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THE FORESTS ORDINANCE
THE FORESTS (TRAINED WORKMEN) RULES, 2015

ARRANGEMENT OF RULES

PART I
GENERAL

Rules

1. Citation and commencement
2. Interpretation

PART II
IMPLEMENTATION OF TRAINING

3. Training Provider to conduct training courses
4. Workman to complete a training course and obtain Certificate

5. Trainer
6. Assessor

PART III
REGISTER

7. Register of Training Provider
8. Register of workman
9. Register of Trainer
10. Register of Assessor
11. Conclusive evidence
12. Training Provider to furnish information to Director
13. Director to inspect Register
14. Place for Register

PART IV
MONITORING OF COMPLIANCE

15. Appointment of Agent
16. Inspection on Training Provider
17. Verification on employer and workman
18. Production of Register and a Certificate
19. Declaration of office
20. Suspension of the right of a Training Provider to conduct training courses
21. Penalty on employer
22. Re-training on workman

PART V
APPEAL

23. Appeal to Minister

PART VI
MISCELLANEOUS

24. Fee for inspection of Register of Training Provider
25. Variation of fees
26. General penalty

FIRST SCHEDULE

SECOND SCHEDULE

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THE FORESTS ORDINANCE
THE FORESTS (TRAINED WORKMEN) RULES, 2015
(Made under section 95(1)(y))

In exercise of the powers conferred by section 95(1)(y) of the Forests Ordinance [*Cap. 126 (1958 Ed.)*], the Director of Forests, with the approval of the Majlis Mesyuarat Kerajaan Negeri, has made the following Rules:

PART I
GENERAL

Citation and commencement

1. These Rules may be cited as the **Forests (Trained Workmen) Rules, 2015**, and shall come into force on the 1st day of July, 2015.

Interpretation

2. In these Rules—

“Agent” means any agency appointed by the Director to carry out the duties as specified under these Rules;

“Assessor” means any person who has met the qualifications required of a qualified assessor for a prescribed forestry activity and has been employed or engaged or appointed by a Training Provider to assess any workman who has successfully completed a course of training in that prescribed forestry activity;

“Certificate” means a Certificate awarded by a Training Provider to a workman who has successfully completed a course of training for a prescribed forestry activity and has been assessed by an Assessor to have the ability to carry out, undertake or perform the forestry activity under these Rules;

“training courses” means those courses which have been approved by the Director for the purpose of these Rules and are as specified in the First Schedule;

“Director” means the Director of Forests appointed under section 2A(1) of the Ordinance, and shall include any person appointed by the Minister to act or to discharge temporarily the duties and functions of that office;

“Register” means a register maintained by the Director or registers maintained by the Training Provider under Part III;

“Ordinance” means the Forests Ordinance [*Cap.126 (1958 Ed.)*];

“Trainer” means any person who has met the qualifications required of a qualified trainer as specified in the Second Schedule and has been employed or engaged or appointed by a Training Provider to conduct training courses in any prescribed forestry activity;

“Training Provider” means any institution approved by the Director to conduct the training courses under these Rules;

PART II
IMPLEMENTATION OF TRAINING

Training Provider to conduct training courses

3. No Training Provider shall be allowed to conduct any training courses in any prescribed forestry activity unless it is approved by the Director in consultation with the Minister under section 54B(I) of the Ordinance as a Training Provider to conduct such training courses.

Workman to complete a training course and obtain Certificate

4.—(1) No workman shall carry out, undertake or perform any prescribed forestry activity unless he has successfully completed a training course as specified in the First Schedule for that prescribed forestry activity and holds a valid Certificate issued by a Training Provider.

(2) Any workman wishing to undergo a training course for a prescribed forestry activity must register with a Training Provider and the Training Provider shall arrange for a Trainer to train the workman for the training course that he has registered.

(3) On completion of the training course for the prescribed forestry activity, the Training Provider shall arrange for an Assessor to assess the workman on the ability of the workman to carry out, undertake or perform the forestry activity. If the Assessor is satisfied with his ability, the Assessor will inform the Training Provider who will then issue a Certificate to the workman.

(4) Notwithstanding sub-rule (1), the Director with the approval of the Minister may, from time to time, by notification in the *Gazette*, specify the percentage of workmen required to be trained by an employer every year for each prescribed forestry activity according to the training course as specified in the First Schedule upon the coming into force of these Rules.

(5) The Director with the approval of the Minister may from time to time by notification in the *Gazette*, add to, delete from, vary or amend the First Schedule.

Trainer

5.—(1) No Trainer shall train any workman unless he has acquired the qualifications required of a qualified trainer as specified in the Second Schedule.

(2) The Director with the approval of the Minister may from time to time by notification in the *Gazette*, add to, delete from, vary or amend the Second Schedule.

