

Lembaga Kemajuan Ikan Malaysia Act 1971

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2006

Act 49

LEMBAGA KEMAJUAN IKAN

MALAYSIA ACT 1971

Incorporating all amendments up to 1 January 2006

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LEMBAGA KEMAJUAN IKAN

MALAYSIA ACT 1971

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LAWS OF MALAYSIA

Act 49

LEMBAGA KEMAJUAN IKAN

MALAYSIA ACT 1971

An Act to incorporate the Lembaga Kemajuan Ikan Malaysia and to provide for matters connected therewith.

[Peninsular Malaysia--1 November 1971, P.U. (B) 378/1971; Sarawak--1 July 1973, P.U. (B) 269/1973;

Sabah--1 August 1995, P.U. (B) 358/1995]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

Short title, application and commencement

1. (1) This Act may be cited as the Lembaga Kemajuan Ikan Malaysia Act 1971.

(2) This Act shall apply throughout Malaysia.

(3) This Act shall come into force on such date as the Minister may by notification in the Gazette appoint, and different dates may be appointed for different States or parts of Malaysia. Interpretation

2. In this Act, unless the context otherwise requires-- "authorized officer" means an officer authorized under section 11;

"Chairman" means the Chairman of the Lembaga Kemajuan Ikan Malaysia;

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"Director General" means the Director General of the Lembaga appointed under subsection 3(3);

"fish" includes any of the varieties of marine, brackish water or fresh water fishes, crustacea, aquatic mollusca, marine sponges, trepang and other aquatic life and the products therefrom, but does not include turtles or their egg;

"Fishermen's Association" means any Fishermen's Association established under the Fishermen's Associations Act 1971 [Act 44];

"Fund" means the fund established under section 6; "Lembaga" means the Lembaga Kemajuan Ikan Malaysia established under section 3;

"marketing" means sale, purchase, assembling, storage, transport, processing, grading, packaging, advertising and promotion;

"member" means any member of the Lembaga Kemajuan Ikan Malaysia including the Chairman, temporary Chairman and such temporary member as appointed under subsection 3(5); "Minister" means the Minister charged with the responsibility for fisheries;

"temporary Chairman" means a temporary Chairman of the Lembaga Kemajuan Ikan Malaysia appointed under subsection 3(5).

PART II

LEMBAGA KEMAJUAN IKAN MALAYSIA

Incorporation of Lembaga

3. (1) A body corporate which shall be known as the Lembaga Kemajuan Ikan Malaysia (hereinafter referred to as "the Lembaga") is established, with perpetual succession and a common seal and may sue or be sued in its name, and, subject to and for the purposes of this Act may enter into contract and shall have power to acquire and hold movable or immovable property and to dispose thereof or otherwise deal therewith. (2) The First Schedule to this Act shall have effect with respect to the Lembaga.

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(3) The Lembaga shall consist of the following members to be appointed by the Minister:

- (a) a Chairman;
- (b) a Director General;
- (c) a representative of the Ministry of Agriculture and Agro- Based Industry;
- (d) a representative of the Treasury;
- (e) a representative of the Fisheries Department in the Ministry of Agriculture and Agro-Based Industry;
- (f) a representative of the Economic Planning Unit of the Prime Minister's Department;
- (g) a representative of the Federal Agricultural Marketing Authority; and
- (h) not more than 5 other persons who have had

experience and have shown capacity in matters

relating to the fisheries industry or to marketing, finance or administration.

(4) The Minister shall when appointing the persons mentioned in paragraph (3) (h) give consideration to the need for the various interests and regions in Malaysia to be represented. (5) A temporary Chairman or member may be appointed during the temporary incapacity of the Chairman or member (whether by reason of illness or absence from Malaysia or for any other reason), and such temporary Chairman or member shall be appointed in like manner as the Chairman or member is appointed under this section.

(6) A member of the Lembaga shall, unless he sooner resigns or his appointment is revoked, hold office for such term as may be specified in the instrument appointing him, and shall be eligible for reappointment.

(7) The Minister may give to the Lembaga directions of a general nature, not inconsistent with the provisions of this Act, as to the exercise of the functions and powers of the Lembaga. 049e.fm Page 7 Friday, March 31, 2006 10:41 AM

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Functions of the Lembaga

4. (1) The functions of the Lembaga shall be-- (a) to promote and develop efficient and effective management of fisheries enterprises and marketing of fish;

(b) to provide and supervise credit facilities for fish production and to ensure that these facilities are put to maximum use;

(c) to engage in fisheries enterprises and for that purpose to engage in boat-building and in the production of fishing supplies and equipment;

(d) to promote, stimulate, facilitate, and undertake economic and social developments of Fishermen's

Associations;

(e) to register, control and supervise Fishermen's Associations and to provide for matters related

thereto; and

(f) to control and coordinate the performance of the aforesaid activities.

