

AGRICULTURE FERTILIZER ENACTMENT 2025

(No. 4 of 2025)

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An Enactment to control the manufacture, import, export and sale of fertilizer, fertilizer supplement and raw materials to make fertilizer to ensure its safety and quality and for matters incidental thereto.

ENACTED by the Legislature of the State of Sabah as follows:

PART I
PRELIMINARY

Short title and commencement

1. (1) This Enactment may be cited as the Agriculture Fertilizer Enactment 2025.

(2) This Enactment comes into operation on the date of its publication in the *Gazette*. [c.i.f. 15.05.2025]

Interpretation

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

“analyst” means an analyst appointed under section 39;

“authorized officer” means a public officer authorized by the Director under section 22;

“bio-fertilizer” means any fertilizer which contains living microorganisms;

“conveyance” means any vehicle, vessel, ship, aircraft or any other mode of transport whether by air, sea, river or land;

“Director” means the Director of Department of Agriculture Sabah;

“fertilizer” means any substance, solid or liquid, organic or inorganic, natural or synthetic, which contains a single or a combination of materials or bio-fertilizer that is applied to seed, plant or soil to provide essential elements, or to change soil properties, to improve plant nutrition, growth, yield or quality;

“fertilizer supplement” means any substance or mixture of substances, other than a fertilizer, for use in the improvement of the physical condition of soil

or to aid plant growth or yield;

“label” means any written, printed, graphic or other descriptive matters —

- (a) attached, fixed, secured or embossed, whether immediate or otherwise, on the package of; or
- (b) accompanying,

any fertilizer, fertilizer supplement or raw materials to make fertilizer;

“licence” means a licence issued under section 12;

“licensee” means a person who is licensed under section 12;

“manufacture” means the process and activities involved in the manufacturing of fertilizer or fertilizer supplement;

“Minister” means the Minister charged with the responsibility for agriculture industry;

“permit” means a permit issued under section 9;

“premises” include any house, building, hut, shed, structure, platform, plant, warehouse, container or land whether or not enclosed or built upon;

“raw materials” means any raw material used as a source of primary nutrient or micronutrient in the production of fertilizer or fertilizer supplement including minerals, clay, organic matters or microorganism;

“sample” means a sample taken from fertilizer, fertilizer supplement or raw materials to make fertilizer for analysis;

“sale” includes a sale, whether for cash or on credit, by an agent on behalf of his principal, or by an employee on behalf of his employer, and a sale on commission or on consignment for sale and includes an agreement to sell or an offer to sell; and “sell” has a corresponding meaning; and an offer to sell shall be deemed to include the exposing for sale, the publication of a price list, the affixing of a label, marking or tag on a sack, bag or container or in proximity to it 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; and

“this Enactment” includes any subsidiary legislation made under this Enactment.

PART II
FUNCTIONS AND POWERS

Functions and powers of the Director

3. (1) The Director shall have the following functions and powers:

- (a) to administer, enforce and ensure the effective implementation of this Enactment;
- (b) to advise the Minister on matters relating to the manufacturing, importation, exportation and sale of fertilizer, fertilizer supplement and raw materials to make fertilizer;
- (c) to issue a certificate of registration, licence or permit under this Enactment;
- (d) to regulate the quality and safety of fertilizer or fertilizer supplement;
- (e) to regulate the manufacturing, importation, exportation or sale of fertilizer, fertilizer supplement and raw materials to make fertilizer;
- (f) to regulate the implementation of quality assurance programmes for fertilizer or fertilizer supplement;
- (g) to impose fees and charges as he deems fit for giving effect to any of his functions or powers;
- (h) to conduct surveys and investigations in respect of the fertilizer or fertilizer supplement industry in Sabah; and
- (i) to do all things necessary and expedient for the implementation or performance of his functions and powers under this Enactment.

(2) The Director shall have all such powers as may be necessary for, or in connection with, or reasonably incidental to, the performance of his functions under this Enactment.

Power to delegate

4. (1) The Director may, in writing, delegate any of his functions or powers subject

to such conditions, limitations or restrictions as he thinks fit, to any authorized officer, and the person to whom those functions or powers are delegated shall perform those functions or powers in the same manner and with the same effect as if those functions or powers had been conferred on him under this Enactment.

(2) A person purporting to act pursuant to a delegation made under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(3) A delegation made under this section may at any time be revoked by the Director.

(4) A delegation made under this section shall not preclude the Director himself from carrying out at any time the delegated functions or powers.

PART III REGISTRATION AND PERMIT

Requirement for registration

5. (1) Except as provided under section 9, no person shall manufacture, import, export or sell a fertilizer, fertilizer supplement or raw materials to make fertilizer unless such fertilizer, fertilizer supplement or raw materials to make fertilizer is registered under this Enactment.

