



# **LAWS OF MALAYSIA**

**Act 655**

**WATER SERVICES INDUSTRY ACT 2006**

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# LAWS OF MALAYSIA

## Act 655

### WATER SERVICES INDUSTRY ACT 2006

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SCHEDULE



**LAWS OF MALAYSIA****Act 655****WATER SERVICES INDUSTRY ACT 2006**

An Act to provide for and regulate water supply services and sewerage services and for matters incidental thereto.

[ ]

WHEREAS it is expedient for the purpose of ensuring uniformity of law and policy to make a law for the proper control and regulation of water supply services and sewerage services throughout Peninsular Malaysia and the Federal Territories of Putrajaya and Labuan:

AND WHEREAS it is also expedient that provisions be made to confer executive authority on the Federation for matters relating to water supply systems and water supply services and to make it clear that the executive authority conferred on the Federation for matters relating to sewerage systems and sewerage services is continued throughout Peninsular Malaysia and the Federal Territories of Putrajaya and Labuan:

NOW, THEREFORE, in accordance with Clause (1) of Article 74 and Clause (2) of Article 80 of the Federal Constitution, IT IS **ENACTED** by the Parliament of Malaysia as follows:

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

1. (1) This Act may be cited as the Water Services Industry Act 2006.

(2) This Act applies to Peninsular Malaysia and the Federal Territories of Putrajaya and Labuan.

(3) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates—

- (a) for the coming into operation of this Act in different parts of Peninsular Malaysia and the Federal Territories of Putrajaya and Labuan;
- (b) for the coming into operation of different provisions of this Act; or
- (c) for the coming into operation of different provisions of this Act in different parts of Peninsular Malaysia and the Federal Territories of Putrajaya and Labuan.

## **Interpretation**

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

“water”, in relation to the distribution or supply of water, means treated water;

“watercourse” includes rivers, streams and creek including any tributary, distributary or artificial deviation thereof, seas, lakes, ground water, dams, reservoirs, ditches, drains and passages, other than pipes, through which water flows for the supply of water to any premises;

“register” means a register maintained by the Commission for the purposes of this Act;

“prescribed” means prescribed by the Minister under regulations made under section 84 or 179, as the case may be;

“industrial effluent” means liquid waste or waste water produced by reason of or in the course of the production processes taking place at any industrial premises;

“prohibited effluent” means industrial effluent or such other effluent as may be prescribed by the Minister;

“sewage sludge” means the residual mixture of solid and liquid produced during the partial or full treatment of sewage but does not include treated sewage effluent discharged through a disposal pipe;

“Water Forum” means the Water Forum designated by the Commission under section 69;

“water supply distribution area” means an area within which a water distribution licensee is authorized to distribute and supply water;

“sewerage services area” means an area within which a service licensee is authorized to provide sewerage services;

“sewage” means any liquid discharges containing human excreta, animal or vegetable matters in suspension or solution derived from domestic activities and being generated from household, commercial, institutional and industrial premises including liquid discharges from water closets, basins, sinks, bathrooms and other sanitary appliances but excluding rain water and prohibited effluent;

“water fittings” includes pipes (other than the public mains), specials, taps, cocks, valves, ferrules, meters, sub-meters, cisterns, baths, water closets, hot water apparatus, soil pans and other similar apparatus or appliance used in connection with the supply and use of water;

“court” means a court of law of competent jurisdiction;

“meter” means any appliance, equipment or device used for the purpose of measuring the amount of water supplied;

“service water pipe” means so much of any pipe for supplying water from the public mains to any premises which is subject to water pressure from the mains or would be so subject but for the closure of some taps or valves;

“disposal pipe” means a pipe, channel, conduit or similar structure used for the discharge of treated sewage effluent from a sewerage system or septic tank for eventual discharge to a watercourse or other receiving medium;

“communication pipe”, in relation to water supply services, means a part of the service water pipe located between the public mains and the meter, or where there is no meter, a part of the service water pipe located between the public mains and the point where the meter would be placed in accordance with this Act or its subsidiary legislation;

“private connection pipe”, in relation to sewerage services, means any pipe, channel, conduit or similar structure being part of the individual internal sewerage piping or common internal sewerage piping of premises used, or which can be used, for the conveyance of sewage from the premises up to the point of connection to a public sewerage system, sewage treatment works or a septic tank or up to such other point of connection as may be determined by the Commission;

“authorized officer” means any public officer, officer of a local authority as defined in the Local Government Act 1976 [Act 171] or officer of the Commission authorized in writing by the Minister for the purposes of this Act;

“sewer” means any pipe, with its appurtenances, designed to convey sewage from two or more premises to a sewage treatment works other than an individual internal sewerage piping or common internal sewerage piping;

“licensee” means an individual licensee or a class licensee;

“individual licensee” means a person who is granted an individual licence under this Act;

“class licensee” means a person who is registered for a class licence under this Act;

“facilities licensee” means a person who is licensed under this Act to own a water supply system or sewerage system or any part of the water supply system or sewerage system;

“water distribution licensee” means a service licensee who holds an individual licence to distribute and supply water to consumers by means of a public water supply system;



“service licensee” means a person who is licensed under this Act to provide water supply services or sewerage services or any part of the water supply services or sewerage services;

“Registrar”—

- (a) with respect to Peninsular Malaysia and the Federal Territory of Putrajaya, has the meaning assigned to “Registrar” by section 5 of the National Land Code [Act 56/1965]; and
- (b) with respect to the Federal Territory of Labuan, has the meaning assigned to “Registrar” by section 4 of the Sabah Land Ordinance [*Sabah Cap. 68*] as modified by the Federal Territory of Labuan (Modification of Land Ordinance) Order 1984 [*P.U. (A) 291/1984*];

“consumer” means—

- (a) a person who is supplied with water by a water distribution licensee or provided with sewerage services by a licensee providing sewerage services; or
- (b) a person who has made a request to a water distribution licensee for a supply of water or to a licensee providing sewerage services for a provision of sewerage services;

“occupier” means—

- (a) a person in occupation or control of premises; and
- (b) in relation to premises where different parts of the premises are occupied by different persons, the respective persons in occupation or control of each part of the premises;

“Land Administrator”—

- (a) with respect to Peninsular Malaysia and the Federal Territory of Putrajaya, has the meaning assigned to “Land Administrator” by section 5 of the National Land Code; and
- (b) with respect to the Federal Territory of Labuan, has the meaning assigned to “Registrar” by section 4 of the Sabah Land Ordinance as modified by the Federal Territory of Labuan (Modification of Land Ordinance) Order 1984;

“management corporation” has the meaning assigned to it in section 4 of the Strata Titles Act 1985 [*Act 318*];

“water supply services” means the treatment of water abstracted from watercourses and the distribution and supply of treated water to consumers and includes the operation and maintenance of the water supply system;

“sewerage services” means the collection, conveyance, treatment and disposal of sewage or sewage sludge, and includes the operation and maintenance of a sewerage system and the desludging of septic tanks;

“common internal sewerage piping” means the pipes, private connection pipes, channels, conduits or similar structure, fixtures and other apparatus for the conveyance of sewage within or from more than one premises but under the common management and maintenance of owners or occupiers or a management corporation of the premises serviced by the internal sewerage piping up to the point of connection to a sewer, sewage treatment works or a septic tank or up to such other point of connection as may be determined by the Commission, but does not include the sanitary system in a building;

“individual internal sewerage piping” means the pipes, private connection pipes, channels, conduits or similar structure, fixtures and other apparatus for the conveyance of sewage within or from premises up to the point of connection to a common internal sewerage piping, a sewer, sewage treatment works or a septic tank or up to such other point of connection as may be determined by the Commission, but does not include the sanitary system in a building;

“water supply system” means the whole of a system incorporating public mains, pipes, chambers, treatment plants, pumping stations, service or balancing reservoirs or any combination thereof and all other structures, installations, buildings, equipment and appurtenances used and the lands where the same are located for the storage, abstraction, collection, conveyance, treatment, distribution and supply of water;

“public water supply system” means a water supply system other than a private water supply system;

“private water supply system” means—

- (a) a water supply system which is used solely for the purposes of supplying water to the owner or the occupier of a premises or the guests or invitees of the owner or occupier for their private use; or

- (b) such other water supply systems as may be determined by the Commission;

“sewerage system” means a system incorporating sewers, disposal pipes, pumping stations or sewage treatment works or any combination thereof and all other structures, equipment and appurtenances (other than individual internal sewerage piping, common internal sewerage piping or septic tanks) used or intended to be used for the collection, conveyance, pumping or treatment of sewage and sewage sludge or the disposal of treated sewage effluent or sewage sludge;

“public sewerage system” means—

- (a) a sewerage system which is connected to, or conveys sewage to, a public sewer;
- (b) a sewerage system which is not connected to nor conveys sewage to a public sewer but is determined by the Commission to be or form part of a public sewerage system;
- (c) a sewerage system in a development which has been handed over to an individual licensee providing sewerage services in accordance with section 47; or
- (d) such other sewerage system as may be determined by the Commission;

“private sewerage system” means a sewerage system other than a public sewerage system;

“sub-meter” means any meter which measures water which has already been metered since leaving the public mains;

“Commission” means the Suruhanjaya Perkhidmatan Air Negara established under the Suruhanjaya Perkhidmatan Air Negara Act 2006 [Act 654];

“septic tank” means a basic form of on-site treatment facility consisting of one or more compartments that provides treatment of sewage by means of sedimentation and anaerobic process;

“communal septic tank” means a septic tank which treats sewage from two or more premises through a common internal sewerage piping;

“appointed date” means the date on which this Act or parts of the Act comes into operation;

“sewage treatment works” means the facility designed to accept and process sewage or sewage sludge before disposal to a receiving medium but does not include septic tanks;

“Appeal Tribunal” means the Appeal Tribunal established under section 91.

### **Federal Government to have executive authority**

3. (1) The Federal Government shall have executive authority with respect to all matters relating to water supply systems and water supply services throughout Peninsular Malaysia and the Federal Territories of Putrajaya and Labuan.

(2) The Federal Government shall continue to have executive authority with respect to all matters relating to sewerage systems and sewerage services throughout Malaysia.

## PART II

### LICENSING PROVISIONS

#### Chapter 1

##### *Individual licence*

### **Requirement for individual licence**

4. (1) Subject to section 5, no person shall—

- (a) own a public water supply system or public sewerage system or any part of the systems; or
- (b) undertake, provide or make available any water supply services or sewerage services or part of the services by means of operating a public water supply system or public sewerage system,

unless he holds an individual licence granted under this Act.

(2) Notwithstanding subsection (1), a developer of a sewerage system or water supply system who is required under section 47 to hand over such sewerage system or water supply system to a licensee shall not be required to hold an individual licence for the ownership of the sewerage system or water supply system until the sewerage system or water supply system is completed or commissioned, whichever is earlier.

(3) An individual licensee shall not provide any of the licensed activities referred to in subsection (1) except in accordance with the conditions of the individual licence granted to the licensee.

(4) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.

#### **Power to exempt from requirement for individual licence**

5. (1) The Minister may, upon the recommendation of the Commission, by order published in the *Gazette*, exempt a person from the licensing requirements under section 4 subject to such terms and conditions as the Minister thinks fit.

(2) A person who is exempted from the licensing requirements under subsection (1) shall comply with the duties and obligations of an individual licensee as if the person is an individual licensee under this Act unless otherwise specified in the exemption order.