(2) The Lembaga shall have power to do all things reasonably necessary for or incidental to the discharge of its functions under subsection (1) and in particular, but without prejudice to the generality of the foregoing--

(a) to regulate the marketing of fish particularly through licensing of wholesalers, retailers, fish processors, importers and exporters;

(b) to prescribe and regulate the packing, grading, weighing and storing of fish;

(c) to establish, regulate and, if necessary, manage in respect of any area, a wholesale fish market at which all wholesale fish transactions in that area shall be carried out in accordance with the procedure

determined by the Lembaga;

(d) to prescribe the method of, regulate the conduct of, admission and procedure to be followed at, the sale conducted at a wholesale fish market, and where an auction sale is held thereat, to prescribe the manner in which such sale may be conducted;

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(e) to regulate the processing of fish;

(f) to prohibit, regulate or control the movement of fish; (g) to require persons engaged in the processing or marketing of fish to register and to give in such manner as the Lembaga may specify such information as it may deem necessary;

(h) to appoint agents for the purpose of carrying out its functions;

(i) to impose fees or any other charges it deems fit for giving effect to any of its powers or functions;

(j) to receive in consideration of the services rendered by it such commission or payment as may be agreed

upon;

(k) with the approval of the Minister and the concurrence of the Minister of Finance, to enter into equity

participation where such participation appears to it to be requisite, advantageous or convenient for or in connection with the discharge of its functions;

(l) to carry out all the activities which appear to it to be requisite, advantageous or convenient for or in

connection with the discharge of its functions,

including boat-building and fishing operations, the production of fishing supplies and equipment,

transport, packing, processing, the sale of fishing supplies, equipment and provisions, grading, storing, the sale by auction and other marketing methods

generally of fish, and to manage such activities; (m) to exercise all functions and powers and perform all duties which under or by virtue of any other written law may be vested or delegated to it.

(3) The Lembaga may, with the approval of the Minister and the concurrence of the Minister of Finance, from time to time-- (a) establish corporations under this subsection; and (b) establish or promote the establishment or expansion of companies under the Companies Act 1965 [Act 125], by such names as the Lembaga may think fit, to carry out and have the charge, conduct and management or any project, scheme or enterprise planned or undertaken by the Lembaga in the discharge

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of its functions and where the Lembaga so does, the provisions of--

(i) the Second Schedule except paragraph 4A; and

(ii) the Companies Act 1965,

shall apply respectively to such corporations and companies. (4) In addition to and not in derogation of its powers under subsection (3) the Lembaga may, with the approval of the Minister and the concurrence of the Minister of Finance, apply to register as a company under the Companies Act 1965 a corporation which has been established under paragraph (3) (a) and where the Lembaga so does--

(a) subparagraphs 4A(1) and (2) only of the Second Schedule; and

(b) on the corporation being so registered, subparagraphs 4A(3) and (4) only of the Second Schedule and the Companies Act 1965,

shall accordingly apply to that corporation.

Officers and servants of the Lembaga

5. (1) The Director General of the Lembaga shall be responsible for the day to day administration and management of the affairs of the Lembaga and to exercise such duties and powers as may be entrusted or delegated by the

Lembaga or the Chairman acting on behalf of the Lembaga.

(2) The Lembaga may appoint such officers and servants as it may consider necessary for the efficient conduct of the affairs of the Lembaga.

(3) The officers and servants of the Lembaga shall hold office for such period, receive such salaries and allowances and be subject to such conditions of service as may be determined by the Lembaga with the approval of the Minister.

(4) The Director General shall have the powers of an authorized officer under this Act.

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The Fund

6. (1) For the purposes of this Act a fund (hereinafter referred to as the "Fund") is established to be administered and controlled by the Lembaga--

(a) into which shall be paid--

(i) such sums as may be provided from time to time by Parliament;

(ii) moneys earned by the Lembaga in the

discharge of its functions under or pursuant to

the provisions of this Act;

(iii) moneys earned or arising from any developments, investment, mortgages, charges

or debentures acquired by or vested in the

Lembaga;

(iv) sums borrowed by the Lembaga for the

purpose of meeting any of its obligations or

discharging any of its functions;

(v) all other sums or properties whether movable or immovable which may in any manner

become payable to or vested in the Lembaga;

(b) out of which shall be defrayed--

(i) all expenditure (including capital expenditure) incurred by the Lembaga in carrying out its

functions and powers; and

(ii) moneys for the repayment of any loan made to the Lembaga pursuant to its powers to borrow.

(1A) Subparagraph (1) (a) (v) shall not apply where any corporation which has been established under paragraph 4(3) (a) is registered as a company pursuant to subsection 4(4). (2) Before the beginning of June of each year the Lembaga shall submit to the Minister an estimate of the expenses (including those for development projects) for the following year in such form and with such particulars as the Minister may require; and the Minister shall before the beginning of November of that year notify the Lembaga of the amount authorized for expenses generally or of the amounts authorized for each description of expenditure.

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(3) The Lembaga may at any time submit to the Minister a supplementary estimate for any one year and the Minister may allow the whole or any part of the additional expenditure included in the supplementary estimate.