(2) Any person who contravenes subsection (1) shall, on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both, and for a second or subsequent offence, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Application for registration

6. (1) An application for the registration of fertilizer, fertilizer supplement or raw materials to make fertilizer shall be made by an applicant to the Director in such manner as may be determined by the Director.

(2) An application under subsection (1) shall be accompanied by the prescribed fee and any information, particulars or document as may be determined by the Director.

(3) After considering the application, the Director may —

- (a) approve the application and issue to the applicant, upon payment of a prescribed fee, a certificate of registration in such form as may be determined by the Director, subject to such terms and conditions as he thinks fit to impose; or
- (b) refuse the application, stating the grounds for refusal.

(4) The certificate of registration issued under subsection (3) shall be valid for a period of five years from the date of its issuance.

Renewal of certificate of registration

7. (1) The person on whose application the fertilizer, fertilizer supplement or raw materials to make fertilizer was registered may apply to renew the certificate of registration issued under section 6 at least ninety days before the date of expiration of the certificate of registration in such manner as may be determined by the Director.

(2) An application under subsection (1) shall be accompanied by the prescribed fee and such information, particulars or document as may be determined by the Director.

(3) After considering the application, the Director may —

- (a) approve the application and renew the certificate of registration upon payment of a prescribed fee; or
- (b) refuse the application, stating the grounds for refusal.

(4) Any person who intends to apply for the renewal of the certificate of registration but fails to apply for the renewal before the date of expiration of the certificate of registration shall submit a new application for the certificate of registration under section 6.

Cancellation of certificate of registration

8. (1) Subject to subsection (2), the Director may cancel a certificate of registration —

- (a) if the person on whose application the fertilizer, fertilizer supplement or raw materials to make fertilizer was registered has

contravened any of the provisions of this Enactment;

- (b) if the person on whose application the fertilizer, fertilizer supplement or raw materials to make fertilizer was registered has breached any of the terms or conditions of the registration;
- (c) if the certificate of registration has been obtained as a result of false, inaccurate or misleading fact;
- (d) if the person on whose application the fertilizer, fertilizer supplement or raw materials to make fertilizer was registered has been convicted of an offence under this Enactment;
- (e) if the fertilizer, fertilizer supplement or raw materials to make fertilizer does not conform to the claims made for it in its labels; or
- (f) if the Director considers it undesirable that the fertilizer, fertilizer supplement or raw materials to make fertilizer should continue to remain registered owing to its toxicity, inefficacy or adverse effects on human beings, animals, plants or the environment.

(2) The Director shall, by notice in writing, before cancelling any certificate of registration of any fertilizer, fertilizer supplement or raw materials to make fertilizer under subsection (1), give opportunity to the person on whose application the fertilizer, fertilizer supplement or raw materials to make fertilizer was registered to make any representation in writing against the cancellation, and pending the decision, all manufacturing, importation, exportation or sale of the fertilizer, fertilizer supplement or raw materials to make fertilizer shall be suspended from the date of receipt of the notice.

(3) The Director shall, after considering the written representation given under subsection (2), give the person on whose application the fertilizer, fertilizer supplement or raw materials to make fertilizer was registered his decision in writing as soon as practicable.

(4) Any person on whose certificate of registration for fertilizer, fertilizer supplement or raw materials to make fertilizer has been cancelled under subsection (1) or suspended under subsection (2) shall not be entitled to claim any —

- (a) compensation for any loss caused by the cancellation or suspension of the certificate of registration; and
- (b) refund of any fee paid under sections 6 and 7.

Importation of fertilizer, fertilizer supplement or raw materials to make fertilizer for educational or research purposes or as registration sample or reference material

9.(1) A person intending to import a fertilizer, fertilizer supplement or raw materials to make fertilizer for educational or research purposes or as a registration sample or as a reference material shall apply to the Director in the prescribed manner, and accompanied with the prescribed application fee, and such information, particulars or documents as may be determined by the Director, for a permit to import such fertilizer, fertilizer supplement or raw materials to make fertilizer.

(2) Upon receipt of an application under subsection (1), the Director may, if he is satisfied that the fertilizer, fertilizer supplement or raw materials to make fertilizer intended to be imported is intended solely for educational or research purposes or as a registration sample or as a reference material, issue to the applicant, upon payment of a prescribed fee, a permit in the prescribed form subject to such conditions as the Director thinks fit to impose, including conditions as to the disposal of any unused surplus of the fertilizer, fertilizer supplements or raw materials to make fertilizer.

(3) If an applicant for a permit under this section is dissatisfied with the refusal of the Director to issue to him the permit, he may appeal to the Minister whose decision shall be final.

(4) A permit issued under this section shall authorize the importation of one consignment only of fertilizer, fertilizer supplement or raw materials to make fertilizer for a period of not more than three months.

