

SUPPLEMENT TO THE FEDERATED MALAY STATES GOVERNMENT GAZETTE

OF FRIDAY, THE 20TH OF OCTOBER, 1922.

(No. 24, Vol. XIV.)

PUBLISHED BY AUTHORITY.

SATURDAY, 21ST OCTOBER, 1922.

The following Notifications are, by direction of the Chief Secretary to Government, published for general information.

C. W. H. COCHRANE,
Acting Under Secretary, F.M.S.

No. 6632.—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL *intituled*

An Enactment to amend and consolidate the law relating to the purchase and smelting of Mineral Ores.

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

1. (i) This Enactment may be cited as "The Mineral Ores Enactment, 1922," and shall come into force upon the publication thereof in the *Gazette*. Short title and commencement.

(ii) Upon the coming into force of this Enactment the Enactments mentioned in schedule A shall be repealed. Repeal.

2. In this Enactment—

"Treat" with its grammatical variations and cognate expressions means to subject to any process whereby chemical change takes place in the substance subjected thereto ;

"Mines Officer" means any officer of the Mines Department not below the rank of Inspector and includes any Inspector or Sub-Inspector appointed under this Enactment ;

"Warden" means Warden of Mines of a State and includes Assistant Warden of Mines ;

"Mineral ore" does not include gold.

3. The Resident of a State may by notification in the *Gazette* appoint so many Inspectors and Sub-Inspectors as he may consider necessary for carrying out the purposes of this Enactment. Appointment of officers.

4. On and after the commencement of this Enactment it shall not be lawful for any person, unless duly licensed in that behalf under this Enactment— Prohibition of purchase, treatment or storage of ore except under licence.

- (i) To purchase any mineral ore ;
- (ii) To keep any factory or place for the purpose of smelting or otherwise treating mineral ore ;
- (iii) To keep any house, store, shop or place for the purpose of purchasing or storing therein any mineral ore other than such as has been raised from land in his own occupation ;

provided that every licence to purchase mineral ore shall include the right to keep a house, store, shop or place for the purchase or storage thereof, and that every licence to keep a factory or place for the purpose of smelting or otherwise treating mineral ore shall include all rights conveyed by a licence to purchase mineral ore.

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Form and terms
of licence.

5. (i) Such licence may be issued by the Warden upon application and payment of a fee according to the class of licence as specified in schedule B. This licence shall be substantially in one of the forms in schedule B with such variations as may be necessary, but no such licence shall be issued until the applicant therefor shall have made a deposit of two hundred dollars, to be returned as hereinafter provided; such deposit shall be either by cash paid into the Treasury or by delivery at the Treasury of a Bank receipt evidencing the payment of the said amount to the credit of the Government with such Bank; interest allowed by the Bank on any such amount shall be payable to the depositor.

(ii) Every such licence shall expire on the 31st day of December of the year in respect of which it is issued and shall be valid only for the place and purpose specified therein.

(iii) Any licensee who shall in any three calendar months purchase any mineral ore in excess of the quantity specified in his licence shall be guilty of an offence against this Enactment.

(iv) In the event of the death of a licensee it shall be lawful for the Warden to issue a permit to a representative of the licensee appointed by the Court to carry on the business for the remainder of the term of the licence.

(v) No licensee shall transfer or attempt to transfer his licence or except with the written consent of the Warden authorize any other person to exercise any right or privilege under the licence.

Sub-licences.

6. (i) It shall be lawful for the Warden, on the application of any person licensed to purchase mineral ore, to issue to such person for the use of himself or his agents sub-licences which shall be substantially in the form of schedule C, subject to the payment of a fee of five dollars for each sub-licence.

(ii) To every sub-licence there shall be attached, on issue, a photograph of the sub-licensee. Such photograph shall be supplied by the sub-licensee, who shall preserve the same in good condition or return the sub-licence to the Warden with a view to having a fresh photograph attached.

(iii) No sub-licence shall remain in force after the termination of the licence to which it relates.

(iv) Every holder of a sub-licence when acting in pursuance thereof shall keep such sub-licence on his person and shall produce it on demand for the inspection of any Mines Officer or Police Officer.

Weights to be
produced.

7. Every applicant for or holder of a licence or sub-licence under this Enactment shall if called upon to do so produce before the Warden, or an Inspector of Mines, or Inspector under this Enactment every weight or instrument for weighing which he may use or intend to use for the purpose of such licence or sub-licence or the certificates of verification for the same.

Endorsement
and testing by
Warden.

8. (i) The Warden shall endorse upon the licence or sub-licence, as the case may be, a description of the weights and instruments for weighing so produced or to which the certificates of verification relate; provided that the Warden shall not endorse on a sub-licence any weights or instruments for weighing which have not been endorsed on the licence to which such sub-licence relates; and provided

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further that the Warden may in his discretion disallow the use, for the purposes of the licence or sub-licence, of any weight or instrument for weighing so produced before him and shall not endorse upon the licence or sub-licence the description of any weight or instrument for weighing so disallowed by him.

