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LAWS OF MALAYSIA**Act 698****FEED ACT 2009**

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LAWS OF MALAYSIA**Act 698****FEED ACT 2009**

An Act to establish the Feed Board, to regulate feed quality by controlling the importation, manufacture, sale and use of feed and feed additive, to ensure that feed satisfies nutritional requirement of animals, is not harmful to animals and is not contaminated so that animals and animal products are safe for human consumption and other usage, and for other matters incidental thereto.

[1 January 2010, P.U. (B) 580/2009]

ENACTED by the Parliament of Malaysia as follows:

PART I**PRELIMINARY****Short title, application and commencement**

1. (1) This Act may be cited as the Feed Act 2009.

(2) This Act applies only to Peninsular Malaysia and the Federal Territory of Labuan.

(3) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Interpretation

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

“antibiotic” means a substance produced by a microorganism or any other product produced wholly or partially by chemical synthesis and which in low concentration inhibits the growth of or kills micro-organisms, and used for the purpose of growth stimulation and prevention of diseases;

“chemical” includes an antioxidant, preservative, binding agent, colouring substance, flavouring agent and non-antibiotic medicament;

“feed additive” means any added ingredient including microorganism and enzyme not normally consumed as feed by itself, whether or not it has nutritive value, which affects the characteristics of feed or animal products;

“package” means anything in which or by which any feed or feed additive is encased, covered, closed or contained;

“prescribed” means prescribed by the Minister by order or regulations made under this Act;

“animal” means—

- (a) any mammal other than human;
- (b) any aquatic animal and includes fish, mollusc and crustacea;
- (c) any amphibian;
- (d) any reptile;
- (e) any bird and includes chicken, duck, quail and ostrich; and
- (f) any insect,

kept in captivity or under control for any purpose of human usage;

“hormone” means a chemical substance derived from an endocrine gland or through synthetic processing that has a specific effect on tissues;

“analyst” means a qualified person appointed by the Minister under section 34;

“label” means any written, printed or graphic matter describing the contents of any feed on the package or otherwise on the feed, or accompanying the feed;

“Board” means the Feed Board established under section 3;

“feed” means any single or multiple material whether processed, semi-processed or raw, which is intended to be fed to animals;

“Minister” means the Minister charged with the responsibility for agriculture and agro-based industry;

“authorized officer” means a public officer authorized by the Minister under section 21;

“manufacture” in relation to feed, means to formulate, prepare, compound, mix, make, pack, label or to treat the feed with a view to its sale or for own use but does not include a *bona fide* research or experiment relating to feed and any action forming part of or incidental to such research or experiment;

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

“sale” includes barter or supply under integrated contract farming arrangement.

PART II

THE FEED BOARD

Establishment of the Feed Board

3. (1) A body to be known as the Feed Board shall be established and shall consist of the following members:

- (a) the Director General of Veterinary Services, who shall be the Chairman;
- (b) a senior officer of the Ministry of Agriculture and Agro- Based Industry appointed by the Minister;
- (c) a senior officer of the Department of Agriculture appointed by the Minister;
- (d) a senior officer of the Department of Fisheries appointed by the Minister;
- (e) a senior officer of the Department of Veterinary Services appointed by the Minister;
- (f) a senior officer of the National Fisheries Development Authority appointed by the Minister;
- (g) the Director of Pharmaceutical Services, Ministry of Health, or his representative;
- (h) the Director of Food Safety and Quality Division, Ministry of Health, or his representative;
- (i) a senior officer of the Malaysian Agricultural Research and Development Institute appointed by the Minister;
- (j) the Director General of the Department of Chemistry Malaysia, or his representative;
- (k) a senior officer from an institution of higher learning appointed by the Minister;
- (l) the Director General of the Department of Standards, or his representative;
- (m) the Director of the Department of Veterinary Services and Animal Industry Sabah, who shall be an ex-officio member; and

(n) the Senior Assistant Director of Veterinary of the Department of Agriculture Sarawak, who shall be an ex-officio member.

(2) The Minister shall appoint a senior officer of the Department of Veterinary Services to be the Secretary to the Board.

(3) Subject to such conditions as may be specified in his instrument of appointment, a member of the Board appointed by the Minister shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding three years and such member is eligible for reappointment.