Borrowing

7. The Lembaga may upon the terms and conditions approved by the Minister of Finance borrow such sums as it may require for carrying out any of its functions.

Investment

8. The assets of the Fund shall, in so far as they are not required to be expended by the Lembaga under this Act, be invested in such manner as the Minister of Finance may approve.

Accounts and Audit

9. (1) The Lembaga shall keep proper accounts and other records in respect of its operation and shall prepare statement of accounts in respect of each financial year.

(2) The accounts of the Lembaga shall be audited by the Auditor General or other auditors appointed by the Lembaga with the approval of the Minister.

(3) After the end of each financial year, and as soon as the accounts of the Lembaga have been audited, the Lembaga shall cause a copy of the statement of accounts in such manner as the Minister may require to be transmitted to the Minister, together with a copy of any observations made by the Auditor General or other auditors appointed under subsection (2) on any statement or on the accounts of the Lembaga.

(4) The Minister shall cause a copy of every such statement and observations to be laid before each House of Parliament. Annual Report

10. The Lembaga shall not later than the 30th day of June of each year, cause to be made and transmitted to the Minister a report dealing with the activities of the Lembaga during the preceding 049e.fm Page 12 Friday, March 31, 2006 10:41 AM

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year and containing information relating to the proceedings and policy of the Lembaga as the Minister may from time to time require.

No person having interest to be appointed as member or employed as officer or servant of the Lembaga

10A. (1) Subject to subsection (2), no person shall be appointed as a member or be employed as an officer or a servant of the Lembaga if he has any interest, directly or indirectly, in-- (a) an enterprise in which the Lembaga has entered or proposes to enter into equity participation pursuant to paragraph 4(2)(k);

(b) a corporation or company established, promoted, expanded or registered

pursuant to subsections 4(3) and 4(4); or

(c) a company or an undertaking with which the Lembaga or an enterprise, a corporation or company mentioned in paragraph (a) or (b) proposes to make a contract or has made a subsisting contract.

(2) Notwithstanding subsection (1) and subject to subsection (3), such person may be appointed as a member of the Lembaga under paragraph 3(3) (h) but in so appointing him the Minister may impose any conditions or restrictions the Minister may deem fit.

(3) Prior to his being appointed as a member or being employed as an officer or a servant of the Lembaga, every person shall disclose fully--

(a) to the Minister in the case of a person to be appointed as a member; and

(b) to the Lembaga in the case of a person to be employed as an officer or a servant,

any such interest as is mentioned in subsection (1), and on his being so appointed or employed, such person shall not further acquire any such interest.

(4) Subject to subsection 10B(1), a member who is appointed or an officer or a servant who is employed contrary to subsection 049e.fm Page 13 Friday, March 31, 2006 10:41 AM

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(1), or who on being appointed or employed further acquires any such interest, shall have his appointment revoked forthwith by the Minister or his employment terminated by the Lembaga without notice, as the case may be.

(5) Any person, member, officer or servant who contravenes this section, section 10B or a condition or restriction imposed under this section or section 10B commits an offence and shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding twenty-five thousand ringgit or to both.

(6) For the purposes of this section and section 10B, the having or acquiring of any such interest as is mentioned in subsection (1) by his spouse or any of his children shall be deemed to give the person, member, officer or servant concerned an indirect interest.

Disclosure of existing interest

10B. (1) Every member, officer or servant having any interest as is mentioned in subsection 10A(1) shall, within six months of the coming into force of this section, disclose fully to the Lembaga the fact of the interest and the nature hereof and such disclosure shall be recorded in the minutes of the Lembaga and the member shall at no time take part in any proceedings of the Lembaga relating to the undertaking, enterprise, company, corporation or contract in which he has the interest and the officer or servant shall cease to exercise all powers and duties in relation thereto, but the member, officer or servant may otherwise continue to be-- (a) a member subject to any conditions or restrictions the Minister may impose; or

(b) an officer or a servant subject to any conditions or restrictions the Lembaga may impose.

(2) Where the member having such interest is the Chairman, he shall vacate the chair and another member shall be elected to preside during the proceedings relating to the undertaking, enterprise, company, corporation or contract in which he has the interest.

(3) Any member, officer or servant who contravenes this section commits an offence and shall be liable on conviction to the punishment provided in subsection 10A(5).

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Surcharge

10C. (1) If it appears to the Lembaga that any person who is or was in the employment of the Lembaga--

(a) has failed to collect any moneys owing to the Lembaga for the collection of which he is responsible;

(b) is or was responsible for any payment from the Fund of moneys which ought not to have been made or for any payment of moneys which is not duly vouched;

(c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any moneys, stamps, securities, stores or other property of the Lembaga;

(d) being or having been an accounting officer, fails or has failed to keep

proper accounts or records;

(e) has failed to make any payment, or is or was

responsible for any delay in the payment, of moneys from the Fund to any person to whom such payment is due under any contract, agreement or arrangement

entered into between that person and the Lembaga, the Lembaga shall serve on him a written notice calling on him to show cause why he should not be surcharged, and if a satisfactory explanation is not, within fourteen days from the date of service of the notice as aforesaid, furnished to the Lembaga with regard to the failure to collect, payment which ought not to have been made, payment not duly vouched, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the Lembaga may surcharge against the said person a sum not exceeding the amount of any such amount not collected, such payment, deficiency, or loss or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, or the failure to make payment, or the delay in making payment, the Lembaga may surcharge against the said person such sum as the Lembaga may think fit.