(ii) If at any time after such endorsement upon a licence any weight or instrument for weighing other than as described therein shall be found

(a) in the possession of the licensee, or

(b) in the possession of any person to whom a sub-licence shall have been issued on the application of the licensee, and it be not proved to have been in the possession of such person without the knowledge or consent of the licensee, or

(c) in the building or place licensed,

the licensee shall be deemed to have committed an offence against the provisions of this Enactment; and if at any time after such endorsement upon a sub-licence any weight or instrument for weighing other than as described therein shall be found in the possession of the sub- licensee, the sub- licensee shall be deemed to have committed an offence against the provisions of this Enactment.

9. (i) It shall be lawful for the Warden to refuse to allow any furnace to be used in any smelting-house if he shall be satisfied that such furnace can only be efficiently worked with charcoal made from the woods specified in schedule D.

Certain
furnaces may
be prohibited.

(ii) The Warden may also refuse to license any smelting-house containing any such furnace as aforesaid.

10. The Resident may from time to time, by notification in the *Gazette*, add to or otherwise vary schedule D.

Resident
may vary
schedule D.

11. It shall be lawful for the Resident in his discretion to cancel any licence without assigning any reason for so doing.

Resident may
cancel licence.

12. It shall be lawful for the Warden to refuse to issue or renew a licence or sub-licence to any person for reasons to be stated by him in writing, if so required by the applicant or licensee.

Power of
Warden to
refuse licence or
sub-licence.

13. (i) It shall be lawful for the Warden to cancel any licence at any time, either upon application by the licensee for the withdrawal of the deposit made under section 5 (i), or upon the conviction of the licensee of any offence under this Enactment or on any charge involving fraudulent dealing.

Power of
Warden to
cancel licence
or sub-licence.

(ii) It shall be lawful for the Warden in his discretion to cancel any sub-licence at any time.

14. Any person who may be convicted under sections 15 or 18 of "The Weights and Measures Enactment, 1921," in respect of any purchase of ore shall be liable to a fine not exceeding two hundred and fifty dollars, in addition to any penalty inflicted under the provisions of that Enactment, and in case of a second or subsequent conviction shall also be liable to imprisonment of either description for a term not exceeding three months.

Penalty for
false weights.

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Duties of
licensee.

15. (i) Every licensee under this Enactment shall keep posted in a conspicuous place in the building or place licensed both his licence and a list, signed by the Warden, of all sub-licences issued under section 6 upon his application, and shall allow at all times the inspection of such building or place by any Magistrate, Mines Officer or Police Officer not below the rank of Inspector.

(ii) Licensees shall produce on demand for the inspection of any Mines Officer or Police Officer not below the rank of an Inspector all mineral ore on their premises.

(iii) No licensee shall purchase mineral ore elsewhere than at the place where his licence is posted except under and in accordance with a sub-licence issued to him under section 6.

(iv) Every licensee shall keep one book of accounts in which shall be entered at the time of purchase the following particulars of every parcel of ore purchased :

- (a) The date of purchase ;
- (b) The mukim or locality from which the ore came ;
- (c) The number and description of the title to the land from which the ore was raised, or the number of the individual licence or dulang pass under which the ore was won, or if bought from a licensee under this Enactment the number of his licence ;
- (d) The name of the landowner or individual licensee or dulang pass holder or licensee under this Enactment as the case may be and also the name of the advancer (if any) ;
- (e) The name of the Kongsu (if any) from which the ore was bought ;
- (f) The name of the person bringing the ore for sale ;
- (g) The weight and description of ore purchased ;
- (h) The price paid.

(v) Every licensee shall also keep one book of accounts in which he shall make a correct record of all sales or other disposals of ore made by him shewing the following particulars :

- (a) Date of sale ;
- (b) Name and address of buyer ;
- (c) Description of ore ;
- (d) Weight of ore ;
- (e) Price paid.

(vi) Every licensee under this Enactment who is also an occupier of mining land shall enter in an account book to be kept for that purpose all particulars regarding the weight and origin of ore raised from land in his own occupation when such ore has been placed in his licensed premises. Such ore may be sold under the authority of his licence or he may dispose of such ore to a purchaser giving the necessary particulars required in schedule E (i).

Estimated tin
ore contents of
parcels of low
grade ore and
amang to be
stated.

(vii) Where parcels of "Amang" or "low grade" ore are purchased, the licensee shall enter in his account book, the estimated weight, on which the price is based, of the tin ore contents of such parcels of "Amang" or "low grade" ore.

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(viii) In cases where ore is being stored only, the licensee shall keep one book in which he shall enter the following particulars concerning such ore :

- (a) Date of storage ;
- (b) Name and address of owner ;
- (c) Weight of ore ;
- (d) The number and description of the title to the land from which the ore was raised.

(ix) All account books kept as required by this section shall be produced on demand for the inspection of any Magistrate, Mines Officer or Police Officer not below the rank of Inspector.

(x) Books shall not be destroyed until an interval of twelve months shall have elapsed from the date of their last being used.

16. (i) No licensee or sub-licensee shall purchase any mineral ore—

Vendor's
authority for
sale.

