

SELANGOR WATERS MANAGEMENT AUTHORITY



SELANGOR

ENACTMENT No. 2 of 1999

SELANGOR WATERS MANAGEMENT

AUTHORITY ENACTMENT 1999

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PART I - PRELIMINARY

Section 1 – Short title, application and commencement.

(1) This Enactment may be cited as the Selangor Waters Management Authority Enactment 1999.

(2) This Enactment shall apply to all rivers wholly within the State of Selangor and to all river basins, catchment areas, wetlands, ground water, coastal waters and water bodies within the State of Selangor except those wholly within the Federal Administrative Centre of Putra Jaya.

(3) This Enactment shall come into force on such date as the State Authority may, by notification in the *Gazette*, appoint and the State Authority may appoint different dates for the coming into operation of-

- (a) different provisions of this Enactment;
- (b) the Enactment for different rivers, river basins, ground water, coastal waters and water bodies or parts thereof; and
- (c) different provisions of this Enactment in different rivers, river basins, ground water, coastal waters and water bodies or parts thereof.

Section 2 – Interpretation

2. In this Enactment unless the context otherwise requires-

"Authority" means the Selangor Waters Management Authority established pursuant to section 3;

"bank" in relation to a water source means any naturally or artificially formed bank of the water source;

"bed" in relation to a water source means the land bounded by the banks closest to the water source;

"catchment area" means any area, from which a water source receives surface flow which originates as precipitation and includes any designated catchment area;

"Chairman" means the Chairman of the Authority appointed under section 4 and includes the Deputy Chairman and a temporary Chairman while exercising . the

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functions of the Chairman;

"coastal waters" means such part of the sea of the State not exceeding three nautical miles measured from the low water mark of ordinary spring tides including all that land lying between the high water mark and the low water mark of ordinary spring tides;

"corporation" means a corporation established under section 7;

"Director" means the chief executive officer of the Selangor Waters Management Authority appointed under section 11 and includes any officer discharging the duties of the Director; .

"designated area" means any designated -

- (a) catchment area;
- (b) river basin;
- (c) water body;
- (d) ground water;
- (e) wetlands; and

such other area as may be declared as a designated area under this Enactment;

"designated catchment area" means any area declared as a designated catchment area under Part VI;

"designated river basin" means any area declared as a designated river basin under Part VI;

"designated water body" means any area declared as a designated water body in Part VI;

"documents" has the same meaning assigned to it in the Evidence Act, 1950;

"environment" means the physical factors of the surroundings of human beings including land, water atmosphere, climate, sound, odour, the biological factors of animals and plants and the social factor of aesthetics;

"flood zone" means any area adjoining a river which is susceptible to flooding;

"Fund" means the Fund established under Part IV;

"ground water" means the subsurface water that occurs beneath the water table in soils and geologic formations and includes-

- (a) a well, borehole or similar work sunk into underground strata,

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including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work;

- (b) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata; and
- (c) any designated ground water;

"Land Administrator" has the same meaning assigned to it in the National Land Code, 1965.

Act 56/65

"licence" means a licence issued under this Enactment;

"local authority" means any city council, municipal council or district council, as the case may be;

"operator" means any person licenced under Part X;

"person" has the same meaning assigned to it in the Interpretation Acts 1948 and 1967;

Act 388

"pollutants" means any natural or artificial substances, whether in a solid, semi-solid or liquid form, or in the form of gas or vapour, or in a mixture of at least two of these substances, or any objectionable odour or noise or heat emitted, discharged or deposited or is likely to be emitted, discharged or deposited from any source which can directly or indirectly cause pollution and includes any environmentally hazardous substances;

"pollution" means any direct or indirect alteration of the physical, thermal, chemical or biological properties of any part of the environment by discharging, emitting or depositing environmentally hazardous substances, pollutants or wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety, or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause a contravention of any condition, limitation, or restriction to which a licence under this Enactment is subject;

"premises" includes any building or structure or any part thereof (whether completed or not), land without any building or structure, and any wharf, pier, passenger landing facility, vessel, structures floating or erected on any water source;

"prescribed" means prescribed by regulations made under this Enactment;

"public authority" means any authority exercising powers, vested in it by Federal or State Law, or any person appointed by or acting on behalf of any such

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authority;

"public purpose" means those uses which comprise the State's interest in any water source including but not limited to navigation, recreation, fishing, storage, conservation, flood mitigation, maintenance of aquatic and fish life, fish and wild life habitat, wildlife, water quality, public health, pollution abatement, aesthetic beauty and energy production;

"resources" means any matter, thing, substance or liquid occurring in, related to or dependant on water whether or not requiring the application of labour to its production and whether on or below the surface including-

- (a) flora and fauna;
- (b) water, mineral, sand, or soil;
- (c) other natural products; or
- (d) any area possessing characteristics for public purpose;

"resource alteration activity" means the carrying out of any works or activity which involves or is likely to have the effect of-

- (a) abstracting, extracting or excavating material from a water source which alters the nature of the bed, banks or shores of the water source;
- (b) obstructing, diverting or affecting the flow or movement of water in a water source;
- (c) changing the original nature of the water source;
- (d) reducing the capacity of a water source to contain water; or
- (e) reclaiming land forming part of a water source,

and for the purpose of paragraph (b) of this definition an activity or works may, without affecting the generality of the clause, consist of the construction of bridges, highways, jetties, groynes, breakwaters, embankments, walkways, boat ramps, boat moorings, fish racks, fish cultivation ponds and navigation markers on, in or above a water source;

"river" means any stream, natural water course or any tributary of a river or any artificial deviation thereof and any instream impoundment thereon;

"river basin" means any river and the catchment area surrounding the river and includes any designated river basin;

"river reserve" means the river and the landward extent of the flood plain located within a distance of 50 metres of the normal high water mark of the river or such other distance as may be prescribed by the Authority and includes any designated river reserve;

"stakeholder" means any person, organisation, association or public authority

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which has an interest in or is affected by the development, management, use and conservation of any water source;

"State Authority" has the same meaning assigned to it in the Interpretation Acts 1948 and 1967; Act 388

"states" means the states of the Federation of Malaysia;

"State" means the State of Selangor;

"State Government" means the government of the State of Selangor;

"sustainable" means managing the use and development of resources in such a way and at a rate, which enables people and communities to continuously provide for their social, health, economic and cultural well-being, while safeguarding the life supporting capacity of water and , protecting those elements of the environment supported by water sources;

"vessel" includes any ship or boat or any other description of vessel used in navigation;

"waste" includes any matter prescribed to be scheduled waste, or any matter whether in a solid, semi-solid or liquid form, or in the form of gas or vapour which is emitted, discharged or deposited in the environment in such volume, composition or manner as to cause pollution;

"water body" means any lake, pond, wetland, coastal waters and other bodies of water natural or artificial and includes any designated water body;

"water source" means any river, river basin, ground water or water body;

"wetland" means any area of marsh, fen, peat land, swamp or other lowlands seasonally, intermittently or permanently submerged or inundated with water that is static or flowing, whether natural or otherwise, fresh, brackish or saline and includes any designated wetland;

"works" includes any activity related to-

- (a) the construction, fabrication or assembly of any structure, building, equipment, vessel, embankment, earthworks or levee on, in or above any water source;
- (b) dredging, reclamation, deepening, filling or draining of or the discharge of any substance, matter or thing into any water source;
- (c) growing, cutting and felling of any vegetation on any land area

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adjoining any water body or within river basins; and

(d) the impounding, diverting, discharging, obstructing or interfering with the flow and use of water within any water source.

PART II

ESTABLISHMENT OF THE AUTHORITY

Section 3 – Establishment of the Selangor Waters Management Authority

3. (1) There shall be established a body to be known as the "Selangor Waters Management Authority"

(2) The Authority shall be a body corporate with perpetual succession and a common seal which may sue and be sued in its corporate name and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold, sell and enjoy movable or immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with, any movable or immovable property or any interest therein vested in the Authority upon such terms as it deems fit.

Section 4 – Membership of the Authority.

4. (1) The Authority shall consist of a Chairman, a Deputy Chairman and not less than ten other members constituted as follows:

- (a) the Menteri Besar who shall be the Chairman;
- (b) the State Secretary who shall be the Deputy Chairman;
- (c) the State Legal Advisor or his representative;
- (d) the State Financial Officer or his representative;
- (e) two members of the State Executive Council appointed by the Menteri Besar;
- (f) the Director General of the Federal Drainage and Irrigation Department;
- (g) not more than five other members to be appointed by the State Authority who shall have substantial expertise in matters pertaining to the management and conservation of river basins, ground water and water sources; and

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(h) the Director who shall be the secretary of the Authority.

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

(3) The members of the Authority may be paid such remuneration or allowances as the State Authority may determine.

(4) The provisions of the First Schedule shall apply in respect of the Authority and its members.

Section 5 – Seal of the Authority

5. (1) The Authority shall have a common seal and such seal may, from time to time, be broken, changed, altered or made anew as the Authority deems fit.

(2) The common seal of the Authority shall be kept in the custody of the Secretary and shall not be used except as duly authorised by the Authority.

(3) The seal of the Authority shall be officially and judicially noticed.

Section 6 – Functions and powers of the Authority.

6. (1) The functions of the Authority shall be to nurture, maintain and facilitate the sustainable development, efficient use and conservation of water sources for public purposes in respect of which it is established, and in particular to -

- (a) provide advice to the State Authority as to the policies, methods and measures to be adopted to promote, nurture and facilitate the sustainable development, efficient use and conservation of water sources for public purpose;
- (b) develop, implement and promote infrastructure projects for multi functional purposes;
- (c) regulate and control inter basin transfer of water within the State;
- (d) develop and implement guidelines, performance standards, methods and procedures pertaining to the management, utilisation and conservation, of water sources;
- (e) coordinate multi agency relationships in the State and promote cooperation and coordination for multi functional uses of water sources;

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- (f) adopt and implement policies, plans or projects by the Federal Government as directed by the State Authority;
 - (g) undertake research pertaining to the management, efficient use, development and conservation of water sources and the resources therein;
 - (h) provide training and maintain facilities for training relating to the functions of the Authority;
 - (i) advise the State Authority on the declaration of designated and protected areas and formulate and implement development and management plans for such areas;
 - (j) protect the interest of the State in respect of the development, management, use and conservation of water sources;
 - (k) manage and control the installation, operations and maintenance of places and equipment belonging to the Authority;
 - (l) protect the interest of consumers of water in relation to quantity, quality, and the prices to be charged for water supply;
 - (m) encourage the formation of stakeholder organisations to assist the Authority in the sustainable development and conservation of water sources;
 - (n) grant licence on such conditions as the Authority may think fit to any public authority or person to undertake any activity related to water sources and to regulate the licensees and their activities;
 - (o) privatise, with the approval of the State Authority, any of its undertakings pursuant to the provisions of this Enactment;
 - (p) investigate any incident, infringement or accident occurring on or in relation to a water source; and
 - (q) to do such other things as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.
- (2) The Authority shall have power to do all things reasonably necessary for or incidental to the discharge of its functions and in particular to-
- (a) conduct surveys, carry out feasibility studies and collect information for research and the drawing up of management and conservation plans for any water source;

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- (b) formulate, approve and implement management and development plans for water sources and carry out any works in relation thereto;
- (c) formulate and approve charges and fees for the use of water sources and the resources therein;
- (d) advise the State Authority on the designation of any area as a designated area or protected zone for better protection, control, and management of such an area;
- (e) regulate and control any resource alteration activity and action of persons and bodies relating to any water source;
- (f) prescribe and levy fees, payments and other charges in relation to the performance of its functions and the exercise of its powers under this Enactment;
- (g) construct, maintain, repair, restore, rehabilitate and use any structures, buildings, or works within the limits of any water source;
- (h) construct, maintain, repair, restore, rehabilitate and use any works without the limits of any water source as are necessary for the protection of works belonging to it within the limits of any water source;
- (i) regulate the issue of licences and permits upon such terms and conditions deemed necessary on entry to or exit from any designated or protected areas, or the carrying on of any resource alteration activity within the limits of any water source and to impose fees payable on issue of such licences or permits;
- (j) advise the State Authority in respect of the transfer of water from, between and among states;
- (k) coordinate the activities of public authorities, stakeholder organizations and any person on matters pertaining to the efficient management, sustainable use and conservation of water sources;
- (l) appoint or employ agents, technical advisors, consultants or other persons to transact any business or enter into contracts for the carrying out of any works, for sharing of profits or joint venture with any person or body of persons;
- (m) acquire by purchase, gift or otherwise and dispose of or otherwise deal with movable and immovable property and any interest therein, upon such terms and conditions as the Authority may think fit;

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- (n) do or carry out any act as may appear to the Authority requisite, advantageous or convenient to be transacted or done in the execution of its duties or the better carrying out into effect the purposes of this Enactment; and
- (o) 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.

Section 7 – Power to establish corporation.

7. The Authority may from time to time, with the approval of the State Authority, in accordance with Schedule 2 establish a corporation to carry out and have the charge, conduct and management of any water source which has been managed by the Authority in execution of its duties and functions under section 6.

Section 8 – Delegation.

8. (1) The Authority may, subject to such conditions, limitations or restrictions as it thinks fit, delegate to any committee, subcommittee, public authority or the Chairman, Deputy Chairman or Director the power and authority to carry out on its behalf such of its functions, duties and powers as the Authority may determine to be performed inside or outside the State except the power to borrow money, raise loans or make regulations and any function, duty or power so delegated may be exercised or performed in the name and on behalf of the Authority.

