

16/10  
THIRD SUPPLEMENT  
TO THE  
FEDERATED MALAY STATES  
GOVERNMENT GAZETTE

OF FRIDAY, THE 5TH OF OCTOBER, 1923.

(No. 20, Vol. XV.)

PUBLISHED BY AUTHORITY.

SATURDAY, 13TH OCTOBER, 1923.

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

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

No. 6489.—The following Bill about to be introduced in the Federal Council is published for general information:

|| = S.S. Ordinance.

A BILL

| = New.

intituled

An Enactment to consolidate and amend the law relating to the control of dealings in Rubber.

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 Rubber Dealers Enactment, 1923," and shall come into force on the 1st January, 1924.

Short title, commencement and repeal.

(ii) Upon the coming into force of this Enactment the Enactments specified in the Schedule shall be repealed; provided that all appointments made, licences issued and acts of registration effected under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall, so far as they are not inconsistent with the provisions of this Enactment,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 made, issued and effected under this Enactment.

(iii) None of the provisions of this Enactment relating to rubber shall apply to the seeds or stumps of any rubber plant.

2. In this Enactment, unless there is something repugnant in the subject or context, Interpretation.

"Rubber plant" includes any of the following plants:

- (a) *Hevea Brasiliensis* (Para rubber);
- (b) *Manihot Glaziovii* (Ceara rubber);
- (c) *Castilloa Elastica*;
- (d) *Ficus Elastica* (Rambong);
- (e) Any other plant which the Chief Secretary to Government by notification in the *Gazette* declares to be a rubber plant for the purposes of this Enactment;

"Rubber" includes marketable rubber prepared from the leaves, bark or latex of any rubber plant and the latex of any such plant, whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into marketable rubber, but does not include any manufactured article wholly or partly made of rubber;

"Licence" means a licence under this Enactment, and "Licensee" means the person to whom a licence is given;

"Licensed dealer" means a licensee holding a licence to purchase rubber;

"Licensing Officer" means the District Officer in every district, and includes in districts where there is no District Officer such person as the Resident of the State may, by notification in the *Gazette*, appoint in that behalf;

"Treat", with its grammatical variations and cognate expressions, means to subject to any process whatsoever.

3. (i) No person shall purchase, treat, store or export rubber unless he shall have been duly licensed in that behalf by the Licensing Officer.

Prohibition of purchase, treatment or storage or export except under licence.

(ii) Fees payable for such licences shall be by stamps affixed thereto and cancelled by the Licensing Officer.

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Licence to  
purchase  
rubber.

4. (i) A licence to purchase rubber, hereinafter called a licence to purchase, shall include the right to keep a place for the treatment and also for the storage of rubber and shall be in the prescribed form.

(ii) The fee payable for such licence shall be two hundred and fifty dollars but no such licence shall be issued until the applicant therefor has made a deposit of one thousand dollars to be returned as hereinafter provided.

(iii) The amount of the deposit may be increased by the Licensing Officer, with the approval of the Resident.

(iv) Such deposit shall be by cash paid into the Treasury, or by delivery at the Treasury of bonds of such Government or Municipal loan as may be approved by the Chief Secretary, or of a receipt from a bank evidencing the payment of the said amount to the credit of the Government account with such bank.

(v) Interest due upon such bonds or debentures and interest allowed by the bank on the amount referred to in such receipt shall be payable to the depositor.

5. (i) It shall be lawful for the Licensing Officer to issue to a licensed dealer sub-licences in the prescribed form for the use of himself and his agents.

(ii) The fee payable for each sub-licence shall be \$100 and the licensed dealer shall deposit a sum of \$250 in respect of each sub-licence as provided in section 4 above.

(iii) To every such sub-licence there shall be affixed a photograph of the sub-licensee which shall be preserved by him in good condition.

(iv) No sub-licence shall remain in force after the expiration or revocation of the licence to which it relates.

(v) Every sub-licensee shall, when acting in pursuance thereof, keep such sub-licence on his person and shall produce it on demand for the inspection of any of the persons mentioned in section 14.

Licence to treat  
and store  
rubber.

6. (i) A licence to treat and store rubber, hereinafter called a licence to treat and store, shall confer the right to keep a place or places for the treatment and also for the storage of rubber, and shall be in the prescribed form or may be endorsed on the certificate of registration under section 19.

(ii) The fee payable for such licence shall be—

(a) One dollar when the rubber to be treated and stored is solely rubber grown or produced on land in the occupation of the licensee;

(b) One hundred dollars when the rubber to be treated and stored consists wholly or partly of rubber which is not grown or produced on land in the occupation of the licensee.

Licence to store  
rubber.