- (a) From a person in the lawful occupation of the land from which the ore was raised except upon delivery to him by the vendor of a written authority for the sale thereof substantially in the form of schedule E (i) bearing his signature or chop or that of his duly authorized agent.
- (b) From a licensee under this Enactment except upon delivery of a written authority for the sale thereof substantially in the form of schedule E (ii) bearing the signature or chop of the vendor or his authorized agent.
- (c) From the holder of an individual licence issued under section 40 of "The Mining Enactment, 1911," except upon production of such licence, or delivery to him by the vendor of a paper shewing the number of the individual licence, the weight of the ore purchased, and the amount of the purchase money, and bearing the signature or chop of the vendor.

(ii) Every such authority shall be filed and kept by the licensee for one year after the date of the purchase of any ore and the file shall be produced on demand for the inspection of any Magistrate, Mines Officer or Police Officer not below the rank of Inspector.

(iii) Licensees shall be allowed to purchase ore from women and from children under ten years of age on presentation of a dulang pass only.

(iv) The "Agent" mentioned in sub-section (i) shall be authorized in writing by the lawful occupier of the land and shall produce this authority if so required by the licensee.

17. (i) No ore other than ore won under a dulang pass shall be removed beyond the boundaries of the land on which it has been obtained or on which it is being treated or dressed, without a written document accompanying it stating the name of the owner of the ore, the number of the title to the land from which it has been raised and the number of bags of ore, and no ore shall be conveyed between one licensed place and another unless accompanied by a document stating the name of the owner and his title to its possession.

Ore to be
accompanied by
document when
in transit.

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Seizure of ore
unaccompanied
by document.

(ii) Any ore being removed unaccompanied by such document shall be liable to be seized and detained at the nearest Police Station or Mines Office until the lawful ownership of such ore is fully established.

(iii) When the ownership of such ore is disputed or when a Mines Officer or Police Officer not below the rank of Inspector is not satisfied that a claim made in respect of such ore is a just one, reference shall be made to a Court of competent jurisdiction. In the event of such claim or claims being rejected by the Court, or if no claim is made within a period of fourteen days from the date of detention, the property in the ore shall vest in the Government.

Detention of
ore sold under
document
suspected to be
false.

18. Where a Mines Officer or Police Officer not below the rank of Inspector shall have reason to believe that ore has been sold under a document the contents of which are false, and that the purchaser thereof has been a party to the giving and receiving of such false document it shall be lawful for him to issue an order in writing to a licensee prohibiting the removal of such ore for such time as may be stated in such order, and the licensee shall be bound to comply with such order.

Power to
arrest.

19. It shall be lawful for any Mines Officer other than a Sub-Inspector under this Enactment or any Police Officer not below the rank of Inspector to arrest without warrant and take before the Warden or a Magistrate any person whom he may find committing or attempting to commit an offence against the provisions of this Enactment, and to take possession of any ore in respect of which such offence is or has been committed.

Search
warrants.

20. Any Magistrate may by warrant addressed to any Mines Officer or Police Officer not below the rank of Inspector empower such officer to enter upon and search any premises within the jurisdiction of such Magistrate in any case in which it shall appear to such Magistrate upon the oath of any person that there is reasonable cause to believe that in such premises is concealed or deposited any mineral ore in respect of which an offence has been committed against this Enactment and to take possession of such mineral ore and to arrest any person being in such premises who it is reasonable to assume is the lawful occupier of such premises, and any officer to whom such warrant shall have been directed may in case of obstruction or resistance break open any inner or outer door of such premises and any chests, trunks, or packages, and by force if necessary enter upon any part of such premises and remove any obstruction to such entry, search or seizure and detain any person found in such premises until the search shall have been completed.

Search without
warrant.

21. Whenever it appears to a Mines Officer or Police Officer not below the rank of Inspector that there is reasonable cause to believe that in any dwelling-house, shop or other building or place there is concealed or deposited any mineral ore subject to forfeiture under this Enactment or as to which an offence under this Enactment has been committed and he has good grounds for believing that by reason of the delay in obtaining a search warrant the mineral ore is likely to be removed, the Mines Officer or Police Officer in virtue of his office may exercise in, upon, and in respect of such dwelling-house, shop or other building or place all the powers in the preceding section mentioned in as full and ample a manner as if he were empowered to do so by warrant issued under the said section.

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22. (i) Any person who—Authority
dishonestly
given or used.

- (a) not being the person in lawful occupation of the land from which mineral ore was raised or the duly authorized agent of such person, dishonestly affixes his signature or affixes or causes to be affixed his chop or the chop of his principal to the document purporting to be an authority for the sale of the said mineral ore or,
- (b) dishonestly uses or attempts to use for the purpose of this Enactment any document purporting to be an authority for the sale of mineral ore which does not bear the signature or chop of the person in lawful occupation of the land from which such mineral ore was raised or of his duly authorized agent shall be guilty of an offence and liable on conviction to imprisonment of either description for a term not exceeding one year or to a fine not exceeding one thousand dollars or to both such imprisonment and fine.

