

THE WILD LIFE PROTECTION ORDINANCE, 1998

**THE WILD LIFE PROTECTION (EDIBLE BIRDS' NESTS)  
RULES, 1998**

*[Swk. L.N. 95/98]*

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Sarawak LawNet

THE WILD LIFE PROTECTION ORDINANCE, 1998

**THE WILD LIFE PROTECTION (EDIBLE BIRDS' NESTS)  
RULES, 1998**

*[Swk. L.N. 95/98]*

(Made under section 55(1)(j))

In exercise of the powers conferred by section 55(1)(j) of the Wild Life Protection Ordinance, 1998 *[Cap. 26]*, the Majlis Mesyuarat Kerajaan Negeri has made the following Rules:

**Citation and commencement**

1. These Rules may be cited as the **Wild Life Protection (Edible Birds' Nests) Rules, 1998**, and shall come into force on the 1st day of October, 1998.

**Interpretation**

2. In these Rules—

“birds” means birds of the genus *Collocalia*, and includes those of the species *Collocalia fuciphaga* and *Collocalia maxima*;

“collection” includes the extraction, removal, taking away or transport of birds' nests from caves or the natural habitat of birds or any building or structure which is used for harbouring or providing facilities for birds to make nests;

*[Am. Swk.L.N. 85/2006.]*

“Controller of Environmental Quality” means the person appointed to that office pursuant to section 3(9) of the Natural Resources and Environment Ordinance *[Cap. 84 (1958 Ed.)]*;

*[Am. Swk.L.N. 85/2006.]*

“edible birds' nests” means the nests of birds which are capable of being consumed by human beings;

“sell” includes any offer for sale or storage of birds' nests for the purpose of selling thereof in future, within the State;

“swiftlets farming” includes the rearing or harbouring of swiftlets or providing facilities for swiftlets, to make or create nests to be collected for the purpose of sale or trade as edible birds' nests.

*[Am. Swk.L.N. 85/2006.]*

**Licence for collection**

3. No person shall collect any edible birds' nests without a licence issued by the Controller or any other Wild Life Officer authorized in writing by him.

**Sale of edible birds' nests**

4. No person shall sell or offer for sale any edible birds' nests without a licence from the Controller or any other Wild Life Officer authorized in writing by him.

**Import or export of edible birds' nests**

5. No person shall import into or export from Sarawak edible birds' nests without a licence from the Controller or any other Wild Life Officer authorized in writing by him.

**Licensing procedure**

6.—(1) An application for any licence required under these Rules shall be made in such form as may be prescribed by the Controller.

(2) A licence issued under these Rules shall be in the appropriate Form prescribed in the First Schedule.

(3) The Controller may specify in the licence terms and conditions for the issuance thereof, including the times during which collection of edible birds' nests may take place.

(4) (a) A licence for the collection or sale of edible birds' nests shall be for a period of not more than one year and may be renewed at the sole discretion of the Controller, for such period of time as he deems fit.

(b) A licence for the import or export of edible birds' nests shall be in respect of each consignment of edible birds' nests to be imported into or exported from Sarawak.

(5) Each licence shall specify the cave or place or building where the edible birds' nests may be collected.

*[Am. Swk.L.N. 85/2006.]*

(6) A licensee shall have the licence in his possession at all times when undertaking the collection of edible birds' nests. A certified true copy of the licence must be in the possession of the employee or servant, if any, assisting him in the collection of edible birds' nests.

**Prohibition against transfers, subletting, etc.**

7.—(1) A licence issued under these Rules shall not be transferable.

(2) Where a licence is issued to a company or firm, the transfer of a majority of the shares or interests in the company or firm shall be deemed to be a transfer of the licence.

(3) A licensee shall not sublet or assign or otherwise confer any benefits under the licence to any other person provided that, subject to rule 9, he may employ or engage such employees or servants as may be allowed under rule 9(2) to assist him in the collection of edible birds' nests.

**No right to caves**

8.—(1) The issue of any licence under these Rules shall not confer upon the licensee any rights or interests to or over any caves or any land upon which collection of edible birds' nests is permitted under the licence.

(2) When the cave where the edible birds' nests are located is within a national park, nature reserve or Wild Life Sanctuary, entry to the cave shall comply with the rules and regulations governing that national park, nature reserve or Wild Life Sanctuary.

**Details of employees of licensee**

9.—(1) A licensee shall submit to the Controller the names, addresses and identity card numbers of all persons employed or engaged by him to assist him in the collection or sale of edible birds' nests.

(2) No licensee shall, without the approval in writing from the Controller, employ or engage more than three persons to assist him in the collection of edible birds' nests.

