



THE
SARAWAK GOVERNMENT GAZETTE
PART II

Published by Authority

Vol. LXXII

13th October, 2017

No. 64

Swk. L. N. 199

THE FORESTS ORDINANCE

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FORESTS ORDINANCE, 2015
FORESTS (NURSERY) RULES, 2017
(Made under section 113(1)(w))

In exercise of the powers conferred by section 113(1)(w) of the Forests Ordinance, 2015 [*Cap. 71*], the Minister, with the approval of the Majlis Mesyuarat Kerajaan Negeri, has made the following Rules:

PART 1
GENERAL

Citation and commencement

1. These Rules may be cited as the Forests (Nursery) Rules, 2017, and shall be deemed to have come into force on the 1st day of August, 2017.

Interpretation

2. In these Rules—

“approved species” means the list of species approved by the Director as stated in the Third Schedule;

“Director” means the Director of Forests appointed under section 3 of the Ordinance and includes any person appointed by the Minister to act or to discharge temporarily the duties and functions of the office and shall be the authority in managing, regulating and monitoring the establishment of forests plantations including nurseries;

“forest officer” means any person appointed in accordance with section 3 of the Ordinance;

“half yearly report” means a report as stipulated under the terms and conditions of the licence for planted forests;

“inspecting officer” means a person appointed as a forest officer under section 3 of the Ordinance, assigned to carry out inspection, verification, gather information and monitor the activities of the development of forests nurseries and the procurement of planting materials;

“licensee” means any person, a body or a company who owns a licence for establishment of planted forests issued under section 65 of the Ordinance;

“Minister” means the Minister for the time being charged with the responsibility for forestry matters;

“nursery” means a place where plants or planting materials of approved species are propagated with a special care and grown to a usable size for the establishment of planted forests, which includes the structures and facilities, be it under the shade or open space;

“nursery owner” means any person for the time being granted with a permit under rule 3 to establish, operate and maintain a nursery under these Rules;

“Ordinance” means the Forests Ordinance, 2015 [*Cap. 71*];

“planting materials” means seeds, seedlings or saplings, cuttings or product of tissue culture from tree species approved by the Director for propagation;

“Phytosanitary Certificate” means a certificate produced by the consignor or country of origin of the planting materials and shall carry the same meaning and function as prescribed under the Plant Quarantine Regulation, 1981 [*P.U. (A) 74/81*] or any other laws for the time being applicable in Sarawak;

“Register” means a Register maintained by the Director under rule 7;

“registered proprietor” shall have the same meaning as assigned to it by the Land Code [*Cap. 81 (1958 Ed.)*];

“seed health” refers to presence or absence of disease-causing organisms such as fungi, bacteria, virus and pests, including nematods and insects at the seed, in which the methods to determine the seed health are visual examination, blotter test, agar plate and seeding symptom test;

“seed quality” refers to the value of the seed and can be defined as the inherent attributes of a seed that determine its germination potential and thereafter of its growth characteristics;

“State land” shall have the same meaning as assigned to it by the Land Code [*Cap. 81 (1958 Ed.)*];

“tree planting plan” means the plan and schedule for the planting of trees for the establishment of a planted forest, approved by the Director under rule 11(b) of the Forests (Planted Forests) Rules, 1997 [*Swk. L.N. 6/97*].

PART II
ESTABLISHMENT OF NURSERY

Establishment of nursery for forest plantation

3.—(1) No person shall establish, operate and maintain a nursery on any land without a permit issued by the Director in accordance with the First Schedule and upon payment of a fee as prescribed in the Second Schedule.

(2) Notwithstanding sub-rule (1), the Director may allow the existing nursery owner to continue with the operations and other related activities in the nursery which had been established prior to the commencement of these Rules:

Provided that the registration of the existing nursery shall be in accordance with rule 7 and upon payment of a fee as prescribed in the Second Schedule.

Application of permit to establish nursery

4.—(1) An application for a permit to establish a nursery shall be made to the Director in accordance with this rule and upon payment of a fee as prescribed in the Second Schedule.

(2) An application under sub-rule (1) shall include—

- (a) particulars of the applicant;
- (b) precise prescription and status of the land;
- (c) locality map with a scale of 1:50,000;
- (d) layout plan to indicate the size and the capacity of the proposed nursery, including access road and other facilities that are going to be installed; and
- (e) name of species to be propagated or raised.