(ii) A person whose chop is affixed to a document purporting to be an authority for the sale of mineral ore shall be presumed, until the contrary is proved, to have affixed such chop, or caused the same to be affixed, thereto.

(iii) In this section the words "dishonestly" and "document" have the meanings assigned thereto, respectively, in the Penal Code.

23. Except as provided in section 22, any person who shall commit or abet the commission of any offence against the provisions of this Enactment, or who shall make default in complying with any obligation imposed on him by this Enactment, shall be liable on conviction to a fine not exceeding five hundred dollars, or to imprisonment of either description for a term not exceeding one year.

Penalty.

24. (i) All prosecutions under this Enactment may be had before a Magistrate of the First Class or before the Warden who shall by virtue of this section be vested with the powers of a Magistrate of the First Class for the purpose of compelling the attendance of witnesses, of keeping order in his Court and of hearing prosecutions under this Enactment and passing sentence or making order thereon.

Jurisdiction.

(ii) Such prosecutions may be conducted by a Mines Officer.

(iii) Any person who is dissatisfied with any judgment, sentence or order pronounced by the Warden may prefer an appeal to the Supreme Court in the manner provided by the Criminal Procedure Codes, 1902.

25. The Resident may, with the approval of the Chief Secretary to Government, make rules, not inconsistent with the provisions of this Enactment, for the purpose of further securing the effectual control of the sale, purchase, storage and treatment of mineral ores and the prevention of fraud in connection therewith, and such rules, when published in the *Gazette*, shall have the force of law.

Rules.

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Breach of rules.

26. Any person who shall commit any breach of the provisions of any such rule shall be liable on conviction to a fine not exceeding one hundred dollars, and, when the breach has been a continuing one, to a further fine of twenty-five dollars for every day during which such breach shall have continued.

Rewards.

27. It shall be lawful for any Magistrate or Warden before whom a conviction may be had under this Enactment to direct that any sum not exceeding one-half of any fine recovered upon such conviction shall be paid to any person upon whose information or evidence such conviction was obtained.

Appeal to Resident against order of Warden.

28. Any person aggrieved by any refusal or order of the Warden under this Enactment or any rules made thereunder, other than an order made upon any prosecution, may appeal to the Resident whose decision shall be final; provided that such appeal shall not be admitted after the expiration of thirty days from the date of the refusal or order appealed against.

Return of deposit.

29. (i) Every applicant for a licence, or licensee, shall, on demand, be entitled to receive from the Warden an order on the Treasury authorizing the return of any deposit made under section 5 (i); provided that no deposit shall be returned to any licensee until after the expiration of one month from the date on which his licence expired or while any legal proceedings under this Enactment are pending against the licensee.

(ii) All moneys deposited by any licensee shall be at all times liable to be applied in satisfaction of any fine inflicted upon him by any Court.

Certain documents exempt from registration.

30. No document purporting to give any licensee under this Enactment any charge, lien or security over any ore shall in the absence of an express provision to that effect be required to be attested or registered under "The Bills of Sale Enactment, 1922," or any enacted modification thereof, or shall be rendered in any way void or invalid by reason of the absence of such attestation or registration, provided

(i) That the loan secured by such document shall not be less than one hundred dollars.

(ii) That such document shall give no charge, lien or security on any ore after the lapse of six months from the date thereof.

(iii) That the signatures of the parties to such documents shall be attested by two witnesses.

(iv) That such document and a duplicate thereof, both duly stamped, shall be produced in the Court of a Magistrate of the First Class within fourteen days of the date of its execution, and be endorsed by such Magistrate in the manner hereinafter prescribed.

(v) That every such document shall be in the English language and that the Magistrate may refuse to endorse, or to retain, or file the duplicate of any document the terms of which may in his opinion not be sufficiently explicit or be liable to misconstruction.

Duty of Magistrate.

31. Every Magistrate before whom such document and duplicate are so produced shall endorse thereon the date of production and shall retain and file the duplicate.

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32. (i) No action shall be brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment, or by any rules made thereunder—

Provisions as to actions.

- (a) without giving such person one month's notice in writing of the intended action, and of the cause thereof;
- (b) after the expiration of three months from the date of the accrual of the cause of action;
- (c) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if, at the trial, the plaintiff shall fail to prove such allegation, judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court before whom the action is tried shall certify its approbation of the action.

SCHEDULE A.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.
Pahang ...	16 of 1901	Mineral Ores and Licensing of Goldsmiths Enactment, 1901
Perak ...	5 of 1904	The Mineral Ores Enactment, 1904
Selangor ...	5 "	" " "
N. Sembilan	4 "	" " "
Pahang ...	3 of 1905	The Mineral Ores and Licensing of Goldsmiths Enactment, 1901, Amendment Enactment, 1905
Perak ...	9 of 1907	The Mineral Ores Enactment, 1904, Amendment Enactment, 1907
Selangor ...	13 "	" " "
N. Sembilan	13 "	" " "
Pahang ...	11 "	The Mineral Ores and Licensing of Goldsmiths Enactment, 1901, Amendment Enactment, 1907
Perak ...	9 of 1908	The Mineral Ores Enactment, 1904, Amendment Enactment, 1908
Selangor ...	10 "	" " "
N. Sembilan	10 "	" " "
Pahang ...	1 of 1915	The Mineral Ores Enactment, 1915
Federal ...	19 of 1919	The Mineral Ores Enactments Amendment Enactment
" ...	6 of 1920	" " "

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SCHEDULE B (i).