(2) Without prejudice to the generality of subsection (1), the Authority may delegate to the Chairman, Deputy Chairman, Director or any of its members, officers, committees or subcommittees, authority to sanction expenditure from the Fund or any other money under the control of the Authority up to such limit as the Authority shall in such case specify.

Section 9 – Directions by the State Authority.

9. The State Authority may, from time to time, give to the Authority general directions, not inconsistent with this Enactment and the Authority shall, as soon as possible, give effect to such directions.

Section 10 – Information to State Authority.

10. The Authority shall furnish to the State Authority such returns, reports, accounts and information with respect to its property and activities as the State Authority may from time to time require or direct.

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PART III

DIRECTOR, OFFICERS AND SERVANTS OF THE AUTHORITY

Section 11 – Appointment of Director and other officers.

11. (1) The Authority shall appoint a Director on such terms and conditions as the Authority may determine

(2) The appointment of the Director shall be with the prior approval of the State Authority and shall be published in the *Gazette*.

(3) If during any period the Director is for any reason unable to exercise the powers and duties of his office the Authority may appoint any other fit and proper person to act as the Director.

(4) The Authority may appoint, on such terms and conditions as the Authority may think desirable, such other officers and servants as may be necessary for carrying out the purposes of this Enactment.

Section 12 – Duties of the Director.

12. The Director shall-

- (a) be responsible for the proper administration and management of the Authority;
- (b) be responsible for the preparation of policies, plans, programs, schemes or projects for the consideration of the Authority;
- (c) be responsible for putting into execution, supervision and control of all policy decisions, plans, programs, schemes and projects approved by the Authority;
- (d) exercise supervision and control over all other officers and servants of the Authority; and
- (e) perform such duties and exercise such powers, as may from time to time be determined or delegated by the Authority or as the Chairman may direct.

Section 13 – Authority to determine conditions of service.

13. (1) The officers and servants of the Authority shall hold office for such period, receive such remuneration, fees and allowances, and be subject to such conditions of service as may be determined by the Authority with , the approval of the State Authority.

(2) The Authority may, with the approval of the State Authority, make such regulations as it deems necessary or expedient to provide for the conditions of

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service of the officers and servants of the Authority.

Section 14 - Discipline

14. The Authority shall have disciplinary authority over all its officers and servants and shall exercise disciplinary control in respect of all such persons in accordance with this Enactment and any regulations made under section 16.

Section 15 – Disciplinary committees.

15. (1) The Authority may establish different disciplinary committees for different categories of its officers and servants of the Authority.

(2) The following shall apply to a disciplinary committee:

- (a) a disciplinary committee shall consist of any number of members of the Authority other than the Director or employees of the Authority, or any combination of such members and employees; and
- (b) an employee who is a member of a disciplinary committee shall not be lower in rank than an employee over whom the disciplinary committee of which he is a member has disciplinary authority.

(3) A disciplinary committee shall exercise its powers in all matters relation to the discipline of employees placed under its jurisdiction.

(4) In the exercise of its disciplinary functions and powers, a disciplinary committee shall have the power to take disciplinary action and impose any disciplinary punishment or any combination of two or more disciplinary punishments as may be provided for under any disciplinary regulations made under section 16.

Section 16 – Disciplinary regulations.

16. (1) The Authority may, with the approval of the State Authority, make regulations to provide for the discipline of its employees

(2) The disciplinary regulations made under this section-

- (a) may create disciplinary offences;
- (b) may provide for such disciplinary punishments as the Authority may deem appropriate and the punishments may extend to a-
 - (i) warning;
 - (ii) fine;
 - (iii) forfeiture of emoluments
 - (iv) deferment of salary movement;

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- (v) reduction of salary;
- (vi) reduction in rank; and
- (vii) dismissal;

(c) shall provide for an opportunity to the employee 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:

- (i) where an employee is dismissed or reduced in rank on the ground of misconduct in respect of which a criminal charge has been proved against him;
- (ii) where the Authority, 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 of Malaysia it is not expedient to carry out the requirements of this paragraph; or –
- (iii) where there has been-

(A) made against an employee any order of detention, supervision, restricted residence, banishment or deportation;
or

(B) imposed on an employee any form of restriction or supervision by bond or otherwise,

under any law relating to the security of Malaysia or any part of Malaysia, prevention of crime, preventive detention, restricted Residence, banishment, immigration, or protection of women and girls;

(d) may provide for the interdiction with reduced emoluments of an employee during the pendency of a criminal proceeding against him or disciplinary proceeding against him with the view to his dismissal or reduction in rank;

(e) may provide for the suspension without emoluments of an employee-

- (i) where the employee has been convicted by a criminal Court; or
- (ii) where an order of detention or restriction has been imposed on the employee and

(f) may provide for the procedure for the hearing of an appeal by the Disciplinary Appeal Board established under section 17.

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Section 17 – Disciplinary Appeal Board.

17. (1) A decision of a disciplinary committee shall be appealable to the Disciplinary Appeal Board which shall consist of the following members:

- (a) the Deputy Chairman of the Authority, who shall be the chairman of the Disciplinary Appeal Board and who shall have the casting vote; and.
- (b) two other members of the Authority, 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 Authority for the purpose of the appeal.

(2) When the Disciplinary Appeal Board considers an appeal, a member of the disciplinary committee against whose decision the appeal is made shall not be present or in any way participate in any proceedings relating to that appeal.

(3) The Disciplinary Appeal Board may confirm, reverse or vary the decision of a disciplinary committee.

Section 18 – Termination of service on grounds of public interest.

18. (1) Where the Authority finds or where representations are made to the Authority that it is desirable that the service of an employee be terminated in the public interest, the Authority may call for a full report from the superior officer of the employee which shall contain particulars relating to the work and conduct of the employee.

(2) If, after considering the report received under subsection (1), the Authority is satisfied that having regard to the conditions of service, the usefulness of the employee, the work and conduct of the employee and all the other circumstances of the case, it is desirable in the public interest so to do, the Authority may terminate the service of the employee with effect from such date as the Authority shall specify.

(3) It shall be lawful for the appropriate disciplinary committee to recommend to the Authority that the service of an employee be terminated in the public interest, even though disciplinary proceedings have not been carried out under this Act, and the Authority may then terminate the service of the employee.

(4) Notwithstanding anything in this Act and any other law to the contrary, in terminating the service of an employee in the public interest under this section, the employee may not be given an opportunity to be heard and an employee whose service has been terminated in the public interest under this section shall not be

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regarded as having been dismissed, regardless of whether the termination of service of the employee involved an element of punishment or was connected with conduct in relation to his office which the Authority regards as unsatisfactory or blameworthy.

Section 19 – Imposition of surcharge.

19. (1) A person who is or was in the employment of the Authority may be surcharged if it appears to the surcharge. Authority that the person-

- (a) has failed to collect money owing to the Authority for the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of money from the Authority or for any payment of money which is not duly approved;
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for destruction of, any money, store or other property of the Authority;
- (d) has failed to make any payment, or is or was responsible for any delay in the payment from the Authority, of any money to any person to whom such payment is due under any law, or under any contract, agreement or arrangement entered into between that person and the Authority; or
- (e) being or having been an accounting officer , fails or has failed to keep proper accounts or records.

(2) In this section, "accounting officer" includes an employee who is charged with -

- (a) the duty of collecting, receiving or accounting for , or who in fact collects, receives or accounts for, any money of the Authority;
- (b) the duty of disbursing, or who does in fact disburse, any money of the Authority; or
- (c) the duty of receiving, keeping in custody, disposing of or accounting for, any store and property of the Authority or who in fact receives, holds, disposes or accounts for such store and property.

Section 20 – Show cause notice before surcharge.

20. The Authority shall, before a person is surcharged, serve on him a written notice calling on him to show cause why he should not be surcharged.

Section 21 – Amount of surcharge.

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21. If a satisfactory explanation is not received within fourteen days from the date a notice is served on a person under section 20 the Authority may-

- (a) in the case of any of the acts or omissions mentioned in paragraphs 19(1)(a), (b) and (c), surcharge against the person a sum not exceeding the amount not collected, or of the improper payment made, or of the value of the deficiency in the property or of the property destroyed and
- (c) in the case of any of the acts or omissions mentioned in paragraphs 19(1)(d) and (e), surcharge against the person such sum as the Authority thinks fit.

Section 22 – Notification of surcharge.

22. The Authority shall notify the person surcharged in respect of any surcharge made under section 21.

Section 23 – Withdrawal of surcharge.

23. Notwithstanding sections 21 and 22, the Authority 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 Authority shall forthwith notify the person surcharged of the withdrawal.

Section 24 – Recovery of surcharge.

24. The amount of any surcharge made under section 21 and not withdrawn under section 23 shall be a debt to the Authority from the person surcharged and may be sued for and recovered in any Court at the suit of the Authority and may also, if the Authority directs, be recovered by deduction-

- (a) from the salary of the person surcharged; or
- (c) from the pension of the person surcharged, by equal monthly installments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

Section 25 – Authority may adopt regulations, etc.

25. In making any regulations under this Part, the Authority may, with the approval of the State Authority, adopt with such modifications as it deems fit any regulations, rules, policies, circulars and directives enacted or issued by the State or the Federal Government.

Act. 125

Section 26 – Committees.

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26. (1) The Authority may appoint such committees as it thinks desirable to exercise such functions and powers as may be delegated to them by the Authority or to examine and report to the Authority on any matter arising from or connected with any of the functions and powers of the Authority under this Enactment.

- (2) There shall be established a Technical Committee consisting of -
- (a) a Chairman, being the Deputy Chairman of the Authority;
 - (b) the Director;
 - (c) the State Director of the Drainage and Irrigation Department;
 - (d) the Director of the State Economic Planning Unit;
 - (e) the State Director of the Town and Country Planning Department;
 - (f) the State Director of the Water Supply Department;
 - (g) the State Director of Lands and Mines
 - (h) the State Director of Environment
 - (i) the State Director of Forestry;
 - (j) the State Director of Agriculture or an officer responsible for such affairs of the State;
 - (k) the State Director of Fisheries or an officer responsible for such affairs in the State;
 - (l) the State Director of Geological Surveyor an officer responsible for such affairs in the State;
 - (m) the President of Municipal Councils or an officer representing the relevant local authority in the State and
 - (n) such other members as the Authority may appoint.

Public servants for purposes of
Penal Code
F.M.S Cap. 45

Application of Public
Authorities Protection
Act. 1948
Act. 198

(3) The Technical Committee and any other committee may do all such things as may be necessary for the effective discharge of the functions and powers so delegated but shall be subject to the directions of the Authority.

(4) A committee shall consist of a chairman and not more than 12 other members who may be paid such allowances as may be determined by the Authority with the approval of the State Authority.

(5) The provisions of Schedule 3 shall *mutatis mutandis* apply in respect of the Technical Committee and any other committee appointed under this section.

Section 27 – Ineligibility for appointment as member or employment as officer or servant of the Authority.

27. (1) No person shall be appointed as a member, an officer or servant of the Authority or a member of a committee thereof if he has any interest, directly or indirectly in any person, body, corporation or company carrying on or engaged in, or about to carry on or engage in, any contracts, projects or similar activity or any combination thereof of the Authority.

(2) Notwithstanding subsection (1), such person may be appointed as a member,

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an officer or a servant of the Authority or as a member of a committee thereof if he has an interest, directly or indirectly, as a shareholder only of a company referred to in that subsection and provided that the holding of the shares in that company does not result in any controlling interest, directly or indirectly such being so deemed to be a controlling interest under subsection 6A(4) of the Companies Act, 1965.

(3) Prior to his being appointed as a member, an officer or servant of the Authority or as a member of a committee thereof, every person shall disclose fully to the authority which appointed him whether he has any such interest as is referred to in subsection (1).

(4) Where any such member, officer or servant acquires any such interest after the coming into operation of this Enactment, he shall cease to be such member, officer or servant of the Authority or a committee thereof, as the case may be, and his appointment shall be deemed to be revoked forthwith.

(5) Subsection (4) shall not apply where the member, officer or servant inherits or is bequeathed with such interest and he relinquishes or disposes of such interest within three months of its being bequeathed or vested in him and within such period reports in writing to the authority which appointed him the fact of such relinquishment or disposal.

(6) Any person who contravenes this section commits an offence and shall on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both imprisonment and fine.

Section 28 – Public servants for purposes of Penal Code.

28. The members, officers and servants of the Authority and the members of a committee thereof shall be deemed to be public servants within the meaning of the Penal Code.

Section 29 – Application of Public Authorities Protection Act, 1948.

29. (1) The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceeding against the Authority, or against any member, officer, servant or agent thereof in respect of any act, neglect or default done or committed by him in that capacity.

(2) No matter or thing done and no contract entered into by the Authority and no matter or thing done by a member, officer, servant or agent of the Authority acting under the direction of the Authority shall, if the matter or thing was done or the contract entered into *bona fide* for the purposes of this Enactment, subject such member, officer, servant or agent personally to any action, liability, claim or

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demand in respect thereof, and expenses incurred by the Authority or such member, officer, servant or agent in connection therewith shall be paid out of the funds of the Authority.

PART IV

FINANCE

Section 30 – Establishment of the Fund.

