary in writing without assigning any reason.
- (7) The temporary licence issued by the Director General shall--
- (a) be in Form MPOB L2 as prescribed in the Ninth Schedule;
 - (b) be signed by the Director General; and
 - (c) be subject to such terms and conditions as may be specified by the Director General in the licence.
- (8) Where any application for a licence under regulation 8 has been approved, any temporary licence issued under this regulation shall be deemed to be cancelled.
- (9) A temporary licence issued under this regulation shall be valid for a period of not more than six months unless cancelled or suspended under these Regulations.
- (10) Save for the provisions in this regulation other provisions in these Regulations relating to a licence shall apply to a temporary licence with such modifications as the Director General thinks fit.

21. Compliance with conditions imposed on licensee

- (1) Every licensee shall comply with every condition imposed in respect of every category of licence as specified in the licence in accordance with the Seventh Schedule.
- (2) A licensee who fails to comply with subregulation (1) commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

22. Activities in licensed premises

- (1) A licensee shall not carry out any licensed activity in any premises other than the licensed premises.
- (2) A licensee shall permit the licensed premises to be inspected by any authorized officer.
- (3) A licensee who contravenes this regulation commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

23. Exhibition of licence in licensed premises

- (1) A licensee shall exhibit the licence in a conspicuous place in the licensed premises.
- (2) A licensee who fails to comply with subregulation (1) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

24. Notification of change in information furnished

- (1) Every licensee shall inform the Board in writing of any change in any information furnished to the Board, other than a change of address, within twenty-one days of such change.
- (2) Any person who fails to comply with or contravenes subregulation (1) commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

25. Notification of change of address

A licensee shall notify the Board of any change in his address within two weeks of such change and the Board shall not be deemed to have knowledge of such change unless the Board receives actual notice of the change.

26. Register of licence

The Board shall keep and maintain a Register of Licence.

26A. Registration of conveyance for moving palm oil

Any licensee for the activity of moving palm oil in relation to the palm oil transporter category, shall register with the Board every conveyance used to move palm oil.

27. Certified copy of licence

The Director General or any authorized officer may, subject to the payment of the fee prescribed in the Fifth Schedule, furnish to a licensee a certified copy of the licence, if the licensee--

- (a) submits to the Director General or any authorized officer a statutory declaration made by him to the effect that the licence issued to him is lost or has been destroyed or mutilated; or
- (b) applies for it with reasons acceptable to the Director General or any authorized officer.

28. Maintenance and submission of records, etc.

- (1) Every licensee shall keep, maintain or issue, as the case may be, proper records of production, sale, purchase, storage, stock, import, export, services provided, books of account, and other relevant documents as required and in the manner determined by the Board.

(2) Every licensee shall submit or produce records of production, sale, purchase, storage, stock, import, export, services provided, books of account, and other relevant documents required to be kept under these Regulations for inspection, examination or copying of such records, books and documents whenever required to do so by an authorized officer.

(3) Records of production, sale, purchase, storage, stock, import, export, services provided, books of account, and other relevant documents required to be kept under these Regulations shall be retained by a licensee for not less than two years from the date of the last entry and shall be either in the national language or the English language.

(4) All records, books and documents shall be kept in the licensed premises or in the premises approved in writing by the Director General and all subsequent records, books and documents shall be kept in the same premises.

(5) A licensee who fails to comply with this regulation commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

29. Licence deemed cancelled

A licence shall be deemed to be cancelled when the licensee--

- (a) is mentally incapacitated;
- (b) has been adjudged a bankrupt;
- (c) dies;
- (d) in the case of a company, is wound up; or
- (e) in the case of a partnership, a co-operative, society, trade union or statutory body, as the case may be, is dissolved.

30. Cancellation of broker licence

(1) Any licence issued to any person holding a licence to be a broker under subregulation 3(1) of the Palm Oil Industry (Licensing) Regulations 1979 [*P. U. (A) 33/1979*] (the "revoked Regulations") shall, on the date of the coming into operation of these Regulations, be cancelled.

(2) The Board shall, upon application, refund any fee paid by any person holding a licence to be a broker under the revoked Regulations on a pro rata basis on the unexpired period of the licence.

31. Fees

(1) The prescribed fees in the Fifth Schedule shall be charged in respect of licensed activities, classes of oil palm product and appeals.

(2) The fees shall be paid to the Board by such means and in such manner as the Board may direct.

(3) The fees collected by the Board under these Regulations shall be paid into the Fund.

PART III

APPEAL

32. Appeal

(1) Subject to regulation 33, any person who is aggrieved by the determination of the Board, licensing committee or the Director General to suspend, cancel or refuse to issue or renew a licence may, within 30

days of the date the decision was sent to the last known address of the licensee appeal to the Minister in writing and in the manner as determined by the Board.

(2) An appeal made under subregulation (1) shall be accompanied by the prescribed fees in the Fifth Schedule.

(3) An appeal under subregulation (1) shall not operate as a stay of the determination made under these Regulations, unless otherwise allowed by the Board.