GOVERNMENT OF.....

"The Mineral Ores Enactment, 192 ."

FIRST CLASS LICENCE.

Licence is hereby given to.....of.....at.....in the district of.....to purchase mineral ore, up to any extent from within the following area, that is to say.....and to keep the place thereunder specified for the purpose of purchasing and storing *and of smelting and otherwise treating** therein mineral ore according to the provision of "The Mineral Ores Enactment, 192 ."

Description of place.....

Deposit \$200.

Fee \$300.

Dated at.....this.....day of....., 192....

.....
Warden of Mines.

* Delete the words in italics when licence to treat is not given.

(To be added below by the Warden.)

DESCRIPTION OF WEIGHTS AND INSTRUMENTS FOR WEIGHING
UNDER SECTION 8.

SCHEDULE B (ii).

GOVERNMENT OF.....

"The Mineral Ores Enactment, 192 ."

SECOND CLASS LICENCE.

Licence is hereby given to.....of.....at.....in the district of.....to purchase mineral ore, up to but not exceeding 600 pikuls in any three calendar months from within the following area, that is to say.....and to keep the place thereunder specified for the purpose of purchasing and storing *and of smelting and otherwise treating** therein mineral ore according to the provision of "The Mineral Ores Enactment, 192 ."

Description of place.....

Deposit \$200.

Fee \$200.

Dated atthis.....day of....., 192....

.....
Warden of Mines.

* Delete the words in italics when licence to treat is not given.

(To be added below by the Warden.)

DESCRIPTION OF WEIGHTS AND INSTRUMENTS FOR WEIGHING
UNDER SECTION 8.

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SCHEDULE B (iii).

GOVERNMENT OF.....

"The Mineral Ores Enactment, 192 ."

THIRD CLASS LICENCE.

Licence is hereby given to.....of.....at.....in the district of.....to purchase mineral ore, up to but not exceeding 300 pikuls in any three calendar months from within the following area, that is to say.....and to keep the place thereunder specified for the purpose of purchasing and storing *and of smelting and otherwise treating** therein mineral ore according to the provision of "The Mineral Ores Enactment, 192 ."

Description of place.....

Deposit \$200.

Fee \$100.

Dated at.....this.....day of....., 192....

.....

Warden of Mines.

* Delete the words in italics when licence to treat is not given.

*(To be added below by the Warden.)*DESCRIPTION OF WEIGHTS AND INSTRUMENTS FOR WEIGHING
UNDER SECTION 8.

SCHEDULE C.

GOVERNMENT OF.....

"The Mineral Ores Enactment, 192 ."

SUB-LICENCE.

No. of principal licence.....

Name of licensee under principal licence.....

No. of sub-licence.....

This sub-licence authorizes.....to purchase mineral ore as agent for the principal licensee according to the provision of "The Mineral Ores Enactment, 192 .," within the following area, that is to say.....

Dated at.....this.....day of....., 192....

.....

*Warden of Mines.**(To be added below by the Warden.)*DESCRIPTION OF WEIGHTS AND INSTRUMENTS FOR WEIGHING
UNDER SECTION 8.

SCHEDULE D.

The wood of gutta-percha trees and all other wood the conversion of which into charcoal is prohibited by rule 21 (a) of the Forest Rules, 1920.

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SCHEDULE E (i).

AUTHORITY FOR SALE OF ORE BY PERSON HOLDING
TITLES TO MINE.

Date.....192....

Authority is hereby given to *.....to sell.....pikuls.....
katis of †.....ore won on land held under mining lease No.....
plan No..... (or mining certificate No.....) won under the
authority of individual licence No..... in the mukim of.....
district of.....

Name of holder of title or licence.....

Name of advancer (if any).....

Name of Kongsee (if any).....

.....
(Signature or chop.)

* Name of person bringing ore for sale. † Description of ore.

SCHEDULE E (ii).

AUTHORITY FOR SALE OF ORE BY LICENSEES UNDER
THE MINERAL ORES ENACTMENT.

Authority is hereby given to *.....to sell... ..pikuls.....
katis †.....only of.....owned by.....chop.....licence
No.....under "The Mineral Ores Enactment, 192...."
Address.....

.....
Signature or chop.

* Name of person bringing ore for sale. † Description of ore.

OBJECTS AND REASONS.

This Bill consolidates and amends the law relating to the purchase and smelting of mineral ores. It reproduces the provisions of the existing State Enactments, and makes further provision for cases in which experience has shewn the incompleteness of the present law. The main new provisions relate to the books to be kept by the licensee (clause 15), the accompanying of all ore in transit by a document (clause 17), powers of arrest and search (clauses 19 to 21), and the vesting of a Warden with magisterial powers (clause 24).