(2) The Chairman shall cause the Director General to be notified of any surcharge made under subsection (1) and the Director General shall thereupon notify the person surcharged. 049e.fm Page 15 Friday, March 31, 2006 10:41 AM

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(3) The Lembaga may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Chairman shall at once cause the Director General to be notified of such withdrawal.

(4) The amount of any surcharge made under subsection (1) and not withdrawn under subsection (3) shall be a debt due to the Lembaga from the person against whom the surcharge is made and may be sued for and recovered in any court at the suit of the Lembaga and may also be recovered by deduction--

(a) from the salary of the person surcharged if the Lembaga so directs; or

(b) from the pension of the person surcharged if the Lembaga so directs,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of the person. PART III

POWERS RELATING TO ENFORCEMENT

Authorization of officer to exercise powers under this Part

11. (1) The Minister may authorize in writing any public officer or officer of the Lembaga to exercise the powers under this Part. (2) In exercising any of the powers under this Part the officer shall on demand produce to the person against whom he is acting under this Act or any rule made thereunder the authority issued to him by the Minister.

Power to enter premises

12. Where any authorized officer or police officer has reasonable grounds for believing that an offence under this Act or under any rule made thereunder has been committed, such officer may enter any premises belonging to or in the occupation of, any person and may carry out such inspection and examination (including the inspection and examination of books) as he may consider necessary and may seize and detain any books, documents or other 049e.fm Page 16 Friday, March 31, 2006 10:41 AM

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things found in such premises which may furnish evidence of an offence under this Act or under any rule made thereunder. Power of arrest, seizure, investigation and prosecution

13. (1) Any authorized officer or police officer may-- (a) arrest without warrant any person whom he has reason to believe to have committed an offence under this Act or under any rule made thereunder, if such person refuses to furnish his name and address or furnishes an address outside Malaysia or there are reasonable

grounds for believing that he had furnished a false name or address or that he is likely to abscond:

Provided that when any person has been arrested as aforesaid he shall be thereafter dealt with as provided by the law relating to criminal procedure for the time being in force; and

(b) seize anything which he considers it necessary to seize in relation to the evidence necessary to establish the commission of any such offence.

(2) Any authorized officer and any police officer not below the rank of Inspector may in relation to any investigation in respect of any offence under

this Act or any rule made thereunder without order of the Public Prosecutor exercise the special powers in relation to police investigations given by the law relating to criminal procedure in any seizable offence. (3) Any prosecution in respect of an offence under this Act or under any rule made thereunder may be conducted by an authorized officer.

Power to stop and search

14. (1) Where an authorized officer or police officer has reasonable suspicion that any conveyance is carrying any fish in contravention of any provision of this Act or any rule made thereunder, it shall be lawful for such officer to stop and examine such conveyance for the purpose of ascertaining whether any fish is contained therein or is being moved or transported contrary to the provisions of this Act or any rule made thereunder and the 049e.fm Page 17 Friday, March 31, 2006 10:41 AM

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person in control or in charge of such conveyance shall if required to do so by such officer, stop such conveyance and allow such officer to examine the same.

(2) The person in control or in charge of any conveyance examined under the provisions of this section shall on request by the authorized officer or police officer open all parts of the conveyance for examination by such officer and take all measures necessary to enable such examination as such officer considers necessary to be made.

Power to take possession

15. (1) If any authorized officer or police officer has reason to believe that any person is committing an offence under this Act or under any rule made thereunder he may take possession in such manner as he shall deem fit of any fish in respect of which he has reason to believe such an offence has been committed or of any vehicle, vessel or other article by means of which any such offence has been committed or which he has reason to believe is intended to be used for the commission of such offence. (2) Where under this section possession has been taken of any fish, the Director General--

(a) may, if he has reason to believe that an offence under this Act or under any rule made thereunder has been committed and criminal proceedings have been

instituted against any person in respect of such

offence, apply to the Magistrate for an order that the fish shall be sold or

disposed of, and if the fish is ordered to be sold, the proceeds of sale shall be kept until the conclusion of such criminal proceedings; or (b) in any other case, may restore possession to the owner. (3) Where under this section possession has been taken of any vehicle, vessel or other article, the Director General-- (a) may at his discretion, if he has reason to believe that an offence under this Act or under any rule made

thereunder has been committed, temporarily return such vehicle, vessel or other article to the owner of the same on security being furnished to his satisfaction that the vehicle, vessel or other article shall be surrendered to him on demand; or

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(b) in any other case, may restore possession to the owner. (4) (a) The Director General may in writing delegate his powers under subsections (2) and (3) to any authorized officer and may at any time revoke any such delegation.