30. For the purposes of this Enactment there is established a fund, hereinafter referred to as "the Fund", to be administered and controlled by the Authority-

(a) into which shall be paid-

- (i) such sums as may be provided from time to time by the State and the Federal Government;
- (ii) such sums as may be allocated from time to time to the Authority from the proceeds of loans raised by the State Government;
- (iii) such sums as may from time to time be borrowed by the Authority for the purpose of meeting its obligations or discharging any of its functions and powers;
- (iv) monies earned by the Authority from any project, scheme or program financed from the Fund;
- v) monies earned or arising from any property, investment, mortgage, charge or debenture acquired by or vested in the Authority;
- (vi) any fees or other charges prescribed and collected by the Authority; and
- (vii) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions and powers; and

(b) out of which shall be defrayed-

- (i) all expenditure, including capital expenditure, incurred by the Authority in carrying out its functions and powers;

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- (ii) moneys for the repayment of any loan made to the Authority pursuant to its power to borrow;
- (iii) the salaries, fees or remuneration of the officers, agents and servants, and technical or other advisers of the Authority including loans granted to officers and servants; and
- (iv) any subsidy or credit facility granted by the Authority pursuant to its powers under this Enactment.

Section 31 - Gifts

31. The Authority may accept any gift made to the Authority for all or any of the purposes specified in the Enactment and, subject to the terms and conditions of any gift, apply them for those purposes in accordance with the provisions of this Enactment.

Section 32 – Borrowing powers.

32. The Authority may, with the approval of the State Authority and upon such terms and conditions as may be determined by it, borrow such sums as the Authority may require for discharging any of its functions and powers under this Enactment.

Section 33 - Finance

33. (1) The expenses of the Authority, up to such amount as may be authorized by the State Authority in accordance with subsection (2) for any one year, shall be defrayed out of the Fund.

(2) The Authority shall, before the beginning of July or such other time as may be determined by the State Authority, submit to the State Authority an estimate of the expenses for the following year in such form and with such particulars as the State Authority may require and the State Authority shall before the beginning of that following year notify the Authority of the amount authorized for expenses generally or of the amount authorized for each description of expenditure.

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

Section 34 – Loans and scholarships to officers and employees.

34. (1) Subject to subsections (2), (3) and (4) the Authority shall not lend money to an officer or employee.

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(2) The Authority may lend money to an officer or employee-

- (a) for the purchase, erection, alteration, renovation or enlargement of a house in which he resides or intends to reside;
- (b) for the discharge of a mortgage or encumbrance on such a house;
- (c) for the purchase of a vehicle; and
- (d) for any other purchases as deemed fit by the authority

(3) The Authority may, where it satisfied that special or compassionate circumstances exist or the purpose appropriate, lend to an officer or employee on such terms and conditions as the Authority thinks fit, money not exceeding at anyone time an amount equal to three months salary of the officer or employee.

(4) The Authority may grant study loans or scholarships to any officer or employee of the Authority or any child (including a step-child or adopted child) of such officer or employee, or to any suitable person, in accordance with such terms and conditions as may be approved by the Authority generally or in any particular case.

Section 35 – Restriction on giving of financial assistance, etc.

35. The Authority shall not, without the prior written consent of the State Authority give financial assistance to any public authority or person by the taking up of shares or debentures or by way of loan, advance, grant or financial guarantee unless otherwise authorized under this Enactment.

Section 36 – Investment.

36. The Fund of the Authority may, in so far as it is not required to be expended by the Authority, be invested in such manner or be deposited in such financial institutions as the State Authority may approve.

Section 37 – Accounts and audit

37. (1) The Authority shall keep proper accounts and other records of the Authority's transactions and affairs in accordance with generally accepted accounting principles and shall do all things necessary to ensure that all income are properly accounted for and that all expenditures out of the Fund is properly authorized and that adequate control is maintained over the assets or is in the custody of the Authority and over the incurring of any liability by the Authority.

(2) The Authority shall have a financial year beginning on 1st January.

(3) The accounts shall be audited annually by the Auditor General or such other auditor as may be appointed by the Authority with the approval of the State Authority.

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(4) The Authority shall within 6 months after the end of each financial year have its accounts audited and transmitted to the State Financial Officer together with a copy of any observation made by the Auditor General or auditor as appointed under subsection (3) on the accounts of the Authority and a copy of the annual report referred to in section 39.

(5) The Menteri Besar shall cause a copy of every such statement together with a copy of any observation made by the Auditor General or auditor appointed under subsection (3) on any statement or on the accounts of the Authority and a copy of the annual report referred to in section 39 to be laid on the table of the next meeting of the State Legislative Assembly.

Section 38 – Investigation of accounts.

38. (1) The State Authority may at any time direct such of person as the State Authority may appoint to make an investigation of the books, accounts and transactions of the Authority.

(2) The Authority shall afford such person access to its books, accounts and documents and give such information as may be required by the person to conduct the investigation.

Section 39 – Annual Report.

39. (1) The Authority shall not later than the 30th day of June of each financial year cause to be made and transmitted to the Menteri Besar a report dealing with the activities of the Authority during the preceding year.

(2) The Menteri Besar shall cause a copy of every such report to be laid before the State Legislative Assembly.

PART V

PROTECTION AND DEVELOPMENT OF WATER SOURCE

40. (1) Notwithstanding anything contained to the contrary in any other written law the Authority shall be responsible for the regulation and control of all water sources including but not limited to the sustainable development, management, use and conservation of the water source.

(2) Where any other public authority or private operator has been given any task or responsibility similar to subsection (1) by the State Authority or under any other law, it

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shall continue to exercise its functions but coordinate its activities with the Authority.

Section 41 – Control of use and flow of water.

41. (1) Notwithstanding anything contained to the contrary in any other law the Authority shall exercise supervision and control over the use and flow of water in any water source and whether occurring naturally on the surface or subsurface of the ground.

(2) Subject to section 45, no person or public authority shall, except with the approval of the Authority, disrupt the natural flow of water in any water source or take or use water from any water source except in such quantities as may be approved by the Authority from time to time.

(3) In the exercise of the powers conferred by subsection (1), the Authority may take such measures as it thinks fit for-

- (a) the conservation, replenishment and supply of water;
- (b) the equitable distribution of water;
- (c) the beneficial use of water;
- (d) the protection of water from pollution and the improvement of its quality;
- (e) preventing any unauthorized interference with the flow or availability of water;
- (f) preventing the unauthorized obstruction of a water source or the diversion of the course of a water course;
- (g) preventing the carrying out of any unauthorized works;
- (h) in consultation with the relevant public authority, the mitigation and control of flooding; and
- (i) protection of the environment.

(4) Any person who fails to comply with the requirements, directions, orders, instructions and request of the Authority in the exercise of its powers under subsection (3) commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment not exceeding two years or to both.

Diversion of waters

Section 42 – Diversion of waters.

42. (1) Save as may be expressly authorized under the waters provisions of any other law, no person or public authority shall, except under and in accordance with the terms of a license issued under section 59, by means of a ditch, drain, channel, pipe or otherwise divert the water of any river from its natural course.

(2) Whenever any such diversion shall have been made, the occupier or occupiers of the lands (if any) benefited by such diversion shall, in the absence of proof to the contrary, be presumed to have made it.

Power of Director in river reserves and coastal waters

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(3) Licenses to divert water from a river for use to generate electricity may be granted by the Authority with the approval of the State Authority.

Section 43 – Power of Director in river reserves and coastal waters.

43. (1) Save as may be expressly authorized under the provisions of any other law no person shall, after the commencement of this Enactment undertake, without . approval in writing of the Director, any resource alteration activity within a flood zone, river reserve or any other buffer or protection zone declared under section 48, or on, in or above a water source unless the activity is of a type which the Director has declared in writing does not require approval.

(2) If, in the opinion of the Director, an activity, works, structure or building, within a flood zone, river reserve or foreshore is causing a reduction in the volume or flow of water or the degradation of the quality of water or has an adverse impact on the environment, the Director may direct the person undertaking the activity or the owner or occupier of the structure or building in writing-

- (a) to modify or cease the activity; and
- (b) to modify, relocate or remove the structure or building

(3) The Director or any person authorized by him in writing may, at any time, enter upon and inspect any building or premise to which a permission is given under subsection (1).

(4) Any person who contravenes this section commits an offence and on conviction be liable to a fine of not more than fifty thousand ringgit or to imprisonment of not more than two years or to both; and any building or construction built or erected in contravention of this section may be removed or caused to be removed by order of the Director and the cost of such removal shall borne by such person.

(5) Nothing in this section shall be deemed to apply to any wall, revetment, building or structure in existence, in the course of construction or repair thereof at the commencement of this Enactment.

Section 44 – Power to impose charges.

44. (1)The Authority may, with approval of the State Authority, by notification in the *Gazette*, impose a charge on –

- (a) the use of water or any other resource from any water source including but not limited to the abstraction, extraction, discharge, drainage, diversion and impoundment of such water or other resources and
- (b) the return of water or discharge of waste, effluent or any polluting matter into any water source.

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(2) The charge shall, where possible, take into account the economic cost of the resources.

(3) The Authority may, with the approval of the State Authority, exempt any person or class of persons from all or a part of the charges upon a written application for exemption made by such person.

(4) In the event any charge imposed under subsection (1) remains unpaid and in arrears for more than ninety days the Authority may refuse to supply the water or the resources as the case may be and the Authority may take such steps as it may deem necessary to stop the discharge, flow or supply of the water or the resources.

(5) Any person who fails to pay any charge imposed under this section commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment not exceeding six month, or to both.

Section 45 – Rights to water for subsistence agricultural purposes.

45. (1) In this section ‘subsistence agricultural purposes’ means agricultural activity for the purposes of sustaining a family or group of families including commercial transactions at a subsistence level, but does not include commercial agricultural enterprises involving cropping or animal husbandry.

(2) The owner or occupier of any land or premise may, without charge, exercise a private right to take and use water sufficient for domestic and subsistence agricultural purposes-

- (a) where the land or premises has frontage to a water source; and
- (b) where there occurs groundwater under the land or premises.

(3) The right conferred in subsection (2) may be exercised provided that any works for taking and using the water does not -

- (a) cause a significant obstruction or diversion to the flow of water in the water source;
- (b) store more than one mega litre of water or such other quantity as may be declared or determined by the Authority from time to time; or
- (c) take water from the water source at a rate of flow exceeding twenty litres per second or at such other rate as may be declared or determined by the Authority from time to time.

(4) No licence shall be required for the exercise of the right conferred under this section. The Authority may require the right conferred under this section to be registered if the Authority considers that-

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- (a) the exercise of such a right is likely to reduce the quantity of water or lead to a deterioration of the quality of water or the environment; or
- (b) an integrated management plan or water management plan to be implemented by the Authority requires information on the rights conferred by this section.

(5) The Authority may, for the purposes of management, supervision and control over the exercise of a right conferred by this section, by notice order any person to take such measures as the Authority deems necessary including but not limited to installing or operating, from time to time, facilities for passing the flow of water through a work or device for the purpose of regulating or monitoring the flow of water and to be operated in accordance with certain periods of time and procedures.

(6) The Authority may suspend or restrict the exercise of the private water right, either permanently or for a specified period of time-

- (a) if the water is being used improperly or used in a manner harmful to the environment; or
- (b) where a direction made by the Authority under this section has not been complied with,

by serving on the person exercising the right a notice directing the person to act in accordance with the Authority's directions.

(7) Any person who fails to comply with the requirements of the notice in subsection (6) commits an offence and shall on conviction be liable to a fine not exceeding three thousand ringgit or to imprisonment not exceeding three months.

Section 46 - Implementation of integrated management plans.

46. (1) Notwithstanding anything to the contrary contained in any written law, the Authority-

- (a) may draw up and implement an integrated management plan for the conservation and sustainable development of any water source;
- (b) shall advise any public authority, within whose jurisdiction any water source or part thereof occurs, on matters pertaining to the management, conservation and development of the water source;
- (c) shall report annually to the State Authority on the status of compliance with federal and state laws and regulations and plans on all water sources in the State;
- (d) may establish local area management committees and stakeholder groups to work with the Authority;

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(e) may advise the State Authority on the demarcation of river reserves and other zones of protection; and

(f) may regulate the development of any dam , reservoir or impoundment on any water source.

(2) The Authority may, with the approval of the State Authority, make regulations under section 127 for any of the above including the control of any resource alteration activity undertaken by any person or public authority.

Section 47 - Authority may advise on works and development.

Act 172

47. The Authority may, if required, advise any person or public authority, undertaking any works or development on any land or part thereof including the alienation, reservation, sub-division, partition, amalgamation, classification or conversion of such land and drawing up, amending or updating of structure plans and local plans pursuant to the Town and Country Planning Act, 1976. *Act 172*

Section 48 - Establishment of Zones of Protection.

48. (1) The State Authority may prescribe zones of protection and buffer zones including but not limited to river reserves and flood zones, for the purpose of safeguarding any water source, reservoirs and environmentally sensitive coastal areas.

(2) The boundaries of any zone of protection established pursuant to subsection (1) shall take into consideration competing uses of the land area involved.

(3) Every zone of protection shall be established by notification in the *Gazette* and shall include a description of the purposes for which the zone is declared, the geographic boundaries of the zone and the restrictions which are applicable within the zone.

(4) No person shall undertake or cause to be undertaken any activity or works which impairs or is in conflict with the purposes for which a zone of protection is established.

(5) Without prejudice to the generality of subsection (3), the Authority may, in consultation with any other public authority, establish restrictions within a zone of protection which may include but shall not be limited to-

- (a) a prohibition or limitation upon the sitting or erection of any structures or the carrying out of any works;
- (b) a prohibition or limitation upon the application or storage of any chemical, including pesticide or fertilizer;
- (c) a prohibition or limitation upon the alteration of existing land contours, including any grading or the construction of roads;

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- (d) a prohibition or limitation upon the clearing or harvesting of vegetation, including the felling of any trees, the removal of riparian growth or the draining of wetlands; and
- (e) a prohibition or limitation upon the discharge of any effluent or waste.