(3) No approval for a permit to establish a nursery shall be granted over alienated land, except to the registered proprietor thereof, or with the written approval of the registered proprietor or his authorized representative.

Renewal

5. No person shall have any right, upon the expiration of the period of a permit issued under these Rules, to any renewal thereof, whether upon the same terms and conditions or otherwise:

Provided that nothing in this rule shall be deemed to prohibit a renewal of the permit by the Director on such terms and conditions as may be approved by him and upon payment of a fee as prescribed in the Second Schedule.

Species of planting materials to be approved by Director

6.—(1) The name or list of the intended species to be propagated or raised shall be from the species approved by the Director and stated in the Third Schedule:

Provided that the Director may with the approval of the Minister, amend the Third Schedule from time to time.

(2) Any species approved under sub-rule (1) shall form part of the approved species for the tree planting plan of any licence for planted forests.

PART III
REGISTER

Registration of nursery

7.—(1) All establishment of nursery for forest plantation shall be registered with the Director.

(2) The Director shall maintain a Register of nurseries approved by him under these Rules with the following particulars:

- (a) name and address or locality of the nursery;
- (b) date of approval (establishment after the commencement of these Rules) or establishment (establishment prior to the commencement of these Rules);
- (c) size or full capacity of the nursery;
- (d) number of nursery workers;
- (e) name of species approved for propagation or raised;
- (f) purpose of seedlings production, whether for own use or supply to other forest plantation; and
- (g) facilities and infrastructure in the nursery.

Place for Register

8.—(1) The Register shall be kept by the Director.

(2) The Director or any officer authorized by him in writing may make an entry in the Register.

PART IV
SOURCE OF PLANTING MATERIALS AND PROCUREMENT

Provenance or origin of planting materials

9.—(1) Depending on the quality and availability of quantity of the planting materials and subject to rule 10(1), the nursery owner may procure and obtain planting materials from within or outside Sarawak.

(2) The nursery owner shall keep and maintain a record on delivery orders, receipt of payment and seed certificates (if any) from local or overseas suppliers for the purpose of inspection or verification by the Director, as and when necessary.

(3) The nursery owner shall register with the Director the import or propagation of any species listed under Convention on International Trade in Endangered Species (CITES).

Director's approval for procurement of planting materials

10.—(1) The nursery owner shall obtain a written approval from the Director before collecting, ordering, procuring and importing any planting materials, whether it is from within or outside Sarawak.

(2) An application for approval under sub-rule (1) shall be in a form to be determined by the Director from time to time.

Requirement on procurement of planting material from outside Sarawak

11. Notwithstanding rule 10(1), the licensee, nursery owners or consignees shall comply with all laws and regulations relating to the import of planting materials.

Phytosanitary Certificate

12. Any planting materials obtained or procured from outside Sarawak shall be accompanied by a Phytosanitary Certificate issued by the authorized agency from the country of origin of the planting materials.

PART V
CONTROL OF SEED QUALITY, *ETC.*

Testing of imported seeds

13. The nursery owner shall ensure that all the required seed health tests are conducted on all imported seeds in a laboratory approved by the Director.

Verification and inspection

14. The nursery owner, in relation to all externally sourced seed and planting materials, shall also carry out the following—

- (a) verification of source or origin;
- (b) inspection of the consignment upon arrival by an inspecting officer; and
- (c) post-entry quarantine by the relevant authorities for detection of incidence of pest and disease before being propagated in the nursery.

PART VI**MONITORING OF COMPLIANCE****Authority of inspecting officer**

15.—(1) The inspecting officer shall have the right of access into the compound or premises of the nursery to carry out inspection, verification and checking on the progress of the nursery, including its facilities, infrastructure, lab and other records as stated in rule 16.

(2) The nursery owner shall give full cooperation to the inspecting officer during the inspection under sub-rule (1).

Record of procurement of planting materials, etc.

16.—(1) The nursery owner shall keep and maintain accurate and true records of—

- (a) procurement of the planting materials or other relevant documents;
- (b) seedlings kept or raised therein; and
- (c) all the particulars as stated in rule 7(2), nursery permit number, year established and type of planting materials.