(4) The Minister may, in respect of each member appointed by him, appoint an alternate member to attend, in place of that member, meetings of the Board in the event that member is for any reason unable to attend.

(5) When attending meetings of the Board, an alternate member shall, for all purposes, be deemed to be a member of the Board.

Functions and powers of the Board

4. (1) The functions of the Board shall be as follows:

- (a) to administer, enforce and ensure the effective implementation of this Act;
- (b) to advise the Minister in the making of regulations under this Act;
- (c) to regulate the quality and safety of feed and feed additive;
- (d) to regulate the feed industry, particularly in the manufacturing, distributing, utilizing and importing of feed and feed additive; and

(e) to implement quality and safety assurance programmes for feed.

(2) The Board shall have the powers to do all things expedient or reasonably necessary for or in connection with or incidental to the performance of its functions.

(3) Without prejudice to the generality of subsection (2), the Board shall have the power—

- (a) to conduct surveys and investigations in respect of the feed industry;
- (b) to require any person dealing in feed or feed additive to submit reports;
- (c) to regulate the importation of feed and feed additive; and
- (d) to prevent any fraudulent actions in connection with the manufacture, supply and sale of feed and feed additive.

Committees

5. The Board may establish committees, which consist of persons who are not members of the Board, to advise and assist the Board in the performance of its functions and the exercise of its powers.

Delegation of functions and powers of the Board

6. The Board may, subject to such conditions and restrictions as it may impose, delegate to a committee established under section 5 or to any public officer, any of its functions and powers other than this power of delegation.

Power of Minister to give directions

7. The Minister may, from time to time, give directions to the Board consistent with the provisions of this Act and the Board shall give effect to all such directions.

Meetings of the Board

8. (1) The Board shall meet at such time and place as the Chairman may determine.

(2) At any meeting of the Board, six members shall form a quorum.

(3) The Chairman shall preside at all meetings of the Board.

(4) If the Chairman is not present at a meeting of the Board, the members present shall elect one of them to preside over the meeting.

(5) The Chairman or other member presiding at a meeting shall have a deliberative vote and shall, in the event of an equality of votes, have a casting vote.

(6) The Board may invite any person to attend any meeting of the Board, but that person has no right to vote at the meeting.

(7) Subject to this section, the Board may regulate its own procedure.

PART III

LICENSING

Prohibition on importation of feed and feed additive

9. (1) No person shall import any feed or feed additive unless he possesses a valid licence under this Act.

(2) Notwithstanding subsection (1), the Minister may, by order published in the *Gazette*, prohibit either absolutely or conditionally, the importation, from any country or territory or any part of any country or territory, of any feed or feed additive that is likely to convey diseases or to affect the health of animals or humans or both.

(3) Any person who imports any feed or feed additive without a licence or in contravention of an order by the Minister under subsection (2) 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.

Application and issuance of licence

10. (1) An application for a licence to import feed or feed additive shall be made to the Board—

(a) in the manner as may be determined by the Board; and

(b) by submitting together with the application any information, particulars or documents as may be required by the Board.

(2) Where an application for a licence is approved, the licence shall be issued in the name of the applicant upon payment of the prescribed fee and the Board may impose such terms and conditions as it may deem necessary.

(3) A licence issued under this section shall, unless suspended or revoked, be valid for a term expiring not later than the end of the calendar year in which it commences, and shall terminate at the expiry of that term.

Refusal to issue licence

11. The Board shall not issue a licence to import feed or feed additive under this Act—

- (a) if the country of origin from which the feed or feed additive is to be imported is unknown;
- (b) if the specification for the feed or feed additive is not provided or does not comply with the prescribed specifications;
- (c) if the Board has reasonable grounds to believe that the feed or feed additive to be imported is contaminated or is likely to convey diseases and cause ill-health to animals or humans; or
- (d) if any other licence or certificate necessary for importation as required under any other written law has not been obtained.

Renewal of licence

12. (1) A licensee may apply for a renewal of licence not later than thirty days before the date of expiry of the licence—

- (a) in the manner as may be determined by the Board; and
- (b) by submitting together with the application any information, particulars or documents as may be required by the Board.

(2) When an application for a renewal of licence is approved by the Board, the licence shall be renewed upon payment of the prescribed fee and the Board may vary the terms and conditions of the licence or impose additional terms and conditions.