(b) Notwithstanding any such delegation, the Director General may, if he thinks fit, exercise the powers so delegated. PART IV

OFFENCES, PENALTIES AND PROCEEDINGS

Offence for obstruction

16. Any person who obstructs or impedes the Director General, any authorized officer or police officer in the lawful exercise of any of his powers under this Act or under any rule made thereunder shall be guilty of an offence under this Act. General penalty

17. (1) Any person, other than a body corporate, but including a director or officer of a body corporate, who commits an offence under, or who fails to comply with, any of the provisions of this Act or of any rule made thereunder in respect of which no penalty is expressly provided for, shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding fifteen thousand ringgit or to both and, for a second or subsequent offence, to imprisonment for a term not exceeding five years or to a fine not exceeding twenty-five thousand ringgit or to both.

(2) Any body corporate which commits an offence under, or fails to comply with, any of the provisions of this Act or of any rule made thereunder shall be liable on conviction to a fine not exceeding twenty-five thousand ringgit

and, for a second or subsequent offence, to a fine not exceeding fifty thousand ringgit. (3) Where a person charged with an offence under any of the provisions of this Act or of any rule made thereunder is a body corporate every person who, at the time of the commission of such offence is a director or officer of such body corporate may be charged jointly in the same proceedings with such body 049e.fm Page 19 Friday, March 31, 2006 10:41 AM

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corporate, and where the body corporate is convicted of the offence charged, every such director or officer shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he took reasonable precautions to prevent its commission.

(4) Any person who would have been liable under any of the provisions of this Act or of any rule made thereunder to any penalty for anything done or omitted if such thing had been done or omitted by him personally, shall be liable to the same penalty if such thing has been done or omitted by his partner, agent or servant, unless he proves that he took reasonable precautions to prevent the doing or omission of such thing.

Burden of proof

18. (1) In any prosecution in respect of an offence under this Act or under any rule made thereunder upon a charge of doing any act which is unlawful unless the person doing such act is entitled to do so by reason of his being the holder of a licence, permit or written permission, consent, authorization or exemption entitling him to do such act, it shall be sufficient for the prosecution to allege and prove his doing such act and the onus shall then be upon the accused to show that he was entitled to do such act. (2) In any prosecution in respect of an offence under this Act or under any rule made thereunder, the production by the person conducting the prosecution of an original invoice or a duplicate invoice proved to have been found in the possession of the seller, shall, where the person conducting the prosecution so requests, be admitted as prima facie evidence of a sale by the seller and of all the facts stated in such original invoice or duplicate invoice and notwithstanding the provisions of any law to the contrary for the time being in force, the burden of proving that such sale did not take place or that any fact stated in the original invoice or duplicate invoice is not what it is stated to be, shall lie upon the accused.

Power of Court to confiscate

19. Where any person is convicted of an offence under this Act or under any rule made thereunder the Court may order the confiscation--

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(a) in whole or in part of the proceeds of sale of any fish sold under section 15, in respect of which the offence has been committed and which has been seized by, or has otherwise come into the possession of the Director General or any authorized officer or police officer; (b) of any vehicle, vessel or other article the property of the accused by means of which such offence has been committed or which was intended to be used for the commission of an offence under this Act or under any rule made thereunder.

Jurisdiction

20. Notwithstanding anything to the contrary in any other written law, a Sessions Court shall have jurisdiction to try any offence under this Act or under any rule made thereunder, and to award full punishment for any such offence.

Savings

21. No proceedings shall be instituted under this Act against any person duly authorized in that behalf by the Director General who has knowingly done or omitted to do any act which would, but for the provisions of this section, have been an offence, provided that he has done or omitted to do such act with the intention of procuring evidence for the purpose of prosecuting the seller for an offence under this Act or under any rule made thereunder. PART V

GENERAL

Appeal from the decision of the Lembaga

22. Where pursuant to the provisions of this Act or of any rule made thereunder a licence is required for processing or marketing of any fish, any person aggrieved by the refusal of the Lembaga to issue or renew, or by revocation by the Lembaga of, such licence, or by imposition of conditions on such licence, may within thirty days of the decision being made known to him in writing appeal to the Minister, whose decision shall be final.

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Rules

23. The Lembaga may with the approval of the Minister make rules generally for the carrying out of the provisions of this Act, and in particular but without prejudice to the generality of the foregoing, such rules may--

(a) regulate the control and management of any assistance (whether financial or otherwise) which may be

afforded to fishing enterprises;

(b) prescribe such fees or charges as may be necessary for the purposes of this Act;

(c) with the approval of the Minister of Finance provide for the establishment and management of a

contributory provident fund for officers and servants of the Lembaga, or for the payment of pensions,

allowances or gratuities to the said officers and servants on retirement or otherwise ceasing to hold office as such officers and servants;

(d) prescribe anything required by this Act to be prescribed; and

(e) prescribe that any act or omission in contravention of the provisions of any such rules shall be an offence. Power to make disciplinary regulations

23A. (1) The Lembaga may, with the approval of the Minister, make such disciplinary regulations as it deems necessary or expedient to provide for the discipline of the officers and servants of the Lembaga.