7. (i) A licence to store rubber, hereinafter called a licence to store, shall confer only the right to keep a place or places for the storage of rubber, and shall be in the prescribed form.

(ii) The fee payable for such licence shall be—

(a) One dollar when the rubber to be stored is solely rubber grown or produced on land in the occupation of the licensee;

(b) One hundred dollars when the rubber to be stored consists wholly or partly of rubber which is not grown or produced on land in the occupation of the licensee.

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8. (i) A licence to export rubber, hereinafter called a licence to export, shall confer the right to export rubber subject to the provisions of this Enactment and any other Enactment in force restricting the amount of rubber which may be exported, and subject to payment of Customs duty and shall be in the prescribed form.

Licence to export rubber.

(ii) The fee payable for such licence shall be—

- (a) One dollar when the rubber to be exported is solely rubber grown or produced on land in the occupation of the licensee;
- (b) Two hundred and fifty dollars when the rubber to be exported consists wholly or partly of rubber which is not grown or produced on land in the occupation of the licensee.

9. Wherever the rubber to be treated and stored, stored or exported under a licence issued under any of the three preceding sections consists wholly or partly of rubber not grown or produced on land in the occupation of the licensee the Licensing Officer may require a deposit to be made as in the case of a licence to purchase, and the provisions of sub-sections (ii), (iii), (iv) and (v) of section 4 and the provisions of section 20 shall apply to such deposit.

Deposit may be required.

10. (i) Every licence shall expire on the thirty-first 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.

Duration of licence.

(ii) No licence shall be assignable or shall confer any rights upon any person by reason of his being the attorney, executor or administrator of the person to whom such licence was granted.

(iii) In the case of the death, mental disorder, illness or bankruptcy of a licensee, the Licensing Officer may by endorsement on the licence authorise any other person to exercise the rights conferred by the licence until the expiration of the term for which it was originally granted or for any shorter period, subject to such conditions as the Licensing Officer may deem necessary.

11. (i) The Licensing Officer may in his discretion refuse to grant a licence or to renew any licence which has expired, and may revoke any licence already issued.

Refusal to grant and revocation of licence.

(ii) Any person aggrieved by such refusal or revocation may appeal to the Resident whose decision shall be final, and no action or proceeding shall be maintainable in any Court of law in respect of such refusal or revocation.

(iii) If the Chief Secretary to Government, with the approval of the High Commissioner, shall certify that he is satisfied that any licensee is acting with a view to enable himself or any individual, corporation or combination to secure control of the output of, or the market for, rubber, it shall be the duty of the Licensing Officer, on receiving instructions in that behalf from the Chief Secretary to Government, to cancel the licence of such licensee.

12. (i) Two or more persons carrying on business in partnership shall not be obliged to obtain more than one licence appropriate to the circumstances in respect of which the licence is issued, and a licence to two or more persons shall not be determined by the death or retirement from business of any one or more of the partners.

Provisions with regard to partners and agents.

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Responsibility  
of partners.

(ii) When a licence is granted to two or more persons carrying on business in partnership, every such person shall be liable for the acts and omissions of the other or others of them, unless the person charged with liability for the acts or omissions of his partner proves to the satisfaction of the Court that he acted *bona fide* and in no way directly or indirectly contributed to the breach of the provision of the Enactment with which his partner is charged.

Responsibility  
for acts of  
agents.

(iii) Whenever any licensee would be liable under the provisions of this Enactment or of any rules made thereunder to any fine or forfeiture for any act omission neglect or default, he shall be liable to the same fine or forfeiture for every similar act omission neglect or default of any agent or servant employed by him in the course of his business as such licensee.

Nothing in this sub-section shall be construed as relieving any such agent or servant from any fine or forfeiture to which he would otherwise be liable.

Words to be  
painted on  
certain licensed  
premises.

**13.** Every holder of a licence—

- (a) to purchase rubber;
- (b) to treat and store rubber which consists wholly or partly of rubber not grown or produced on land in the occupation of the licensee;
- (c) to store rubber which consists wholly or partly of rubber not grown or produced on land in the occupation of the licensee,
- (d) to export rubber which consists wholly or partly of rubber not grown or produced on land in the occupation of the licensee

shall cause the words "Licensed to purchase rubber" or the words "Licensed to treat and store rubber" or the words "Licensed to store rubber" or the words "Licensed to export rubber" as the case may be, to be painted in conspicuous letters in the English and Malay languages upon his licensed premises, to the satisfaction of the Licensing Officer.

Duties of  
licensee.

**14.** (i) Every licensee shall allow at all times the inspection of his licensed premises by the Licensing Officer, by any Magistrate or Collector of Land Revenue or any police officer not below the rank of Inspector, or by any other person authorised thereto in writing by the Licensing Officer.