(3) The Board may refuse to renew a licence if the licensee—

- (a) has failed to comply with any of the provisions of this Act or any regulations made under this Act; or
- (b) has failed to comply with any term or condition of the licence.

Licence not transferable

13. (1) A licence to import feed or feed additive issued under this Act shall not be transferable.

(2) Any person who contravenes subsection (1) or any person who uses a licence of another person 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.

Suspension or revocation of licence

14. (1) The Board may suspend or revoke a licence to import feed or feed additive under any of the following circumstances:

- (a) the licensee has failed to comply with any of the provisions of this Act or any regulations made under this Act;
- (b) the licensee has failed to comply with any term or condition of the licence;
- (c) the licensee has improperly or illegally obtained the licence; or
- (d) 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 granted a licence under this Act.

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

(a) a written notice of the intention to suspend or revoke the licence; and

(b) an opportunity to make written representation within a period specified in the written notice which shall not be less than fourteen days from the date of the notice.

(3) The Board shall, after considering the representation made by the licensee under subsection (2), if any, decide whether to suspend the licence for any period or to revoke the licence.

(4) The Board shall give the licensee a written notice of its decision under subsection (3) as soon as practicable.

(5) If a licence is suspended under subsection (3), the Board may require the licensee to remedy the breach or the contravention within the time specified in the notice issued under subsection (4) and if the Board considers necessary, it may impose additional terms and conditions on the licence.

(6) If the Board is satisfied that the licensee fails to remedy the breach or contravention within the specified time or the licensee has breached the additional terms and conditions under subsection (5), or the breach or contravention continues after the licence is suspended under subsection (3), the Board shall revoke the licence.

(7) A licensee whose licence is—

(a) suspended or revoked shall not be entitled to any compensation for any loss suffered by him as a consequence of the suspension or revocation of the licence under this Act; and

(b) revoked shall not be entitled to any refund of the prescribed fee paid under section 10 or 12.

Appeal to Minister

15. (1) Any person aggrieved by the refusal of the Board to issue or renew any licence, or by the suspension or revocation of any licence, may appeal to the Minister in the prescribed manner against such refusal, suspension or revocation within thirty days from the date of such refusal, suspension or revocation.

(2) The Minister may, after considering the appeal, make such order as he deems fit and that order shall be final.

Power of court to order revocation of licence

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

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

(3) Any person who obtains or attempts to obtain a licence while he is disqualified under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one month or to both and for a second or subsequent offence, to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both.

PART IV

FEED SPECIFICATIONS AND CONDITIONS FOR PROPER KEEPING,
STORING, PACKAGING, LABELLING AND TRANSPORTING

Compliance with specifications

17. (1) All feeds imported, manufactured, distributed, possessed, sold or utilized for the feeding of animals shall comply with the prescribed feed specifications.

(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.

Compliance with conditions for proper keeping, storing, packaging, labelling and transporting

18. (1) All feeds or feed additives kept, stored, packaged, labelled or transported shall comply with the prescribed conditions for proper keeping, storing, packaging, labelling and transporting of feed or feed additives.

(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 V

CONTROL OF USE OF ANTIBIOTICS, HORMONES
AND OTHER CHEMICALS**Manner and levels of inclusion**

19. (1) No person shall—

(a) incorporate any antibiotic, hormone or other chemical into feed; or

(b) introduce any antibiotic, hormone or other chemical directly or through a medium into animals,

unless in accordance with the prescribed manner and at the prescribed level.

(2) Any person who contravenes 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, 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.

(3) Notwithstanding subsection (1), any antibiotic, hormone or other chemical may be incorporated into feed or introduced directly or through medium into animals, at a level higher than the prescribed level if prescribed as such by a veterinary surgeon in writing and only for the purpose of treatment, control or eradication of disease.

(4) For the purpose of this section, a veterinary surgeon means a veterinary surgeon as defined in the Veterinary Surgeons Act 1974 [*Act 147*].

Possession of feed or feed additive containing antibiotics, etc.

20. (1) No person shall possess any feed or feed additive which contains antibiotics, hormones or other chemicals the addition of

which are not permitted under this Act or any regulations made under this Act.

(2) Any person who contravenes 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, 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.

PART VI

ENFORCEMENT

Authorized officer

21. (1) The Minister may appoint in writing such number of public officers to be authorized officers as he thinks necessary for the purpose of this Act.