(2) The disciplinary regulations made by the Lembaga under this section may include provisions for the interdiction with reduction in salary or in other remuneration, or provisions for the suspension without salary or other remuneration, of an officer or servant of the Lembaga during the pendency of disciplinary proceedings.

(3) The disciplinary regulations made under this section shall create such disciplinary offences and provide for such disciplinary punishments as the Lembaga may deem appropriate, 049e.fm Page 22 Friday, March 31, 2006 10:41 AM

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and the punishments so provided may extend to dismissal or reduction in rank.

(4) The disciplinary regulations made under this section shall, in prescribing the procedure for disciplinary proceedings, provide for an opportunity for the person against whom disciplinary proceedings are taken to make representations against the disciplinary charge laid against him before a decision is arrived at by the Disciplinary Committee except in the following cases: (a) where an officer or servant of the Lembaga is dismissed or reduced in rank on the ground of conduct in respect of which a criminal charge has been proved against him;

(b) where the Lembaga, on the recommendations of the Minister charged with the responsibility for home affairs, is satisfied that in the interest of the security of Malaysia or any part thereof it is not expedient to carry out the requirements of this subsection; or (c) where there has been made against an officer or a servant of the Lembaga any order of detention,

supervision, restricted residence, banishment or

deportation, or where there has been imposed on an officer or a servant of the Lembaga any form of

restriction or supervision by bond or otherwise, under any law relating to the security of Malaysia or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls.

(5) The disciplinary regulations made under this section shall provide for procedure for the hearing of an appeal against the decision of the Disciplinary Committee.

(6) For the purpose of this section, "officer" includes the Director General.

Termination in the public interest

23B. (1) Where the Lembaga finds or where representations are made to the Lembaga that it is desirable that the service of an officer or a servant be terminated in the public interest, the Lembaga may call for a full report from the superior officer of the

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officer or servant against whom the representations are made which shall contain particulars relating to the work and conduct of the officer or servant.

(2) If, after considering the report received under subsection (1), the Lembaga is satisfied that having regard to the conditions of service, the usefulness of the officer or servant, the work and conduct of the officer or servant and all other circumstances of the case, it is desirable in the public interest so to do, the Lembaga may terminate the service of the officer or servant with effect from such date as the Lembaga shall specify. (3) It shall be lawful for the appropriate Disciplinary Committee to recommend to the Lembaga that the service of an officer or a servant be terminated in the public interest notwithstanding that disciplinary proceedings have not been carried out under this Act and the Lembaga may so terminate the service of the officer or servant.

(4) Notwithstanding anything in this Act and any other law to the contrary, in terminating the service of an officer or servant in the public interest under this section, the officer or a servant may not be given any opportunity of being heard and an officer or a servant whose service has been terminated in the public interest under this section shall not be regarded as having been dismissed, regardless of whether the termination of service of the officer or servant involved an element of punishment or was connected with conduct in relation to his office which the Lembaga regards as unsatisfactory or blameworthy.

Secrecy and penalty

24. (1) Except for the purposes of this Act or of any criminal proceedings under this Act, no member, officer or servant of the Lembaga shall disclose any information with respect to any individual business, which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.

(2) Any person knowingly contravening the provisions of subsection (1) shall be guilty of 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 year. 049e.fm Page 24 Friday, March 31, 2006 10:41 AM

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Public servants

25. All members, officers and servants of the Lembaga and any authorized officer shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

Protection against legal proceedings

26. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Lembaga or against the officer or servant appointed by the Lembaga in respect of any act done or statement made bona fide in pursuance or execution or intended execution of this Act.

(2) Where any person is exempted from liability by reason only of the provisions of this section, the Lembaga is liable to the extent that it would be if such person were a servant or agent of the Lembaga.

FIRST SCHEDULE

[Section 3]

1. (1) A member of the Lembaga (other than the Chairman) shall be deemed to have vacated his office if he fails to attend three consecutive meetings of the Lembaga without the permission in writing of the Chairman. (2) There shall be paid to members of the Lembaga or to such of those members as the Minister may determine, after consultation with the Minister of Finance, such salaries, remuneration or allowances as the Lembaga may determine.

2. (1) The Lembaga may appoint committees for any purpose arising out of or connected with any of its powers, duties and functions under this Act; any committee so appointed shall include not less than one member of the Lembaga, and there may be appointed to such committee such other persons as the Lembaga may think fit. (2) Any committee appointed under subparagraph (1) may appoint one or more subcommittees; any subcommittee so appointed shall include not less than one member of the committee appointing it, and there may be appointed to such sub-committee such other persons as the committee appointing it may think fit. (3) Any committee or subcommittee so appointed shall conform to any instructions from time to time given to it by the Lembaga, and the Lembaga may at 049e.fm Page 25 Friday, March 31, 2006 10:41 AM

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any time discontinue or alter the constitution of any committee or subcommittee so appointed.