(5) The person to whom a permit is issued under this section may, subject to the conditions of such permit, import the fertilizer, fertilizer supplement or raw materials to make fertilizer stated in the permit notwithstanding that during the application for such permit the fertilizer, fertilizer supplement or raw materials to make fertilizer are not registered under this Enactment and notwithstanding the prohibitions under section 5 against the importation of unregistered fertilizer, fertilizer supplement or raw materials.

(6) Any person who imports fertilizer, fertilizer supplement or raw materials to make fertilizer under subsection (1) —

- (a) without a permit;
- (b) with a permit issued to him under this section but contrary to or in breach of any of the conditions of the permit; or
- (c) with a permit issued to him under this section and who uses or disposes of the fertilizer, fertilizer supplement or raw materials to make fertilizer otherwise than for educational or research purposes or as a registration sample or as a reference material,

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

Register

10. (1) The Director shall keep and maintain a register in both electronic and non-electronic form of all matters which are required to be registered under this Enactment.

(2) The register shall be kept in any manner and shall contain any particulars as determined by the Director.

(3) Any person may on payment of any prescribed fee —

- (a) inspect the register; and
- (b) make a copy of, or take extracts from, the register.

(4) If a person requests that a copy be provided in an electronic form, the Director may provide the relevant information —

- (a) on a data processing device; or
- (b) by way of electronic transmission.

PART IV
LICENSING

Activities to be licensed

11. (1) No person shall —

- (a) manufacture any fertilizer or fertilizer supplement;
- (b) import or export fertilizer, fertilizer supplement or raw materials to make fertilizer; or
- (c) sell any fertilizer or fertilizer supplement,

unless such person is licensed under this Enactment.

(2) Notwithstanding paragraph (1)(b) —

- (a) a person may import unregistered fertilizer, fertilizer supplement or raw materials to make fertilizer in accordance with the terms of a valid permit issued to him under section 9; and
- (b) the Minister may, by order, prohibit either absolutely or conditionally, the importation from any country or territory or any part of any country or territory of any fertilizer, fertilizer supplement or raw materials to make fertilizer that is likely to adversely affect human beings, animals, plants or the environment.

(3) Any person who contravenes paragraph (1)(a) or (b) 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, and for a second or subsequent offence, to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding four years or to both.

(4) Any person who contravenes paragraph (1)(c) commits an offence and shall, on conviction —

- (a) in the case of an individual, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both, and for a second or subsequent offence, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both; or
- (b) in the case of a body corporate, be liable to a fine not exceeding one hundred thousand ringgit, and for a second or subsequent offence, to a fine not exceeding two hundred thousand ringgit.

Application for licence

12. (1) An application for a licence shall be made to the Director in such manner as may be prescribed.

(2) The application under subsection (1) shall be accompanied by payment of the prescribed fee and such information, particulars or documents as may be determined by the Director.

(3) After considering the application, the Director may —

- (a) approve the application and issue to the applicant, upon payment of the prescribed fee, a licence in such form as may be determined by the Director; or
- (b) refuse the application, if he is satisfied that —
 - (i) the fertilizer, fertilizer supplement or raw materials to make fertilizer has not been registered under this Enactment; or
 - (ii) in the case of a licence to manufacture, that there is reasonable ground to believe that the applicant is not technically competent to manufacture the fertilizer or fertilizer supplement.

(4) A licence issued under this section shall be valid for a period of three years from the date of its issuance.

Conditions of licence

13. (1) A licence may be issued subject to such conditions as the Director thinks fit to impose.

(2) The Director may at any time vary or revoke the conditions imposed on a licence under subsection (1).

(3) Any person who contravenes any conditions of a licence imposed under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both, and for a second or subsequent offence, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Renewal of licence

14. (1) A licensee may apply to renew his licence issued under section 12 at least ninety days before the date of expiration of the licence in such manner as may be prescribed.

(2) The application under subsection (1) shall be accompanied by payment of the prescribed fee and such information, particulars or document as may be determined by the Director.

(3) After considering the application, the Director may —

- (a) approve the application and renew the licence upon payment of the prescribed fee; or
- (b) refuse the application, stating the grounds for refusal.

Transfer of licence

15. (1) A licence issued under section 12 shall be personal to the licensee and shall not be assigned, sub-licensed or transferred to any other person.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both, and for a second or subsequent offence, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Suspension or revocation of licence

16. (1) The Director may suspend or revoke a licence under any of the following circumstances:

- (a) the licensee has contravened any of the provisions of this Enactment;
- (b) the licensee has breached any of the terms and conditions of the licence;
- (c) the licensee has been convicted of an offence under this Enactment;
- (d) the licence was improperly or illegally obtained;
- (e) the licence was issued as a result of false, inaccurate or misleading information; or

- (f) there has been any act or omission by the licensee or there has been a change of circumstances such that the licensee would no longer be entitled to be issued a licence under this Enactment.