(6) Any interested person or the owner or occupier of any land within a zone of protection established pursuant to this section, upon presentation of a written request made to the Authority as the case may be, shall be granted a hearing pertaining to the establishment of the boundaries of the zones or the limitations imposed within the zone.

(7) Any person aggrieved by the decision of the Authority made in accordance with the provisions of subsection (6) may, within twenty-one days after the date of the decision, appeal to the State Authority whose decision shall be final.

(8) In the event the designation of any zone of protection results in or requires any land to be reserved for a public purpose or the acquisition of land, every such land to be reserved or acquired, including the award of compensation and appeals related thereto shall be conducted in the manner provided for by the relevant laws in respect of the same.

(9) Any person who contravenes any of the provisions of this section commits an offence and on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment not exceeding two years or both.

Section 49 - Control of wastage of water

49. (1) Notwithstanding anything to the contrary contained in any written law the Authority may, by notice in writing, order any person or public authority to-

- (a) prevent water taken from a water source from being wasted or improperly used; and
- (b) take, within a specified time, specified measures or precautions to protect the quality of water in the water source.

(2) Any person or public authority, granted the right to take and use water under this Enactment or any other written law, shall comply with any direction made under this section.

(3) Any person or public authority who fails to comply with the requirements of any notice issued under this section commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment not exceeding six months, or to both.

Section 50 - Directions to carry out certain works

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50. (1) No person or public authority shall undertake any resource alteration activity on any water source.

(2) The Authority may, by notice in writing, order any person or public authority undertaking such activity or having control of such activity to-

- (a) remove the whole or any specified part of the works or activity;
- (b) stop or render the works or activity ineffective;
- (c) permit the flow of water through or past the works or activity;
- (d) prevent, cease or discontinue the carrying out of or use of the works or activity;
- (e) carry out remedial, rehabilitation or regeneration work; or
- (f) carry out any of the above within a certain period of time and in any combination as the Authority may direct.

(3) Any person who fails to comply with the requirements of any order issued under this section commits an offence and on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment not exceeding five years, or to both and to a further fine of three thousand ringgit for every day that the offence is continued after the notice in subsection (2) has been served.

Section 51 - Carrying out of works by the Authority

51. (1) Where any order issued by the Authority under this Enactment has not been complied with, the Authority or any person authorized by the Authority may-

- (a) enter the site of the activity or works, and to the extent necessary to gain access to the activity or works, enter any adjoining land;
- (b) carry out the works specified in the order; and
- (c) take any other action in relation to the works that the Authority or person authorized by the Authority considers necessary or expedient for the purposes of effecting the order.

(2) Any cost incurred by the Authority pursuant to the action taken under subsection (1) shall be recoverable as a debt owed to the Authority by the person on whom the order was served.

Section 52 - Carrying out of works by the Authority

52. (1) No person or public authority shall, except with orders the approval of the Authority, remove or permit the removal of resources from any zone of protection where such removal is likely to reduce the availability of water or lead to a deterioration of the quality of water or environment or may cause an obstruction or diversion to the flow and use of water.

(2) The Authority may, pursuant to subsection (1) and without prejudice to any other action it may take under this Enactment, by notice in writing issue an impounding

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order to the person or public authority concerned in respect of either or both of the following-

- (a) the whole or a specified part of the resources removed; and
- (b) any specified plant or equipment used in the removal.

(3) The order shall take effect immediately or from the time specified in the order and will be subject to such conditions as the Authority may specify in the order.

(4) A person or public authority served with an impounding order shall not cause, permit, suffer or allow any resources, plant or equipment that is the subject of the order to be used, moved, sold, disposed of or otherwise dealt with, except as permitted by the order.

(5) The Authority may vary or revoke an impounding order or the conditions of an impounding order by written notice given to the person or public authority concerned.

(6) An impounding order shall remain in force-

- (a) until the order is revoked by the Authority;
- (b) for a period of 12 months where no proceedings for an offence under this section have been instituted within that period;
- (c) until the final disposal of any proceedings instituted in respect of any offence under this section;
- (d) until the order is revoked by the Authority;
- (e) for a period of 12 months where no proceedings for an offence under this section have been instituted within that period; or
- (f) until the final disposal of any proceedings instituted in respect of any offence under this section.

Act. 71

(7) Any person who contravenes or fails to comply with the provisions of this section or the terms or conditions of any impounding order commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment not exceeding six months, or both.

(8) If any person or public authority issued with an impounding order is convicted of an offence under this section, the Court on the application of the Authority may make either or both of the following-

- (a) order that any resources with which the proceedings are concerned and which is the subject of the impounding order be forfeited to the State;
- (b) order that any plant or equipment used in the removal of that resources and which is the subject of the impounding order be forfeited to the State.

(9) Any resources, plant or equipment ordered to be forfeited to the State under this section shall be disposed of or otherwise dealt with by the Authority. Any proceeds of

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disposal are to be applied towards the costs incurred by the Authority in carrying out remedial work in respect of the land from which the material or vegetation concerned was removed.

Section 53 - Measuring devices

53. (1) The Authority may require any person or public devices authority taking, using or returning water to fit an approved measuring or recording device to measure the quantity and quality of the water taken, used or returned and to submit at regular intervals such information as may be required by the Authority.

(2) Any person or public authority, required by the Authority under subsection (1) to fit a device, shall-

- (a) use only a device type approved by the Authority;
- (b) maintain and operate the device in proper working condition;
- (c) submit such information to the Authority and at such intervals as may be stipulated by the Authority;
- (d) ensure that the information submitted to the Authority is accurate; and
- (e) undertake, as and when required by the Authority, verification of the accuracy of the device in accordance with the Weights and Measures Act 1972.

Section 54 - Interpretation.

54. In this Part-

"land" includes, unless the context otherwise requires, any area forming the bed, banks, geologic formations and other soils of a water source;

"beneficial use" means the use of water in the right, amount during the period that the water is needed for producing the benefits for which the water is appropriated.

PART VI

DECLARATION OF RIVER BASINS, GROUND WATER AND WATER BODY

Section 55 - Application

55. The provisions of this Part shall only apply to areas declared as designated areas.

Section 56 - Declaration or designated river basin, catchment area, ground water wetlands and water body.

56. (1) The State Authority may, whenever it is considered necessary or expedient to

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further protect or conserve any water source, by notification in the Gazette declare any area or part thereof to be a designated-

- (a) river basin.
- (b) catchment area;
- (c) ground water area,
- (d) wetland; or
- (e) water body. .

(2) Every declaration made under this section shall-

- (a) define the limits of the designated area;
- (b) briefly describe the purpose for which the area is being reserved; and
- (c) be conclusive evidence that the area so described is reserved for a public purpose.

(3) The State Authority may amend or revoke any notification made under subsection (1) relating to the designated area.

(4) The Authority may, prior to the designation of any area for the purposes of this Part, consult any public authority including any Land Administrator and local authority and any person who has an interest in the designated area.

Section 57 - Powers and duties of the Authority in designated areas

57. (1) Notwithstanding anything to the contrary contained in any written law the Authority shall-

- (a) devise, implement and regulate the implement of an integrated management plan for the conservation and sustainable development of the water source;
- (b) advise assist and coordinate with any public authority, within whose jurisdiction a designated water source or part thereof occurs, on matters pertaining to the management, conservation and development of that water source including the amount of resources available, rate of extraction and safe yield;
- (c) undertake investigations and carry out research on the status of the water source in respect of the availability, sufficiency and quality of water and actions taken and to be taken by the Authority in order to preserve, protect and conserve or otherwise maintain the water source;
- (d) promote the designated area and the integrated management plan and encourage local area management committees and stakeholder groups to work with the Authority;
- (e) prescribe any water source into various classes and zones to enable more effective management and control of resources therein;
- (f) control and manage the development of any water source and the operations and maintenance of any works in any water source;
- (g) control and manage the development and operations of any dam, reservoir or

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impoundment on any water source and the operation of any existing dam, reservoir or any form of impoundment therein;

- (h) advise the State Authority to require any public authority under any written law to demarcate and classify zones of protection including but not limited to forest reserves, land reserves, river reserves, tidal zones and flood zones and regulate or require any public authority to regulate any activity within such reserves and zones; and
- (i) advise the State Authority on the demarcation and classification of zones of protection including but not limited to river reserves, catchment area, tidal zones and flood zones and regulate or require any public authority to regulate any activity within such zones.

Act. 172

(2) The Authority may make regulations under section 127 for any of the above including the control of any resource alteration activity by any person or public authority.

Section 58 - Works or development in designated areas to be subject to Authority's advise.

58. (1) Any person or public authority undertaking any works or development within a designated area or part thereof including the alienation, reservation, sub-division, partition, amalgamation, classification, reclassification or conversion of land under any written law including the drawing up, amending or updating of structure plans and local plans pursuant to the Town and Country Planning Act, 1976 shall consult with and obtain the Authority's advise prior to the commencement of such works or development.

(2) The person or public authority shall comply with any condition, direction or requirement imposed by the Authority and take such action including amending, modifying, postponing and stopping such activity or development to bring into effect the Authority's advice given pursuant to subsection (1).

Section 59 - Power to issue License

59. (1) No person or public authority shall, unless licensed by the Authority under this section, engage in-

- (a) the extraction, abstraction or exploitation of resources, other than rock material, from water sources and coastal waters;
- (b) the discharge of effluents or wastes or return water directly or indirectly by artificial means into any water source and coastal waters;
- (c) any recreational activity which may adversely alter the flow, quantity or quality of the water source and coastal waters;
- (d) the commercial exploitation of any natural or man made features of special interest which may adversely alter the flow, quantity or quality of the water source and coastal waters; and

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(e) any other resource alteration activity including but not limited to construction, farming, diversion or storage of water within the designated area or part thereof.

(2) Any person failing to comply with the provisions of subsection (1) commits an offence and shall, on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a period not exceeding two years or both.

(3) Any application for a license shall be in such form as may be prescribed and shall be accompanied by-

- (a) details of the activity or development proposed;
- (b) the impact of such activity or development on the water source and any person connected therewith; and
- (c) such fees as may be prescribed.

(4) Every license approved under subsection (1) shall be issued subject to the following-

- (a) any payment including deposit or security as may be determined by the Authority; Act. 56/65
- (b) such terms as may be specified by the Authority; and
- (c) such further terms and conditions as may be prescribed.

(5) A license issued under this Part may be revoked by the Authority upon the breach of any rule, term or condition of the license without payment of compensation, and thereupon any deposit or security furnished under subsection (4) shall be forfeited to the Authority. F.M.S Cap. 147

(6) A license issued under this Part may be revoked by the Authority at its discretion at any time before the date of expiry of the license notwithstanding that it has not become liable to cancellation under subsection (5) provided that there shall be paid to the person whose license was cancelled such compensation as may be agreed between the parties.

(7) The Authority may with the approval of the State Authority exempt, upon such conditions as it may impose, any public authority, person or class of persons, from the requirement to be licensed under this section. F.M.S Cap.147

Section 60 - Authority to be consulted prior to extraction of rock material

Interpretation

60. (1) Every Land Administrator shall, prior to authorizing any extraction of rock material from any water source or coastal waters pursuant to the provisions of the National Land Code 1965 consult with and obtain the Authority's advise. Act 56/65

(2) The Land Administrator and any person authorized by the Land Administrator F.M.S.
Cap. 147.

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shall comply with any condition, direction, or requirement imposed by the Authority and take such action including amending, modifying, postponing and stopping such activity or development to bring into effect the Authority's advice given pursuant to subsection (1).

Section 61 - Authority to be consulted prior to the diversion abstraction or discharge.

61. (1) The Inspector of Mines shall, prior to authorizing any diversion or abstraction of water from or the discharge of any substance into any water source pursuant to the provisions of the Mining Enactment 1929 consult with and obtain the Authority's advice.

(2) The Inspector of Mines and any person authorized by the Inspector of Mines shall comply with any condition, direction, or requirement imposed by the Authority and take such action including amending, modifying, postponing and stopping such activity or development to bring into effect the Authority's advice given pursuant to subsection (1).

(3) The provisions of this section shall have effect notwithstanding anything contained in the Mining Enactment, 1929.

Section 62 - Interpretation

62. In this Part-

“rock material” shall have the meaning assigned to it under the National Land Code 1965

"Inspector" means the Senior Inspector and Inspector appointed under the Mining Enactment, 1929. *Cap.* 147.

PART VII

RESOURCE USE EFFICIENCY AND CONSERVATION

Section 63 – Development of efficient practices.

63. (1) The Authority shall, in consultation with any affected person or public authority, develop and implement efficient practices for the conservation and sustainable use of any water source.

(2) Without prejudice to the generality of subsection (1), the development and implementation of efficient practices may be undertaken on any water source taking

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into consideration-

- (a) resource availability, safe yield and current use strategies;
- (b) any overall management plan for the water source;
- (c) drought, flood, or other similar variances from the normal situation;
- (d) categorization of the area according to availability of water, soil, vegetation, climate and land utilization;
- (e) the position of the social, economic and health conditions of the people;
- (f) available infrastructure;
- (g) technological advances related to the conservation and utilization of the resource;
- (h) institutions necessary to implement the efficiency and conservation measures;
- (i) time, cost, personnel and financing to implement the measures; and
- (j) such other measures as may be determined jointly by the Authority, public authority and affected person.