(2) An authorized officer may exercise all powers vested in him under this Act or any regulations made under this Act.

Authority card

22. (1) There shall be issued to each authorized officer an authority card to be signed by the Chairman of the Board.

(2) Whenever an authorized officer exercises any of the powers under this Act or any regulations made under this Act, 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 of arrest

23. (1) An authorized officer may arrest without warrant any person who commits or attempts to commit, or whom the authorized officer

reasonably suspects of committing or attempting to commit, any offence under this Act or any regulations made under this Act if such person refuses to furnish his name or address or furnishes an address out of Malaysia or there are reasonable grounds for believing that he has furnished a false name or address or that he is likely to abscond.

(2) Where any person is arrested under subsection (1), he shall thereafter be dealt with as provided by the Criminal Procedure Code [*Act 593*].

Search and seizure with warrant

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

- (a) any premises has 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 Act or any regulations made under this Act, the Magistrate may issue a warrant authorizing any authorized officer named therein, at any reasonable time by day or by night and with or without assistance, to enter the premises and if need be by force.

(2) A warrant issued under subsection (1) may authorize the authorized officer to—

- (a) search the premises, and seize any feed, feed additive, receptacle, package, conveyance, contrivance, book, document or other thing that is reasonably believed to furnish evidence of the commission of such offence;
- (b) take samples of any feed, feed additive or thing found in the premises for the purposes of ascertaining by testing or otherwise, whether the offence has been committed; and

(c) make copies of or take extracts from any book, record, document or other thing found in the premises.

(3) An authorized officer entering any premises under this section may take with him such other persons and equipment as may appear to him to be necessary.

(4) 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 and 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.

(5) Where by reason of its nature, size or amount, it is not practicable to remove any feed, feed additive, receptacle, package, conveyance, book, document or other thing seized under this section, the authorized officer shall seal the conveyance, container or premises in which such feed, feed additive, receptacle, package, book, document or other thing is found.

Search and seizure without warrant

25. Whenever an authorized officer has reasonable cause to believe that any feed, feed additive, receptacle, package, conveyance, book, document or other thing in respect of which an offence has been committed is likely to be found in or on any place, premises, person or conveyance and that by reason of delay in obtaining a warrant under section 24 the object of the search may be frustrated, he may, without warrant, with such assistance and force as is necessary—

(a) enter and search such place or premises;

- (b) stop and search such person or conveyance; and
- (c) seize any feed, feed additive, receptacle, package, conveyance, book, document or other thing which may be found and may be evidence of the commission of such offence.

Power to enter premises

26. Notwithstanding sections 24 and 25, an authorized officer may at any time enter any premises for the purpose of—

- (a) inspecting any feed, feed additive, receptacle, package, conveyance, book, document or other thing as he considers necessary;
- (b) verifying the accuracy of records or statement or any information given to an authorized officer; or
- (c) collecting samples of any feed, feed additive or other substance found in the premises for the purpose of ascertaining, by testing or otherwise, whether an offence has been committed.

Access to computerized data

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

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

Power to stop, search and seize conveyances

28. (1) If an authorized officer has reasonable cause to suspect that any conveyance is carrying any feed, feed additive, receptacle, package, book, document or other thing in respect of which an offence under this Act or any regulations made under this Act, is being or has been committed, he may stop and examine 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 feed, feed additive, receptacle, package, book, document or other thing 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 examine it; and

(b) open all parts of the conveyance for examination and take all measures necessary to enable or facilitate the carrying out of such examination 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

29. (1) Where any seizure is made under this Act, the authorized officer making the seizure shall prepare a list of feed, feed additive, receptacle, package, conveyance, book, document or other thing seized and of the premises in which it is found and shall sign the list.

(2) The list prepared in accordance with subsection (1) shall be delivered immediately to—

- (a) the occupant of the premises where the feed, feed additive, receptacle, package, book, document or other thing seized is found; and
- (b) the person in control or in charge of the conveyance, where the seizure is made under section 28.

(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.

(4) Where the feed, feed additive, receptacle, package, conveyance, book, document or other thing is seized otherwise than in or from any premises, the authorized officer making the seizure shall give a notice in writing of the seizure and the grounds of the seizure to the owner of the feed, feed additive, receptacle, package, conveyance, book, document or other thing seized by delivering a copy of such notice to the owner in person or by post at his place of business or residence.