(2) The records maintained in sub-rule (1) shall be kept at the address of the nursery as shown in the Register and shall be opened for inspection by the inspecting officer from time to time.

(3) The nursery owner shall provide a true copy of the records maintained under this rule to the Director in the submission of its half yearly report.

PART VII
PENALTY AND COMPOUND

Penalty and compound

17.—(1) Any person who—

(a) fails or refuses, without reasonable cause, to give information to the inspecting officer when required to do or knowingly gives false or incomplete information;

(b) willfully resist, obstruct, impedes or hinders the inspecting officer in the exercise of his authority or performance of his duties under these Rules; or

(c) fails to comply with any restriction or conditions imposed by the Director on the establishment of the nursery and propagation of the planting materials therein,

shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding fifty thousand ringgit or imprisonment not exceeding two years or to both.

(2) Any offence under these Rules may be compounded by the Director or any forest officer authorized by the Director by notification in the *Gazette*.

(3) Where the Director or any authorized officer decides to compound an offence, he shall send or cause to be sent to or personally serve or cause to be personally served on the person reasonably suspected of having committed the offence an offer to compound as in the Fourth Schedule.

(4) The offer shall state the sum for which the offence will be compounded and the date by which the sum must be paid and the sum of money to be collected for compounding an offence shall not exceed one half of the minimum amount of the fine provided for such offence.

Penalty for offences not otherwise provided for

18. Any non-compliance with these Rules shall be an offence and any person who commits such offence which no penalty is expressly provided for shall, on conviction, be liable to a fine of not exceeding twenty-five thousand ringgit or to imprisonment for a term of not exceeding two years or both.

Suspension and revocation

19.—(1) A permit issued under rule 3 may be suspended or revoked by the Director if there has been a breach of or non-compliance with any of the terms and conditions stipulated in the permit or the provisions of these Rules.

(2) Where the Director has reasonable grounds to believe that the ground stated in sub-rule (1) exist, the Director shall before suspending any permit, give the permit holder a notice in writing of his intention to do so and calling upon the permit holder to show cause, within fourteen days from the receipt of such notice, as to why such permit should not be suspended.

(3) Where the Director is not satisfied that cause has been shown, the Director may suspend such permit.

(4) (a) Upon the suspension of a permit in sub-rule (3), the Director shall be notice in writing to the permit holder, require the permit holder to rectify or remedy any breach or non-compliance within a period stipulated in the notice under sub-rule (2).

(b) If the Director is satisfied that the permit holder has rectified or remedied the breach or non-compliance stipulated in the notice issued under paragraph (d), the suspension may be lifted on terms and conditions to be imposed by the Director.

(c) In the event that the Director is not so satisfied, the Director may, by notice in writing to the permit holder, revoke the permit.

(5) A suspension or revocation of a permit shall take effect from the date of the issuance of the notice relating thereto.

(6) A permit holder whose permit has been revoked under sub-rule (4)(c) may, within fourteen days from the date of receipt of notice thereof, appeal to the Minister whose decision shall be final.

FIRST SCHEDULE

FORM OF PERMIT
(Not transferable)

(Rule 3)

Permission is hereby given to

of address

to (act permitted)

in the following nursery, namely

subject to the Forests Ordinance, 2015 [*Cap. 71*], and any rules made thereunder, and to the following terms and conditions, namely:

.....

.....

.....

Date of issue

Valid to (date)

Fees (RM) (paid)

Renewed to

.....
(Signature, name and designation of Director of Forests)

N.B.

- (1) This permit is to be returned to the Director of upon expiration, revocation or withdrawal.
- (2) This permit shall be displayed at a conspicuous place at the above address.

SECOND SCHEDULE**FEEES**

(Rule 3)

The fees stipulated in the third column of this Schedule shall be charged for the permit granted or issued under the Forest (Nursery) Rules, 2017 [*Swk. L.N. 199/2017*], which are specified in the second column hereunder.