#### **Application for individual licence**

6. (1) Any person may apply to the Minister for an individual licence to be granted to him under section 9 by submitting a written application to the Commission.

(2) An application under this section may be withdrawn at any time before it is granted or refused.

#### **Further information or document**

7. (1) The Commission may, at any time after the receipt of an application for an individual licence under section 6, request the applicant to give to the Commission within the period specified in the request further information or document on the application.

(2) If any additional information or document required under subsection (1) is not provided by the applicant within the period specified in the request or any extension of time granted by the Commission, the application shall be deemed to be withdrawn and shall not be further proceeded with, but without affecting the right of the applicant to make a fresh application.

### **Recommendation by the Commission**

**8.** (1) The Commission shall within sixty days from—

- (a) the receipt of an application under section 6; or
- (b) where the Commission has requested for further information or document under section 7, the provision of the information or document,

submit a written recommendation to the Minister as to whether or not the individual licence should be granted to the applicant.

(2) The written recommendation of the Commission shall specify—

- (a) the reasons for its recommendation; and
- (b) any special conditions which the applicant should be subject to if the Commission recommends to the Minister to grant the individual licence.

### **Grant or refusal of individual licence**

**9.** (1) The Minister may, after considering the application for individual licence under section 6 and the further information or document provided under section 7 and having due regard to the recommendation of the Commission under section 8, grant the individual licence or refuse to grant the individual licence.

(2) If the Minister decides to grant an individual licence under subsection (1), he shall—

- (a) require the individual licensee to pay the prescribed fees within the prescribed period;
- (b) impose all the standard licence conditions of an individual licence as may be prescribed; and
- (c) impose such special conditions as he thinks fit.

(3) The decision of the Minister to grant or not to grant an individual licence shall be communicated to the applicant by the Commission by written notice as soon as practicable.

(4) The written notice by the Commission under subsection (3) shall specify—

(a) in the case where the individual licence is granted, the fact of such grant and the requirements and conditions imposed under subsection (2); and

(b) in the case of a refusal to grant an individual licence, the fact of such refusal and the reason for the refusal.

### **Compliance with individual licence conditions**

**10.** (1) An individual licensee shall comply with—

(a) the prescribed standard conditions of the individual licence; and

(b) any special conditions imposed by the Minister on the individual licence.

(2) An individual licensee who fails to comply with any condition of an individual licence under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

### **Power to impose additional, vary or revoke conditions**

**11.** (1) The Minister may, on the recommendation of the Commission, at any time—

(a) impose any additional conditions on the individual licence; or

(b) vary or revoke any conditions imposed on the individual licence.

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

(a) a written notice of the Minister's intention together with a draft copy of the imposition, variation or revocation; and

- (b) an opportunity to make written submissions within a period specified in the written notice which shall not be less than thirty days.

(3) After the expiry of the period specified in the notice, the Minister shall, after considering any written submission made by the individual licensee and having due regard to any recommendation of the Commission, decide whether to impose the additional conditions or to vary or revoke any existing conditions or to take no further action.

(4) The Commission shall give the individual licensee a written notice of the Minister's decision under subsection (3) as soon as practicable and the decision shall take effect on a date to be specified in the written notice.

### **Transfer of individual licence**

**12.** (1) The grant of an individual licence under section 9 shall be personal to the individual licensee and the individual licence shall not be assigned, sub-licensed or transferred to any other person except with the prior written approval of the Minister.

(2) An individual licensee who assigns, sub-licenses or transfers its individual licence to any other person without the prior written approval of the Minister commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

### **Revocation of individual licence**

**13.** (1) The Minister may, upon the recommendation of the Commission, revoke an individual licence under any of the following circumstances:

- (a) the individual licensee has failed to comply with any provisions of this Act or its subsidiary legislation;
- (b) the individual licensee has failed to comply with any of the conditions of the individual licence;
- (c) the individual licensee had improperly or illegally obtained the individual licence;
- (d) the individual licensee has been convicted of an offence under this Act or its subsidiary legislation;



- (e) a receiver, receiver and manager, provisional liquidator or like official has been appointed over the whole or substantial part of the individual licensee's assets and such appointment is not revoked or annulled within a period of sixty days from the date of such appointment; or
- (f) there has been any act or default on the part of the individual licensee or there has been a change of circumstances such that the individual licensee would no longer be entitled to be granted an individual licence under this Act.

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

- (a) a written notice of the Minister's intention to revoke the individual licence; and
- (b) an opportunity to make written submissions within a period specified in the written notice which shall not be less than thirty days.

(3) After the expiry of the period specified in the notice, the Minister shall, after considering any written submission made by the individual licensee and having due regard to any recommendation of the Commission, decide whether or not to revoke the individual licence.

(4) The Commission shall give the individual licensee a written notice of the Minister's decision under subsection (3) as soon as practicable.

(5) The individual licensee shall not be entitled to any form of compensation from the Minister or the Commission if the individual licence is revoked in accordance with subsection (1).

### **Effective date of revocation of individual licence**

**14.** The revocation of an individual licence under section 13 shall take effect on—

- (a) a date specified by the Minister in the written notice given under subsection 13(4); or

- (b) if no date is specified in the written notice given under subsection 13(4), on the expiry of thirty days from the date on which the notice is served on the individual licensee.

### **Publication of revocation of individual licence**

**15.** (1) Where the revocation of an individual licence has taken effect, the Commission shall, as soon as practicable, cause the revocation to be published in at least one national language and one English language national daily newspaper for at least three consecutive days.

(2) Any delay or failure to publish the notice of revocation shall not in any manner affect the validity of the revocation.

(3) The Minister and the Commission shall not be liable for any action, loss or damage arising from or occasioned by the publication of the notice referred to in subsection (1).

### **Surrender of individual licence**

**16.** (1) An individual licensee may surrender its individual licence by forwarding the licence to the Commission with a written notice of the surrender of the licence.

(2) The surrender of the individual licence shall take effect six months from the date the Commission receives the licence and the written notice under subsection (1) or on such other date as may be specified by the Minister.

(3) The surrender of an individual licence under subsection (1) shall be irrevocable unless the Minister by notice in writing to the individual licensee allows the surrender to be withdrawn before the effective date of the surrender of the individual licence.

### **Renewal of individual licence**

**17.** (1) An individual licensee may apply for a renewal of its individual licence not later than one year before the date of expiry of the existing individual licence.

(2) The Minister shall, on the recommendation of the Commission, upon payment of the prescribed fee, renew an existing individual licence except in the following circumstances:

- (a) the individual licensee has failed to comply with any provisions of this Act or its subsidiary legislation;
- (b) the individual licensee has failed to comply with any of the conditions of the individual licence;
- (c) the individual licensee had improperly or illegally obtained the individual licence;
- (d) the individual licensee has been convicted of an offence under this Act or its subsidiary legislation;
- (e) a receiver, receiver and manager, provisional liquidator or like official has been appointed over the whole or substantial part of the individual licensee's assets and such appointment is not revoked or annulled within a period of sixty days from the date of such appointment; or
- (f) there has been any act or default on the part of the individual licensee or there has been a change of circumstances such that the individual licensee would no longer be entitled to be granted an individual licence under this Act.

(3) The Commission may request the individual licensee to provide any information or document as may be required for the renewal application within a period specified in the request.

(4) Notwithstanding subsection (2), if the information or document requested under subsection (3) is not provided by the individual licensee within the period specified in the request or any extension of time granted by the Commission, the Minister may not renew the individual licence.

(5) If the Minister refuses to renew the individual licence, the Commission shall inform the individual licensee by written notice as soon as practicable of the Minister's refusal to renew the individual licence.

(6) The individual licensee shall be given an opportunity to make written submissions to the Minister within a period specified in the written notice referred to in subsection (5) which shall not be less than fourteen days.

(7) After the expiry of the period specified in the notice under subsection (6), the Minister shall, after considering any written submissions made by the individual licensee and having due regard to any recommendation of the Commission, decide whether or not to renew the individual licence.

(8) If the Minister decides not to renew the individual licence, the Commission shall notify the individual licensee as soon as practicable of the Minister's decision and shall publish the decision in at least one national language and one English language national daily newspaper for at least three consecutive days.

(9) Any delay or failure to publish the notice referred to in subsection (8) shall not in any manner affect the validity of the Minister's decision not to renew the individual licence.

(10) The Minister and the Commission shall not be liable for any action, loss or damage arising from or occasioned by the publication of the notice referred to in subsection (8).

### **Effect of revocation, surrender or non-renewal of individual licence**

**18.** (1) If the revocation of an individual licence under section 13 or a surrender of an individual licence under section 16 has taken effect or where the individual licence has not been renewed under section 17, the individual licensee shall immediately cease to provide any facility or service in respect of which the individual licence was granted.

(2) Notwithstanding subsection (1), the Minister may authorize the individual licensee in writing to carry on providing any facility or service for such duration and upon such terms and conditions as the Minister may specify in the authorization for the purpose of winding up the licensee's affairs.

### **Register of individual licence**

**19.** The Commission shall maintain a register, in accordance with section 176, which shall be made available to the public, of—

- (a) any individual licence granted by the Minister;
- (b) any exemption order to licensing requirements of individual licence granted by the Minister;

- (c) any special conditions specified in the individual licence;
- (d) any imposition of additional conditions or variation or revocation of conditions;
- (e) any written notice by the individual licensee surrendering its individual licence;
- (f) any revocation of individual licence;
- (g) any non-renewal of individual licence; and
- (h) any written approval from the Minister to the assignment, sub-licensing or transfer of an individual licence.

Chapter 2

*Class licence*

**Requirement for class licence**

**20.** (1) Subject to section 22, no person shall—

- (a) own a private water supply system or private sewerage system or any part of the systems; or
- (b) undertake, provide or make available any water supply services or sewerage services or part of the services by means of operating a private water supply system or private sewerage system,

unless he holds a class licence granted under this Act.

(2) Notwithstanding subsection (1), an individual licensee is not required to apply for a class licence for the activities specified in subsection (1) within its water supply distribution area or sewerage services area if the terms of the individual licence authorizes the individual licensee to carry out any such activities.

(3) A class licensee shall not provide any of the licensed activities referred to in subsection (1) except in accordance with the conditions of the class licence granted to the class licensee.

(4) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

**Restrictions imposed on class licensee**

**21.** (1) A class licensee who owns a private water supply system or any part of the system or supplies water for its own private use, or its tenants', occupiers', guests' or invitees' private use, within its premises shall—

- (a) be prohibited from leasing, licensing or permitting any other person from using its private water supply system or a part of the system for the purposes of supplying water to the public; or
- (b) not engage in any trade or business of supplying water to the public,

unless it is licensed to do so under this Act.

(2) A class licensee who owns a private sewerage system or any part of the system or provides sewerage services for the sole purpose of collecting, conveying, treating and disposing sewage by means of a private sewerage system shall—

- (a) be prohibited from leasing, licensing or permitting any other person from using its private sewerage system or a part of the system for the purposes of providing sewerage services to the public; or
- (b) not engage in any trade or business of providing sewerage services to the public,

unless it is licensed to do so under this Act.

(3) A class licensee who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Power to exempt from requirement for class licence**

**22.** (1) The Minister may, upon the recommendation of the Commission, by order published in the *Gazette*, exempt a person from the licensing requirements under section 20 subject to such terms and conditions as the Minister thinks fit.