(3) The Authority may, by notice in writing, require any person or public authority to adopt and implement such efficient practices as may be determined pursuant to subsection (2).

(4) Any person failing to comply with the requirements of the notice commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or imprisonment for a period not exceeding six months or both and to a further fine of two thousand ringgit for every day the offence is continued after a notice by the Authority requiring compliance has been served.

Variable water pricing

Section 64 – Variable water pricing.

64. (1) Notwithstanding the provisions of section 44, the Authority may, for the purpose of encouraging efficient practices impose a differentiated charge on persons who adopt such practices.

(2) In determining the differentiated charge the Authority shall-

- (a) consider any efficient practice developed and implemented pursuant to section 63;
- (b) measure or cause to be measured the volume of resource abstracted, used, recycled, wasted and discharged;
- (c) take into consideration the economic cost of the water source; and
- (d) from time to time review these charges.

Section 65 – Transfer of water conserved through efficient practices.

65. (1) No person or operator shall, except with the prior written approval of the Authority, transfer any water through which has been conserved through the adoption of efficient practices

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(2) The Authority may, with such conditions as it may impose, approve the transfer of any conserved water by any operator or person to any other person or operator.

PART VIII

MITIGATIVE MEASURES

Section 66 - Control of peak flow drainage

66. (1) Any person undertaking any development in a designated area, whether commercial, residential, industrial or agricultural, shall evaluate or cause to be evaluated the contribution of such development to peak drainage or flood flows and shall include such measures to control and mitigate the adverse effects of drainage including the provision of on-site facilities, off-site improvements and the cost of such measures.

(2) Every such evaluation shall comply with the guidelines and procedures made pursuant to any existing law or as may be prescribed by the Authority.

(3) In the event the evaluation undertaken pursuant to subsection (1) shows that the proposed development will have a contribution to peak drainage or flood flows that is greater than zero, the developer shall be required to-

(a) take all necessary measures, to control the estimated contribution to peak drainage or flood flows on-site; or

(b) make a contribution to the Authority or relevant public authority for the full cost of constructing, operating and maintaining all works necessary for the offsite control of the contribution to peak drainage or flood flows created by the proposed development.

(4) For the purposes of this section, the term "development" shall have the meaning assigned to it under section 2 of the Town and Country Planning Act, 1976. *Act 172*

Section 67 - Participation by Director in the development of Structure Plans and Local Plans

Act. 172

67. (1) Every local authority shall invite the Director to participate in the development of the draft structure plans and draft local plans made pursuant to the Town and Country Planning Act, 1976 for the adoption of measures related to the management, conservation and development of water sources in such plans.

(2) Pursuant to subsection (1), the Director may-

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- (a) serve on any technical committee formed to assist in the development of draft structure plans or local plans;
- (b) review, comment upon and advise regarding the content of any drainage strategy plan prepared as part of a draft structure plan or draft local plan; and
- (c) furnish such technical assistance as may be required by the State Planning Committee established pursuant to the Town and Country Planning Act, 1976.

Act 172

Section 68 – Flood defence

68. The Authority may in consultation with the relevant public authority, prescribe such measures as, it deems fit for the control and management of floods including-

- (a) the formation, organization and operations of flood defense committees for river basins;
- (b) the adoption of mitigate measures to lessen *the* impact of flooding; and
- (b) such other matters as maybe determined to be necessary for the proper management of flood defense.

Section 69 – Advice to the State Authority on floods.

69. The Authority shall, in the event of the occurrence of any flood, advise the State Authority on-

- (a) the measures to be taken to mitigate the effects of the flood;
- (b) flood defense measures to adopted;
- (c) the mobilization of material, manpower and resources
- (d) the carrying out of any emergency works; and
- (e) the evacuation of and provision of temporary shelter to affected persons, animals and property.

Section 70 - Restriction on construction of walls and buildings on banks of rivers or within floods channel

70. (1) Save as may be expressly authorized under the provisions of any other law no person shall, after the commencement of this Enactment, erect or build any wall or construct any revetment along any bank of any river or erect any building or structure within fifty metres rivers of any such bank, or within any flood zone declared under section 48, except under and in accordance with the terms of a written permission in that behalf from the Authority which permission may be given subject to such conditions and restrictions as the Authority may impose.

- (2) The Director or any person authorized by him in writing may, at any time,

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enter upon and inspect any building or premise to which a permission is given under subsection (1).

(3) Any person who contravenes this section commits an offence and on conviction be liable to a fine of not more than fifty thousand ringgit or to imprisonment of not more than two years or to both; and any building or construction built or erected in contravention of this section may be removed or caused to be removed by order of the Authority and the cost of such removal shall be borne by such person.

(4) Nothing in this section shall be deemed to apply to any wall, revetment, building or structure in existence in the course of construction or the repair thereof at the commencement of this Act.

Section 71 - Mitigation of flood disasters

71. (1) In the event of danger from impending floods and the Director is satisfied that it is necessary to take steps to avoid disaster or minimize damage which may be caused by the floods, the Director may-

- (a) enter upon the required land, building or premise;
- (b) use or cause to be used or requisitioned any earth, stone, tree or other material, vehicle, animal or tools;
- (c) dispose, remove or destroy or caused to be disposed, removed or destroyed any works, structures or obstacles; and
- (d) require such persons as the Authority thinks necessary to assist it.

(2) Any damage sustained by an owner or occupier or person in consequence of the exercise of the powers given by this section may be compensated by the Authority for such loss as would ordinarily be incurred.

Section 72 - General drought orders

72. (1) If the Authority is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supply of water in any area exists or is threatened then the Authority may, with the approval of the State Authority, by order take such action as appears to the Authority expedient to meet the deficiency.

(2) Without prejudice to the generality of subsection (1) the Authority may by order-

- (a) take or cause any other person to take water from any water source or discharge water to any place as may be specified in the order;
- (b) prohibit or limit the taking by any person of water from any water source or the supplying of water to any person, class of persons or localities as may be specified in the order;
- (c) suspend, vary or modify any restriction or obligation to which the

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Authority or any other public authority is subject to in respect of the taking, supplying or treatment of water;

- (d) suspend, vary or modify any consent, restriction or obligation to which the Authority or any other public authority is subject to in respect of the return of water, discharge of effluents or waste by any person; and
- (e) require any person to execute any works required for the performance of any duty or the exercise of any power which is imposed or conferred by the order.

(3) The Authority may, with such conditions and for such periods, amend, vary, extend, suspend, restrict or withdraw any order made under subsection (2).

(4) Any person who contravenes any of the requirements of an order issued under this section commits an offence and on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a period not exceeding one year or both.

Section 73 - Water table management in problem soil areas

73. (1) Where water table management in an area immediately adjoining a water source is necessary to prevent depletion of water supplies, subsidence of land, spontaneous combustion of soils or other adverse effects, the Authority may be declare any such area to be a problem soil area.

(2) The Authority shall, upon making a declaration under subsection (1), develop a management plan for the area in consultation with any public authority, affected person or stakeholders within the declared area.

(3) Without prejudice to the generality of subsection (2), the management plan shall include-

- (a) facilities to provide improved water table management;
- (b) a schedule which indicates by volume, time or geographic area, when abstraction or discharges may be permitted;
- (c) provision for extension services regarding water table management and efficient practices to improve the quality or reduce the quantity of abstraction and discharges; and
- (d) such other matters as may be determined to be necessary for proper water table management.

(4) Every owner or occupier of land within a declared problem soil area shall, unless otherwise exempted by the Authority with the approval of the State Authority with such conditions as it deems fit, abide by and give effect to any measure prescribed by the Authority or the relevant public authority under the management plan

(5) Every declaration made under this section shall

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- (a) define the limits of the problem soil area;
- (b) briefly describe the purpose for which the area is being reserve; and
- (c) be conclusive evidence that the area so described is reserved for a public purpose.

(6) The Authority shall, prior to the designation of any area under subsection (1), consult any public authority including any Land Administrator and local authority and any person who has an interest in the problem soil area.

(7) The Authority may amend or withdraw any notification made under subsection (1) relating to the declared area.

(8) Any person who contravenes any of the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a period not exceeding six months or both.

PART IX

PROTECTION OF THE ENVIRONMENT,

Section 74 – Savings

74. Nothing in this Part shall be construed as relieving or exempting any person from complying with the provisions of the Environmental Quality Act, 1974. Act 127

Section 75 - Environmental Impact Assessment of proposed projects.

75. (1) No person shall commence any development, activity or project within any designated area prior to the completion of an assessment of the environment of such development, activity or project. Act. 127

(2) Where the proposed development, activity or project is a prescribed activity under the terms of Section 34A of the Environmental Quality Act, 1974, the project proponent shall fully comply with the terms of the Act and regulations and orders made thereunder. The Authority may, if required, advice the Director General of Environmental Quality in the consideration of any report or in the making of any decision pertaining to the proposed development, activity or project. Act. 127

(3) The project proponent shall undertake or cause to be undertaken a report on any works within any designated area not otherwise prescribed under the terms of Section 34A of the Environmental Quality Act, 1974. The report shall be in accordance with guidelines developed by the Authority in consultation with the Director General of Environmental Quality and shall contain an assessment of any impact the proposed works may have on the environment, and the measures that

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should be undertaken to prevent, reduce, abate or control any adverse environmental impact which is identified.

(4) Any report prepared pursuant to subsection (3) shall be submitted to the Authority which shall do any of the following:

- (a) examine the report and make such inquiries as it considers necessary;
- (b) require further information and reports to be submitted; and
- (c) approve the report, with or without conditions to be adhered to by the project proponent; or
- (d) reject the report, giving reasons for such a decision and allowing the project proponent to revise and submit a revised report for further consideration, and shall inform the project proponent of its decision thereof.

(5) Upon completion of the assessment and examination provided for in subsection (2) or upon approval of the report provided for in subsection (3), as appropriate, the project proponent shall comply with any conditions imposed upon the implementation of the proposed project through the adoption of appropriate environment management plans and shall submit periodic progress reports regarding compliance with the conditions and the plans.

(6) The Authority may, on the basis of the progress reports submitted in accordance with subsection (5) or upon inspection of the activity, require remedial action to be taken to prevent, reduce or control the adverse impact on the environment of such activity.

(7) Any person who contravenes this section commits an offence and shall upon conviction be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a period not exceeding three years or to both and to a further fine of five thousand ringgit for every day that the offence is continued after a notice by the Authority requiring compliance has been served.

Section 76 - Environmental assessment of existing projects

76. (1) The Authority may undertake, or cause any person or public authority in control to undertake, an assessment of the environmental impact of every existing project within the designated area. Such assessment shall include an evaluation of measures that may be undertaken to prevent, abate, reduce or control any adverse impact of the project on the environment.

(2) Any recommendation made as part of the assessment described in subsection (1) shall be implemented, as far as is reasonably practicable, by the Authority or relevant public authority, as the case may be.

(3) The Authority may, by notice in writing, require any person responsible for any existing resource alteration activity within a designated area to implement

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measures that, in its opinion, are appropriate to mitigate the adverse impact of such activity on the environment.

(4) The Authority may, in any dealing with any public authority, recommend to the State Authority measures to be implemented by the public authority under this section and the State Authority may make such directions on the recommendations as it may deem fit.

(5) Any person who contravenes this section commits an offence and shall upon conviction be liable to a fine not exceeding three hundred thousand ringgit or imprisonment for a period not exceeding three years or both and to a further fine of five thousand ringgit for every day that the offence is continued after a notice by the Authority requiring compliance has been served.

Section 77 - Scope of environmental assessment

77. Without prejudice to the generality of sections 75 and 76 of this Enactment any assessment of environmental, impact carried out under this Part shall include, but not limited to, consideration of the following-

- (a) improvement of water used efficiency;
- (b) minimization of runoff;
- (c) mitigation of impact upon downstream water users;
- (d) mitigation of impact upon in-stream resources;
- (e) the impact on reservoir operations, including minimum release requirements, which take into account downstream recreation and navigation uses as well river-dependent in-stream resources;
- (f) mitigation of impact due to water table draw down;
- (g) protection and rehabilitation of wetlands and other environmentally sensitive areas subject to ecological damage or deterioration;
- (h) prevention or mitigation of saline water intrusion;
- (i) mitigation of the impact of water extraction for aqua culture or other agricultural activities;
- (j) the establishment of zones of protection including the maintenance of river reserves;
- (k) reduction of the impact of drainage runoff on coastal areas subject to ecological damage or deterioration;
- (l) mitigation of the impact of drainage from agriculture;
- (m) avoidance or mitigation of the siltation of water sources;
- (n) control of the discharge wastes from agricultural or farming activities;
- (o) control of non point sources of pollution; and
- (p) the mitigation, prevention, abatement or control of any other impact arising from the project or activity.

Section 78 - Restrictions on pollution

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78. (1) The Authority may, in consultation with the Director General of Environmental Quality, prescribe acceptable conditions for the emission, discharge or deposit of wastes by any person into any designated area or part thereof,

(2) For the purpose of implementing conditions specified in accordance with subsection (1), the Authority may prevent, control or regulate the emission, discharge or deposit of wastes by any person into any designated area or part thereof,

(3) Without limiting the generality of subsections (1) and (2), a person shall be deemed to emit, discharge or deposit wastes into any designated area if:

- (a) he places any waste or allows any waste to gain access to any land, soil or water; or
- (b) he causes any alteration to the natural state and usage of the receiving land, soil or water.

(4) Any person who contravenes this section commits an offence and shall upon conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a period not exceeding two years or to both and to a further fine of three thousand ringgit for every day that the offence is continued after a notice by the Authority requiring compliance has been served.