(ii) No licensee shall take delivery of any rubber at any place other than his licensed premises, unless he purchase the same at an auction sale conducted by an auctioneer licensed under the provisions of "The Auction Sales Enactment, 1905," of the State wherein the sale is held or by a public officer acting under the order of a competent Court or by a Collector of Land Revenue in exercise of the powers vested in him by Part VI of "The Land Enactment, 1911."

(iii) Every licensee shall, on the demand of any such officer as is mentioned in sub-section (i), produce for inspection all rubber on his premises.

(iv) Any such officer as aforesaid may enter any licensed premises and search any such premises if he has reason to believe that all the rubber on the premises has not been produced for inspection in breach of the provisions of sub-section (iii).

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15. (i) Every licensee mentioned in section 13 shall keep books of account in which shall be entered day by day the following particulars concerning all purchases, deliveries, sales, shipments and other consignments of rubber: Books of account.

- (a) the date of purchase, delivery, sale or consignment;
- (b) the name and address and licence number of the seller, consignor, purchaser or consignee;
- (c) the weight and description of the rubber purchased, delivered, sold or consigned;
- (d) the price, in cases of purchase or sale;
- (e) the amount of duty paid and the number and date of the customs export permit in cases of export;
- (f) the number and description of the title to the land on which the rubber was grown or produced.

(ii) Every licensee shall, on the demand of any such officer as is mentioned in section 14 produce for inspection all books kept by him under this section and allow copies to be made thereof.

(iii) Every such book shall be preserved by the licensee for one year from the date of its last being used for the making of an entry therein.

(iv) The entries in such books shall be in English or romanised Malay or such other language as may be permitted by the Licensing Officer.

16. (i) Every auctioneer who shall sell at an auction sale any rubber shall keep books of account in which shall be entered day by day particulars similar to those which are required by sub-section (i) of section 15 to be entered in the books of a licensee who shall sell rubber, and the provisions of section 15 shall apply to every such auctioneer as though he were a licensee. Auctioneers' books of account.

(ii) Every auctioneer shall deliver to every person who shall purchase rubber at an auction sale conducted by him a written authority for the sale thereof which shall contain the particulars prescribed in section 17. Auctioneer to give written authority.

17. (i) No licensed dealer shall purchase any rubber except upon delivery to him by the vendor or, in the case of an auction sale held under an order of Court, by the auctioneer of a written authority for the sale thereof. Written authority for sale or consignment.

(ii) No forwarding agent shall receive any rubber except upon delivery to him by the consignor of a written authority for the despatch thereof.

(iii) The written authority prescribed by this section shall contain:

- (a) the signature or *chop* of a licensed dealer and the number of his licence, or
- (b) the signature or *chop* of the person in lawful occupation of the land on which the rubber was grown or produced, or of his duly authorised agent, together with the description and number of the title for such land and the number of the certificate of registration relating thereto prescribed by section 19, or
- (c) the signature, in the case of a sale of rubber under an order of Court, of the auctioneer by whom such sale was conducted.

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(iv) Every person who receives a written authority as prescribed by this section shall preserve the same and shall produce it on demand for the inspection of any such officer as is mentioned in section 14.

Written memorandum from purchaser to vendor.

**18.** (i) Every licensed dealer shall deliver to every person from whom he purchases any rubber a written memorandum bearing his signature or *chop* and the number of his licence and setting forth—

- (a) the date of the purchase;
- (b) the name of the vendor;
- (c) the weight and description of the rubber purchased; and
- (d) the price paid.

(ii) Such memorandum shall be preserved by the vendor and shall be produced by him on demand for the inspection of any such officer as is mentioned in section 14.

(iii) A copy of such memorandum shall be endorsed on the certificate issued under section 19 to the person registered.

Cultivation of rubber to be registered.

**19.** (i) Every person who cultivates rubber shall, within one month after his commencing so to cultivate rubber, and thereafter during the month of January in every year, give notice of such cultivation to the officer in charge of the Land Office of the district in which such land is situated, and shall furnish to such officer the particulars in the prescribed form and any other particulars relating to such cultivation required by such officer.

(ii) The said officer shall, provided that the conditions of the title to the land do not prohibit the cultivation of rubber, thereupon enter in a register to be kept by him for the purposes of this Enactment, or include in any suitable register already kept by him for other purposes, the information so furnished, making separate entries for the respective titles to the land on which rubber is so cultivated, and shall deliver to the cultivator a certificate under his hand of such registration bearing a distinguishing number or letter to identify the entry to which it relates. Such certificate shall be in the prescribed form.