(5) A notice under subsection (4) need not be given if the seizure is made from the owner, in the presence of the owner or with the knowledge of the owner.

Power of investigation

30. (1) An authorized officer shall have all the powers necessary to carry out an investigation of the commission of an offence under this Act or any regulations made under this Act.

(2) For the purpose of subsection (1), the Criminal Procedure Code shall apply and an authorized officer shall have all the powers as provided for under the Criminal Procedure Code.

Authorized officer may seek assistance to examine things relating to offence

31. An authorized officer may seek the assistance of any person to examine any feed, feed additive, receptacle, package, conveyance, book, document or other thing seized or detained under this Act if such person has the necessary qualification to examine such feed, feed additive, receptacle, package, conveyance, book, document or other thing for the purposes of an investigation under this Act.

Power to take sample

32. (1) An authorized officer may demand, select, take or obtain samples of any feed or feed additive for the purposes of analysis without payment from any person importing, manufacturing, distributing, selling, utilizing or having possession of such feed or feed additive or his or its agent or servant from whom the feed or feed additive is procured.

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

Designation of laboratories

33. The Minister may designate laboratories as he considers necessary for the purpose of this Act.

Appointment of analysts

34. The Minister may appoint any qualified person to be an analyst for the purpose of carrying out an analysis under this Act.

Certificate of analysis

35. (1) A certificate of analysis signed by an analyst shall, on production by the Public Prosecutor in any trial under this Act, 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 in 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 feed or feed additive

36. (1) When any feed or feed additive is seized under this Act, it shall be sufficient to open and examine five per centum only of each description of the package or receptacle in which such feed or feed additive is contained.

(2) If it is necessary to test any feed or feed additive seized under this Act, it shall be sufficient to test only a sample not exceeding five per centum in volume or weight of the feed or feed additive examined under subsection (1).

(3) The court shall presume that the feed or feed additive contained in unopened packages or receptacles is of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

No costs or damages arising from seizure to be recoverable

37. No person shall, in any proceedings before any court in respect of the seizure of any feed, feed additive, receptacle, package, conveyance, book, document or other thing seized in the exercise or the purported exercise of any power conferred by this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Power of the Board to require information on feed or feed additive

38. (1) The Board may require any person undertaking any activity involving feed or feed additive to furnish to the Board, within the time specified in a notice, any information relating to the feed or feed additive.

(2) Any person who fails to furnish the information as may be required by the Board 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.

Release or disposal of feed, feed additive, etc.

39. (1) Where any feed, feed additive, receptacle, package, conveyance, book, document or other thing has been seized under this Act, an authorized officer may—

(a) release the receptacle, package, conveyance, book, document or other thing seized to the owner or to the person from whose possession, custody or control it was seized, or to such person as the authorized officer may consider entitled to it, subject to such terms and conditions as the authorized officer may impose, and subject, in any case, to sufficient security being furnished to the satisfaction of the authorized officer that the receptacle, package, conveyance, book, document or other thing seized shall be surrendered to the authorized officer on demand being made by the authorized officer and that the said terms and conditions, if any, shall be complied with;

(b) release the feed, feed additive, receptacle, package, conveyance, book, document or other thing to the owner or to the person from whose possession, custody or control it was seized, or to such person as the authorized officer may consider entitled to it, with liberty for the person to whom the same is so released to dispose of the

same, subject to such terms and conditions as the authorized officer may impose, and subject, in any case, to sufficient security being furnished to the satisfaction of the authorized officer in an amount not less than an amount which in the opinion of the authorized officer represents—

- (i) the open market value of the feed, feed additive, receptacle, package, conveyance, book, document or other thing on the date on which it is so released;
 - (ii) the customs duty payable in respect thereof, if any; and
 - (iii) the tax payable in respect thereof under any written law, if any, for the payment of the amount so secured to the Board in the event of the Court making an order for the forfeiture of such amount under this Act; or
- (c) sell or destroy, as appropriate in the circumstances, the feed, feed additive, receptacle, package or other thing, which, in the opinion of the authorized officer is of a perishable nature or likely to speedily deteriorate in quality or value, and where it is so sold, the authorized officer shall hold the proceeds of sale to abide the result of any prosecution or claim.
- (2) Any person who—
- (a) fails to surrender on demand to an authorized officer any receptacle, package, conveyance, book or document or other thing released to him under paragraph (1)(a); or
 - (b) fails to comply with or contravenes any of the terms or conditions imposed under paragraph (1)(a) or (b),

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.