(2) Before the Director makes a decision under subsection (1), the Director shall give the licensee —

- (a) a written notice of his intention to suspend or revoke the licence; and
- (b) an opportunity to make written representation within a period specified in the written notice.

(3) After the expiry of the period specified in the notice, the Director shall, after considering the written representation made by the licensee under subsection (2), if any, decide whether to suspend or revoke the licence.

(4) The Director shall give the licensee a written notice of his decision under subsection (3) as soon as possible.

(5) If a licence is suspended under subsection (1), the Director may require the licensee to remedy the contravention or the breach within the period specified by the Director, and the Director may, if he deems necessary, impose additional terms and conditions to the licence.

(6) If the Director is satisfied that the licensee has failed to remedy the contravention or breach or that the licensee has contravened the additional terms and conditions imposed under subsection (5), or that the contravention or breach continues after the licence is suspended under subsection (1), the Director shall revoke the licence.

(7) A licensee whose licence is suspended or revoked —

- (a) shall not be entitled to any compensation for any loss caused to him by the suspension or revocation of the licence;
- (b) shall cease the operation of the business under such licence within stipulated period as prescribed, until the suspension period is lifted or a new licence is issued under this Enactment; and
- (c) shall not be entitled to any refund of the prescribed fee paid under sections 12 and 14.

Power of court to order revocation of licence

17. (1) Where any licensee is convicted of an offence under this Enactment, the court may, in addition to the penalty that it may impose, order his licence to be revoked.

(2) Where any licensee is convicted of a second or subsequent offence under this Enactment, the court may, in addition to the penalty that may be imposed, direct that such licensee be disqualified from holding a licence under this Enactment for a period not exceeding five years as the court may specify.

PART V

STANDARDS OF FERTILIZER, FERTILIZER SUPPLEMENT OR RAW MATERIALS TO MAKE FERTILIZER AND PROHIBITION OF DESTRUCTIVE INGREDIENTS OR PROPERTIES

Requirement to conform to standards of fertilizer, fertilizer supplement or raw materials to make fertilizer

18. (1) Every fertilizer, fertilizer supplement or raw materials to make fertilizer manufactured, imported, exported or sold shall conform to the prescribed standards.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both, and for a second or subsequent offence, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Prohibition of destructive ingredients or properties

19. (1) No person shall manufacture, import, export, sell or store any fertilizer, fertilizer supplement or raw materials to make fertilizer that contains destructive ingredients or properties which is harmful to human beings, animals, plants or the environment.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both, and for a second or subsequent offence, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

PART VI

PACKAGING, LABELLING, STORING AND ADVERTISEMENT OF FERTILIZER OR FERTILIZER SUPPLEMENT

Packaging, labelling and storing of fertilizer or fertilizer supplement

20. (1) No person shall manufacture, import, export or sell any fertilizer or fertilizer supplement unless such fertilizer or fertilizer supplement is packaged, labelled and stored in accordance with the requirement as prescribed by the Director.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Advertisement of fertilizer or fertilizer supplement

21. (1) No person shall publish or facilitate any person to publish any advertisement unless it is published in accordance with the requirements as prescribed by the Director.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

PART VII
ENFORCEMENT

Authorized officer

22. (1) The Director may, in writing, authorize any public officer to exercise the powers of enforcement under this Enactment.

(2) Any such officer shall be deemed to be a public servant within the meaning of the Penal Code [Act 574].

Authority card

23. (1) There shall be issued to each authorized officer an authority card to be signed by the Director.

(2) Whenever an authorized officer exercises any of the powers under this Enactment, he shall, on demand, produce to the person against whom the power is being exercised the authority card issued to him under subsection (1).

Power to enter premises

24. Notwithstanding sections 26 and 27, an authorized officer may, for the purposes of carrying out any of his functions under this Enactment, at any reasonable time enter any premises for the purpose of —

- (a) inspecting any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things as he considers necessary; or
- (b) verifying the accuracy of records or statement or any information given to an authorized officer.

Power of investigation

25. (1) The authorized officer shall have the power to investigate the commission of any offence under this Enactment.

(2) The authorized officer may, in relation to an investigation in respect of any offence committed under this Enactment, exercise all or any of the powers in relation to police investigation in any seizable offence, except the power to arrest without warrant, given under the Criminal Procedure Code [Act 593].

Search and seizure with warrant

26. (1) If it appears to a Magistrate, upon written information on oath from the authorized officer and after such inquiry as he considers necessary, that there is reasonable cause to believe that —

- (a) any premises have been used for or are about to be used for; or
- (b) there is in any premises, evidence necessary to the conduct of an investigation into,

the commission of an offence under this Enactment, the Magistrate may issue a warrant authorizing any authorized officer named in the warrant, to enter the premises at any reasonable time by day or by night, and with or without assistance, and if need be by force.