(2) A person who is exempted from the licensing requirements under subsection (1) shall comply with the duties and obligations of a licensee as if the person is a class licensee under this Act unless otherwise specified in the exemption order.

### **Exemption from duties or obligations**

**23.** (1) A class licensee who —

- (a) owns a private water supply system or a private sewerage system or any part of the systems or supplies water for its own private use or its tenants, occupiers, guests or invitees' private use within its premises; or
- (b) owns a private sewerage system or any part of the system or provides sewerage services for the sole purpose of collecting, conveying, treating and disposing sewage by means of a private sewerage system,

shall be exempted from the duties or obligations under sections 30, 31, 32, 33, 44, 47 and 48.

(2) A class licensee referred to in subsection (1) shall comply with all other requirements under this Act and its subsidiary legislation unless otherwise expressly exempted.

### **Approval for class licence**

**24.** (1) The Minister may, upon the recommendation of the Commission, approve a class licence in respect of any matter requiring a class licence under this Act.

(2) The Minister shall give a copy of all class licences approved under subsection (1) to the Commission as soon as practicable and the Commission shall register the class licences.

### **Application for class licence and registration**

**25.** (1) A person who intends to operate under a class licence shall register with the Commission by submitting a registration notice and the prescribed fees to the Commission.

- (2) A class licence registered by the Commission shall—
- (a) include all class licence conditions as may be prescribed; and
  - (b) be subject to such other conditions as may be imposed by the Minister from time to time.

(3) No person shall operate under any class licence unless the person is duly registered under this section by the Commission.

(4) The registration of a class licence is personal to the class licensee.

### **Compliance with conditions of class licence**

26. (1) A class licensee shall comply with—
- (a) the prescribed conditions of the class licence; and
  - (b) such other conditions as may be imposed by the Minister from time to time.

(2) A class licensee who fails to comply with any of the conditions of the class licence referred to in subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **De-registration of class licensee**

27. (1) The Commission may de-register a class licensee in any of the following circumstances:
- (a) the class licensee has failed to comply with any provisions of this Act or its subsidiary legislation;
  - (b) the class licensee has failed to comply with any of the conditions of the class licence;
  - (c) the class licensee had improperly or illegally obtained the class licence;
  - (d) a receiver, receiver and manager, provisional liquidator or like official has been appointed over the whole or substantial part of the class licensee's assets and such appointment is not revoked or annulled within a period of sixty days from the date of such appointment;



- (e) there has been any act or default or change of circumstances such that the class licensee would no longer be entitled to be registered as a class licensee under this Act; or
- (f) the de-registration of the class licensee is in the public interest.

(2) Before making a decision under subsection (1), the Commission shall give the class licensee—

- (a) a written notice of its decision to de-register the class licensee; and
- (b) an opportunity to make written submissions within a period specified in the written notice which shall not be less than thirty days.

(3) After the expiry of the period specified in the notice, the Commission shall, after considering any written submissions made by the class licensee, decide whether or not to de-register the class licensee.

(4) The Commission shall give the class licensee a written notice of its decision under subsection (3) as soon as practicable and the de-registration of the class licensee shall take effect on the date specified in the written notice.

(5) The class licensee who has been de-registered under subsection (3) shall cease all activities for which its class licence relates.

### **Register of class licence**

**28.** The Commission shall maintain a register, in accordance with section 176, which shall be made available to the public, of—

- (a) all class licences approved by the Minister and registered;
- (b) all class licensees registered by the Commission;
- (c) any exemption orders to licensing requirements granted by the Minister; and
- (d) all decisions of the Commission to de-register a class licensee.

## PART III

## DUTIES AND OBLIGATIONS OF LICENSEES

## Chapter 1

*Duties and obligations applicable to all licensees***Furnishing of information**

**29.** (1) Without prejudice to section 132, a licensee shall furnish the Commission with all such information relating to any matter which—

- (a) is connected with the carrying out by the licensee of its licensed activities; or
- (b) is material to the carrying out by the Commission of any of its powers under this Act or its subsidiary legislation,

as the Commission may require or as may be prescribed.

(2) The information required under this section shall be furnished in such form and manner, at such interval and be accompanied or supplemented by such explanations and supporting documents as the Commission may require or as may be prescribed.

(3) The information which a licensee is required to furnish to the Commission under this section may include information which, although the information is not in the possession of the licensee or would not otherwise come into the possession of the licensee, is information that the licensee can reasonably be required to obtain or compile.

(4) The Commission may require a licensee to appoint, at the licensee's cost, an independent expert, with qualifications as may be specified by the Commission to conduct, audit or review any of the information which a licensee is required to furnish to the Commission under this section. The appointment and report of such an independent expert shall not relieve or derogate in any way the licensee's liability under section 130.

(5) The Commission or its authorized officers or agents may at any time, as it deems necessary, conduct an audit on the business and activities of the licensee and the licensee shall take all necessary steps, at its own cost, to assist and facilitate the Commission or its authorized officers or agents in conducting the audit including to grant them access to its premises and documentation and information. The cost of the audit shall be borne by the Commission.

- (6) A licensee who—
  - (a) fails to furnish any information as may be required by the Commission under subsection (1); or
  - (b) refuses to assist or facilitate, or obstructs, the Commission, its authorized officers or agents in conducting an audit under subsection (5),

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit.

### **Submission of business plan**

**30.** (1) An individual licensee shall submit a three year, or such other period as may be determined by the Commission, rolling business plan to the Commission updated on an annual basis or at such time as may be required by the Commission.

- (2) The business plan shall detail out the following information:
  - (a) the individual licensee's plan for the expansion, maintenance, repairs, upgrading, improvement, refurbishment or alteration of the public water supply system or public sewerage system and for constructing a new public water supply system or public sewerage system;
  - (b) the capital and operational expenses to be incurred for undertaking the activities specified in paragraph (2)(a);
  - (c) such other information as may be required or specified by the Commission.

(3) The Commission may approve, reject or require modifications to be made to the business plan submitted.

(4) The Commission shall inform the individual licensee of its decision under subsection (3) within ninety days from the date of complete submission of the business plan.

(5) It shall be the duty of the individual licensee to carry out the activities set out in the approved business plan for the first year of each rolling business plan.

(6) Any individual licensee who fails to comply with its duty under this section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

**Direction by Commission to facilities licensee to construct, operate and maintain new public water supply system or public sewerage system**

**31.** (1) Where the Commission requires, in such circumstances as may be prescribed by the Minister—

- (a) a new public water supply system or public sewerage system to be constructed and installed in a particular location which does not have such systems in place; or
- (b) to extend the existing public water supply system or public sewerage system to a particular location which does not have such systems in place,

to supply water or provide sewerage services to consumers at that location, the Commission may direct a facilities licensee to construct or install or to cause the construction or installation of such systems.

(2) Notwithstanding subsection (1), the Commission shall obtain the prior approval of the Federal Government before it directs a facilities licensee that needs funding from the Federal Government to carry out a direction of the Commission under this section.

(3) On the completion of the construction or installation of the water supply system or sewerage system referred to in subsection (1), the Commission may direct a service licensee to operate and maintain the systems.

**Access to public water supply system and public sewerage system**

**32.** (1) Where a service licensee supplying water or providing sewerage services requires the use of a public water supply system or public sewerage system, the facilities licensee owning the public water supply system or public sewerage system or part of the systems shall, if required by the Commission, lease to the service licensee the public water supply system or public sewerage system or part of the systems as required by the service licensee.

(2) The service licensee and the facilities licensee referred to in subsection (1) shall enter into a lease agreement for the lease of the public water supply system and public sewerage system or part of the systems as required by the service licensee.

(3) The lease agreement shall comply with any subsidiary legislation made in respect of lease agreements.

(4) The lease agreement shall be registered with the Commission and shall not be enforceable until it has been so registered.

### **Dealing with consumers**

**33.** A service licensee providing water supply services or sewerage services has a general duty to—

(a) deal reasonably with consumers; and

(b) adequately address consumer complaints.

### **Security, integrity and safety of water supply system and sewerage system**

**34.** It shall be the duty of every licensee to maintain at all times the security, integrity and safety of its water supply system and sewerage system and all other assets in relation to the systems.

### **Duty of facilities licensee in respect of water supply system and sewerage system**

**35.** It shall be the duty of every facilities licensee to construct, refurbish, improve, upgrade, maintain and repair its water supply system and sewerage system and all other assets in relation to the systems such that the facilities licensee is and continues to be able to meet its obligations under this Act and its subsidiary legislation.

## Chapter 2

### *Duties and obligations applicable to licensees providing water supply services*

### **Developing and maintaining water supply system**

**36.** (1) It shall be the duty of every service licensee providing water supply services to maintain an efficient and economical water supply system.

(2) A water distribution licensee shall ensure that all arrangements have been made—

- (a) for providing water supply to premises within its water supply distribution area and for making such supply available to persons who demand them; and
- (b) for maintaining, improving and extending the water supply system in relation to the distribution of water,

such that the water distribution licensee is and continues to be able to meet its obligations under this Act.

(3) The duty of a water distribution licensee to maintain a public water supply system shall be up to the end of the communication pipe.

(4) The cost of repairing, replacing and maintaining the communication pipe shall be borne by the water distribution licensee.

### **Supply of water**

**37.** (1) Subject to subsection (2), a water distribution licensee shall, on application in writing by the owner or occupier of any premises, supply water to the premises.

(2) No water distribution licensee shall be required to supply water to any premises if—

- (a) any building on the premises has been erected in contravention of any written law or is in a ruinous or dangerous condition;
- (b) the supply of water is already given to the premises by another water distribution licensee;
- (c) the water distribution licensee is prevented from doing so by circumstances beyond the water distribution licensee's control;
- (d) the supplying of the water will cause the water distribution licensee to be in breach of this Act or its subsidiary legislation;

- (e) the supply of water had been previously disconnected as a result of a breach of this Act or its subsidiary legislation and the breach has not been remedied;
- (f) the previous supply of water has been disconnected in accordance with this Act or its subsidiary legislation; or
- (g) the refusal to supply water is approved by the Commission.

### **Connecting public mains and premises to be supplied with water**

**38.** (1) When an application for the supply of water has been approved by a water distribution licensee, the water distribution licensee shall install the necessary communication pipe to connect the public mains and the premises to be supplied with water, and the water distribution licensee may also supply and adjust all water fittings but the cost of such connection and of all the water fittings for such supply shall be borne by the owner or occupier of the premises.

(2) No connection shall be made to the public mains until the estimated cost of making the connection has been deposited with the water distribution licensee and until all the water fittings requisite for the supply of water have been previously erected and completed in accordance with any requirement of any subsidiary legislation made under this Act in respect of the same.

### **Supply of water through public pipes**

**39.** (1) A water distribution licensee shall, on the request of the Commission after consultation with the relevant local authority, supply water to a designated area for use by members of the public through public pipes installed within such designated area.

(2) Such supply shall be subject to such terms and conditions as the water distribution licensee and the Commission, in consultation with the local authority, may mutually agree provided that the charges for the supply of such water shall be approved by the Commission.

**Maintaining water pressure**

**40.** (1) It shall be the duty of a water distribution licensee to cause the water in its water mains and other pipes—

- (a) used for the supply of water; or
- (b) having a fire-hydrant fixed on them,

to be maintained at such pressure as may be set out in the subsidiary legislation made under this Act.