(4) There may be paid to members of any committee or subcommittee such remuneration or allowances as the Lembaga may from time to time determine with the approval of the Minister.

(5) The Lembaga, a committee or a subcommittee may, respectively, invite any person who, in its opinion, is possessed of special knowledge of advantage to it, to attend any meeting of the Lembaga, committee or subcommittee and the

person so invited shall not be entitled to vote at any such meeting. (6) Any minutes of any meeting of any committee or subcommittee shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every such meeting shall be deemed to have been duly convened and held and all members of the committee or subcommittee present at such meeting shall be deemed to have been duly qualified to act.

3. (1) There shall be a Disciplinary Committee of the Lembaga which shall consist of two members to be elected by and from the members of the Lembaga, one of whom shall be elected chairman, and the Director General appointed under subsection 3(3). (2) The disciplinary authority in respect of every officer and servant of the Lembaga other than the Director General shall be the Disciplinary Committee of the Lembaga established under subparagraph (1).

(3) The disciplinary authority in respect of the Director General shall be the Disciplinary Committee which shall consist of the Secretary General of the Ministry of Agriculture and Agro-Based Industry as chairman and two members to be elected by and from the members of the Lembaga.

(4) The Director General shall not be a member of the Disciplinary Committee in any proceedings before it in which he is the complainant; his place shall be taken by a member to be elected by and from the members of the Lembaga. (5) In the exercise of its disciplinary functions, the Disciplinary Committee shall have the power to impose such disciplinary punishment as may be provided for under any regulations that may be made under section 23A. (6) The Disciplinary Committee may, subject to subparagraph (7), delegate any of its disciplinary functions, powers or duties to any committee of officers or servants of the Lembaga, in respect of any particular officer or servant of the Lembaga or in respect of any class or category of officers or servants of the Lembaga, and the committee delegated with such functions, powers or duties shall carry out, exercise or discharge them under the direction and control of the Disciplinary Committee which shall have the power to review, rescind or vary any decision or finding of such committee.

(7) No delegation shall be made under subparagraph (6) so as to enable an officer or servant of the Lembaga to be a member of a committee which may exercise any disciplinary authority over an officer or servant who is superior to him in rank. 049e.fm Page 26 Friday, March 31, 2006 10:41 AM

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(8) A decision of the Disciplinary Committee established under subparagraph (1) shall be appealable to the Disciplinary Appeal Board established under paragraph 3A. (9) A decision of the Disciplinary Committee established under subparagraph (3) shall be appealable to the Minister.

(10) The Disciplinary Appeal Board or the Minister, as the case may be, may confirm, reverse or vary the decision of the Disciplinary Committee. (11) A decision of the Disciplinary Appeal Board or the Minister under subparagraph (10) shall be final and conclusive.

3A. (1) There shall be a Disciplinary Appeal Board of the Lembaga which shall consist of the following members:

(a) the Chairman, who shall be the chairman of the Disciplinary Appeal Board and shall have a casting vote; and

(b) three members of the Lembaga, not being members of the Disciplinary Committee whose decision is the subject matter of the appeal, to be appointed by the chairman of the Disciplinary Appeal Board with the approval of the Lembaga for the purpose of the appeal. (2) When the Disciplinary Appeal Board considers an appeal made under paragraph 3, a member of the Disciplinary Committee against whose decision the appeal is made who is also a member of the Lembaga shall not present or in any way participate in any proceedings relating to the appeal.

4. (1) The quorum for meetings of the Lembaga shall be four. (2) At all meetings of the Lembaga the Chairman, or in his absence, the temporary Chairman, or in the absence of both the Chairman and the temporary Chairman, such member as the members present may elect, shall preside. (3) If on any question to be determined by the Lembaga there is an equality of votes, the Chairman or the temporary Chairman shall have a casting vote. (4) Subject to subparagraphs (1), (2) and (3), the Lembaga shall determine its own procedure.