(4) The Minister may establish any committee for the purpose of hearing an appeal under subregulation (1) and of advising him as to the determination that should be made on the appeal.

(5) No member of the Board shall be appointed to the committee referred to in subregulation (4).

(6) Members of the committee may be paid such allowance as the Minister may determine.

(7) The Minister shall not be bound to accept the advice of the committee appointed under subregulation (4) but may, after considering any appeal under subregulation (1) and the advice of the committee, make such determination on the appeal as he thinks just and proper.

33. No right of appeal

There shall be no right of appeal by any person whose application under these Regulations is refused under subregulation 9(2).

34. Validity of licence extended in successful appeal

Where the Minister allows in full an appeal against a determination to cancel a licence granted under these Regulations by the Board, the validity of the licence shall thereupon be extended by a period corresponding to that during which the licence was not valid and such extended period shall accordingly be recorded in the licence.

35. Prohibition of similar application when earlier application pending appeal

(1) Where an application is made under these Regulations and such an application is refused or only granted in part and the applicant thereafter appeals against such determination, he shall not, unless otherwise determined by the Minister, subsequently make a similar application under these Regulations, until such appeal has been determined by the Minister.

(2) In the event that any licence is granted as a result of a similar application mentioned in subregulation (1), unless otherwise determined by the Minister, the licence so granted shall be deemed to be void.

PART IV

GENERAL

36. Prohibition against moving or accepting delivery of palm oil without Form MPOB L3

(1) No person shall move or accept delivery of any palm oil, unless the palm oil are accompanied with Form MPOB L3 as prescribed in the Third Schedule which shall be completed in accordance with regulation 37.

(2) No person shall use Form MPOB L3 which is not printed or issued by the Board unless permitted by the Director General, subject to such conditions as he may deem fit to impose.

(3) A person who fails to comply with this regulation commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

37. Particulars to be filled and completed in Form MPOB L3

(1) Form MPOB L3 shall be issued by the licensed owner or his authorized consignor in triplicate and shall be in two parts namely Part A and Part B which shall be completed as follows:

- (a) Part A shall be completed and signed by the licensed owner of the palm oil or his authorized consignor of the palm oil, as the case may be; and
- (b) Part B which shall be countersigned on receipt of the consignment by the licensee receiving the consignment or by the person receiving the consignment on behalf of the licensee.

(1A) The licensee or consignor of palm oil or licensee who received such consignment or a person who received such consignment on behalf of the licensee shall furnish to the Board Form MPOB L3 containing complete, true and accurate information for every consignment which is moved or received and shall be received by the Board in the manner determined by the Board.

(2) The original, the first duplicate and the second duplicate of Form MPOB L3 shall be kept by the licensed owner or his authorized consignor, the person delivering the palm oil and the licensee receiving the palm oil respectively and they shall, on demand of an authorized officer, produce the original, the first duplicate or second duplicate, as the case may be, for the inspection by or custody of the authorized officer.

(3) No person shall move or accept delivery of any palm oil, other than the palm oil conforming to the particulars contained in Form MPOB L3 that accompanied the consignment.

(4) Any person who fails to comply with this regulation commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(5) For the purpose of this regulation, "licensed owner" means the licensee who owns the palm oil.

38. Prohibition of use of any material or equipment

(1) The Board may by enforcement circulars of MPOB--

- (a) prohibit the use of any materials or matter for any process, trade or sector;
- (b) prohibit whether by description or by brand name the use of any equipment or industrial plant; or
- (c) prohibit the exportation or importation of oil palm products, in relation to the oil palm industry.

(2) Any person who fails to comply with the prohibitions of the Board under subregulation (1) commits an offence and shall be liable on conviction to a fine not exceeding one hundred fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

39. Prohibition against illegal weighbridge or collection centre

(1) No person shall--

- (a) set up or operate any weighbridge or weighing platform or any other equipment for weighing oil palm product; or
- (b) collect or receive any oil palm product for trading purpose, in any premises other than the licensed premises.

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

(3) Any premises shall be deemed to be used for one purpose even if the premises are used for that purpose on one occasion only.

40. Prohibition against pilfering

(1) Any person who pilfers any oil palm product from any premises, container or receptacle commits an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) For the purpose of this regulation, "pilfering any oil palm product" includes--

- (a) moving, removing or receiving any oil palm product in any quantity without permission from the owner of any oil palm product; or
- (b) permitting any oil palm product in his possession to be moved, removed or received in any quantity by any person without any permission from the owner of the oil palm product.

41. Prohibition against false particulars of oil palm product supplied, etc

Any person who supplies, sells or exports any oil palm product which he knows to be false in particulars or different from what it is commits an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

42. Use or possession of inaccurate, false or unjust weight

(1) Any person who uses or has in his possession for the purpose of trading oil palm product, any instrument for weighing or measuring which is inaccurate, false or unjust commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(2) Any weight, measure or instrument for weighing or measuring shall be deemed to be unjust if the indicator of measurement of the weight, measure or instrument for weighing or measuring, as the case may be, gives a different reading if the same consignment is reweighed.