(2) A water distribution licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

**Water quality**

**41.** (1) The water distribution licensee shall, when supplying water to any premises, ensure that at the time of supply the quality of water supplied complies with the minimum quality standards as prescribed by the Minister.

(2) The water distribution licensee shall ensure, as far as it is reasonably practicable, in relation to each source or combination of sources from which the licensee supplies water to any premises, that there is no deterioration in the minimum quality standards of the water which is supplied from time to time from that source or combination of sources.

(3) For the purposes of this section, water supplied by a water distribution licensee to any premises shall not be regarded as not complying with the prescribed minimum quality standards at the time of supply where the water has ceased to comply with the minimum quality standards only after leaving the licensee's pipes.

(4) Any water distribution licensee who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.



### **Supply of water for fire-fighting**

**42.** (1) A water distribution licensee shall allow the Fire Services Department or any other person authorized by the Commission or under any written law to take water for extinguishing fires from any of its water mains or other pipes on which a fire hydrant is fixed.

(2) The cost for utilizing the water from the fire hydrant shall be borne by the water distribution licensee.

(3) Any water distribution licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit.

(4) In this section, “Fire Services Department” shall have the same meaning as in the Fire Services Act 1988 [*Act 341*].

## Chapter 3

### *Duties and obligations applicable to licensees providing sewerage services*

### **Operating and maintaining public sewerage system**

**43.** It shall be the duty of every service licensee operating and maintaining a public sewerage system—

- (a) to manage, operate, maintain, inspect, repair, alter, arch over or otherwise improve the public sewerage system and to treat and dispose of the contents thereof; and
- (b) to properly desludge the public sewerage system and for such purposes the service licensee may cause the construction or placing, either above or under ground, such sewers, pumps and other works as are necessary.

### **Septic tanks to be desludged**

**44.** (1) The service licensee operating and maintaining a public sewerage system shall desludge the septic tanks in its sewerage services areas from time to time as may be prescribed.

(2) The service licensee who fails to comply with its obligations under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

## PART IV

PROVISIONS RELATING TO WATER SUPPLY SYSTEM, WATER  
SUPPLY SERVICES, SEWERAGE SYSTEM AND SEWERAGE  
SERVICES

## Chapter 1

*Water supply system and sewerage system***Construction of water supply system, sewerage system and septic tanks**

**45.** (1) No person shall construct, alter, modify, disconnect or close up a water supply system, sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping unless the relevant plans or specifications which requires the approval of the Commission have first been approved in writing by the Commission.

(2) The Commission shall, by rules made under section 180, set out the standards as to the type and extent of construction, alteration, modification, disconnection or closing up of a water supply system, sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping which require the relevant plans and specifications to be first approved by the Commission.

(3) A person seeking the approval of the Commission under subsection (1) shall submit to the Commission such information and document in a form and manner and within the time as may be provided in the rules made under section 180.

(4) If a person fails to comply with subsection (3), the person's application for approval shall be deemed to be withdrawn without affecting the person's right to submit a fresh application.

(5) In considering whether to grant an approval under subsection (1), the Commission shall take into consideration the following:

- (a) the business plan submitted by the individual licensee operating and maintaining the water supply system, sewerage system or septic tank;
- (b) the plans and specifications for the water supply system, sewerage system or septic tank submitted by the person;
- (c) such other matters as the Commission deems fit.

(6) In granting the approval to the person under subsection (1), the Commission may impose such terms and conditions as it deems fit.

(7) A person who—

- (a) constructs, alters, modifies, disconnects or closes up a water supply system, sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping without the plans and specifications which are required to be approved by the Commission being first approved in writing by the Commission;
- (b) constructs, alters, modifies, disconnects or closes up any water supply system, sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping not in accordance with approved plans and specifications; or
- (c) makes any alteration to approved plans and specifications for the water supply system, sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping otherwise than in accordance with this Act or its subsidiary legislation,

commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both; and he shall alter the water supply system, sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping so as to comply with the approved plans and specifications.

(8) If the Commission is satisfied that any person has committed any of the offences under subsection (7), then notwithstanding that the construction, alteration, modification, disconnection or closure may have been approved under any written law, the Commission may—

- (a) if the construction, alteration, modification, disconnection or closure has been completed, direct that person, the owner or management corporation of the land or any combination of them, within a specified period, to bring the construction, alteration, modification, disconnection or closure into conformity in the manner as the Commission

deems fit or, where this is not possible, to restore the land as far as possible to the condition it was in before the construction, alteration, modification, disconnection or closure was commenced; or

- (b) if the construction, alteration, modification, disconnection or closure has not been completed, direct that person, the owner or management corporation of the land to immediately cease the construction, alteration, modification, disconnection or closure works and comply with such requirement as the Commission deems fit or, where this is not possible, to restore the land as far as possible to the condition it was in before the construction, alteration, modification, disconnection or closure was commenced.

(9) Where no written permission or approved plan has been obtained for any construction, alteration, modification, disconnection or closure and the Commission has directed that application be made for permission or approval of plans, such direction shall not be taken as an indication of willingness to grant permission or approval and shall be without prejudice to any power of the Commission under this Act and its subsidiary legislation.

(10) Where a direction for cessation issued under subsection (8) is not complied with, the Commission may in addition to the remedies under section 177 summarily evict any person or remove any equipment, vehicle, machinery or article from the site to secure the cessation of the construction, alteration, modification, disconnection or closure and for this purposes may seek the assistance of the police.

(11) Notwithstanding subsections (7), (8) and (10), the Commission may execute any work or take any measure—

- (a) if the Commission considers such work or measure to be in the interest of public health;
- (b) if the Commission considers such work or measure necessary to prevent an imminent danger to the environment; or
- (c) in the case of non-compliance with any directions given under subsection (8),

and such work and measure may be in addition to or in place of anything required to be done under any directions the Commission

may issue under subsection (8) and the Commission may recover all expenses reasonably incurred by the Commission in doing so from the person who committed the offence under this section.

(12) Where cessation has been directed by the Commission, the Commission may allow the resumption of the construction, alteration, modification, disconnection or closure subject to compliance with such directions and conditions as the Commission may specify.

(13) The Commission may refuse to allow the resumption of the construction, alteration, modification, disconnection or closure under subsection (12) until all expenses reasonably incurred by the Commission in securing the cessation, executing the work and taking the measures have been reimbursed.

(14) A person who—

- (a) continues to carry out any activity after being directed to cease work under subsection (8);
- (b) fails to comply with a direction or condition given by the Commission under this section; or
- (c) does any act to obstruct in any manner the Commission or any person authorized by the Commission or any person acting on behalf of the Commission in the execution of the powers under this section,

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

### **Requirement for developer to construct water supply system and sewerage system**

**46.** A developer of a new development shall be required to construct a water supply system and a sewerage system or part of the systems in its development in accordance with requirements set out in any plan and specification approved by the Commission according to section 45.

**Developer to hand over water supply system or sewerage system of new development to service licensee**

47. (1) Subject to subsections (2) and (5), a developer of a new development which is within a service licensee's water supply distribution area or sewerage services area, as the case may be, shall, upon the issuance of the certificate of compliance of the water supply system or sewerage system or part of the systems by a qualified person, hand over the water supply system or sewerage system or part of the systems within the development to the water distribution licensee or the service licensee providing sewerage services, as the case may be, at no cost, for the purposes set out in subsection (3).

(2) The service licensee shall accept the water supply system or sewerage system or part of the systems, as the case may be, after the service licensee is satisfied that the water supply system or the sewerage system or part of the systems meets the requirements set out in the approved plans and specifications and standards.

(3) Upon the water supply system or the sewerage system or part of the systems being handed over to the service licensee, the service licensee shall operate and maintain such system.

(4) The developer shall provide or cause the owner of the land to provide the service licensee access to the water supply system and sewerage system or part of the systems for the purposes of operating and maintaining such system.

(5) The Commission may exempt any developer from the requirements of this section.

(6) A person who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(7) In this section, "qualified person" means a person who is recognized by the Commission as a person qualified to issue a certificate of compliance for the purpose of subsection (1).

**Damage to public water supply system and sewerage system to be made good**

**48.** (1) If, through any act, neglect or default, any person has committed an offence under this Act or its subsidiary legislation and by that act, neglect or default he has caused damage to any public water supply system or public sewerage system, that person shall, in addition to any penalty that may be imposed for that offence, be liable to make good the damage and pay compensation to the licensee for the damage caused.

(2) The amount to be paid in making good any damage under subsection (1) shall, in case of dispute, be determined by the court by which the person causing such damage is convicted.

**Qualifications to operate, etc., water supply system and sewerage system**

**49.** (1) No part of any water supply system or sewerage system shall be worked, managed or operated or cause to be worked, managed or operated except by and under the control of persons possessing such qualifications and holding such certificates as may be provided in this Act or as may be prescribed.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

**Permits for contractors**

**50.** (1) Subject to such exemptions as may be specified by the Commission, no person shall—

- (a) carry out any construction, connection, modifications or repairs to water pipes and water fittings which convey or will convey water from the public mains;
- (b) carry out any works necessary to connect a private connection pipe to a sewer or sewage treatment works;
- (c) construct, install or modify any part of a water supply system or sewerage system;
- (d) carry out maintenance services for a water supply system or a sewerage system but does not involve the operation of such systems; or

- (e) undertake, provide or make available sewerage desludging services or any other sewerage services,

without a written permit issued by the Commission.

(2) A person who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

### **Plumbing and connection works**

**51.** All plumbing works (excluding sanitary plumbing), connection works and any other related works and all future repairs, extensions and alterations of such works shall only be undertaken in accordance with this Act and its subsidiary legislation.

## Chapter 2

### *Water supply services*

### **Supply agreement with consumers**

**52.** (1) A person who is supplied water by, or who has requested for a supply of water from, a water distribution licensee shall, if required by the water distribution licensee, enter into an agreement with the water distribution licensee for the supply of water on such terms and conditions as may be specified in the agreement before water is supplied.

(2) An agreement referred to in subsection (1) shall be in the form and substance which is in compliance with any rules made by the Commission under section 180.

### **Bulk supply between service licensees providing water supply services**

**53.** (1) An agreement to supply water in bulk entered into between service licensees providing water supply services shall be registered with the Commission and shall not be enforceable until it has been so registered.



(2) Where, on application of a service licensee—

- (a) it appears to the Commission that it is necessary or expedient for the purposes of this Act that another service licensee providing water supply services should give a supply of water in bulk to the applicant; and
- (b) the Commission is satisfied that the giving and taking of such a supply cannot be secured by agreement,

the Commission may direct the other service licensee to give such a supply at such quantity, for such period and on such terms and conditions as may be provided in the direction.

(3) In deciding what provision to make by direction in respect of the giving of any supply of water by a service licensee, the Commission shall have regard to the desirability of the licensee's recovering the expenses incurred in complying with its obligations under this section and of securing a reasonable rate of return on its paid up capital subject to the licensee achieving a desired level of efficiency.

(4) The bulk supply agreement shall comply with any rules made by the Commission under section 180 in respect of the bulk supply agreement.

(5) This section shall only be applicable to a service licensee providing water supply services who holds an individual licence.