(3) For the purpose of this rule and rule 7(3), "persons employed or engaged" by a licensee shall not be construed to include a contractor, an assignee or an agent of the licensee.

**Records**

10.—(1) A licensee shall keep and maintain true and accurate records of the amount and weight of edible birds' nests collected or sold by him, including those sold by his employees or servants, and shall submit such records to the Controller twice annually, that is, on or before 30th June and 31st December of each calendar year.

(2) Where a licence expires or is cancelled between the date of the last submission of the records and the date of expiry or cancellation, the licensee shall submit such records kept and maintained up to the date of the expiry or cancellation of the licence, as the case may be.

### **Directions**

11. Notwithstanding any term or condition in a licence issued hereunder, the Controller may, from time to time, issue directions to licensees regarding the collection, sale, import or export of edible birds' nests, and the licensees shall give due effect to such directions and comply therewith.

### **Cancellation and suspension**

12. Any licence issued hereunder may be cancelled or suspended by the Controller on any of the following grounds:

(a) the Controller is of the opinion that it is in the interest of the birds or for the protection of the bird population at any place where collection of edible birds' nests is permitted under a licence, that the collection thereof should either cease completely or for such period of time as he deems necessary; or

(b) there has been a breach of any of the provisions of these Rules, or of the terms or conditions of the licence or of any direction issued by the Controller under rule 11; or

(c) the collection of edible birds' nests could endanger the life or safety of the licensee or any of his employees or servants; or

(d) the licensee or any of his employees or servants or any persons purportedly acting on his behalf has been convicted of a criminal offence in connection with the collection, sale, import or export of edible birds' nests; or

(e) the licensee or his employees or servants have caused damage to the caves where the edible birds' nests are found, or have damaged monuments or archaeological articles inside such caves; or

(f) the death, liquidation or winding up of the licensee or the incapacity, as a result of illness or otherwise, of a licensee to undertake the activities covered by the licence; or

(g) that it is not in the interest of the State for health or any other reasons, to allow the import, export or sale of edible birds' nests.

### **Appeal**

13. Any person aggrieved by the decision of the Controller to cancel or suspend a licence under rule 12 may appeal to the Minister whose decision shall be final and shall not be questioned or reviewed in any court.

### **Fees**

14. All licences issued under these Rules shall be subject to the payment of such fees as prescribed in the Second Schedule.

### **Existing licence**

15. Any licence for the collection, sale, import or export of edible birds' nests, issued under any written law or regulation prior to the date of coming into force of these Rules and which is still current, shall continue to be in force until the expiry of such licence, and shall be deemed to be a licence issued under and subject to these Rules and be regulated hereunder.

### **Offence and penalty**

16. Any breach or contravention of any of the provisions of these Rules or any direction issued by the Controller under rule 11 shall be an offence and shall, if no penalty is provided for the same offence in the Ordinance, be punishable with a fine of three thousand ringgit or imprisonment for six months or both fine and imprisonment.

### **Licence to build, erect or maintain any building or structure for swiftlets farming**

17.—(1) A licence to build, erect or maintain any building or structure for the purpose of swiftlets farming as required under section 33(2)(b) of the Ordinance shall be in Form 3 of the First Schedule.

(2) No such licence shall be issued by the Controller unless the State Planning Authority has given its approval for the land or building or structure to which the licence relates to be used for such purpose.

### **Site permitted for swiftlets farming**

18. Notwithstanding rule 17, no land or building shall be used for swiftlets farming if the land or building is—

- (a) within an area of land declared to be town land under section 11(1) of the Land Code [*Cap. 81 (1958 Ed.)*]; or

(b) within and area of land declared to be suburban land under section 11(1) of the Land Code [*Cap. 81 (1958 Ed.)*] unless the special condition of the title for the land allows it to be used for agriculture and written approval has been obtained from the Superintendent of Lands and Surveys of the Division for the erection of the building to be used for swiftlets farming.

#### **Environment impact assessment report**

19.—(1) Before approving an application for a licence required under section 33(2)(b) of the Ordinance, the Controller may, after consultation with the Controller of Environmental Quality, direct the application to submit an environmental impact assessment report on the impact which the proposal would have on the environment and the measures required to mitigate against any adverse environment impact that can arise if the application for the licence were to be approved.

(2) Upon evaluation of the report, the Controller may after consultation with the Controller or Environmental Quality specify such measures as may be required to be undertaken by the licensee for the protection of the environment as conditions in the licence.

#### **Guidelines for environmental protection**

20. Notwithstanding rule 19, the holder of any licence issued by the Controller shall comply with such guidelines as may be issued from time to time by the Controller of Environmental Quality, and shall also ensure that the effluent discharged from the licenced premises shall comply with Standard B of the Environmental Quality (Sewage and Industrial Effluents) Regulations 1979 [*P.U. (A) 12/79*].