(3) The criminal liability of a person under subsection (2) shall be in addition to any other liability that the person or any other person may incur under the terms and conditions relating to the release of any receptacle, package, conveyance, book, document or other thing under paragraph (1)(a) or any feed, feed additive, receptacle, package, conveyance, book, document or other thing under paragraph (1)(b).

Forfeiture or release of feed, *etc.* seized

40. (1) Any feed, feed additive, receptacle, package, conveyance, book, document or other thing seized in exercise of any power under this Act shall be liable to forfeiture.

(2) An order for the forfeiture of the feed, feed additive, receptacle, package, conveyance, book, document or other thing seized shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the feed, feed additive, receptacle, package, conveyance, book, document or other thing seized was the subject-matter of or was used in the commission of the offence, even though no person has been convicted of such offence.

(3) If there is no prosecution with regard to any feed, feed additive, receptacle, package, conveyance, book, document or other thing seized under this Act, such feed, feed additive, receptacle, package, conveyance, book, document or other thing shall be taken and deemed to be forfeited at the expiration of a period of thirty days from the date of service of a notice to the last-known address of the person from whom the feed, feed additive, receptacle, package, conveyance, book, document or other thing was seized indicating that there is no prosecution in respect of such feed, feed additive, receptacle, package, conveyance, book, document or other thing unless before the expiration of that period a claim thereto is made in the manner set out in subsections (4), (5), (6) and (7).

(4) Any person asserting that he is the owner of the feed, feed additive, receptacle, package, conveyance, book, document or other thing referred to in subsection (3) and that it is not liable to forfeiture may personally or by his agent authorized in writing, give a written notice to the authorized officer in whose custody such feed, feed additive, receptacle, package, conveyance, book, document or other thing is held that he claims the feed, feed additive, receptacle, package, conveyance, book, document or other thing.

(5) On receipt of the notice referred to in subsection (4), the authorized officer shall refer the claim to a Magistrate for his decision.

(6) The Magistrate to whom a matter is referred under subsection (5) shall issue a summons requiring the person asserting that he is the owner of the feed, feed additive, receptacle, package, conveyance, book, document or other thing and the person from whom it was 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.

(7) If it is proved that an offence under this Act has been committed and that the feed, feed additive, receptacle, package, conveyance, book, document or other thing referred to in subsection (6) was the subject-matter of or was used in the commission of such offence, the Magistrate shall order the feed, feed additive, receptacle, package, conveyance, book, document or other thing to be forfeited, and shall, in the absence of such proof, order its release.

(8) Any feed, feed additive, receptacle, package, conveyance, book, document or other thing forfeited or deemed to be forfeited shall be delivered to the authorized officer and shall be disposed of in accordance with the direction of the Board.

PART VII

GENERAL

Offence by partner, agent or servant

41. Any person who would have been liable to any penalty under this Act or any regulations made under this Act for any act, omission, neglect or default, if the act, omission, neglect or default is committed by him personally shall be liable to the same penalty if the act, omission, neglect or default was committed by his partner, agent or servant unless he proves—

- (a) that the act, omission, neglect or default was committed without his knowledge, consent or connivance; and
- (b) that he took all reasonable precautions and had exercised due diligence to prevent the act, omission, neglect or default.

Offence by body corporate

42. Where a body corporate commits an offence under this Act or any regulations made under this Act, any person who at the time of the commission of the offence was a director, chief executive 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 shall, as well as the body corporate, be deemed to have committed that offence unless he proves that the offence was committed without his knowledge, consent or connivance and that he had taken all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

Failure to comply with lawful order

43. Any person who fails to comply with any written order issued by the Minister or the Board or any authorized officer commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one month or to both, and for a second or subsequent offence, to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Information and informer not to be disclosed

44. (1) Except as provided in this section, no witness in any civil or criminal proceedings pursuant to this Act shall be obliged or permitted to disclose the name or address of any informer or the substance and nature of the information received from him or state any matter which might lead to his discovery.