(iii) After the first registration under this section of the cultivation of rubber on any land the said officer may at his discretion in any subsequent year, instead of making a fresh entry in the said register of the cultivation of rubber on such land and issuing a fresh certificate in respect thereof, register the continued cultivation of rubber on such land by endorsement under his hand on the previous entry in the said register relating to such land and on the certificate corresponding thereto.

(iv) The certificate prescribed by this section shall be preserved by the person to whom it is delivered under sub-section (ii) and shall be produced by him on demand for the inspection of any such officer as is mentioned in section 14 and shall also be produced for endorsement by the dealer whenever a sale of rubber is effected, as provided under section 18.

Penalty.

(v) Any person who contravenes sub-section (i) or (iv) shall be liable to a fine not exceeding twenty-five dollars, and, in the case of continued contravention of sub-section (i), to a fine of five dollars for every day during which such contravention continues.

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**20.** Every applicant for, and every holder of, a licence to purchase rubber shall on demand be entitled to receive from the Licensing Officer an order on the Treasury authorising the return of any deposit made under sub-section (ii) of section 4, provided that

Return of deposit.

(a) No deposit shall be returned to any licensed dealer until after the expiration of one month from the date on which his licence expired or was otherwise determined, or while any legal proceedings under this Enactment are pending against him;

(b) All moneys deposited under sub-section (ii) of section 4 by any licensed dealer shall be at all times liable to be applied in satisfaction or part satisfaction of any fine inflicted upon him under this Enactment, and shall be forfeited upon the revocation of the licence under section 11.

**21.** Except as provided in section 19, any person who commits any offence against this Enactment, or who makes default in complying with any obligation imposed on him by this Enactment shall be liable on conviction to a fine not exceeding five thousand dollars.

Penalty for breach of Enactment.

**22.** In any State the Resident may, with the approval of the Chief Secretary to Government, make rules, not inconsistent with the provisions of this Enactment,

Rules.

(a) for further securing the effectual control of the sale, purchase, storage, disposal and export of rubber and the prevention of fraud in connection therewith;

(b) for regulating or controlling the methods of treatment of rubber;

(c) for prescribing the forms and account books for use under this Enactment and the returns to be furnished by licensees;

(d) generally for carrying into effect the provisions of this Enactment;

and such rules when published in the *Gazette* shall have the force of law.

**23.** Any person who shall commit any breach of the provisions of any rule made under this Enactment shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred dollars, and, when the breach is a continuing one, to a further fine not exceeding ten dollars for every day during which such breach shall continue.

Penalty for breach of rules.

**24.** When a person is convicted of a breach of any rule made under this Enactment for regulating or controlling the methods of treatment of rubber, any rubber treated or in course of being treated in contravention of any such rule which may be found in the possession of such person shall, if the Court before which the conviction is had so orders, be forfeited to the Government.

Forfeiture of rubber for breach of rule.

**25.** All prosecutions under this Enactment may be had before the Court of a Magistrate of the First Class, and such Court shall have power to impose any penalty provided by this Enactment.

Jurisdiction.

**26.** Except as otherwise provided any person aggrieved by any refusal or order of a Licensing Officer under this Enactment or any rules made thereunder may appeal to the Resident of the State in which such refusal or order was given or made, and the decision of

Appeal from Licensing Officer to Resident.

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the Resident thereon shall be final; provided that no such appeal shall be admitted after the expiration of sixty days from the date of the refusal or order appealed against.

Protection of  
officers.

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

- (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.

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

28. Any State or part of a State may be exempted from the operation of this Enactment or of any provisions thereof by order of the Resident duly notified in the *Gazette* and may by subsequent like order be brought within the operation of all or any of the provisions of this Enactment from which it has been so exempted. No such order shall have retrospective effect.

SCHEDULE.  
ENACTMENTS REPEALED.

No. and year.	Short title.
5 of 1919	The Rubber Dealers Enactment, 1919
8 of 1920	The Rubber Dealers Enactment, 1919, Amendment Enactment, 1920

OBJECTS AND REASONS.

The object of this Bill is to amend and improve the law relating to Rubber Dealers. The clauses marked with a double line are taken from the Colonial Ordinance and new matter is marked with a single line.

Of the new matter clause 5 making provision for sub-licences is modelled on similar provision in the Mineral Ores Enactment. Clause 8 is inserted to enable a complete record of rubber to be available at any time and is not a measure connected with the present restriction of exports. Clauses 18 (iii) and 19 (iv) require the certificate of registration to be produced upon every sale of rubber and endorsed by the dealer purchasing, and this together with clause 8 will give a record of the output of rubber from each holding. Clause 28 has been added to enable exemption to be granted in the case of country districts where the keeping of detailed books might involve hardship.

8th October, 1923.

W. S. GIBSON,  
Legal Adviser.