Assessor

6. No Assessor shall assess any workman unless he has acquired the qualifications of a qualified assessor for a prescribed forestry activity as specified in the Second Schedule and has been employed or engaged or appointed by a Training Provider to assess any workman in that prescribed forestry activity.

PART III
REGISTER

Register of Training Provider

7.—(1) The Director shall maintain a Register of Training Provider, and the Register shall contain the following particulars:—

- (a) Name and registered address of the Training Provider;
 - (b) Date of approval by the Director in consultation with the Minister;
- and
- (c) any other particulars as the Director may deem necessary.

(2) No person, other than the Director or an officer authorized by him in writing, may make any entry in the Register of Training Provider.

(3) The Register shall be kept at the Headquarters of the Forest Department of Sarawak.

(4) Any person may inspect the Register and to make certified extract of any particulars or entries made therein by the Director, upon payment of the prescribed fees as provided in rule 24, and during such hours and on such days as appointed by the Director in writing.

Register of workman

8. A Training Provider shall maintain a Register of Workman who has successfully completed a training course for the prescribed forestry activity and has been awarded a Certificate by the Training Provider. The Register of Workman shall contain the following particulars:—

- (a) name, address and national identity card number (or other forms of identification documents) of the workman;
 - (b) the training course for the prescribed forestry activity which the workman has enrolled in and completed training;
 - (c) date of commencement of the training course for the prescribed forestry activity;
 - (d) date of completion of the training course for the prescribed forestry activity;
 - (e) date of cancellation or termination of the training course for the prescribed forestry activity (if applicable);
 - (f) reasons for the above (e);
 - (g) date of award of the Certificate;
 - (h) date of suspension of the Certificate;
 - (i) date of lifting of the suspension or cancellation of the Certificate;
- and
- (j) any other particulars as the Training Provider may deem necessary.

Register of Trainer

9. A Training Provider shall maintain a Register of Trainer for its Trainers who have met the qualifications according to these Rules and have been employed or engaged or appointed by the Training Provider to conduct training courses on the prescribed forestry activity. The Register of Trainer shall contain the following particulars:—

- (a) name, address and national identity card number (or other forms of identification documents) of the Trainer;
- (b) name and address of the employer (if not employed by the Training Provider); and
- (c) any other particulars as the Training Provider may deem necessary.

Register of Assessor

10. A Training Provider shall maintain a Register of Assessor for the Assessors who have met the qualifications according to Rule 6 and have been

employed or engaged or appointed by the Training Provider to assess workmen who have successfully completed training courses on any prescribed forestry activity. The Register shall contain the following particulars:—

- (a) name, address and national identity card number (or other forms of identification documents) of the Assessor;
- (b) name and address of the employer (if not employed by the Training Provider); and
- (c) any other particulars as the Training Provider may deem necessary.

Conclusive evidence

11. The award of a Certificate together with the entry of the particulars of a workman in the Register of workmen under this Part shall be conclusive evidence that he has completed the training course as required of him to carry out, undertake or perform his functions of such prescribed forestry activity.

Training Provider to furnish information to Director

12. The Training Provider shall within thirty days from the date of completion or date of award of the Certificate, whichever is earlier, furnish the Director with the information of such workmen who have successfully completed the training courses.

Director to inspect the Register

13. The Training Provider shall make available all Registers required to be kept under these Rules for inspection by the Director at any time upon demand by the Director.

Place for Register

14. The Register required to be kept by the Training Provider under these Rules shall be kept at the registered office of the Training Provider.

PART IV

MONITORING OF COMPLIANCE

Appointment of Agent

15. The Director shall appoint such number of Agents as he deems necessary to perform the duties of inspection and verification under these Rules.

Inspection on Training Provider

16. An Agent shall inspect a Training Provider for the purpose of ascertaining compliance with the requirements under these Rules.

Verification on employer and workman

17.—(1) An Agent may verify with a workman or the employer of a workman whether a workman has successfully completed the training course and has been awarded the Certificate for the prescribed forestry activity that he performs.

(2) In the course of such verification, the Agent may verify whether the workman is performing a prescribed forestry activity consistent with the instruction and training provided by the Training Provider and in accordance with the training course of that prescribed forestry activity.

Production of Register and Certificate

18. In the course of an inspection and verification under these Rules, an Agent may:—

(a) require any such person to produce to him any Register required to be kept under these Rules and may make copies of them or any records pertaining to the Register; and

(b) require any workman to produce his Certificate.

Declaration of office

19. An Agent when exercising any powers under these Rules shall declare his office and produce his authority in writing to any person affected by the exercise of his power under these Rules.

Suspension of the right of a Training Provider to conduct training courses

20.—(1) If a Training Provider is found by an Agent to be in breach of any of its duties stipulated in these Rules, the Agent shall notify the Director. The Director shall serve on the Training Provider a notice of intention to suspend the Training Provider from conducting training courses.

(2) The Director shall specify the grounds on which he proposed to suspend the right of a Training Provider to conduct training courses and direct the Training Provider to take such remedial steps as the Director deems necessary within such period as specified by the Director.