### **Reduction or cessation of supply**

**54.** (1) Any water distribution licensee may, with the approval of the Commission—

- (a) reduce the quantity or pressure of water supplied to any consumer if by reason of any circumstances beyond its control there is insufficient water to enable the full quantity to be supplied; or
- (b) temporarily cease the supply of water.

(2) The water distribution licensee shall not be liable for any damage to any person or property or for any reduction or cessation of the supply of water which—

- (a) is approved by the Commission;

- (b) is due to circumstances or accident which is not a result of its own doing or conduct; or
- (c) is due to the unauthorized connection of equipment or water fittings.

(3) Unless otherwise exempted or permitted under this Act or its subsidiary legislation, the water distribution licensee shall take all necessary steps as may be required, including the supply of water by water tankers, to ensure that a consumer within its water supply distribution area is supplied with water.

### **Restriction of water supply**

**55.** (1) If it appears to the Commission that there is reasonable cause to believe that any premises have been used or are about to be used for the commission of an offence under this Act or its subsidiary legislation or under any other written law or on such other grounds as the Commission may deem fit, the Commission may direct the water distribution licensee to disconnect the supply of water to the said premises.

(2) The water distribution licensee may, in accordance with requirements and procedures set out in the rules made by the Commission under section 180—

- (a) temporarily cease the supply of water to any premises; or
- (b) reduce or divert wholly or in part any of its pipe or any part of its pipe,

for the purpose of carrying out essential maintenance of and repairs or alteration to any water supply system or part of the system.

(3) Notwithstanding subsection (2), where in the opinion of the water distribution licensee, the supply of water is unsafe for the purposes of normal supply to the public or poses a health risk to the public, the water distribution licensee shall immediately undertake the measures under subsection (2) and shall notify the Commission as soon as practicable of the measures taken.

(4) If a water distribution licensee knows or has reason to believe that the supply of water is unsafe for the purposes of normal supply to the public or poses a health risk to the public and fails to—

- (a) temporarily cease the supply of water to any premises;  
or
- (b) reduce or divert wholly or in part any of its pipe or any part of its pipe,

the water distribution licensee commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

### **Special powers during emergency**

**56.** (1) The Minister shall have any or all of the following powers during an emergency:

- (a) to prohibit or restrict the use of water—
  - (i) generally or for specified purposes;
  - (ii) during specified hours of the day or otherwise; or
  - (iii) in a specified manner;
- (b) to impose—
  - (i) limits on the quantities of water which may be consumed over any specified period;
  - (ii) any surcharge in respect of the consumption of water in excess of any limit imposed; or
  - (iii) any other conditions as the Minister may think necessary;
- (c) to order a licensee or any person owning or operating a water supply system to cease operations on such terms and for such time as the Minister thinks necessary; or
- (d) to order any person to supply water on such terms and conditions as the Minister thinks necessary.

(2) The Minister shall, as soon as practicable, after exercising any or all of his powers specified under subsection (1), publish in the *Gazette* a notice specifying the particulars of the power exercised and action taken under subsection (1).

(3) The Minister may on such grounds as he thinks fit—

- (a) limit the application of subsection (1) to specified areas, groups, class of persons, premises or activities; and
- (b) suspend or waive any provisions of this section.

(4) The Minister may direct the Commission to—

- (a) take temporary possession of any water supply system of a licensee and operate it or direct any other person to operate it in such manner as the Minister thinks fit; and
- (b) take or cause to be taken such measures including the installation of restrictive, controlling and measuring devices and the regulation and control of the disposition of appliances as may be necessary to ensure compliance with this section,

and the licensee having control or possession of the water supply system shall hand over the control or possession of the water supply system to any officer authorized by the Commission for that purpose or any other person as the Minister thinks fit and the licensee shall take all such measures and provide all such assistance as may be required by the Commission, officer or person.

(5) A decision, order or direction of the Minister in the exercise of his powers under this section shall be final and shall not be challenged, appealed against, reviewed, quashed or questioned in any court.

(6) A person who fails to comply with the order of the Minister or the prohibition, restriction or imposition made by the Minister under subsection (1) or the requirement under subsection (4) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(7) Where any premises is occupied by any person other than the owner, the occupier of the premises shall be presumed to have committed the offence under this section unless it is proved that he has taken all reasonable steps to prevent such commission.

(8) The Federal Government, the Commission and their employees and agents shall not be liable for any action for breach of contract or for any loss or damage occasioned by any disconnection, stoppage, reduction or restriction of water supply under this section.

(9) Every licensee and their employees and agents shall not be liable for any action for breach of contract or for any loss or damage occasioned by any disconnection, stoppage, reduction or restriction of the supply of water under this section except where the disconnection, stoppage, reduction or restriction of the supply of water was caused by—

- (a) the negligence or wilful act of the licensee, their employees or agents; or
- (b) a breach by the licensee of the terms and conditions of its licence or the provisions of this Act or its subsidiary legislation.

(10) A person referred to in paragraphs (1)(c) and (d) shall not be liable for any action for breach of contract or for any loss or damage occasioned by any cessation of operations or the supply of water, as the case may be, under this section.

(11) For the purposes of this section, an “emergency” means a circumstance where—

- (a) water supply is insufficient due to excessive drought or industrial unrest, strike or lock-out;
- (b) the supply of water or water supply system endangers or poses a threat to public safety or public health; or
- (c) an event occurs which gives rise to a dire situation which the Minister considers it necessary to exercise his powers under this section.

### Chapter 3

#### *Sewerage system and services*

#### **Power to require premises to be connected to public sewerage system**

**57.** (1) The Commission may direct the owner or management corporation, or if the owner or management corporation cannot with reasonable diligence be traced, the occupier of any premises not connected to a public sewerage system, to construct or install

for the premises, within the period specified in the direction, a private connection pipe of such material or size and at such level as to enable the premises to be properly and effectively connected to any public sewer or public sewerage system located within thirty meters from the boundary of the premises.

(2) If the owner, management corporation or occupier to whom a direction under subsection (1) has been issued fails to comply with the direction within the period specified in the direction, the Commission or any person authorized by the Commission may construct or install the private connection pipe or cause the pipe to be constructed or installed and recover the expenses incurred in the construction and installation of such pipes from the owner, management corporation or occupier.

### **Power to require developer to connect development to public sewerage system**

**58.** (1) The Commission may direct the developer of any development not connected to a public sewerage system, to construct or install for the development, within the period specified in the direction, a connection pipe of such material or size and at such level as to enable the development to be properly and effectively connected to any public sewer or public sewerage system.

(2) If the developer to whom a direction under subsection (1) has been issued fails to comply with the direction within the period specified in the direction, the Commission or any person authorized by the Commission may construct or install the connection pipe or cause the pipe to be constructed or installed and recover the expenses incurred in the construction and installation of such pipes from the developer.

### **Requirement that proper drainage for sewage be made**

**59.** (1) If any premises is at any time not properly drained for sewage in accordance with this Act or its subsidiary legislation or otherwise to the satisfaction of the Commission by a sufficient private connection pipe communicating with a public sewer or public sewerage system, the Commission may give notice in writing requiring the owner or management corporation of the premises or, if the owner or management corporation cannot with reasonable diligence be traced, the occupier thereof to construct or install from such premises a pipe of such material or size and at such

level and with such gradient as the Commission deems necessary for the draining of sewage from the premises or to construct such other system as the Commission deems necessary.

(2) If the owner, management corporation or occupier to whom a notice under subsection (1) has been issued fails to comply with the notice within the period specified in the notice, the Commission or any person authorized by the Commission may construct or install the pipe or such other system as the Commission deems necessary or cause the pipe or system to be constructed or installed and recover the expenses incurred in the construction and installation of the pipe or system from the owner, management corporation or occupier.

(3) A person who fails to comply with the notice given under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

**Unauthorized connection to public sewer, etc.**

**60.** (1) No person shall, without the prior written permission of the Commission—

(a) make or cause or permit any private connection pipe, drain or sewer to connect directly or indirectly to any public sewer or public sewage treatment works; or

(b) close up, obstruct, stop or deviate any public sewer.

(2) The Commission may—

(a) order any person contravening subsection (1) to discontinue the use of, or demolish or otherwise remove, any obstruction, private connection pipe, drain or sewer in contravention of that subsection; or

(b) demolish or otherwise remove the obstruction, private connection pipe, drain or sewer and recover the expenses incurred in doing so from the person.

(3) The Commission may refuse to permit any person to make a connection to any public sewer or public sewage treatment works if—

(a) the public sewer or public sewage treatment works do not or will not have the necessary capability or capacity to receive the sewage which will be discharged through the proposed connection; or

- (b) it appears to the Commission that the mode of construction or the condition of the public sewer or public sewage treatment works is such that the making of the connection is likely to be prejudicial to the public sewerage system.

(4) A person who contravenes subsection (1) or fails to comply with an order issued under subsection (2) 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 six months or to both.

**Prohibited effluent or noxious matter not to be discharged into public sewer, etc.**

**61.** (1) No person shall discharge into or allow to be discharged into any public sewer or public sewage treatment works—

- (a) any prohibited effluent, without the approval of the Commission;
- (b) any noxious, volatile or inflammable substance or any other matter likely to damage or impair the functioning of any public sewer or public sewage treatment works or to interfere with the free flow of its contents or to affect prejudicially the treatment or disposal of its contents; or
- (c) any effluent, matter or substance from a garbage grinder or such other device determined by the Commission, without the approval of the Commission.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Responsibilities for communal septic tank**

**62.** (1) A septic tank which services more than one premises shall be deemed to be the joint responsibility of the owners or occupiers of those premises irrespective of the location of the septic tank.

(2) Each of the owners or occupiers shall be liable to pay charges for sewerage services as if they were the owners of individual septic tanks.



**Power to install or construct private sewerage system or septic tank**

**63.** (1) The Commission may direct the owner or management corporation of any premises, or if the owner or management corporation cannot with reasonable diligence be traced, the occupier of the premises, to install or construct a private sewerage system or septic tank for the premises as the Commission deems necessary.

(2) The cost of the construction or installation of the private sewerage system or septic tank shall be borne by the owner or management corporation of the premises, or if the owner or management corporation cannot with reasonable diligence be traced, the occupier.

**Power to require private sewerage system, etc., to be put in proper order**

**64.** (1) If the Commission is satisfied that—

- (a) a private sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping on any premises or which serves any premises; or
- (b) a private connection pipe connecting any premises to a public sewerage system,

is defective or is not properly maintained or is in need of repair, the Commission may issue a direction to the owner, management corporation or occupier of such premises or the owner of or the management corporation responsible for the private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe to have such private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe repaired or put in proper order within the period specified in the direction.

(2) If the Commission is satisfied that, due to any obstruction, any premises on which a septic tank is situated does not have adequate access for the purpose of desludging the septic tank, the Commission may issue a direction to the owner, management corporation or occupier of such premises to remove such obstruction within the period specified in the direction.

(3) If the person to whom a direction issued under subsection (1) or (2) fails to comply with the direction within the period specified in the direction—

- (a) the Commission or any person authorized by the Commission may, at the expiration of such period, do the work required in the direction and may recover the expenses incurred in doing so from the owner, management corporation or occupier; or
- (b) the Commission may direct the service licensee in that sewerage services area to manage and operate the private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe, as the case may be, for such period as the Commission may decide and to charge the owner, management corporation or occupier for services rendered by that service licensee.