Section 79 - Prohibition of pollution of a water source

79. (1) Save as may be expressly authorised under any written law no person shall, except under and in accordance with the terms and conditions of licence issued under this section, cause to enter or discharge into any water source-

- (a) any poisonous, noxious or polluting matter or waste that will render or is likely to render or contribute to rendering such water source or part thereof harmful, detrimental or injurious to the health, safety or welfare of the public or to animal or vegetable life or health therein or to other beneficial uses of such water sources;
- (b) any matter which by virtue of its temperature, biological or chemical content or its effect in discolouring water makes or contributes to making the water source or part thereof a potential danger to public health, safety or welfare or to animal or vegetable life or health or affects other beneficial uses of such water source;
- (c) any matter which by virtue of its physical nature, chemical or biological content, or its effect in discolouring water makes or contributes to making such water source difficult to treat or affects the flow, quality or quantity of water in the water source; and
- (d) oil of any nature, used, waste or waste containing oil or otherwise

(2) Whenever any such entry or discharge shall have been made, the owner or occupier of the property from which such entry or discharge originates shall, unless

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the contrary is proved, be presumed to have discharged or caused it to enter into the water source.

(3) Licence to enter or discharge into any water source any of the matter described subsection (1) may be granted by the Authority pursuant to the provisions of section 59.

(4) Any person who contravenes this section commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a period not exceeding three years or to both and to a further fine of three thousand ringgit for every day that the offence is continued after a notice by the Director requiring compliance has been served.

PART X

PRIVATISATION

Section 80 - Application.

80. (1) This Part shall apply to any transfer or disposal by the Authority, whether by one transaction or by a series of transactions, of all or any part of its undertakings.

(2) No undertaking shall be transferred or disposed of, worked, operated or managed by any person except pursuant to and in accordance with the provisions of this Enactment.

Section 81 - Transfer of undertakings

81. Subject to the limitations set forth in this Part, the Authority shall have the power to transfer or dispose of all or any part of an undertaking to any person licenced under this Enactment.

Section 82 - Requirement of Privatization Plan

82. (1) The Authority shall, prior to the transfer or disposal or any undertaking under section 81, prepare and submit a written privatization plan to the State Authority for its approval.

(2) The privatization plan shall include-

- (a) the identity of the undertaking to be privatized;
- (b) the estimated value of the undertaking;
- (c) the nature and extent of the liabilities, if any, to be transferred;
- (d) the manner in which the undertaking and liabilities are to be transferred or disposed of;

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- (e) any arrangements relating to the transfer of relevant officers and employees to the prospective operator;
- (f) provisions authorizing the collection of reasonable charges by the Authority and the payment of a reasonable portion thereof as compensation to any operator assuming responsibility for the undertaking; and
- (g) such other matters as the Authority may consider appropriate.

Section 83 – Approval of Privatisation Plan by the State Authority.

83. (1) No privatization plan shall be put into effect until it has been approved by the State Authority.

(2) Every privatization plan shall be put into effect in the form approved by the State Authority.

(3) The State Authority may grant approval to any severable part of a privatization plan and this Enactment shall apply to that part as if it were the privatization plan.

(4) The State Authority may, in its discretion or upon the application of any interested person, amend any privatization plan.

(5) The State Authority may provide that any charges, or a reasonable portion thereof, imposed pursuant to the provisions of this Enactment, be allocated to and be collected directly by the operator from any person on whom such charges may be imposed.

Section 84 - Implementation of Privatisation Plan.

84. Any privatization plan shall be implemented by the Authority upon-

- (a) the approval of the plan by the State Authority in accordance with section 83;
- (b) the execution of any necessary agreement between the Authority and the prospective operator of the undertaking; and
- (c) the issue of a licence to the operator pursuant to the provisions of section 87 of this Enactment.

Section 85 – Liabilities in respect of the undertaking.

85. Any liabilities identified in a privatization plan shall remain liabilities of the Authority as the case may be, except to the extent of any written agreement to the contrary entered into by all of the following-

- (a) the Authority;
- (b) the operator;
- (c) the person to whom the liability is owed; and
- (d) any guarantor of the liability.

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Section 86 - Powers, functions and duties of the Authority in respect of the privatized undertakings.

86. The Authority shall, in addition to the powers otherwise conferred by this Enactment, exercise a regulatory function with respect to the operation of privatised works and services provided by operators licenced pursuant to this Part. The performance of this function shall include-

- (a) the determination and enforcement of applicable performance standards for any relevant works and services; and
- (b) the determination and enforcement of applicable statutes for any works and services provided.

Section 87 – Licensing of operators

87. (1) Subject to such exceptions as may be prescribed by the State Authority, no undertakings shall be transferred operators. to, worked, operated or managed by any person other than a person licenced in accordance with the provision of this section.

(2) Any application for the grant of a licence under this section shall be made in writing and shall contain, or be accompanied by, such information and documents as may be specified by the Authority, as the case may be, for the purpose of considering the application and the suitability of the applicant for the licence.

(3) Upon receiving any application completed in accordance with subsection (2) the Authority, as the case may be, may-

- (a) issue the licence to the applicant consistent with the provisions of subsection (4); or
- (b) refuse to issue the licence.

(4) Every licence issued under subsection (3) shall set out the duration of the licence and shall further prescribe-

- (a) the types of services or facilities to be provided by the licensee;
- (b) the particular duties of the licensee in respect of the services or facilities provided by it;
- (c) any licence fee payable by the licensee including any fee required to fully compensate the Authority, as the case may be, for its costs in processing the application, transferring the subject undertaking or exercising a continuing regulatory function over the licensee; and

(d) such other matters or conditions as are deemed appropriate.

(5) No licence issued under this section shall be transferable.

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(6) Upon the issuance of a licence to an operator, the Authority shall not be liable for any loss or damage occasioned by any act, omission or default of such operator.

(7) Prior to the issuance of any licence, the Authority, may require security to be furnished for the due observance of the terms and conditions of the licence.

Section 88 – Suspension and revocation of license

88. (1) Any licence issued under this Part maybe suspended or revoked by the Authority, as the case may be, upon the breach by the operator of any of the conditions of the licence or upon any failure by the operator to comply with any provision of this Enactment or with any regulations or by-laws made hereunder, or if the operator ceases to work or operate the facilities and services in respect of which the licence has been granted. The suspension or revocation shall be of immediate effect notwithstanding any appeal made under subsection (2).

(2) An operator may appeal to the State Authority against the suspension or revocation of its licence under subsection (1). Every such appeal shall be made in writing within thirty days form the date on which the decision of the Authority is served on the operator. The decision of the State Authority with respect to any appeal under this section shall be final.

(3) Where a licence is suspended or revoked pursuant to subsection (1), the Authority may, if it considers that such suspension or revocation would materially affect the facilities and services, and with the consent of the State Authority:

- (a) take possession of any works;
- (b) operate any such works; and
- (c) engage any servant or employee of the operator to operate any such works.

Section 89 – Duties of the operator.

89. It shall be the duty of the operator to provide such services and facilities as specified in its licence to such extent as is necessary to meet any standard of performance determined by the Authority under this Enactment.

Section 90 – Standars of performance.

90. The Authority may, with the approval of the State Authority, prescribe such standards of performance and the enforcement of such standards in connection with the provision of any services and facilities as, in its opinion, ought to be achieved by the operator.

Section 91 – Submission of reports, accounts, etc.

91. Within three months after the end of each financial year of the operator or such

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longer period as the. Director may allow, the operator shall deliver to the Director-

- (a) A report of its operation during that financial year containing such information as is necessary to enable the Director to assess the operator and in such form as may be approved by the Director; and
- (b) its audited annual balance sheet, profit and loss account, together with any notice thereon, and the reports of its auditors and directors.

Section 92 – Submission of information.

92. (1) The Director may, from time to time and within such period and in such manner, require the operator to submit to him-

- (a) statistical information relating to the operations of the operator;
- (b) future development plans relating to any service or facility undertaken by the operator; and
- (c) such further or additional information as he deems necessary with reference to any report, accounts or information forwarded by the operator.

(2) An operator which fails to comply this section or section 91 shall pay to the Authority a sum of one hundred ringgit for every day during which the default continues after the thirtieth day from the date the operator is required to submit the report or information.

Section 93 – Authority to be informed of any change in control of operator.

93. (1) It shall be the duty of the operator, at all times, to inform the Authority immediately of the following matters-

- (a) any change in the control of the operator's operator company;
- (b) any industrial dispute between the operator and its employees; and
- (c) any proceedings or claims instituted or made against the operator which might have an adverse effect on the financial condition or on its ability to perform any condition under the licence.

(2) For the purposes of subsection (1)(a), the expression "control" means having the power, directly or indirectly, to direct the management and policy of the operator.

(3) An operator which fails to comply with this section commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit.

Section 94 – Failure of performance by operator.

94. (1) If it is determined by the Authority that an operator has failed or is likely to fail

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to carry out any of its duties under the licence issued pursuant to section 87 of this Enactment, the Authority may give notice in writing to the operator requiring it to perform such duties within the period prescribed in the notice.

(2) If upon expiry of the period prescribed in any notice issued under subsection (1), the operator has failed to carry out the duties identified therein, the Authority may engage any other person to perform those *J* duties, and all costs and expenses incurred by the Authority in respect thereof shall be reimbursed by the operator.

(3) A person engaged under subsection (2) may enter into any of the premises of the operator for the following purposes:

- (a) to take temporary possession of and operate any equipment or machinery belonging to or utilized by the operator;
- (b) to bring any equipment or machinery onto the premises; and
- (b) to employ any servant or employee of the operator, as may be necessary or proper for the purposes of carrying out any duties specified in the licence.

(4) The Authority shall not be liable for any damage or injury occasioned by any act, omission or default of the person engaged under subsection (2).

Section 95 – Reduction or cessation of supply by operator.

95. (1) An operator may, with prior approval of the Authority, reduce the quantity of water supplied to any consumer if, by reason of any drought or other unforeseen circumstances, the supply of water is insufficient to enable the full quantity or quality to be conveniently supplied.

(2) When the quantity of water is reduced by reason of the circumstances described in subsection (1), no liability shall be incurred by the operator in respect of any loss or damage caused by the reduction or cessation of supply, provided that an abatement to charges for the supply of water may be made in proportion to the reduction made.

(3) Nothing in subsections, (1) and (2) shall relieve an operator from responsibility for damages shown to have been caused by or resulting from its negligence or the negligence of its agents, servants or employees.

PART XI

ACTIVITIES ON THE SURFACE OF WATER BODIES

Section 96 – Control of navigation.

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96. (1) Save as may be expressly authorised under the provisions of any other written law, no person shall navigate a vessel on any lake, wetland or river recklessly, negligently, at such speed, loaded with persons, goods, fuel or any other thing in such a manner, or otherwise in any way that is dangerous or likely to cause injury or damage to any person, property or the environment, or annoyance or nuisance to any person.

(2) The Authority may prescribe for vessels, in relation to any lake, wetland or river-

- (a) types or classes of vessel that may be used;
- (b) the maximum speed;
- (c) the permissible draught;
- (d) the charges for registration of the vessels and for any other services provided by the Authority; and
- (e) any other fittings or equipment and operational requirements to ensure safety, health and protection of the environment.

(3) A person shall not, without lawful authority, dispose of any waste from a vessel or cause any noxious or hazardous substance to spill or escape from a vessel in a manner which pollutes or is likely to pollute the water in a lake, wetland or river.

(4) The Authority may require a vessel to be fitted with facilities for the storage and safe discharge or disposal of waste and facilities for the same purposes to be installed on land.

(5) Any person who contravenes this section shall be guilty of an offence and upon conviction be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a period not exceeding three years or to both and to a further fine of five thousand ringgit for, every day that the offence is continued after a notice by the Authority requiring compliance has been served.

Section 97 – Licensing of navigation on surface of water.

97. Save as may be expressly authorised under the provisions of any other written law and subject to such exceptions as may be prescribed by the State Authority, no person shall undertake any navigation on any lake, wetland or river other than a person licensed in accordance with the provisions of section 59.

Section 98 - Recreation

98. (1) The Authority may, unless otherwise expressly authorised under the provisions of any other written law, prescribe any activity or structure on or in a river or water body including a recreational or leisure activity, to be registered, if its satisfied that such an activity or structure is causing or may cause-

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- (a) damage to the bed, bank or shore of the water source.
- (b) pollution or degradation of the water in the water source;
- (c) harm or threat to licenced water activities
- (d) obstruction to navigation;
- (e) alteration to the flow, quality or quantity of water; or
- (f) danger or nuisance to any person or property.

(2) The Authority may issue directions to a person undertaking or organising an activity or erecting, using or operating the structure registered under subsection (1) for the purposes of protecting:

- (a) the bed, banks or shores of a water source;
- (b) the quality of water in a water source;
- (c) other authorised water activities; or
- (d) safety and health

and any such person shall comply with such directions.

(3) The Authority may, with the approval of the State Authority, impose charges for the carrying out of any activity or the erecting or operating of any structure registered under this section.

(4) Any person who contravenes this section commits an offence and shall upon conviction be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a period not exceeding three years or to both and to a further fine of five thousand ringgit for every day that the offence is continued after a notice by the Authority requiring compliance has been served.

PART XII

POWERS OF ENFORCEMENT

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Section 99 – Power to enter, search, inspect and seize.