(2) Without affecting the generality of subsection (1), the warrant issued by the Magistrate may authorize the authorized officer to —

- (a) search and seize any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things;
- (b) inspect, make copies of, or extracts from, any book, record, document, computerized data or other things;
- (c) take possession of, and remove from the premises, any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things so seized and detain it for such period as may be necessary; or

- (d) search any person who is in, or on, such premises and for the purpose of the search, detain the person and remove him to such place as may be necessary to facilitate the search, and seize and detain any fertilizer, fertilizer supplement, raw materials to make fertilizer, article, book, record or document found on the person.

(3) An authorized officer may, in the exercise of his powers under this section, if it is necessary so to do —

- (a) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry into the premises;
- (b) remove by force any obstruction to entry, search, seizure or removal as he is empowered to effect under this section; and
- (c) detain any person found in the premises until the search has been completed.

(4) No person shall be searched except by another person of the same gender, and such search shall be conducted with strict regard to decency.

Search and seizure without warrant

27. If it appears to an authorized officer, upon information received, that there is reasonable cause to believe that by reason of delay in obtaining a search warrant under section 26 the investigation would be adversely affected or the evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the authorized officer may enter the premises and exercise in, upon and in respect of the premises all the powers referred to under section 26 in as full and ample a manner as if he was authorized to do so by a warrant issued under that section.

Power to seal premises

28. (1) If, by reason of its nature, size or amount, it is not practicable to remove any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized under this Enactment, the authorized officer shall seal the premise in which such fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package,

conveyance, book, record, document, computerized data or other things are found.

(2) Any person who, without lawful authority, breaks, tampers with or damages the seal referred to under subsection (1) or removes the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized under seal or attempts to do so, commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Access to computerized data

29. (1) An authorized officer conducting a search under this Enactment shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purpose of this section, an authorized officer shall be provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable the comprehension of computerized data.

Power to stop, search and seize conveyance

30. (1) Where an authorized officer has reasonable cause to suspect that any conveyance is carrying any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, book, record, document, computerized data or other things in respect of which an offence under this Enactment is being or has been committed, the authorized officer may stop and search the conveyance and may, if on examination he has reasonable cause to believe that such conveyance is or has been used for the commission of such offence, seize the conveyance and any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, book, record, document, computerized data or other things found in the conveyance that is reasonably believed to furnish evidence of the commission of such offence.

(2) The person in control or in charge of the conveyance shall, if required to do so by the authorized officer —

- (a) stop the conveyance and allow the authorized officer to search the conveyance; and
- (b) open all parts of the conveyance for search and take all measures necessary to enable or facilitate the carrying out of such search as the authorized officer considers necessary.

(3) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both.

List of things seized

31. (1) Where any seizure is made under this Enactment, the authorized officer making the seizure shall prepare a list of fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized and shall sign the list.

(2) The list prepared in accordance with subsection (1) shall be delivered to the occupier of the premises where the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized is found.

(3) Where the seizure is made in or from any premises which is unoccupied, the authorized officer shall whenever possible post a list of the things seized conspicuously at the premises.

Cost of holding any fertilizer, fertilizer supplement, etc., seized

32. If any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized under this Enactment is held in the custody of the Director pending completion of any proceedings in respect of an offence under this Enactment, the cost of holding it in custody shall, in the event of any person being convicted of an offence, be a debt due to the Government by such person and shall be recoverable accordingly.

Forfeiture or release of fertilizer, fertilizer supplement, etc., seized

33. (1) Any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized in exercise of any power conferred by this Enactment shall be liable to forfeiture.

(2) An order for the forfeiture of any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things shall be made if it is proved to the satisfaction of the court that an offence under this Enactment has been committed and that the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things were the subject matter of or was used in the commission of the offence, even though no person may have been convicted of such offence.

(3) If there is no prosecution with regard to any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized under this Enactment, such fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things shall be taken and deemed to be forfeited at the expiration period of one calendar month from the date of service of a notice to the last known address of the person from whom the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things were seized indicating that there is no prosecution in respect of such fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things unless before the expiration of that period a claim thereto is made in the manner set out under subsections (6), (7), (8) and (9).

(4) If no claim is made under subsection (6) within one calendar month from the date of service of the notice referred to under subsection (3), the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book,

record, document, computerized data or other things seized under this Enactment shall be taken and deemed to be forfeited at the expiration of that period.

(5) Where anything seized in exercise of the powers conferred under this Enactment is of a perishable nature or is subject to speedy and natural decay, the Director may direct such thing to be sold or destroyed at any time, and the proceeds of the sale held by the authorized officer to abide by the result of any prosecution under this Enactment.