(2) If a book or document which is in evidence or is liable to inspection in any civil or criminal proceedings contains any entry which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) If in a trial for an offence under this Act the court, after full inquiry into the case, is of the opinion that the informer willfully made in his complaint a material statement which he knew or believed 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 to the 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 an inquiry and require full disclosure concerning the informer.

Protection against legal proceedings

45. No action or prosecution shall be brought, instituted or maintained in any court against—

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

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.

Compounding of offences

46. (1) The authorized officer may, with the consent of the Public Prosecutor, compound any offence committed by any person under this Act or regulations made under it and prescribed by the Minister to be a compoundable offence by making a written offer to the person to compound the offence upon payment to the authorized officer of such amount not exceeding fifty per centum 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 authorized officer 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 be instituted in respect of the offence against the person to whom the offer to compound was made and any feed, feed additive or the proceeds of its sale, or any receptacle, package, conveyance, book, document or other thing seized in connection with

the offence may be released or forfeited by the authorized officer in accordance with the terms and conditions of the compound.

Giving or making false information or statement

47. Any person who gives information or makes a statement on the requirement of this Act, 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 is false and had taken all reasonable steps to ascertain the truth of the information or statement, 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.

Interference with official marks

48. Any person who without authority opens, alters, breaks, removes or erases any mark, fastening or seal placed by an authorized officer pursuant to the provisions of this Act upon any feed or feed additive, or upon any package, place, door or opening containing or affording access to the feed or feed additive 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.

Obstruction of authorized officers in the execution of their duties

49. Any person who obstructs or assaults any authorized officer in the execution of his duties under this Act 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.

Secrecy

50. (1) Except for the purposes of this Act or for the purposes of any criminal proceedings under this Act, no authorized officer shall disclose any information relating to any matter which has been obtained by him in the course of his duties and which is not published in any *Gazette* pursuant to this Act.

(2) Any authorized officer who knowingly 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.

Jurisdiction to try offences

51. Notwithstanding any written law to the contrary, a Magistrate Court shall have jurisdiction to try any offence under this Act or any regulations made under this Act, and to impose full punishment for any such offence.

Prosecution

52. No prosecution for an offence under this Act or any regulations made under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Power to make regulations

53. (1) The Minister may, after consulting the Board, make such regulations as may be necessary or expedient for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of subsection (1), regulations may be made for the following purposes:

- (a) to prescribe the analyst's qualifications, conduct and duties;
- (b) to prescribe all matters relating to application, renewal, suspension and revocation of licence to import feed or feed additive;
- (c) to prescribe the terms, conditions and restrictions of licence to import feed or feed additive;
- (d) to prescribe all matters relating to feed specifications and standards and make provisions for giving effect to such specifications and standards;
- (e) to prescribe all matters relating to the transporting, storing, keeping, labelling and packaging of feed or feed additive;
- (f) to prescribe all matters relating to the use of feed additive, antibiotics, hormones or other chemicals;
- (g) to regulate the manufacture, sale, advertisement and use of feed or feed additive;
- (h) to prescribe the method of analysis of feed and the form of certificate of analysis;
- (i) to designate laboratories and provide for its functions;
- (j) to prescribe the fees payable under this Act;
- (k) to prescribe the offences which may be compounded; and
- (l) to provide for such other matters as are contemplated by, or necessary for giving full effect to, the provisions of this Act 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 ten thousand ringgit or imprisonment for a term not exceeding two years or both for such offence.

Transitional provisions

54. (1) Any person who, on the date of the coming into operation of this Act, has been importing feed or feed additive and intends to continue importing feed or feed additive shall, within six months from the date of the coming into operation of this Act, apply for a licence under section 10.

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

(3) Where an application for a licence is refused, the Board shall send a notice to the applicant notifying the applicant of the refusal and the notice shall also direct the applicant to cease to carry out the importation of feed or feed additive within the period specified in the notice.

(4) Any person referred to in subsection (1) who is aggrieved by the decision of the Board in refusing to issue a licence to import feed or feed additive may appeal to the Minister under section 15.

(5) Any person referred to in subsection (1) may continue to undertake such activity pending determination of his application for a licence or of his appeal to the Minister.

LAWS OF MALAYSIA

Act 698

FEED ACT 2009

LIST OF AMENDMENTS

Amending law

Short title

In force from

—NIL—

LAWS OF MALAYSIA

Act 698

FEED ACT 2009

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
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-NIL-