43. False statement

(1) Any person who commits any of the following offences shall be liable on conviction to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both:

- (a) for the purpose of obtaining under these Regulations, the issuance or renewal of any type or description of licence to himself or to any other person or the variation of any such licence or for the purpose of preventing the issuance, renewal or variation of any such licence or approval or of procuring the imposition of any condition or limitation in relation to any such licence, makes any statement or declaration which to his knowledge is false or incorrect, either in whole or in part or in any material respect, misleading;
- (b) furnishes any particulars or document in relation to an application for the issue or renewal of a licence under these Regulations which to his knowledge is false or in any material respect misleading;
- (c) makes any entry in a record, register, certificate, account or other document required to be kept, issued, maintained, furnished, submitted or supplied under these Regulations which is false, incorrect or in any material respect misleading;

- (d) in the cause of giving evidence at any enquiry in relation to an offence under these Regulations, makes any statement which is false and which he either knows or believes to be false or does not believe to be true; or
- (e) makes any false entry in any book, account or record or makes any document containing a false statement, intending that such entry or document or statement may appear or be given in evidence at any enquiry in relation to an offence under these Regulations.

(2) In any prosecution under subregulation (1) when it has been proven that any application, particulars, return, account, document or written statement is false or incorrect in whole or in part or misleading in any material particular, it shall be presumed, until the contrary is proved, that any such application, particulars, return, account, document or written statement was false or incorrect or misleading in a material particular, as the case may require, to the knowledge of the person signing, delivering or supplying the same.

44. Notice to require particulars, document or information

(1) The Director General or any authorized officer may, by notice in writing require any person connected with or involved in any aspect of the oil palm industry to furnish or submit to him or such authorized officer any particulars, document or information relating to the oil palm industry which is within that person's knowledge or which he is reasonably able to obtain.

(2) The notice under subregulation (1) may require the particulars, document or information to be furnished at specified times or within specified intervals.

(3) A notice may require a person who has no knowledge of the particulars, document or information or is unable to obtain the said particulars, document or information to furnish or submit to the Director General or the authorized officer the best estimates of the particulars, document or information.

(4) Any person who--

- (a) fails to comply with the requirements of a notice under this regulation; or
- (b) knowingly or recklessly submits or furnishes or causes to be submitted or furnished any incomplete, inaccurate or untrue in any particulars, document or information,

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

45. Certified copies or extracts

An authorized officer may make or cause to be made copies of or extracts from any books or documents and such copies or extracts certified as the copies or extracts of the original by the authorized officer and unless the contrary is proven, shall be deemed to be correct copies and extracts of the original and shall be admissible in evidence.

46. Evidence

(1) The contents of any document prepared, issued or served under or for the purpose of these Regulations shall, until the contrary is proved, be correct and the production of any book purporting to show the licences issued under these Regulations shall be *prima facie* proof of the issuance, non-issuance or the date of expiry of such licence.

(2) In any proceeding for offences against these Regulations if it is necessary to prove that--

- (a) any person was or was not licensed on a certain date or for a certain period;
- (b) a licence was subject to any specified condition; or
- (c) a licence was suspended during a certain period or is cancelled,

a certificate in writing purporting to be signed by the Director General or any authorized officer setting out that such person was or was not licensed on that date or any conditions, limitation or restriction imposed or that the licence of such person was suspended during such period or has been cancelled, shall be *prima facie* evidence of the facts stated therein.

(3) The Director General or any authorized officers shall not be cross examined on the contents of such certificate unless he has been served with ten days notice stating the intention to do so and further stating the particulars which are intended to be challenged.

47. Presumption as to export

Oil palm products shall be deemed to be exported if they have been loaded on to a conveyance.

48. Method of issuing determination, etc.

(1) Any determination by the Minister, Board, Director General, licensing committee, any committee or any authorized officer, as the case may be, may be issued through enforcement circulars of MPOB or such other documents as the Director General may think appropriate and any person receiving or deemed to have received such enforcement circulars of MPOB shall be deemed to have knowledge of such determination.

(2) Any notice, licence, form, correspondence, communication, enforcement circulars of MPOB or other document shall be sent to the last known address and shall be deemed to have been received by the applicant, licensee or any other person, as the case may be, as follows:

- (a) if it is sent by hand, at the time the notice is acknowledged by such applicant, licensee or other person, as the case may be;
- (b) if it is sent by registered post, five days after the date of posting;
- (c) it is sent by facsimile, at the time the facsimile is transmitted; or
- (d) if it is sent by electronic mail, at the time the electronic mail is transmitted,

(3) The applicant, licensee or other person, as the case may be, shall be deemed to have knowledge of the notice, licence, form, correspondence, communication, enforcement circular of MPOB or other document after service is effected in accordance with subregulations (2).

(4) In this regulation, "last known address" means the address of the applicant, licensee or any other person, as the case may be, last known to or discovered by the Board or if kept in the records of the Board, the address in its records.

49. Revocation

The Palm Oil Industry (Licensing) Regulations 1979 [*P.U. (A) 33/1979*] is revoked.

Made 17 November 2005

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