KUALA LUMPUR,
17th July, 1922.

W. S. GIBSON,
Acting Legal Adviser, F.M.S.

No. 6633.—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL
intituled

An Enactment to further amend "The Pensions Enactments, 1906."

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

1. (i) This Enactment may be cited as "The Pensions Enactments, 1906, Amendment Enactment, 1922 (No. 2)," and shall come into force on the publication thereof in the *Gazette*. Short title, commencement and construction.

(ii) This Enactment shall be read and construed as one with the Enactments specified in the schedule, which are hereinafter called "the principal Enactments," and any copies of the principal Enactments printed after the commencement of this Enactment may be printed with the amendments made by this Enactment.

2. Section 4 of the principal Enactments is repealed and the following section is substituted therefor: Substituted section 4.

"4. (i) With the consent of the High Commissioner a pension may without special reason being assigned be granted to any public officer (other than a Prison Warder or a Police Officer below the rank of Probationer) who has attained the age of fifty years: but this provision shall not affect the right of any public officer who has attained the age of fifty-five years to retire on pension without such consent. Terms on which pensions, etc., may be granted before 55.

(ii) Except in the case of the abolition of an office no pension, gratuity or other allowance shall be granted

(a) to any Prison Warder who has not attained the age of forty-five years,

(b) to any Police Officer below the rank of Probationer who has not attained the age of forty-five years, and whose pensionable service as computed according to the rules made under this Enactment does not amount to fifteen years,

(c) to any other public officer who has not attained the age of fifty years,

without a certificate from the Head of his Department and from two qualified medical practitioners that he is incapable, by reason of some infirmity of mind or body, of discharging the duties of his office, and that such infirmity is likely to be permanent: provided that in the case of an officer retiring while on leave of absence, a certificate from any medical practitioner appointed by the Secretary of State will be sufficient proof of incapacity for further service.

Provided also that when an officer who is below the limit of age entitling him to retire on a pension is removed from the public service on the ground of his inability to discharge efficiently the duties of his office, and the Resident or the Chief Secretary thinks that the special circumstances of the case justify the grant to him of a retiring allowance, he may, with the approval of the High Commissioner, be given such retiring allowance as the Chief Secretary thinks just and proper, but in no case exceeding the amount for which his length of service would qualify him under this Enactment or the rules made hereunder, without any addition for abolition of office.

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(iii) No pension, gratuity or other allowance shall in any case be granted to any public officer other than a Chief Secretary or a Chief Judicial Commissioner without a certificate from the Head of his Department that he has discharged the duties of his office with such diligence and fidelity as to justify the grant to him of a pension. When the officer applying for a pension is himself the Head of a Department the certificate must be given by the Resident or in the case of the Resident or the Head of a Federal Department, by the Chief Secretary."

Amendment of
section 8 (i).

3. Sub-section (i) of section 8 of the principal Enactments is amended by inserting the words "or a Prison Warder" after the words "fifteen years" in the eighth line thereof.

SCHEDULE.

PRINCIPAL ENACTMENTS.

State.	No. and year.	Short title.
Perak	1 of 1906	The Pensions Enactment, 1906
Selangor	2 of 1906	" "
Negri Sembilan	2 of 1906	" "
Pahang	2 of 1906	" "

OBJECTS AND REASONS.

This Bill amends the Pensions Enactments by

- (i) enabling a Prison Warder to retire on pension upon reaching the age of forty-five,
- (ii) dispensing with the need of a certificate before a Chief Secretary or Chief Judicial Commissioner can retire on pension.

Similar amendments have already been made in the corresponding Colonial Ordinance.

KUALA LUMPUR,
3rd October, 1922.

W. S. GIBSON,
Acting Legal Adviser, F.M.S.

No. 6634.—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL

intituled

An Enactment to provide means for the protection of lands from the inroad of Silt and other matter.

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

1. (i) This Enactment may be cited as "The Silt (Control) Enactment, 1922," and shall come into force on the publication thereof in the *Gazette*. Short title, commencement and repeal.

(ii) Upon the coming into force of this Enactment "The Silt (Control) Enactment, 1917," shall be repealed; provided that all notices issued and all orders made under the provisions of the said Enactment which were in force immediately prior to the commencement of this Enactment shall so far as they are not inconsistent with the provisions of this Enactment be deemed to have been issued or made under this Enactment.

2. (i) In this Enactment unless the context otherwise requires : Interpretation.

"District Officer" means with reference to any land and to matters concerning any land the District Officer of the district wherein such land is situate, and includes in relation to any district where there is no District Officer, any officer nominated by the Resident of the State wherein such district is situate by notification in the *Gazette* to exercise the powers of a District Officer under this Enactment.

Where reference is made to land owned by any person or to owners of land such reference includes land leased to any person and the lessee of land so leased and land occupied under authority granted in pursuance of rule 6 of "The Land Rules, 1920," and the occupier of such land.