5. (1) The Lembaga shall have a common seal and such seal may from time to time be broken, changed, altered or made anew as the Lembaga deems fit: Provided that until a seal is provided under this paragraph, a stamp bearing the inscription "LEMBAGA KEMAJUAN IKAN MALAYSIA" may be used as a common seal. (2) The common seal of the Lembaga shall be authenticated by either the Chairman or such other person as may be authorized by the Lembaga or by any officer authorized by either of them in writing; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid shall, until the contrary is proved, be deemed to have been validly executed: 049e.fm Page 27 Friday, March 31, 2006 10:41 AM

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Provided that any document or instrument which if executed by a person not being a body corporate would not be required under seal may, in like manner,

be executed on behalf of the Lembaga by any officer or servant of the Lembaga generally or specially authorized by the Lembaga in that behalf. SECOND SCHEDULE

[Section 4]

1. The Lembaga shall, on or before the date on which any corporation is established under section 4, make regulations in respect of such corporation defining-- (a) the purposes and objects for which such corporation is established; (b) the rights, powers, duties and functions of such corporation; (c) the system of management thereof; and
(d) the relations between such corporation and the Lembaga and its rights of control over such corporation.
2. Subject to the provisions of this Act, any regulations made under paragraph 1 shall be binding on the corporation in respect of which they were made and shall have effect for all purposes as if they had been enacted in this Act.
3. The Lembaga may at any time amend, revoke, or add to, any regulations made under paragraph 1 in respect of any corporation.
4. (1) The Lembaga may direct that any corporation established by it shall be wound up and dissolved.
(2) Upon the dissolution of any corporation under this paragraph assets of the corporation after payment of all liabilities shall be transferred to and vested in the Lembaga.
(3) The winding-up of a corporation under this paragraph shall be conducted in such manner as the Lembaga may prescribe.
- 4A. (1) Notwithstanding the provisions of paragraph 4, the Lembaga pursuant to subsection 4(4) may apply to register as a company under the Companies Act 1965 a corporation which has been established under paragraph 4(3) (a) without first winding-up and dissolving such corporation.
(2) In so applying to register a corporation as a company, the Lembaga shall comply with the Companies Act 1965, and the provisions of this Act shall not be construed to derogate from the powers of the Registrar of Companies under that Act. (3) Upon its registration as a company under the Companies Act 1965, the corporation shall be deemed to be dissolved, and-- 049e.fm Page 28 Friday, March 31, 2006 10:41 AM

(a) all powers, rights, privileges, duties, liabilities or obligations that immediately before registration were those of the corporation shall devolve on the company;

(b) all assets and movable and immovable property that immediately before registration were vested in the corporation or any person acting on behalf of the corporation shall, notwithstanding subparagraph 4(2), vest in the company without any conveyance, assignment or transfer whatsoever and the company shall, in respect of all immovable property, apply to the proper registering authority for an entry to be made to that effect; (c) all deeds, bonds, agreements, instruments and working arrangements subsisting immediately before registration in favour of or against the corporation shall be in full force and effect in favour of or against the company and enforceable as fully and effectually as if, instead of the corporation or any person acting on behalf of the corporation, the company had been named therein or been a party thereto; and (d) any proceedings, whether civil or criminal, or cause of action pending or existing immediately before registration by or against the corporation or any person acting on behalf of the corporation may be continued or instituted by or against the company as it might have been by or against the corporation.

(4) If any difficulty or anomaly arises in connection with the transitional provisions contained in this paragraph the Minister may, after consultation with the Minister charged with responsibility for companies, by order make such modifications as appear to him to be necessary for removing, resolving or preventing such difficulty or anomaly but he shall not exercise the powers conferred by this subparagraph after the expiration of two years of a corporation being registered as a company pursuant to subsection 4(4).

5. Every corporation established under section 4 shall be a body corporate by such name as the Lembaga shall give to such corporation and shall have perpetual succession and a common seal and may sue and be sued in such name, and may enter into contracts and may hold and deal in or with any immovable or movable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Act and subject to such restrictions or limitations as may be prescribed by the Lembaga in each case.

6. (1) Every such corporation shall have a common seal, which shall bear such device as the corporation, with the approval of Lembaga, may approve, and such seal may from time to time be broken, changed, altered and made anew by the corporation, with the approval of the Lembaga as the corporation shall think fit. (2) Until a seal is provided by the corporation under this paragraph a

stamp bearing the name of the corporation may be used as a seal. (3) The common seal, or the stamp referred to in subparagraph (2) shall be in the custody of such person as the corporation shall direct and shall be authenticated by such person; and all deeds, documents and other instruments purporting to be sealed

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with the seal, authenticated as aforesaid, shall until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the corporation; or any such document or instrument may be executed on behalf of the corporation by any officer or servant of the corporation generally or specially authorized by the corporation in that behalf. 049e.fm Page 30 Friday, March 31, 2006 10:41 AM

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Act A261 Fishermen's Associations and the

Lembaga Kemajuan Ikan Malaysia

(Amendment) Act 1974

16-08-1974

Act A376 Lembaga Kemajuan Ikan Malaysia

(Amendment) Act 1977

s. 2, 3, 4 and 6:

Peninsular

Malaysia--

01-11-1971;

Sarawak--

01-07-1973;

s. 5:

Peninsular

Malaysia

& Sarawak--

18-03-1977

Act A764 Lembaga Kemajuan Ikan Malaysia

(Amendment) Act 1990

01-08-1990

Act A1051 Lembaga Kemajuan Ikan Malaysia

(Amendment) Act 1999

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12 Act A201 01-07-1973

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Second Schedule Act A376 Peninsular Malaysia ?

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