(6) Any person asserting that he is the owner of a fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things referred to under subsection (3) and that it is not liable to forfeiture may personally or by his agent authorized in writing, give written notice to the authorized officer in whose possession such fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things are held that he claim the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things.

(7) On receipt of the notice referred to under subsection (6), the authorized officer shall refer the claim to a Magistrate.

(8) The Magistrate to whom a matter is referred under subsection (7) shall issue a summons requiring —

- (a) the person asserting that he is the owner of the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things; or
- (b) the person from whom the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things were seized, to appear before him, and when they appear or they fail to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter.

(9) If it is proved that an offence under this Enactment has been committed and that the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things were the subject matter of or were used in the commission of such offence, the Magistrate shall order the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things to be forfeited, and shall, in the absence of such proof, order its release.

(10) Any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things forfeited or deemed to be forfeited shall be delivered to the Director and shall be disposed of in such manner as the Director thinks fit.

No cost or damages arising from seizure to be recoverable

34. No person shall, in any proceedings before any court in respect of any fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized in the exercise or the purported exercise of any power conferred under this Enactment, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Power to require attendance of person acquainted with case

35. (1) An authorized officer making an investigation under this Enactment may, by order in writing, require the attendance before himself of any person who appears to him to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If the person refuses or fails to attend as so required, the authorized officer may report such refusal or failure to a court who shall issue a summons to secure the attendance of such person as may be required by the order made under subsection (1).

Power to take samples

36. (1) An authorized officer may demand, select, take or obtain samples of any fertilizer, fertilizer supplement or raw materials to make fertilizer for the purposes of analysis without payment from any person manufacturing, importing, exporting, selling, utilizing or having possession of such fertilizer, fertilizer supplement or raw materials to make fertilizer, or his or its agent or employee from whom the fertilizer, fertilizer supplement or raw materials to make fertilizer is obtained.

(2) The samples demanded, selected, taken or obtained under subsection (1) shall be accepted in any court.

(3) Any person who refuses to comply with any demand made by an authorized officer under subsection (1) 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.

Procedure for taking sample

37. (1) If the authorized officer intends to submit any sample of a fertilizer, fertilizer supplement or raw materials to make fertilizer for analysis, the authorized officer obtaining the sample shall inform the person manufacturing, importing, exporting, selling, utilizing or having possession of such fertilizer, fertilizer supplement or raw materials to make fertilizer, or his or its agent or employee from whom the fertilizer, fertilizer supplement or raw materials to make fertilizer is procured that he intends to have the sample analysed by an analyst.

(2) The procedure for taking and dealing with the samples shall be as determined by the Director.

Designation of laboratories

38. The Director may designate laboratories as he considers necessary for the purpose of this Enactment.

Appointment of analysts

39. The Director may appoint any qualified person to be an analyst for the purpose of carrying out an analysis under this Enactment.

Certificate of analysis

40. (1) A certificate of analysis signed by an analyst shall, on production by the Public Prosecutor in any trial under this Enactment, be sufficient evidence of the facts stated in the certificate unless the accused requires that the analyst be called as a witness, in which case he shall give a written notice to the Public Prosecutor not less than three clear days before the commencement of the trial.

(2) Where the Public Prosecutor intends to give in evidence any certificate referred to under subsection (1) he shall deliver a copy of such certificate to the accused not less than ten clear days before the commencement of the trial.

Examination or testing of seized fertilizer, fertilizer supplement or raw materials to make fertilizer

41. Where it is necessary to examine or test any fertilizer, fertilizer supplement or raw materials to make fertilizer seized under this Enactment, it shall be sufficient to examine or test only a representative sample of the fertilizer, fertilizer supplement or raw materials to make fertilizer or of each different type or description of the fertilizer, fertilizer supplement or raw materials to make fertilizer or, if the fertilizer, fertilizer supplement or raw materials to make fertilizer is packed in different containers, of the contents of each container.

Presumption

42. In any proceedings under this Enactment —

- (a) any evidence that a package containing any fertilizer, fertilizer supplement or raw materials to make fertilizer and bearing the name, address or registered mark of an exporter, importer, manufacturer, or of the owner of the rights of the manufacturer, packer, or of an agent of any of them, shall be a *prima facie* evidence that the fertilizer, fertilizer supplement or raw materials to make fertilizer is exported, imported, manufactured or packed, as the case may be, by each of the persons whose name, address or the registered mark is borne on the packaging;
- (b) in respect of fertilizer, fertilizer supplement or raw materials to make fertilizer not registered under this Enactment that is found in any premises which have been licensed for the sale of fertilizer, fertilizer supplement or raw materials to make fertilizer, such

fertilizer, fertilizer supplement or raw materials to make fertilizer shall, unless the contrary is proved, be deemed to be intended for sale; or

- (c) in respect of a substance found in a package where the label on the package describes the substance to be a fertilizer, fertilizer supplement or raw materials to make fertilizer, that substance shall be presumed to be a fertilizer, fertilizer supplement or raw materials to make fertilizer unless the contrary is proved.