(4) For the purposes of paragraph (3)(b), the owner, management corporation and occupier of the premises shall grant the service licensee access to the private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe, as the case may be, for the purposes of operating and maintaining the private sewerage system, septic tank, individual internal sewerage piping, common internal sewerage piping or private connection pipe, as the case may be.

**Duty to operate and maintain private sewerage system, etc.**

**65.** (1) The owner, management corporation or occupier of any premises having a private sewerage system or septic tank shall—

- (a) grant the service licensee or permit holder adequate access to the septic tank for the purpose of enabling the septic tank to be serviced and desludged;
- (b) cause the private sewerage system, septic tank, the private connection pipe, individual internal sewerage piping, common internal sewerage piping and all accessories thereto to be so maintained and kept as not to be a nuisance or harmful to health;

- (c) cause the septic tank to be desludged and, in the case of a private sewerage system, to be serviced or maintained by a service licensee or permit holder at such intervals and in such manner as may be prescribed; and
- (d) grant the service licensee or permit holder adequate access to the private sewerage system for the purposes of enabling the private sewerage system to be inspected, serviced or maintained.

(2) The owner, management corporation or occupier of any premises, as the case may be, shall be solely responsible for the maintenance, refurbishment or replacement of the individual internal sewerage piping or the common internal sewerage piping.

(3) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

**Penalty in respect of nuisance, etc., caused by private sewerage system or septic tanks**

66. (1) The owner of or management corporation responsible for—

- (a) any private sewerage system or septic tank which is so foul or is in such a state or so situate as to be a nuisance or a danger to health; or
- (b) any premises which is not ventilated in such manner as to render harmless as far as practicable any gas, vapour, dust or other impurity that is harmful to health generated from that private sewerage system or septic tank,

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 six months or to both.

(2) The Commission may direct the owner or the management corporation or, if the owner or management corporation cannot with reasonable diligence be traced, the occupier of the premises where the private sewerage system or septic tank is located or situated on, to abate such nuisance, harm or danger.

(3) If the owner, management corporation or occupier fails to comply with the direction of the Commission under subsection (2), the Commission or any person authorized by the Commission may abate such nuisance, harm or danger and the expenses incurred by the Commission or the authorized person shall be borne by the owner, management corporation or occupier.

### **Contract for the provision of sewerage services**

**67.** (1) The owner, management corporation or occupier of any premises to whom sewerage services is provided shall be deemed, upon the provision of sewerage services to that premises, to have contracted with the service licensee providing sewerage services for the provision of sewerage services.

(2) An agreement referred to in subsection (1) shall be in the form and substance which is in compliance with any rules made by the Commission under section 180.

## PART V

### CONSUMER PROTECTION, RESOLUTION OF DISPUTES AND INQUIRIES

#### Chapter 1

#### *Consumer protection*

### **Consumer standards**

**68.** (1) The Commission may, on its own initiative or upon the recommendation of the Water Forum, prepare or caused to be prepared consumer standards which shall include model procedures for—

- (a) reasonably meeting consumer requirements;
- (b) the handling of customer complaints and disputes including a mediation process other than a court, and procedures for the compensation of customers in case of a breach of the consumer standards; and
- (c) the protection of consumer information.

(2) The matters which the consumer standards may address may include—

- (a) the provision of information to consumers regarding services, rates and performance;

- (b) service levels and quality of service to be provided to consumers;
- (c) the provision of fault repair services;
- (d) customer charging, billing, collection and credit practices; and
- (e) any other matters of concern to consumers.

### **Water Forum**

**69.** (1) The Commission shall designate a body to be known as the “Water Forum” for the purposes of this Act by notifying the body in writing, if the Commission is satisfied that—

- (a) the membership of the body is open to all persons;
- (b) the body is capable of performing as required under the relevant provisions of this Act; and
- (c) the body has a written constitution.

(2) The body shall agree in writing to be the Water Forum before the designation may be registered.

(3) The Commission may decide that an existing body that was previously designated as the Water Forum is no longer an appropriate body for the purposes of this Act, if the Commission is satisfied that the body no longer meets the requirements set out in subsection (1).

(4) A designation or withdrawal of designation under this section shall take effect from the date of registration or a later date specified.

### **Functions of the Water Forum**

**70.** (1) The Water Forum shall have all the functions imposed on it under this Act and, without prejudice to the generality of the foregoing, the Water Forum shall have the following functions:

- (a) to give feedback and make recommendations to the Commission on any matters concerning the interest of consumers of the water supply services and sewerage services;
- (b) to represent the interests of consumers of the water supply services and sewerage services;

- (c) to promote consumer's interest in relation to the tariffs and standards of water supply services and sewerage services;
- (d) to identify and keep under review matters affecting the interests of consumers and ensure that the water supply services and sewerage services companies are aware of, and responsive to, concerns about their services;
- (e) to publicise the existence, functions and work of the Water Forum in protecting the interests of consumers; and
- (f) to carry out any functions as may be determined by the Commission.

(2) The Commission shall have due regard to the recommendations of the Water Forum in the exercise of its powers and the performance of its functions under this Act.

## Chapter 2

### *Resolution of disputes*

#### **Disputes**

**71.** (1) A dispute between—

- (a) two or more licensees or permit holders; or
- (b) a licensee and a permit holder,

regarding any matter under this Act or its subsidiary legislation shall first be attempted to be resolved by negotiation between the parties to the dispute.

(2) If the parties to a dispute fail to reach an agreement, the parties may seek resolution of the dispute by referring the dispute to a committee established by the Commission to hear and resolve disputes.

(3) The referral under subsection (2) shall be in writing.

#### **Dispute procedures**

**72.** (1) A committee established by the Commission to hear and resolve disputes may only do so under this Chapter if it is notified in writing of the dispute.

(2) The committee shall adopt such procedures as it deems fit and proper in hearing a dispute.

**Committee to decide on notified disputes**

**73.** (1) Upon receipt of a notification in writing by the parties to the dispute referred to in section 71, the committee shall as soon as practicable convene to decide the dispute.

(2) The committee shall be bound under subsection (1) to convene to decide a dispute if it is satisfied that—

- (a) an agreement will not be reached, or will not be reached within a reasonable time;
- (b) the notification of the dispute is not trivial, frivolous or vexatious; and
- (c) the resolution of the dispute would promote the objects of this Act.

(3) The committee may resolve the dispute upon such terms and conditions as it deems fit.

**Decisions to be in writing**

**74.** (1) The terms and conditions of any resolution of a dispute by the committee under this Chapter shall be accompanied with reasons and be in writing.

(2) The committee shall provide the parties to the dispute with a copy of its decision as soon as practicable.

(3) The decision of the committee shall be binding on the parties to the dispute.

**Registration of decisions**

**75.** (1) The Commission shall maintain a register of all decisions of the committee under this Chapter in accordance with section 176.

- (2) The register shall contain—
- (a) the names of the parties to the dispute;
  - (b) a general description of the matter pertaining to the decision and the decision; and
  - (c) the date of the decision,

except the reasons for the decision.

### **Enforcement of decision**

**76.** A decision given by the committee may, by leave of the Sessions Court, be enforced in the same manner as a judgment or order to the same effect, and where leave is so given, judgment may be entered in terms of the decision.

## Chapter 3

### *Inquiries*

### **Inquiries by the Commission**

**77.** (1) The Commission shall, in response to a direction by the Minister, hold an inquiry on any matter of a general nature which relates to the administration of this Act or its subsidiary legislation.

- (2) The Commission may hold an inquiry on any matter—
- (a) in response to a written request from a person; or
  - (b) on its own initiative,

only if it is satisfied that the matter is of significant interest to either the public or to the current or prospective licensees under this Act.

### **Conduct of inquiry**

**78.** (1) An inquiry under this Chapter is to be conducted as and when the Commission deems fit.

(2) The Commission may combine two or more inquiries into a single inquiry.

- (3) All inquiries are to be open to the public.



### **Publication of notice of inquiry**

**79.** (1) If the Commission is directed by the Minister to hold an inquiry under subsection 77(1) or decides to hold an inquiry under subsection 77(2), the Commission shall publish, in any manner it deems appropriate, a notice of the following matters:

- (a) the fact that it is holding the inquiry;
- (b) the period during which the inquiry is to be held;
- (c) the nature of the matter to which the inquiry relates;
- (d) the period, of at least forty-five days, within which, and the form in which, members of the public are invited to make submissions to the Commission about that matter;
- (e) the matters that the Commission would like such submissions to deal with; and
- (f) the address or addresses to which submissions may be sent.

(2) The Commission is not required to publish a notice of all matters referred to in subsection (1) at the same time or in the same manner.

(3) The Commission shall consider any submission received within the period specified in the notice.

(4) The submissions made by the members of the public shall be in the form and nature as specified in the notice.

### **Private inquiry and confidential materials**

**80.** (1) Notwithstanding subsection 78(3), an inquiry or a part of an inquiry may be conducted in private if the Commission is satisfied that—

- (a) a document or information that may be given, or a matter that may arise during the public inquiry or a part of the inquiry is of a confidential nature; or
- (b) the inquiry or part of the inquiry of a matter or part of a matter would not be conducive to the due administration of this Act if the inquiry or part of the inquiry is open to the public.

(2) The Commission may order that all evidence, document or other materials presented at a public inquiry which are of a confidential nature not to be published or disclosed by any person or that the publication or disclosure of such evidence, document or materials by any person to be restricted.

(3) If an inquiry or part of an inquiry takes place in private, the Commission shall give instructions as to the persons who may be present at the inquiry or part of the inquiry.

### **Reports of public inquiry**

**81.** (1) The Commission shall publish a report of its findings in respect of any public inquiry it conducts.

(2) The Commission shall publish the report within sixty days from the conclusion of the public inquiry.

(3) The Commission shall not include in the report any document, information or material—

- (a) that is of a confidential nature;
- (b) the disclosure of which is likely to prejudice the fair trial of a person;
- (c) that would involve the unreasonable disclosure of personal information about any individual (including a deceased individual); or
- (d) that is subject of an order made under section 80.

### **Protection from civil action**

**82.** No civil proceedings shall lie against a person in respect of any loss, damage or injury of any kind suffered by another person because of any of the following acts done in good faith:

- (a) the making of a request to hold an inquiry under section 77; or
- (b) the making of a statement to, or giving of a document or information to, the Commission in relation to an inquiry under this Chapter.

### **Register of reports**

**83.** The Commission shall maintain a register of all reports made pursuant to an inquiry under this Chapter, in accordance with section 176.

## **PART VI**

### **RATES, CHARGES AND DEPOSITS**

#### **Regulations regarding rates, charges and deposits**

**84.** (1) The Minister may, on the recommendation of the Commission, make regulations to prescribe the level of rates to be charged for the water supply services and sewerage services.

(2) Without prejudice to the generality of subsection (1), regulations may be made—

- (a) to prescribe the rates for water supply services and sewerage services including bulk water supply;
- (b) to prescribe the different levels of rates for water supply services and sewerage services based on category of users, consumption, type of use and geographical location or in such other manner as the Commission deems appropriate;
- (c) to prescribe the connection, reconnection or any other charges, and deposits, relating to the water supply services and sewerage services;
- (d) to provide for the publication or disclosure of rates for water supply services and sewerage services; or
- (e) to prescribe the billing and charging rates through meters and sub-meters for buildings.

#### **Power to exempt from rates, charges or deposits**

**85.** The Minister may exempt any person or organization from the payment of any rates, charges or deposits in relation to water supply services or sewerage services on such terms and conditions as he thinks fit.