99. Where the Director, any officer duly authorised in writing by him or a police officer not below the rank of Inspector is satisfied, or has reason to believe that any person has committed an offence under this Enactment, he may, if in his opinion it is necessary to do so for the purpose of investigating the offence, without a warrant, stop and search any person or stop, board and search any vehicle or vessel, or enter any premises, any may-

- (a) inspect, examine, seize or detain any equipment, computer, or industrial plant;
- (b) inspect, examine, seize or detain any record, book, licence, permit, certificate or document relating to-
 - (i) the performance or use of any equipment or industrial plant;
 - (ii) pollutants or wastes; or
 - (iii) any matter required to be carried on board a vehicle or vessel under this Enactment or under any other written;
- (c) inspect, examine, seize or detain any wastes or pollutants and any vehicle or vessel used in the conveyance of the wastes or pollutants;
- (d) make such inquiries and physical inspection of the vehicle, vessel, equipment, gear, stores and cargo as may be necessary;
- (e) make copies of, or take extracts from, any book, record or documents so seized and detained;
- (f) inspect, examine or take a sample of any substance, material or matter used, or which is likely to be used or usually used in any trade, industry or process carried on in or on the vehicle, vessel or premises; and
- (g) take a sample or cause a sample to be taken of any pollutant or waste that is emitted, discharged or deposited, or is likely to be emitted, discharged or deposited from the vehicle, vessel or premises.

Section 100 – Furnishing of information.

100. (I) The Director may by notice in writing require of any person or the occupier of any premises as the case may be, to furnish within such period such information as may be specified in the notice.

(2) Any person who, fails to furnish such information as is requested pursuant to subsection (I) or gives any answer or information that is false or misleading in any material respect, commits an offence and shall upon conviction be liable to a fine not exceeding ten thousand ringgit.

Section 101 – Power to require attendance or person acquainted with case.

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101. (1) An authorised officer making an investigation under this Enactment may by order in writing require the attendance before himself of a person who appears to be of person acquainted with circumstances of the case, and the person shall attend as so required.

(2) If the person fails to attend as required, the authorised officer may report the failure to a Magistrate who shall issue a warrant to secure the attendance of the person.

Section 102 – Examination of person acquainted with case.

102. (1) An authorised officer making an investigation under this Enactment may examine orally a person supposed to be acquainted with the facts and circumstances of the with case.

(2) The person shall be legally bound to answer all questions relating to the case put to him by the authorised officer, but the person may refuse to answer any question the answer which would have a tendency to expose him to a criminal charge, penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not the statement is made wholly or partly in answer to questions.

(4) The authorised officer obtaining information from a person shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by a person under this section shall, whenever possible be reduced into writing and signed by the person making it or affixed with his thumb print, as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish.

Section 103 – Admissibility of statements in evidence.

103. (1) If any person is charged with an offence under this Enactment, any statement, whether the statements amounts to a confession or not or whether it is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of an investigation under this Enactment or not and whether or not wholly or partly in answer to question, by that person to or in the hearing of an authorised officer and whether or not interpreted to him by another officer or other person, shall be admissible in evidence at his trial and, if the person charged tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement under subsection (1) shall be admissible or used-

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- (a) if the making of the statement appears to the Court to have been caused by any inducement threat or promise having reference to the charge against such person proceeding from a person in authority and sufficient in the opinion of the Court to give the person charged grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him; or
- (b) in the case of a statement made by the person after his arrest, unless the Court is satisfied that he was cautioned in the following words or words to the like effect

"It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence."

(3) A statement made by a person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of his not having been cautioned if he is cautioned as soon as possible after that.

Section 104 – Protection of informers.

104. (1) Except as hereinafter provided, no witness in Protection of any criminal proceedings whatsoever under this Enactment or any regulation made thereunder shall be obliged or permitted to disclose the name or address of an informer or the information received from him or state any matter which may lead to his discovery.

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

(3) If in the trial for an offence under this Enactment or any regulation made thereunder the Court, after full inquiry into the case, is of the opinion that the informer willfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if justice cannot be fully done between the parties thereto without the discovery of the informer, the Court may require the production of the original complaint, if in writing, and permit an inquiry and require a full disclosure of the informer.

Section 105 – Obstruction of Authority's rights of access.

105. (1) Where the Director is satisfied that there has been any wrongful obstruction

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of access, or encroachment upon any designated area or zones of protection declared under section 48, he may make an order requiring the person responsible thereof to remove the obstruction or encroachment and if the order is not complied with within the time specified therein, may take such steps as he may deem necessary for that purpose.

(2) No person shall obstruct, hinder or delay the Director an authorised person in effecting any entry which he is entitled to effect or in the execution of any duty imposed or power conferred by this Enactment.

(3) Any person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

Section 106 – Liability for damage to property.

106. If through any act, neglect or default, any person commits an offence under this Enactment and by such act, neglect or default, the person causes damage to any works or other property belonging to the Authority, such person shall, in addition to any penalty that may be imposed for the offence, be liable in damages to the Authority.

Section 107 – Tampering or adjusting without authority.

107. Any person who, without the permission of the Director-

- (a) tampers with or adjusts any approved equipment or work;
- (b) abstracts, consumes or diverts water or any other resource;
- (c) wastes water; or;
- (c) alters, tampers with or prevents any meter or other recording device from duly recording the input, output or consumption of water,

commits an offence and shall on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Section 108 – Disconnection of supply of water.

108. Where the Director determines that an offence has been or is likely to be committed under this Enactment, he may, upon giving not less than twenty-four hours' notice, cause the supply of untreated water from any water source to be disconnected from the premises and the supply of water shall not be reconnected until the Director, at his discretion, gives permission for reconnection.

Section 109 – Power to arrest.

109. Any officer authorised in writing by the Authority including a police officer not

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Power of recovery of costs and expenses

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below the rank of Inspector may arrest, without warrant, any person found to be committing an offence under the provisions of this Enactment and shall forthwith bring such person before any duly authorised officer designated, in writing, for such purpose by the Authority who may, if so empowered, compound the offence pursuant to the provisions of this Enactment or who may order the person to be produced before a Magistrate.

Section 110 – Prosecution.

110. (1) No prosecution for an offence arising out of the provisions of this Enactment shall be instituted except with the consent of the Public Prosecutor.

(2) Subject to the provisions of the Criminal Procedure Code the Director or any officer authorised by him shall be competent to conduct a prosecution for any offence under this Enactment or any regulation made thereunder before any Court.

Penalty for offences not otherwise provided for

Section 111 – Obstruction an offence.

111. Any person who obstructs or impedes the Director, any authorised officer or police officer in the lawful exercise of any of his powers under this Enactment or any regulations made thereunder commits an offence under i this Enactment and shall on conviction be liable to a fine L not exceeding ten thousand ringgit or to imprisonment r not exceeding six months or to both.

Section 112 – Power to compound offence.

Attempts and abetment

112. (1) The State Authority may, by order published in the *Gazette*, prescribe any offence against the provisions of this Enactment or of any regulations or by-laws made thereunder as an offence which may be compounded by the Authority and the method and procedure for compounding such as offence.

Offences by bodies of persons and by servants and agents

(2) The Director or any officer duly authorised by him may at his discretion compound such offence prescribed under subsection (1) by accepting from the person reasonably suspected of having committed any such offence a sum of money not exceeding one fourth of the amount of fine prescribed for the offence or no such amount is prescnbed then an amount not exceeding three thousand ringgit.

(3) When an offence is compounded under this section, no prosecution shall be instituted thereafter against the person suspected of having committed the offence.

Section 113 – Power of recovery of costs and expenses.

113. (1) Where any person does not comply with the requirements of any order, direction or notice given by the Authority under this Enactment or any rules made thereunder, the Director may take such action or cause such action to be taken as he deems necessary to comply with the requirements of the said order, direction or

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notice and may recover from that person all costs and expenses incurred in connection therewith.

(2) A certificate of the Director stating that-

- (a) he is of the opinion that the person named in the certificate is responsible for failing to perform such action shall be *prima facie* evidence for the purpose of any proceedings under this section; and
- (b) the sum incurred in carrying out all or any of the actions required under subsection (1) shall be conclusive proof of the sum due and shall not be subject to any appeal or review in Court.

Sessions Court to have jurisdiction

Sessions Court to have jurisdiction
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Section 114 – Penalty for offences not otherwise provided for.

114. Every omission or neglect to comply with, and every of act done or attempted to be done contrary to, the provisions of this Enactment or any regulations made thereunder or any breach of the conditions and restrictions subject to, or upon which, any licence is issued under this Enactment or any regulations made thereunder shall be an offence against this Enactment and in respect of any such offence for which no penalty is expressly provided the offender shall, on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment not exceeding six months or to both.

Section 115 – Attempts and abetment.

115. Whoever attempts to commit any offence punishable under this Enactment or any regulations made thereunder or abets the commission of such offence, shall be punished with the punishment provided for such offence.

Section 116 – Offences by bodies of persons and by servants and agents.

116. (I) Where an offence against this Enactment or Offences by any regulations made thereunder has been committed by a company, firm, society or other body persons an a company, firm, society or other body of persons, any person who at the time of the commission of the offence and was a director, manager, or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity shall be deemed to have committed that offence unless he proves that the offence was committed without his consent or connivance and that he had exercised all such diligence as to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Whenever it is proved to the satisfaction of the Court that a contravention of the provisions of this Enactment or any regulations made thereunder has been committed by any clerk, servant or agent when acting in the course of his employment the principal shall also be held liable for such contravention and to the

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penalty provided thereof unless he proves to the satisfaction of the Court that the same was committed without his knowledge or consent or that he had exercised all such diligence as to prevent the same and to ensure the observance of such provisions.

(3) Nothing in subsection (2) shall be deemed to exempt the clerk, servant or agent from liability in respect of any penalty provided by this Enactment or regulations made thereunder for any contravention proved to have been committed by him.

Section 117 – Sessions Court to have jurisdiction.

117. Notwithstanding any written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Enactment and to award the full punishment for any such offence-

Section 118 – Powers of police officers unaffected.

118. Nothing in this Part shall be deemed to affect the powers of a police officer under the Criminal Procedure Code.

PART XIII

MISCELLANEOUS

Section 119 – Right of access.

119. All officers of the Authority shall, at all reasonable times, have free access to all land for the purpose of implementing the provisions of this Enactment or any regulations made hereunder.

Right of access

Section 120 – Service of notice or documents.

Service of notice or documents

120. (1) Service of a document on any person shall be notice or effected-

- (a) by delivering the document to that person or by delivering the document at the last known place of residence of that person or to an adult on the premises;
- (b) by leaving the document at the usual or last known place of residence or business of that person in a cover addressed to that person; or
- (c) by forwarding the document by post in a prepaid letter addressed to that person at his usual or last known place of residence or business.

(2) A document required to be served on the owner or occupier of any premises

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shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of such premises without further name or description and may be served by delivering the document to some adult person on the premises or, if there is no such person on the premises to whom the document can with reasonable diligence be delivered, by fixing the document on some conspicuous part of the premises.

Power to prohibit

Section 121 – Power to prohibit.

121. (1) For the purposes of protecting the environment, public health or safety, conserve water, promote water use efficiency, ensure proper drainage or prevent flooding, the Director may, by notice in writing, issue an order to the operator of any works prohibiting the further operation of the works or any part thereof, absolutely or conditionally or for such period as may be directed or until remedial requirements have been satisfied.

(2) Any person who operates or obtains services from any works identified in an order issued pursuant to subsection (1) not in accordance with the provisions of such order commits an offence and shall on conviction be liable to fine not exceeding fifty thousand ringgit or to imprisonment not exceeding one year or to both and to a further fine of three thousand ringgit for every day that the offence is continued until the order is revoked.

Water protection orders

Section 122 – Water protection orders.

122. (1) The Director may issue a water protection order if satisfied that, in respect of the water in a particular water source, there is-

- (a) a significant and immediate threat or risk to the quantity or quality of water;
- (b) an immediate and serious threat or risk of pollution;
- (c) a serious threat or risk to health, caused by or contributed to by particular activities; or
- (d) a serious threat or risk to the environment.

(2) The Director may, by notice published in any media, issue an order for the protection of specified waters.

(3) An order issued under subsection (2) shall identify-

- (a) the person to which it applies;
- (b) the water source to which it applies;
- (c) the objectives of the order;
- (d) the actions or measures to be taken;
- (e) the modification to be made to any activity which must cease, be modified or be taken to reduce or eliminate the threat to the water; and
- (f) the time allowed for action to be taken or for , the activity to cease.

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(4) An order may continue for a period of no more than thirty days and on expiry may be renewed for such further periods as may be determined by the Authority with such modifications or variations as the Authority may deem fit.

(5) The Director shall immediately notify the Authority of any order made under subsection (1).

(6) In the event any action taken by a person is not within the time stipulated by the Director in a protected waters order, the Director may take the action or cause the action to be taken and, where applicable, recover the cost from the person.

(7) Notwithstanding subsection (6) any person who contravenes this section commits an offence and shall upon conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment not exceeding one year or to both and to a further fine of three thousand ringgit for every day that the offence is continued until the order is revoked.

Power to employ agents

Section 123 – Power to employ agents.

Acquisition of property

123. The Authority may employ and pay agents and employ technical advisors including advocates and solicitors, bankers, surveyors or valuers or other persons, to transact any business or to do any act required to be transacted or done in the execution of its duties or for the better carrying into effect the purposes of this Enactment.

Section 124 – Acquisition of property.