(ii) Nothing in this Enactment contained refers to land held under mining lease or other mining title.

3. (i) Whenever it appears to a District Officer on grounds to be recorded by him in writing that earth, mud, silt, sand, gravel or stone from land owned by any person has caused or is likely to cause damage to other land, whether alienated or not, or to any water-course whether artificial or natural, or has interfered or is likely to interfere with the due cultivation of other land, whether alienated or not, the District Officer may by notice served upon the owner of such first mentioned land require him to show cause, at a time and place to be stated in the notice, why an order should not be made under this Enactment prohibiting him from doing, or requiring him to do, any act or thing which may under section 6 be prohibited or required to be done. Notice to show cause against order.

(ii) The notice to the owner shall contain particulars sufficient to identify the land in respect of which an order is proposed to be made and shall refer to the document of title under which the same is held.

Appearance to
show cause.

4. Any owner of land who is required to show cause why an order under this Enactment should not be made in respect of such land may attend and show cause either in person or by his agent duly authorized by power of attorney in that behalf or by an advocate and solicitor of the Supreme Court or, with the permission of the District Officer, by any other person; such agent, advocate and solicitor or other person as aforesaid is hereinafter referred to as the representative of the owner.

Procedure on
appearance.

5. (i) If an owner of land who is required to show cause as aforesaid attends in person or by representative at the time and place stated in the notice, the District Officer shall inform such owner or his representative, as the case may be, of the grounds on which the notice was issued and shall, in the presence of such owner or his representative, make any enquiry and take and record any evidence which the District Officer thinks necessary as to the facts and circumstances of the case and shall hear and record the statement (if any) of such owner or his representative and take and record the evidence of all persons attending at the instance of such owner or his representative whom such owner or his representative desires to examine.

(ii) For the purpose of carrying out the provisions of this section the District Officer shall have the same powers of summoning and enforcing the attendance of witnesses and of compelling the production of documents and of adjourning proceedings from time to time as the Court of a Magistrate has in civil suits.

Power to make
orders; nature
of orders.

6. (i) If an owner of land who is required to show cause as aforesaid fails without reasonable excuse (to be allowed by the District Officer) to attend in person or by representative at the time and place mentioned in the notice or having so attended fails to show cause to the satisfaction of the District Officer why an order in respect of the land referred to in the notice should not be made, the District Officer may in his discretion make an order in writing under his hand

- (a) prohibiting, either absolutely or to such extent as may be prescribed in the order, interference with or destruction or removal of any trees, plants, undergrowth, weeds or grass within or from such parts of the said land as are specified in the order;
- (b) requiring the making on the said land of drains and water-courses, and the construction thereon of dams and retaining walls, of such character and dimensions and in such positions as are specified in the order;
- (c) requiring the doing on or in respect of the said land of any act or thing which appears to the District Officer likely to prevent, and prohibiting the doing on or in respect of the said land of any act or thing which appears to the District Officer likely to facilitate the passage of earth, mud, silt, sand, gravel or stone from the said land to other land, whether owned by any person or not, or to any river, canal or drain.

(ii) Any order made under this section may prescribe the time within which any work, act or thing required by such order to be made or done shall be completed.

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7. (i) Any order made under section 6 may be varied or revoked by the District Officer by writing under his hand; provided that no such order shall be varied so as to prohibit or require anything not authorized by section 6 to be prohibited or required, or shall, except with the express consent of the owner of the land in respect whereof the order was made or of some person duly empowered so to consent on behalf of the owner, be varied unless notice shall first have been served upon such owner to show cause why the order should not be varied.

Variation and revocation of orders.

(ii) Such notice shall refer to the subsisting order and to the date whereon the same was made and shall contain particulars of the manner in which the same is proposed to be varied.

(iii) After service of such notice the procedure prescribed by sections 4 and 5 shall, subject to necessary modifications, apply; and the provisions of this Enactment applicable to an order made under section 6 shall apply also to any such order as varied under this section.

8. Subject to the judgment of the appellate Court, every order made under section 6 shall after service thereof upon the owner of the land in respect whereof the same is made be, so long as the same remains unrevoked, binding upon all persons who are from time to time registered in any Registry of Titles or Land Office as owner or owners of such land and upon all persons who are from time to time in lawful occupation thereof.

Operation of orders.

9. (i) From any order made under section 6 an appeal shall lie to the Court of a Judicial Commissioner; provided that no such appeal shall be brought after the expiration of ten days from the time when the order appealed against was made. The obligation to comply with an order made under section 6 shall not be affected by the fact of an appeal having been preferred against the order; but the appellate Court may for sufficient cause suspend the obligation.

Appeal.

(ii) For the purposes of an appeal under this section the provisions of Chapter XLVI of the Civil Procedure Code, 1918, relating to appeals from original decrees, shall, subject to the provisions of this section and to necessary modifications, apply, and the District Officer by whom the order appealed against was made shall be the respondent. Costs payable by the respondent in any such appeal shall be defrayed from public funds. The decision of the Court of a Judicial Commissioner shall be final and there shall be no appeal therefrom.