**Prescribed rates and charges may be collected and retained by licensee**

**86.** (1) A service licensee may demand, collect and retain all prescribed rates and charges in respect of the supply of water or provision of sewerage services to any consumer premises.

(2) A water distribution licensee shall be permitted to demand, collect and retain all prescribed rates and charges for and on behalf of a service licensee providing sewerage services, if so authorized by the service licensee providing sewerage services.

(3) A water distribution licensee who demand, collect and retain all prescribed rates and charges for and on behalf of a service licensee providing sewerage services under subsection (2) shall be entitled to exercise all rights and remedies under sections 88 and 89 with respect to the non-payment of sewerage services.

(4) A copy of the authorization provided by the service licensee providing sewerage services shall be provided by the water distribution licensee to the applicable customer of the service licensee providing sewerage services prior to demanding, collecting and retaining all applicable rates and charges.

**Power to require deposit**

**87.** (1) The service licensee may, subject to any subsidiary legislation made under this Act, require any person requesting any supply of water or sewerage services to deposit with the licensee such amount of money as may be prescribed before water or sewerage services can be supplied to any premises.

(2) The deposit, when made, shall bear no interest upon reimbursement and shall not relieve the depositor or consumer from the liability to settle any bill for the supply of water or sewerage services provided to him by the licensee.

(3) Where a supply of water is disconnected by the service licensee due to the failure of the depositor or consumer to settle any bill under section 89, the amount stated in the bill from the date of such billing to the date when the supply of water is disconnected may be deducted from the deposit.

**Recovery of money due**

**88.** (1) Any sum of money in respect of—

- (a) water supplied or services rendered in connection with such supply; or
- (b) the provision of sewerage services,

shall be payable, within thirty days from the date of presentation of the bill, to the service licensee and if such sum is not so paid, the sum shall be recoverable by the service licensee through civil action in court.

(2) A written statement by an employee of a licensee duly certified by the licensee or any person authorized by the licensee specifying the amount due shall be *prima facie* evidence of the payment that has to be made by the consumer under subsection (1).

(3) The exercise of powers conferred by this section shall be without prejudice to the powers of the licensee under section 89.

**Disconnection of water supply**

**89.** (1) Subject to subsection (2), a water distribution licensee may—

- (a) disconnect the supply of water to a consumer by severing the service water pipe or cut off the water supply including the right to reduce the supply of water or pressure of the water supply; and
- (b) take such other means as it deems fit and proper.

(2) A water distribution licensee may exercise its powers under subsection (1) if the owner, management corporation, occupier or consumer—

- (a) fails to settle the amount for the—
  - (i) water supplied;
  - (ii) services rendered in connection with the supply of water;

- (iii) sewerage services rendered; or
- (iv) deposit required under section 87,  
within thirty days from the date of presentation of the bill;
- (b) who, having a contract with a water distribution licensee for the supply of water, allows or causes any such supply of water to be carried or conveyed or used outside such premises for purposes other than the purposes of the contract except for the extinguishment of a fire;
- (c) misuses or wastes or causes or permits to be misused or wastes any water supplied to his premises;
- (d) having agreed to use the water supplied for a particular purpose only, uses or causes or permits the use of water for a different purpose other than the extinguishment of a fire; or
- (e) has contravened any provisions of this Act or its subsidiary legislation.

(3) Before exercising its powers under subsection (1), the water distribution licensee shall give a written notice to the owner, management corporation or occupier of the premises or the consumer to remedy or rectify the default or contravention within fourteen days from the receipt of the notice.

(4) If on the expiry of the period specified in the notice given under subsection (3), the owner, management corporation or occupier of the premises or consumer, as the case may be, fails to remedy or rectify the default or contravention, the water distribution licensee may proceed to exercise its powers under subsection (1).

(5) Nothing in this Act shall require the water distribution licensee to exercise its rights and remedy under paragraph (1)(b) prior to exercising its rights and remedy under paragraph (1)(a).

(6) Where—

- (a) a water distribution licensee exercises its power under subsection (1) with respect to any premises; and

- (b) a supply of water or sewerage services is provided to the premises and also other premises wholly or partly by the same service water pipes,

the water distribution licensee may exercise those same powers to the other premises only if the same person is the occupier of the premises and of the other premises.

(7) The water distribution licensee shall, within twenty-four hours and in any event not later than two days from the date of the full payment of the sums due under sections 87 and 88, reconnect the supply of water to the premises provided that the owner or occupier grants the water distribution licensee access to its premises to carry out the reconnection works.

(8) Notwithstanding subsection (7), the water distribution licensee shall be entitled to recover from the owner or occupier of the premises the cost of disconnecting the water supply and reconnecting the water supply after disconnection. The water distribution licensee shall not be held liable for any damage to any consumer or person or property as a result of such disconnection.

(9) Where the supply of water to any premises has been disconnected by the water distribution licensee and it is found that the supply has been reconnected without the permission of the water distribution licensee, the occupier of such premises shall be presumed, until the contrary is proved, to have reconnected or authorized the reconnection of the water supply and he 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 six months or to both.

**Rights of water distribution licensee who is licensed to provide sewerage services**

**90.** A water distribution licensee who is also licensed to provide sewerage services under this Act shall be entitled to exercise all its rights and remedies under this Part irrespective of—

- (a) whether the water distribution licensee has an agreement with the consumer for the supply of water or the provision of sewerage services; or
- (b) the terms of any existing agreement with the consumer for the supply of water or the provision of sewerage services.

## PART VII

## APPEAL TRIBUNAL

**Establishment of Appeal Tribunal**

**91.** There shall be established an Appeal Tribunal for the purpose of reviewing any of the following matters on appeal:

- (a) any directions given by the Commission under this Act or its subsidiary legislation;
- (b) the decision of the Commission not to register any agreement which requires registration under this Act or its subsidiary legislation;
- (c) the decision of any committee established by the Commission to hear and resolve disputes under Chapter 2 of Part V;
- (d) the decision of the Commission to grant or not to grant approvals under section 45;
- (e) the decision of the Commission under section 59; and
- (f) the direction of the Commission under section 64.

**Constitution of Appeal Tribunal**

**92.** (1) The Appeal Tribunal shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman; and
- (b) at least two other members, or such greater number of members as the Minister thinks necessary.

(2) The Minister shall appoint a person who is a member of the Judicial and Legal Service of the Federation for at least ten years or who is a practising advocate and solicitor of the High Court for at least ten years to be the Chairman of the Appeal Tribunal.

(3) The appointment of the members of the Appeal Tribunal shall be published in the *Gazette*.



(4) A member of the Appeal Tribunal referred to in paragraph (1)(b)—

- (a) shall hold office for a term not exceeding three years; and
- (b) shall be eligible for reappointment upon expiry of his term of office but shall not be appointed for more than two consecutive terms.

### **Allowances**

**93.** (1) The members of the Appeal Tribunal appointed under section 92 shall be paid such fixed allowances and other allowances as the Minister may determine.

(2) The members of the Appeal Tribunal shall be paid—

- (a) a daily sitting allowance during the sitting of the Appeal Tribunal; and
- (b) a lodging, travelling and subsistence allowance,

as the Minister may determine.

### **Resignation and revocation of appointment**

**94.** (1) The Chairman or any other member of the Appeal Tribunal may at any time resign his office by giving a written notice to the Minister.

(2) The Minister may at any time revoke the appointment of the Chairman or any other member of the Appeal Tribunal if—

- (a) he is of unsound mind or otherwise incapable of performing his duties or managing his affairs;
- (b) he becomes bankrupt or insolvent;
- (c) he is prohibited from being a director of a company under the provisions of any written law relating to companies;
- (d) he has been convicted of an offence under any law by a court in Malaysia;
- (e) he is guilty of serious misconduct in relation to his duties;

- (f) he fails to comply with his obligations under section 96; or
- (g) his performance has been unsatisfactory for a significant period of time.

### **Vacation of office and new or temporary appointments**

**95.** (1) The office of the Chairman or any other member of the Appeal Tribunal shall be vacated if—

- (a) he dies;
- (b) he resigns or otherwise vacates his office before the expiry of the term for which he is appointed; or
- (c) his appointment is revoked under section 94.

(2) The Minister shall appoint another person in accordance with section 92 to replace the Chairman or any other member of the Appeal Tribunal during the vacancy in the office of the Chairman or member of the Appeal Tribunal.

(3) The Minister may appoint temporarily another person in accordance with section 92 to act as the Chairman or any other member of the Appeal Tribunal—

- (a) during any period when the Chairman or member is absent from any duty or from Malaysia; or
- (b) if the Chairman or member is, for any other reason, unable to perform the duties of his office.

(4) No act done or proceeding taken by the Appeal Tribunal in exercise of its powers or the performance of its functions shall be affected on the ground of any vacancy in the membership of the Appeal Tribunal.

### **Disclosure of interest**

**96.** (1) A member of the Appeal Tribunal shall disclose, as soon as practicable, to the Chairman any interest, whether substantial or not, which might conflict with the member's duties as a member of the Appeal Tribunal in a particular matter.

(2) If the Chairman is of the opinion that the member's interest is in conflict with the member's duties as a member of the Appeal Tribunal, the Chairman shall inform all the parties to the matter of the conflict.

(3) If none of the parties to the matter objects to the conflict, the member may continue to execute duties as a member of the Appeal Tribunal in relation to that matter.

(4) If a party to the matter objects to the conflict, the member of the Appeal Tribunal shall not continue to execute his duties as a member of the Appeal Tribunal in relation to that matter.

(5) The failure by the member to disclose his interest under subsection (1) shall—

(a) invalidate the decision of the Appeal Tribunal unless all parties agree to be bound by the decision; and

(b) subject the member to the revocation of his appointment under section 94.

### **Secretary to Appeal Tribunal and other officers**

**97.** (1) There shall be appointed a Secretary to the Appeal Tribunal and such number of officers as may be necessary for carrying out the functions of the Appeal Tribunal.

(2) The Minister may designate such number of public officers as the Minister thinks fit to assist the Secretary in carrying out his functions under subsection (1).

(3) For the purpose of this Act, the Secretary and the officers designated under subsection (2) shall be deemed to be officers of the Appeal Tribunal.

### **Appeal to Appeal Tribunal**

**98.** (1) A person who is aggrieved by a decision or direction of the Commission or the committee as set out in section 91 may appeal to the Appeal Tribunal by filing a notice of appeal with the Appeal Tribunal.

(2) A notice of appeal shall be made in writing to the Appeal Tribunal within thirty days from the date of the decision or direction of the Commission or the committee and the appellant shall give a copy of the notice to the Chairman of the Commission or the committee.

(3) The notice of appeal shall state shortly the substance of the decision or direction of the Commission or the committee appealed against, shall contain an address at which any notices or documents connected with the appeal may be served upon the appellant or upon his advocate and shall be signed by the appellant or his advocate.

### **Record of decision or direction of Commission or committee**

**99.** (1) The aggrieved person referred to in subsection 98(1) may, on its own initiative, request in writing to the Commission or the committee for a statement of the grounds for the decision or direction of the Commission or the committee.

(2) Subject to subsection (3), the Commission or the committee shall, upon receiving the written request under subsection (1), provide a copy of a statement of its grounds for its decision or direction to the aggrieved person upon payment of a prescribed fee.