124. (1) Where any immovable property, not being State land or land reserved under any State law, is needed to be acquired for the purpose of this Enactment and cannot be acquired by agreement, such property may be acquired in accordance with the provisions of any written law relating to the acquisition of land for a public purpose for the time being in force in the State and any declaration required under any such law that the land is so needed may be made notwithstanding that the compensation is to be paid out of the Fund of the Authority, and the said declaration shall have effect as it were a declaration made in accordance with the said written law.

Protection from personal liability

(2) Expenses and compensation in respect of the acquisition of any immovable property under the provisions of this section shall be paid by the Authority.

(3) Where any immovable property has been acquired under this section, the Authority shall take out the necessary document of title in respect of the property and shall pay any rent to which the property is subjected to.

Power of Director to prescribe forms.

Regulations

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Section 125 – Protection from personal liability.

125. Except as otherwise provided in this Enactment no officer of the Authority shall be subject to any action, claim, or demand by any person in respect of anything done or omitted to be done in good faith in pursuance of or in execution or intended execution of; any power conferred by this Enactment.

Section 126 – Power of Director to prescribe forms.

126. The Director may prescribe forms for any book, instrument or paper required under this Enactment.

Section 127 – Regulations.

127. The Authority may, with the approval of the State Authority, by notification in the *Gazette*, make such rules or regulations as may appear to it to be necessary or expedient for carrying out the provisions of this Enactment, and without prejudice to the generality of the foregoing, for all or any of the following matters:

- (a) the proper operations and functioning of the Authority;
- (b) the functions and duties of the Director, any officer and committee appointed by the Authority;
- (c) the establishment and maintenance of a register of water sources;
- (d) the declaration of designated areas, zones of protection and buffer zones and the implementation of integrated management plans, for these areas;
- (e) the development of designated areas, zones of protection and buffer zones;
- (f) to prescribe the fees, charges and other rates;
- (g) measures for efficient management practices in conserving, augmenting and distributing resources;
- (h) resource use efficiency and conserving;
- (i) the management, regulation and control of ground water;
- (j) the management, regulation and control of wetlands;
- (k) the measurement, classification and maintenance of records of the quantity, quality or other characteristics of water, any water source and other resources;
- (l) the categorisation of rights to resources and the marketing or transfer of water or other resources;
- (m) recycling of water;
- (n) the extraction of resources for any purpose;
- (o) mitigative measures to control drainage or flood flows or to minimise the impact of drought or floods;
- (p) the determination and maintenance of adequate or minimum acceptable flows of water in water sources;
- (q) the proper planning, design, construction, management, operation or maintenance of works in designated areas;
- (r) the identification of problem soil areas and determination of the appropriate

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measures to manage such areas;

- (s) formation, operation and management of stakeholder groups;
- (t) preventing, mitigating, remedying and regulating the pollution of water sources;
- (u) prohibiting or controlling the use of any chemical, equipment, vehicle, vessel, technique, practise or operation within designated areas;
- (v) the approval of the type of equipment, method or procedure;
- (w) methods and procedures, terms and conditions including payments for licences and permits;
- (x) establishing the standards of performance of operators;
- (y) the submission of reports, accounts, statistics and other information by operators;
- (z) the imposition and variation of fees, charges, deposit, levies and other rates by the operator;
- (aa) the methods, procedures, duration and any other matter pertaining to the issuance, revocation, suspension and withdrawal of any notice, order or declaration;
- (bb) the methods and procedures for the determination of appeals and disputes and the holding of inquiries or arbitration;
- (cc) the manner of execution of works including the power to enter, examine, measure, investigate and classify lands;
- (dd) the safety of dams;
- (ee) the protection of the safety and health of the public;
- (ff) the prevention, maintenance, removal, or destruction of obstructions, refuse, waste, vegetation or encroachments in or on rivers or other water sources;
- (gg) the regulation and control of the usage of water sources for the conveyance or floatation of timber or other products;
- (hh) the payments, costs and other sums charged for any matter or thing required or authorised to be done under this Enactment or regulations made thereunder;
- (ii) the collection, remission, rebate or deferment of payment of any sum required to be paid under this Enactment;
- (jj) regulating the operations, performance and services of the operator;
- (kk) to prescribe for all other matters generally to give effect to the provisions of this Enactment; and
- (ll) the prescribing of offences which may be compounded and the procedure for the compounding of such offences.

PART XIV

REPEALS AND TRANSITIONAL PROVISIONS

Section 128 – Repeal of existing laws.

128. (1) Upon coming into force of this Enactment, the existing Waters Enactment 1920

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in so far as it is applicable to the State of Selangor, is hereby repealed.

(2) Any regulation, rule, order, declaration, notice or notification made, given or issued under the terms of the Waters Enactment 1920 before the commencement of this Enactment shall, insofar as it is not inconsistent with this Enactment, continue in force until amended, revoked or replaced by a regulation, rule, order, declaration, notice or notification issued under the provisions of this Enactment. *Act 418.*

Section 129 – Power of State Authority to make additional transitional provisions.

129. The State Authority may, by regulation, make such provision as in considers necessary or expedient for the purpose of removing any difficulty occasioned by the make coming into force of this Enactment, and such regulations additional may be made so as to have effect from the commencement provisions, of this Enactment.

Section 130 – Transitional provisions with respect to officers.

130. Any person who, immediately before the commencement of this Enactment, was holding any office to which appointment may be made under any provision to officers, of this Enactment, shall continue in that office, and shall be deemed for the purposes of this Enactment to have been so appointed.

FIRST SCHEDULE

(Subsection 4(4))

DISQUALIFICATION OF MEMBERS MEETINGS AND DISCLOSURE OF INTEREST

1. (1) A person shall be disqualified from being appointed or being Disqualification, a member-

Disqualification

(a) if there has been proved against him, or he has been convicted on, a charge in respect of-

- (i) an offence involving fraud, dishonesty or moral turpitude;
- (ii) an offence under any law relating to corruption; or
- (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;

(b) if he is bankrupt; or

(c) if he is of unsound mind or is otherwise incapable of performing his duties.

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(2) A member shall vacate his office if he fails to attend three consecutive meetings of the Authority without the permission in writing of the Chairman or if he becomes disqualified under sub- paragraph (1).

(3) Where any member cease to be a member by reason of any of the provisions of this Enactment, another person shall be appointed in his place in accordance with the provisions applying in the case of the person who cease to be a member for the residue of the term for which such a person might have held office if he had not ceased to be a member.

Meetings

2. (I) The Authority shall meet at least once in every two months.

(2) The quorum at all meetings of the Authority shall be a majority of the members amongst whom there shall be either the Chairman or the Deputy Chairman, and in the absence of the Chairman, the Deputy Chairman shall preside at such meetings.

(3) If at any meeting of the Authority neither the Chairman nor the Deputy Chairman is present, the members present shall elect one of their member to preside at the meeting.

(4) If on any question to be determined, there is an equality of votes, the Chairman of Deputy Chairman, as may be presiding at such meeting, shall have a casting vote in addition to his deliberative vote.

(5) Subject to paragraphs (I), (2), (3) and (4) the Authority shall determine its own procedure.

Common seal. 3. (I) The Authority shall have a common seal, which shall bear such device as the Authority shall approve and such seal may from time to time to broken, changed, altered or made anew, as the Authority may think fit.

3. (1) The Authority shall have a common seal which shall bear such device as the Authority shall approve and such seal may from time to time to broken, changed, altered or made anew as the Authority may think fit

Common seal

(2) Until a seal is provided by the Authority a stamp bearing the description "Selangor Waters Management Authority" may be used and shall be deemed to be the common seal.

(3) The common seal or the stamp referred to in subparagraph (2) shall be kept in the custody of the Director and shall be authenticated by him or by any officer authorised by him 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.

(4) Notwithstanding subsection (3) 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

Disclosure of interest

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be executed by the Authority and any such document may be executed on behalf of the Authority by any officer or servant of the Authority generally or specially authorised by the Authority in that behalf.

4. A member having, directly or indirectly, by himself or his partner, Disclosure of any interest in any company or undertaking with which the Authority proposes to make any contract or having any interest in such a contract or in any matter under discussion by the Authority shall disclose to the Authority the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the, Authority, and unless specifically

authorised thereto by the Chairman such member shall take no part in any deliberation or decision of the Authority relating to the contract

5. Any minutes made of meetings of the Authority shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every meeting of the Authority in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Minutes receivable in evidence

SECOND SCHEDULE

(Section 7)

1. The Authority shall, on or before the date on which any corporation of is established under section 7 make regulations in respect of such to make defining-

Power of Authority to make regulations in respect of a corporation

- (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 Authority and its rights of control over such corporation.

2. Nothing in paragraph 1 shall be deemed to authorised the Authority to make regulations to establish any corporation for any purpose or object more extensive in scope than the purposes or objects for which the Authority was constituted or to confer on any corporation any right, duty, powers of functions of the Authority under this Enactment.

Savings

3. Subject to the provisions of this Enactment and of any regulations made under section 127, 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 Enactment.

Regulations subject to this Enactment

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4. The Authority may at any time amend, revoke or add to any the regulations made in respect of any corporation under paragraph I and section 34 of the Interpretation Act, 1967, shall apply to any such amended or revoked regulations as if such regulations had been written law.

Amendment of the regulations

Act. 388

5. The Authority shall keep a register in the prescribed form of all corporations established by it under section 7 and such register together with copies of all regulations made under paragraph 1 shall be open to public inspection at such place or places and at such times as it may prescribe.

Register of corporation

6. (1) The Authority may by order published in the *Gazette* direct that any corporation established by it shall be wound up and dissolved.

Winding up

(2) Upon the dissolution of any corporation under this paragraph the assets of the corporation after payment of all liabilities shall be transferred to and vested in the Authority.

(3) The winding up of a corporation under this paragraph shall be conducted in such manner as the Authority may prescribe.

7. Every corporation established under section 7 shall be a body corporate by such name as the Authority shall give to such corporation and shall have perpetual succession and a common seal and may sue and be sued in such name, and for the purpose of carrying into effect the developments for which it was established 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 Enactment and subject to such restrictions or limitations as may be prescribed by the Authority in each case.

Corporations to be bodies corporate

8. (1) Every corporation shall have a common seal, which shall, the bear such devices as the corporation, with the approval of the Authority, 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 Authority, as the corporation shall think fit.

Common seal of the corporation

(2) The common seal 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 with the said seal, authenticated as aforesaid, shall until the contrary is proved, be deemed to have been validly executed.

(3) Any document or instrument which, if executed by a person not being a body corporate, need not be under seal may in like manner be executed by the corporation, and any such document or instrument may be executed on behalf of the corporation by any officer or servant of the corporation generally or specially authorised by the corporation in that behalf.

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(4) The seal of every corporation shall be officially and judicially noticed.

THIRD SCHEDULE

(Subsection 26(4))

SECRETARY, COMMITTEES AND SUB-COMMITTEES

1. (1) The office of the Authority shall be in the Capital of the State Office and or at such place as the Authority may determine. Office and sub-office
- (2) The Authority may maintain sub-offices in such places in the State as it may deem necessary or expedient for the carrying out of its functions.
2. There shall be paid to members of any committee or sub-committee or to any person such remuneration or allowance for the performance of their duties under this Enactment and such allowances or expenses incurred in the performances of such duties, as the Authority may from time to time determine with the approval of the State Authority. Remuneration and allowances
3. (I) The Authority may appoint committees for any purpose arising out of or connected with any of its powers, duties and functions under this Enactment any committee so appointed shall include not less than one member of the Authority, and there may be appointed to such committee such other persons as the Authority may think fit. Committee and sub-committee
- (2) Any committee appointed under sub-paragraph (I) may appoint one or more sub-committees; any sub-committee so appointed shall include not less than one member of such committee, and there may be appointed to such sub-committee such other persons as the committee may think fit.
- (3) Any committee or sub-committee so appointed shall conform to any instructions from time to time given to it by the Authority, and the Authority may at any time discontinue or alter the constitution of any committee or sub-committee so appointed.
- (4) Subject to sub-paragraph (3), any sub-committee shall conform to any instructions from time to time given to it by the committee appointing it, and such committee may at any time discontinue or alter the constitution of any sub-committee so appointed.
4. (I) The Authority, a committee or a sub-committee may, respectively, invite any person who, in its opinion, is possessed of special knowledge of advantage to it, to Authority, committee, or sub-committee may invite other

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attend any meeting of the invite other persons to attend any meeting of the Authority such committee or sub-committee. persons to meetings

(2) No person so invited shall be entitled to vote at any such meeting.

5. A member of any committee or sub-committee, having, directly or indirectly, by himself or his partner, any interest in any matter under discussion by the committee or sub-committee of which he is a member shall disclose to the committee or sub-committee of which, he is a member the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the committee such member shall take no part in any deliberation of the discussion of the committee or sub-committee relating to the matter. Disclosure of interest

6. Any minutes made of meetings of any committee or sub-committee shall, if duly signed, be receivable in evidence in all legal proceeding, without further proof and every such meeting shall be deemed to have been duly convened and held and all members of the committee or sub-committee present at such meeting shall be deemed to have been duly qualified to act. Minutes receivable in evidence

7. No act done or proceeding taken under this Enactment shall be and questioned on the grounds of- Validity of act and proceeding

- (a) any vacancy in the membership of, or any defect in the constitution of, the Authority or any committee or sub-committee.
- (b) the contravention by any member or member of any committee or sub-committee, relating to the disclosure of interest by such member or-
- (b) any omission, defect or irregularity not affecting the merits of the case.

Passed this 9th day of April 1999.

[P.U. Sel. MESY/0101/B; DUN. Sel. 30287/1 Jld. II]

ASMAWAR BIN SAMAT
Clerk of the Legislative Assembly
Selangor