10. Where any drain, water-course, dam, wall or other work has in pursuance of an order under section 6 been made on any land, all persons who are from time to time registered in any Registry of Titles or Land Office as owner or owners of such land shall, so long as such order remains unrevoked, at his or their own expense maintain such work in good and efficient order to the satisfaction of the District Officer.

Maintenance of work.

11. Where by virtue of an order made under section 6 any prohibition or requirement is under this Enactment imposed on an owner of land, the District Officer may certify under his hand and official seal the terms of the order and the particulars of the document

Record of orders in Register.

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or documents of title under which such land is held, and the Registrar of Titles or Collector, as the case may be, having custody of the Register wherein the title to such land is recorded shall on production to him of such certificate enter in the said Register a memorandum of the making of such order and shall file such certificate; and where any order of the making whereof a memorandum has been entered as aforesaid is varied or revoked or is affected by a judgment of the appellate Court, such variation or revocation or the effect of such judgment may in like manner be certified and a memorandum thereof entered in the Register and the certificate thereof filed.

Penalty.

12. (i) If any person who is by an order under or by any provision of this Enactment prohibited from doing or required to do any act or thing makes, without reasonable excuse, default in complying with such prohibition or requirement, he shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand dollars.

(ii) Notwithstanding anything in any other Enactment contained, any penalty authorized by this section may be imposed by the Court of a Magistrate of the First Class.

Power to cause
effect to be
given to orders;
recovery of cost.

13. (i) If any person who is by an order under or by any provision of this Enactment required to do any act or thing makes default in complying with such requirements, the District Officer may cause such act or thing to be done by such persons and in such manner as he may direct and the cost thereof shall be recoverable from the person making default as aforesaid by the District Officer by civil suit.

(ii) Nothing in this section contained shall affect any liability of any person to prosecution and punishment under section 12.

Service of
notices and
orders.

14. Notices and orders issued and made in any State under this Enactment may be served in manner following, and such service shall be equivalent to personal service upon the person on whom service is to be effected:

- (a) if the person on whom service is to be effected be within such State, the notice or order may be delivered to him or left with some adult member of his family (other than a servant) residing with him within such State;
- (b) if the person on whom service is to be effected have an agent within such State duly authorized by power of attorney to accept service on his behalf, the notice or order may be delivered to such agent;
- (c) if service cannot be effected in the manner described in clause (a) or clause (b) of this section, the notice or order may be sent by registered post addressed to the person on whom service is to be effected at his residence in any part of the Federated Malay States or the Colony;
- (d) where service is to be effected on a corporation, the notice or order may be
 - (1) left at the registered office (if any) of the corporation within such State;

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- (2) delivered to any director, secretary or other principal officer of the corporation within such State or to any person within such State duly authorized by power of attorney to accept service on behalf of the corporation, or to any person having, on behalf of the corporation, powers of control or management over the land to which the notice or order relates;
- (3) sent by registered post addressed to the corporation at its principal office wherever situate;
- (e) if service cannot be effected in accordance with the preceding clauses of this section, the notice or order may be put up in a conspicuous position on the land to which it relates.

15. Nothing in this Enactment contained shall debar any owner of land which is affected or likely to be affected by inroad of earth, mud, silt, sand, gravel or stone from other land from instituting any suit or proceedings in respect thereof or shall relieve any person of any liability to which he would have been subject if this Enactment had not been passed; provided that a person shall not be liable for any act or omission, or the consequences of any act or omission required by an order under this Enactment to be done or omitted by him.

Private suits
not affected.

16. (i) No action shall be brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment, or by any rules made thereunder—

Provisions as to
actions.

- (a) without giving to such person one month's previous notice in writing of the intended action, and of the cause thereof;
- (b) after the expiration of three months from the date of the accrual of the cause of action;
- (c) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if, at the trial, the plaintiff shall fail to prove such allegation, judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court before which the action is tried shall certify its approbation of the action.

OBJECTS AND REASONS.

This Bill confers on the District Officer the powers hitherto exercised by the Resident for the protection of land from the inroad of silt and other matter.

KUALA LUMPUR,
28th August, 1922.

W. S. GIBSON,
Acting Legal Adviser, F.M.S.

APPOINTMENTS.

No. 6635.—Mr. J. E. Nathan, a Supernumerary Officer of Class II, Malayan Civil Service, has been appointed to officiate as Controller of Rubber Exports for Malaya, with effect from the 18th October, 1922.

No. 6636.—Mr. M. Rex, an Officer of Class IV, Malayan Civil Service, has been appointed to officiate as Deputy Controller of Rubber Exports for the Federated Malay States, with effect from the 18th October, 1922.

"THE ADVOCATES AND SOLICITORS ENACTMENT, 1914."

No. 6637.—With reference to Notification No. 1367, published in the *Gazette* of the 10th March, 1922, it is hereby notified that Mr. H. Ashworth Hope has been appointed to fill the vacancy in the Bar Committee of the Federated Malay States caused by the resignation of Mr. F. J. Bryant.