<i>Item</i>	<i>Type of Fees</i>	<i>Fee (RM)</i>
1.	Permit	500
2.	Renewal	200

THIRD SCHEDULE**APPROVED SPECIES**

(Rule 6)

Name of approved species:

1. *Acacia aulalocarpa*
2. *Acacia auriculiformis*
3. *Acacia hybrids*
4. *Acacia mangium*
5. *Acacia spp.*
6. *Alstonia spp.*
7. *Aquilaria spp.* (Gaharu)
8. *Azadirachta excelsa* (Sentang)
9. *Campnospermum spp.* (Terentang)
10. *Campnosperma coriacea* (Terentang paya)
11. *Cratoxylum arborescens* (Geronggang)
12. *Dactylocladus stenostachys* (Jongkong)
13. *Dillenia spp.*
14. *Dipterocarp species*
15. *Dipterocarpus sp* (Keruing)
16. *Durio spp.* (Durian)
17. *Dryobalanops lanceolata* (Kapur paji)
18. *Dryobalanops rappa* (Kapur paya)
19. *Dyera costulata* (Jelutong bukit)
20. *Dyrea polphylla* (Jelutong paya)
21. *Dyrobalapnops spp.* (Kapur)

Name of approved species:

22. *Endosperma* spp.
23. *Eucalyptus urophylla*
24. *Eucalyptus grandis*
25. *Eucalyptus deglupta*
26. *Eucalyptus pellita*
27. *Eucalyptus* spp. (Gum)
28. *Gmelina arborea* (Yemane)
29. *Hevea brasiliensis* (Rubberwood)
30. *Hopea odorata* (Merawan siput jantan)
31. *Ilex cissoidea* (Kerdam)
32. *Khaya* spp. (African Mahogany)
33. *Macaranga* spp.
34. *Neolamarckia cadamba* (Kelampayan/Laran)
35. *Ochroma pyramidale* (Balsa)
36. *Octomeles sumatrana* (Binuang)
37. *Palaquium* spp.
38. *Falcataria moluccana* (*Paraserianthes falcataria*, Kayu macis, Batai)
39. *Parashorea malaanonan* (Urat mata)
40. *Parashorea tomentella* (Seraya putih)
41. *Parkia* spp.
42. *Peronema canescens* (Sungkai)
43. *Scaphium macropodium* (Kembang semangkok)
44. *Shorea macrophylla* (Engkabang jantung)
45. *Shorea platycarpa* (Meranti paya)
46. *Shorea scabrida* (Meranti lop)
47. *Shorea teysmanniana* (Meranti lilin)
48. *Tectona grandis* (Jati)
49. *Sandoricum emarginatum* (Kelampu paya)
50. *Shorea uliginosa* (Meranti buaya)
51. *Shorea* spp. (Meranti langgai)
52. *Shorea parvifolia* (Meranti sarang punai)
53. *Shorea leprosula* (Meranti tembaga)
54. *Shorea necistoptery* (Engkabang burong)
55. *Swietenia macrophylla* (Mahogany)

FOURTH SCHEDULE**FORM FOR COMPOUNDING OF OFFENCES**

(Rule 17)

(Address of officer making the offer to compound)	
Ref. No. :	
Date :	

To : _____

Sir/Madam,

OFFER TO COMPOUND OFFENCE

It appears to me on the information received and upon investigation, that you have committed the following offence:

Relevant Provision of the law	:			
Date of Offence	:		Time	
Place of Offence	:			
Particulars of Offence	:			

2. You are hereby informed that by virtue of the powers vested in me by the rule 17(3) of the Forest (Nursery) Rules, 2017 [*Swk. L.N. 199/2017*], I am prepared, and hereby offer, to compound the offence for the total sum of Ringgit Malaysia
 If this offer is accepted, payment shall be made in cash or by money order, postal order, cashier's order, banker's order or bank draft made payable to "Government of Sarawak" and crossed "Account Payee Only" and delivered to the above-quoted office. An official receipt will be issued upon payment.

3. This offer to compound the offence will lapse on and prosecution may be instituted against you without further notice.

* Signature :

Name : _____

Designation : _____

(To be signed by the officer authorized to compound, whose name and designation must be below the signature)*

Dated this 27th day of July, 2017

DATUK AMAR HAJI AWANG TENGAH ALI HASSAN
Minister for Urban Development and Natural Resources II
Sarawak

Approved by the Majlis Mesyuarat Kerajaan Negeri this 22nd day of June, 2017.

HAJAH SUTIN BINTI SAHMAT,
Clerk to Majlis Mesyuarat Kerajaan Negeri

71/KPBSA/H/4-7/2 (VII)