Power of the Director to require information

43. (1) The Director may require any person undertaking any activity involving fertilizer, fertilizer supplement or raw materials to make fertilizer to furnish to the Director, within the time specified in a notice, any information relating to the fertilizer, fertilizer supplement or raw materials to make fertilizer.

(2) Any person who fails to furnish the information as may be required by the Director under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding three months or to both.

Examination of person acquainted with case

44. (1) An authorized officer making an investigation under this Enactment may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to the case put to him by the authorized officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to the questions.

(4) The authorized officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumbprint, as the case may be, after the statement has been read to him in

the language in which he made it and after he has been given an opportunity to make any correction he may wish.

Admissibility of statements in evidence

45. (1) Except as provided under this section, no statement made by any person to an authorized officer in the course of an investigation under this Enactment shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to the authorized officer in the course of the investigation under this Enactment and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to —

- (a) the making; or
- (b) the contents,

of any statement made by him to the authorized officer in the course of an investigation made under this Enactment, that statement may be used as evidence in the prosecution's case.

Obstructing, etc., authorized officers

46. Any person who —

- (a) refuses any authorized officer access to any premises which the authorized officer is entitled to have under this Enactment or in the execution of any duty imposed or function conferred by this Enactment;
- (b) refuses to give any authorized officer any information relating to an

offence or suspected offence under this Enactment or any other information which may reasonably be required of him and which he has in his knowledge or power to give;

- (c) in any way assaults, obstructs, hinders, interferes or delays the authorized officer in the performance of his duties under this Enactment; or
- (d) fails to give reasonable facilities or assistance to any authorized officer in the performance of his duties under this Enactment,

commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Authorized officer may seek assistance to examine fertilizer, fertilizer supplement, etc., relating to offence

47. An authorized officer may seek the assistance from any person who has the necessary qualifications to examine the fertilizer, fertilizer supplement, raw materials to make fertilizer, machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized or retained for the purposes of an investigation under this Enactment.

PART VIII
MISCELLANEOUS

Appeal against decision of Director

48. (1) Any person who is aggrieved by —

- (a) the refusal of the Director to issue or renew —
 - i. any certificate of registration; or
 - ii. any licence;
- (b) the suspension or cancellation of a certificate of registration;
or
- (c) the suspension or revocation of any licence,

under this Enactment, may, within thirty days after being notified in writing of such refusal, suspension, cancellation or revocation make an appeal against such decision to the Minister in the manner as determined by the Director.

(2) The Minister may, after consultation with the Director, and after considering the appeal made under subsection (1), confirm or set aside the decision appealed against.

(3) The decision of the Minister under subsection (2) shall be final and binding.

Offences committed by body corporate

49. (1) Where a body corporate commits an offence under this Enactment, any person who at the time of the commission of the offence was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management —

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) if the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless having regard to the nature of his functions in that capacity and to all circumstances, he proves —
 - i. that the offence was committed without his knowledge, consent or connivance; and
 - ii. that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

(2) Where any person would be liable to any punishment or penalty under this Enactment for any act, omission, neglect or default committed —

- (a) by that person's employee in the course of his employment;
- (b) by that person's agent when acting on behalf of that person; or
- (c) by the employee of that person's agent when acting in the course of his employment with that person's agent or otherwise on behalf of that person's agent acting on behalf of that person,

that person shall be liable to the same punishment or penalty for every such act, omission, neglect or default of that person's employee or agent, or of the employee of that person's agent.

Guidelines or directions by Director

50. (1) The Director may issue guidelines or directions on any matter as provided under this Enactment or as may be expedient or necessary for the better carrying out of the provisions of this Enactment.

(2) The Director may issue directions in writing to any licensee or any other person on the compliance or non-compliance of this Enactment, conditions of licences including the remedying of a breach of a licence condition or on any other matter requiring the making of a direction or specifically to be made the subject of a direction in accordance with such procedures as may be prescribed.

(3) A licensee or any other person shall comply with the guidelines and directions.

(4) Any licensee or any person who fails to comply with any guideline or direction of the Director commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Reward for information

51. The Director may order such rewards as he thinks fit to be paid to any person for services rendered in connection with the detection of any offence made under this Enactment.

Protection of informer

52. (1) Except as provided under subsections (2) and (3), no witness in any civil or criminal proceedings shall be obliged or permitted to disclose the name, address or any information of any informer or the substance and nature of the information received from him, or state any matter which might lead to the discovery of the informer.

(2) If any books, records, accounts, documents or computerized data which are produced in evidence or liable to inspection in any civil or criminal proceedings contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all the passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If in the trial for any offence under this Enactment, the court, after full enquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties in those proceedings without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit enquiry and require full disclosure, concerning the informer.