(3) Where a Training Provider fails to take the remedial measures under sub-rule (2), the Director shall decide whether or not:—

- (a) to issue a warning to the Training Provider; or
- (b) to suspend the Training Provider from conducting such training courses approved by the Director.

Penalty on employer

21. If a workman is found by an Agent to be performing a prescribed forestry activity without a Certificate, he or his employer shall be required to provide proof that the workman had completed a training course conducted by a Training Provider, and in the absence of such proof, the employer who has engaged this workman is deemed to have contravened section 54B(3) of the Ordinance and is liable to the prescribed penalty.

Re-training on workman

22.—(1) If a workman with a Certificate is found by the Agent to be performing a prescribed forestry activity inconsistent with the instruction and training provided by the Training Provider in accordance with the training course of that prescribed forestry activity, the Director may forthwith require the Training Provider to suspend the Certificate and require the workman to undergo re-training by a Training Provider within one month from the date of notification by the Director.

(2) Upon being notified by the Director to suspend the Certificate, the Training Provider shall forthwith cause the information to be entered in the Register of Workman and inform the workman, his employer and the Director of such suspension and require the workman to undergo re-training.

(3) After the completion of the re-training, the Training Provider shall arrange for an Assessor to assess the workman on the ability of the workman to carry out, undertake or perform the prescribed forestry activity. If the Assessor is satisfied with his ability, the Assessor will inform the Training Provider who will then lift the suspension of the Certificate of the workman with immediate effect and cause the information to be entered in the Register of Workman. The Training Provider shall furnish the Director within thirty days from the date of lifting of the suspension with such information.

(4) Any Certificate that has been suspended and not lifted within a period of six months from the date of notification by the Director under sub-rule (1) shall be deemed to be cancelled by the Training Provider and the workman shall not be entitled to carry out, undertake or perform that prescribed forestry activity.

(5) Upon cancellation of any Certificate under sub-rule (4), the Training Provider shall forthwith cause the information to be entered in the Register of Workman and inform the workman, his employer and the Director of such cancellation.

PART V

APPEAL

Appeal to Minister

23.—(1) Any Training Provider who is aggrieved by the suspension of the right to conduct training courses under rule 20(3) may appeal in writing to the Minister within thirty days from the date of receipt of the notice of suspension by the Director.

(2) The Minister may, subject to such terms and conditions may, confirm, revoke or vary the decision of the Director and the Minister shall notify in writing to the Director and the person making the appeal of his decision.

(3) The decision of the Minister on an appeal shall be final.

PART VI

MISCELLANEOUS

Fee for inspection of Register of Training Provider

24. The fee for the inspection of the Register maintained by the Director under rule 7 shall be RM10.00 for each inspection, and certified copies of the documents or particulars in the Register may be supplied at the cost of RM1.00 per folio.

Variation of fees

25. The fees set out in rule 24 may be varied from time to time by the Director with the approval of the Majlis Mesyuarat Kerajaan Negeri. The new fees shall be published in the *Gazette*.

General penalty

26. Any person who contravenes any of the provisions of these Rules commits an offence and is liable on conviction to a fine not exceeding five thousand ringgit or imprisonment not exceeding two years or both.

FIRST SCHEDULE

(Rules 2 and 4)

1. TRAINING COURSES
 - (a) Certificate in Tree Felling
 - (b) Certificate in Log Extraction
 - (c) Certificate in Log Loading
 - (d) Certificate in Clear-fell Site Preparation
 - (e) Certificate in Mechanical Site Preparation
 - (f) Others

SECOND SCHEDULE

(Rules 2, 5 and 6)

2. TRAINER AND ASSESSOR QUALIFICATIONS
 - (a) Tree Felling Trainer
 - (i) Certificate in Tree Felling
 - (ii) Unit 7108 Conducting On-Job Training for Adults
 - (b) Log Extraction Trainer
 - (i) Certificate in Log Extraction
 - (ii) Unit 7108 Conducting On-Job Training for Adults
 - (c) Log Loading Trainer
 - (i) Certificate in Log Loading
 - (ii) Unit 7108 Conducting On-Job Training for Adults
 - (d) Clear-fell Site Preparation Trainer
 - (i) Certificate in Clear-fell Site Preparation
 - (ii) Unit 7108 Conducting On-Job Training for Adults
 - (e) Mechanical Site Preparation Trainer
 - (i) Certificate in Mechanical Site Preparation
 - (ii) Unit 7108 Conducting On-Job Training for Adults
 - (f) Others

Dated this 3rd day of March, 2015.

HAJI SAPUAN BIN HAJI AHMAD
Director of Forests

Approved by the Majlis Mesyuarat Kerajaan Negeri this 15th day of January, 2015.

HAJAH SUTIN BT SAHMAT
Clerk to Majlis Mesyuarat Kerajaan Negeri

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