#### **Compounding of offences**

21. Any offence for contravention of the provisions of these Rules or for failure to comply with any of the conditions of licence issued under these Rules may be compounded pursuant to section 47 of the Ordinance.

*[Am. Swk.L.N. 85/2006.]*



FIRST SCHEDULE

FORM 1

THE WILD LIFE PROTECTION (EDIBLE BIRDS' NESTS)  
RULES, 1998

LICENCE TO \*COLLECT/SELL EDIBLE BIRDS' NESTS

(Issued under rule 6(2))

Licence No.: .....

Licence is granted to ..... of

.....  
(address)

to \*collect/sell .....

edible birds' nests at ..... subject to

.....  
(place)

the Wild Life Protection Ordinance, 1998, and these Rules, and to the following special conditions,  
namely—

.....

.....

2. This licence is not transferable and shall not be sublet, sub-licensed, assigned nor any benefit  
granted be conferred on any other person.

Date of issue .....

Valid to (date) .....

Fees RM ..... (paid)

Renewed to: .....

.....  
(Signature, name and designation of  
Wild Life Officer)

N. B. (1) This licence is to be returned to the Controller or a duly authorized Wild Life Officer on  
expiration, cancellation or withdrawal of the licence.

(2) This licence must be displayed at the address stated above or carried by the licensee or  
his employee or servant, if he is hereby licensed to collect edible birds' nests.

\* Delete where inapplicable.

**FORM 2**

**THE WILD LIFE PROTECTION (EDIBLE BIRDS' NESTS)  
RULES, 1998**

**LICENCE TO \*IMPORT/EXPORT EDIBLE BIRDS' NESTS**

(Issued under rule 6(2))

Licence No.: .....

Licence is hereby granted to ..... of

.....  
(address)

to \*import/export the quantity/weight of .....

edible birds' nests specified below \*from/to .....  
(place)

subject to the Wild Life Protection Ordinance, 1998, and these Rules, and to the following special conditions, namely—

.....  
.....  
.....

2. This licence is not transferable and shall not be sublet, sublicensed, assigned nor any benefit granted be conferred on any other person.

Date of issue .....

Quantity/weight  
of edible birds' nests  
imported/exported .....

Fees RM ..... (paid)

.....  
(Signature, name and designation of  
Wild Life Officer)

\* Delete where inapplicable.

**FORM 3**

THE WILD LIFE PROTECTION (EDIBLE BIRDS' NESTS)  
RULES, 1998

**LICENCE TO BUILD, ERECT OR MAINTAIN ANY BUILDING  
OR STRUCTURE FOR SWIFTLETS FARMING**

(Issued under rule 17)

Licence No.: .....

Licence is issued to ..... of

.....  
(address)

to \*buil/erect/maintain any building or structure situated at .....

.....  
(state place/locality)

to be used for harbouring or providing facilities for swiftlets farming, subject to the following conditions:

2. This licence is not transferable and shall not be sublet, sub-licensed, assigned nor any benefit granted to be conferred on any other person.

3. This licence is valid for a period of ..... from the date of issue, and may be revoked or cancelled in the event of:

(a) breach of any of the conditions of this licence or any provisions of the Wild Life Protection Ordinance, 1998 [Cap. 26], or its rules; or

(b) if approval given by the State Planning Authority for the use of the building or structure for the purpose stipulated in the licence is withdrawn for whatever reason.

Date of issue .....

Fees RM: .....(paid)

.....  
(Signature, name and designation of  
Wild Life Officer)

\* Delete where inapplicable.

[Am. Swk. L.N. 85/2006.]

SECOND SCHEDULE

(Rule 14)

FEEES

- |   |                                  |
|---|----------------------------------|
| 1. Fee for a licence—   |                                  |
| (a) to collect edible birds' nests  | RM100 per annum or part thereof. |
| (b) to sell or deal in edible birds' nests                                    | RM100 per annum or part thereof. |
| (c) to import unprocessed edible birds' nests                                 | RM2 per kilogram.                |
| (d) to export processed edible birds' nests                                   | RM50 per kilogram.               |
| (e) to import processed edible birds' nests                                   | RM50 per kilogram.               |
| (f) to build, erect or maintain a building or structure for swiftlets farming | RM200 per year or part thereof.  |
|   | <i>[Am. Swk.L.N. 85/2006.]</i>   |
| 2. Fee for a duplicate licence  | RM5 per copy.                    |

Made by the Majlis Mesyuarat Kerajaan Negeri this 23rd day of September, 1998.

KIT SU LEN,  
*Clerk to Majlis Mesyuarat Kerajaan Negeri*