Protection against suit and legal proceedings

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

- (a) the Director, analyst or the authorized officer for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Enactment; and
- (b) any other person for any act done or purported to be done by him under the order, direction or instruction of the Director or any authorized officer,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying into effect the provisions of this Enactment.

Compounding of offences

54. (1) The Director may compound any offence committed by any person under this Enactment which prescribed to be a compoundable offence by making a written offer to person to compound the offence upon payment to the Director of such amount not exceeding fifty percent of the amount of maximum fine for that offence within the period specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer is not paid within the period specified in the offer or within such extended period as the Director may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) If an offence has been compounded under subsection (1), no prosecution shall after that be instituted in respect of the offence against the person to whom the offer to compound was made and any fertilizer, fertilizer supplement, raw materials to make fertilizer or the proceeds of its sale, or any machinery, contrivance, equipment, device, appliance, material, receptacle, package, conveyance, book, record, document, computerized data or other things seized in connection with the offence may be released or forfeited by the Director in accordance with the terms and conditions of the compound.

Giving or making false information or statement

55. Any person who gives information or makes a statement upon the requirement under this Enactment, that is false in any material particular, unless he proves that he did not know and had no reason to suspect that the information or statement was false and had taken all reasonable steps to ascertain the truth thereof, commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Confidentiality

56. (1) Any person who discloses or makes use of any confidential information with respect to a particular person, including a licensee, or the affairs of an individual obtained by virtue of any provision of this Enactment commits an offence and shall, on conviction —

- (a) be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both, and for a second or subsequent offence, to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both; or
- (b) if such person is a body corporate, be liable to a fine not exceeding one million ringgit, and for a second or subsequent offence, to a fine not exceeding five million ringgit.

(2) Nothing in subsection (1) shall operate to prevent the disclosure of information where —

- (a) the disclosure is made with the consent of the person from whom the information was obtained;
- (b) the disclosure is necessary for the performance of the functions or powers of the Director; or
- (c) the disclosure is made in connection with an investigation of an infringement or an offence under this Enactment.

(3) For the purposes of this section, “confidential information” means trade, business or industrial information that belongs to any person, that has economic value and is not generally available to or known by others.

Prosecution

57. No prosecution shall be instituted for an offence under this Enactment except by or with the written consent of the Public Prosecutor.

Power to make regulations

58. (1) The Minister may make regulations as may be necessary or expedient for the purpose of carrying into effect the provisions of this Enactment.

(2) Without prejudice to the generality of subsection (1), such regulations may be made for the following purposes:

- (a) to prescribe all matters relating to registration of fertilizer, fertilizer supplement or raw materials to make fertilizer;
- (b) to regulate the manufacture, import, export or sale of fertilizer, fertilizer supplement or raw materials to make fertilizer;

- (c) to prescribe all matters relating to licensing;
- (d) to provide for the control of fertilizer, fertilizer supplement or raw materials to make fertilizer imported under permit;
- (e) to prescribe all matters relating to the standards of fertilizer, fertilizer supplement or raw materials to make fertilizer;
- (f) to prescribe all matters relating to the packaging, labelling, storage and advertisement of fertilizer or fertilizer supplement;
- (g) to prescribe the fees payable under this Enactment;
- (h) to prescribe the offences which may be compounded;
- (i) to prescribe the procedure of taking and dealing with sample and analysis;
- (j) to prescribe the analyst's qualifications, conduct and duties;
- (k) to provide for such other matters as are contemplated by, or necessary for giving full effect to, the provisions of this Enactment and for their due administration.

(3) The regulations made under subsection (2) may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both for such offence.

Transitional provisions

59. (1) Any person who, on the date of the coming into operation of this Enactment, manufactures, imports, exports or sells fertilizer, fertilizer supplement or raw materials to make fertilizer and intends to continue to manufacture, import, export or sell such fertilizer, fertilizer supplement or raw materials to make fertilizer shall —

- (a) within six months from the date of the coming into operation of this Enactment, apply for a registration or licence to manufacture, import, export or sell fertilizer, fertilizer supplement or raw materials to make fertilizer; or
- (b) within three months from the date of coming into operation of this Enactment, apply for a permit to import fertilizer, fertilizer supplement or raw materials to make fertilizer for educational or

research purposes or as a registration sample or as a reference material,

in accordance with the provisions of this Enactment.

(2) Upon receipt of an application under subsection (1) the Director shall issue an acknowledgement of receipt to such person.

(3) The person mentioned under subsection (1) may continue to undertake such activities —

- (a) pending the determination of his application for a registration or issuance of licence or permit; or
- (b) pending the determination of an appeal to the Minister against any refusal of the Director to approve any registration or to issue any licence or permit under this Enactment.