(3) When a notice of appeal has been filed with the Appeal Tribunal under subsection 98(1), the Commission or the committee shall, if it had not already written its grounds for its decision or direction for the matter stated in the notice as requested by the appellant under subsection (1), record in writing its grounds for its decision or direction and the written grounds shall form part of the record of the proceedings before the Appeal Tribunal.

### **Stay of decision or direction pending appeal**

**100.** (1) Pending the decision of an appeal by the Appeal Tribunal, a decision or direction of the Commission or the committee shall be valid, binding and enforceable except where a stay of the decision or direction of the Commission or the committee has been applied for by the appellant and granted by the Appeal Tribunal.

(2) An application for a stay shall be in writing and shall be made to the Appeal Tribunal on or after the notice of appeal has been filed with the Appeal Tribunal.

### **Composition of Appeal Tribunal**

**101.** (1) Every proceedings of the Appeal Tribunal shall be heard and disposed of by three members or such greater uneven number of members of the Appeal Tribunal as the Chairman may in any particular case determine.

(2) In the absence of the Chairman, the senior member of the Appeal Tribunal shall preside.

### **Sittings of Appeal Tribunal**

**102.** (1) The Appeal Tribunal shall sit on such dates and at such places as the Chairman may from time to time appoint.

(2) The Chairman may cancel or postpone any sitting of the Appeal Tribunal and may change the place of the sittings which has been appointed under subsection (1).

(3) Any changes to the dates or places of any sitting of the Appeal Tribunal shall be informed to the parties to the appeal by written notice.

### **Procedures of Appeal Tribunal**

**103.** The Appeal Tribunal shall decide its own procedures.

### **Powers of Appeal Tribunal**

**104.** (1) The Appeal Tribunal shall have power—

- (a) to summon parties to the proceedings or any other person to attend before it to give evidence in respect of an appeal;
- (b) to procure and receive evidence on oath or affirmation whether written or oral, and examine all such persons as witnesses as the Appeal Tribunal considers necessary;

- (c) where a person is so summoned, to require the production of any information, document or other thing in his possession or under his control which the Appeal Tribunal considers necessary for the purposes of the appeal;
- (d) to administer any oath, affirmation or statutory declaration, as the case may require;
- (e) where a person is so summoned, to allow the payment for any reasonable expenses incurred in connection with his attendance;
- (f) to admit evidence or reject evidence adduced, whether oral or documentary, and whether admissible or inadmissible under the provisions of any written law for the time being in force relating to the admissibility of evidence;
- (g) to adjourn the hearing of an appeal from time to time, including the power to adjourn to consider its decision; and
- (h) to generally direct and do all such matters as may be necessary or expedient for the expeditious decision of the appeal.

(2) The Appeal Tribunal shall have the powers of a subordinate court with regard to the enforcement of attendance of witnesses, hearing evidence on oath or affirmation and punishment for contempt.

### **Decisions of Appeal Tribunal**

**105.** (1) The decision of the Appeal Tribunal, on any matter, shall be decided on a majority of the members.

(2) A decision of the Appeal Tribunal is final and binding on the parties to the appeal and is not subject to further appeal.

### **Enforcement of decision of Appeal Tribunal**

**106.** A decision given by the Appeal Tribunal may, by leave of the Sessions Court, be enforced in the same manner as a judgment or order to the same effect, and where leave is so given, judgment may be entered in terms of the decision.

**Immunity of action for act or omission done in good faith**

**107.** No action or suit shall be instituted or maintained in any court against—

- (a) the Appeal Tribunal;
- (b) the Chairman or any member of the Appeal Tribunal;
- (c) the Secretary or any other officer of the Appeal Tribunal;  
or
- (d) a person authorized to act for and on behalf of the Appeal Tribunal,

for any act or omission done in good faith in the performance of its or his functions and the exercise of its or his powers under this Act and any subsidiary legislation made under this Act.

PART VIII

TRANSFER OF BUSINESS

**Interpretation**

**108.** In this Part, unless the context otherwise requires—

“licensee” includes—

- (a) a person who holds an individual licence or authorization granted under Chapter 2 of Part XIII;
- (b) a person who is exempted from holding an individual licence under this Act; and
- (c) a person who holds, controls or operates assets which form part of a public water supply system or public sewerage system;

“transferor” means the licensee whose business is to be transferred to another licensee or person under section 109;

“transferee” means the licensee or other person to whom a transfer of business is to be made under section 109;

“business” means any activity carried on for the purpose of gain or profit and includes all property derived from, or used in or for the purpose of, carrying on such activity and all rights and liabilities arising from such activity; and

“transfer date” means the date on and from which an agreement or arrangement referred to in section 109 shall take effect.

### **Sanction required for reconstruction, etc., of licensees**

**109.** (1) No person shall enter into an agreement or arrangement—

- (a) which will result in a change in the control of the licensee or its holding company;
- (b) for the sale, disposal or transfer of the whole or any substantial part of the business of a licensee;
- (c) for the amalgamation or merger of a licensee with any other person; or
- (d) for the reconstruction of a licensee.

(2) Notwithstanding subsection (1), a person may enter into an agreement or arrangement referred to in subsection (1) if—

- (a) the proposed agreement or arrangement is in writing;
- (b) an application in writing has been made to the Minister for his approval of such agreement or arrangement; and
- (c) the Minister has approved the agreement or arrangement.

(3) A person may apply for the approval of the Minister under paragraph (2)(b) by submitting a written application to the Commission together with a copy of the proposed agreement or arrangement and all other information and documents as may be related, directly or indirectly, to the agreement or arrangement or relevant for the Commission’s consideration.

(4) At any time after receiving an application, the Commission may by written notice require the applicant or any other person who is a director, controller or manager of the applicant to provide any additional information or document.



(5) Where any additional information or document required under subsection (4) is not provided by any person from whom it is required within the period specified in the written notice or any extension of the period granted by the Commission, the application shall be deemed to be withdrawn and shall not be further proceeded with, without prejudice to a fresh application being made by the applicant.

(6) The Commission shall, upon receiving an application referred to under subsection (3) and after being provided with all such information and documents as it may require, submit a written recommendation to the Minister as to whether or not the application is to be approved and if it is to be approved, any conditions that may be imposed or any modification or variation that may be made.

(7) An application under—

(a) paragraph (1)(b) shall not be approved by the Minister if the agreement or arrangement would result in the sale, disposal, or transfer of any part of the business of the licensee to a person who is not a licensee, except in relation to a part of the business which does not require to be licensed under this Act; and

(b) paragraph (1)(c) shall not be approved by the Minister except in the case of an amalgamation or merger with another licensee.

(8) Where the Minister refuses to grant his approval for an application, the Commission shall notify the applicant in writing of the refusal.

**Application to High Court to facilitate agreement or arrangement for transfer of whole or part of business of licensee being given effect to**

**110.** (1) Where the Minister has granted his approval under section 109 to an application in respect of an agreement or arrangement under paragraph 109(1)(b) or (c), the transferor and the transferee may make a joint application to the High Court by way of an *ex parte* originating summons for an order of the Court as may be required by them to facilitate or enable the agreement or arrangement being given effect to.

(2) The joint application sought under subsection (1) may be for all or any of the following orders:

- (a) the date on and from which the agreement or arrangement shall take effect, being a date earlier or later than the date of the application;
- (b) the vesting of any property held by the transferor, either alone or jointly with any other person, in the transferee either alone or jointly with such other person, on and from the transfer date in the same capacity and with and subject to the powers, provisions and liabilities applicable thereto respectively;
- (c) for any existing instrument, whether in the form of a deed, will or otherwise, or order of any court, under or by virtue of which any property became vested in the transferor, to be construed and to have effect as if any reference to the transferor in the instrument or order is substituted with a reference to the transferee;
- (d) for any existing agreement to which the transferor is a party, to be construed and to have effect as if the transferee is a party to the agreement instead of the transferor;
- (e) where any right or liability of the transferor is transferred to the transferee, for the transferee to have the same rights, powers and remedies of the transferor as if the transferee had at all times has such right or liability and the right and liability shall include the right and liability in respect of any legal proceedings or applications to any authority pending immediately before the transfer date by or against the transferor;
- (f) any judgment or award obtained by or against the transferor and not fully satisfied before the transfer date, to be enforceable by or against the transferee; and
- (g) for all such incidental, consequential and supplemental orders as are necessary to secure that the agreement or arrangement to be fully and effectively carried out.

(3) On the hearing of an application under subsection (1), the High Court may grant an order in the terms applied for or with such modifications or variations as the Court deems just or proper in the circumstances of the case.

(4) Where the order of the High Court under subsection (3) provides for the transfer of any property or business vested in or held by the transferor, either alone or jointly with any other person, then by virtue of the order that property or business shall on and from the transfer date become vested in or held by the transferee either alone or jointly with such other person and the order shall have effect according to its terms notwithstanding anything in any law or in any rule of law, and shall be binding on any person affected by the order regardless that the person so affected is not a party to, or had no notice of, the proceedings or any other related proceedings under this section.

(5) The order of the High Court made under subsection (3) shall, subject to the directions of the High Court, be published by the transferee in not less than two daily newspapers published in Malaysia and approved by the Commission, one of which shall be in the national language and the other in English.

(6) The transferor shall, within thirty days of the making of the order of the High Court under subsection (3), lodge an authenticated copy of the following documents with the Companies Commission of Malaysia and the appropriate authority, if any, concerned with the registration or recording of dealings in any movable property or any interest in movable property transferred pursuant to the order:

- (a) the order of the High Court;
- (b) the agreement or arrangement approved by the Minister under section 109; and
- (c) the Minister's approval under section 109.

(7) Where an order of the High Court under subsection (3) vests any alienated land or any share or interest in any alienated land in the transferee—

- (a) the High Court shall, where such alienated land is in Peninsular Malaysia and the Federal Territory of Putrajaya, pursuant to subsection 420(2) of the National Land Code, cause a copy of the order to be served on the Registrar of Titles or the Land Administrator, as the case may be, immediately after the making of the order so that the Registrar of Titles or the Land Administrator, as the case may be, gives effect to subsections 420(2), (3) and (4) of the National Land Code; or

- (b) where such alienated land is in the Federal Territory of Labuan, the transferee shall, as soon as practicable, after the order has been made, present an authenticated copy of such order to the Registrar for the registration of the vesting of the alienated land or of the share or interest in the alienated land as provided under the Sabah Land Ordinance as modified by the Federal Territory of Labuan (Modification of Land Ordinance) Order 1984.

(8) An order of the High Court under subsection (3) may relate to any property or business of the transferor outside Malaysia and, if it so relates, effect may be given to it either in accordance with any reciprocal arrangements relating to the enforcement of judgments that may exist between Malaysia and the country, territory or place outside Malaysia in which such property or business is located, or where there are no such reciprocal arrangements, in accordance with the law applicable in such country, territory or place.

## PART IX

### ASSUMPTION OF CONTROL

#### Interpretation

**111.** In this Part, unless the context otherwise requires—

“licensee” includes—

- (a) a person who holds an individual licence or authorization granted under Chapter 2 of Part XIII;
- (b) a person who is exempted from holding an individual licence granted under this Act; and
- (c) a person who holds, controls or operates assets which form part of a public water supply system or public sewerage system.

#### Licensee to inform Commission

**112.** Any licensee which considers that—

- (a) it is insolvent; or
- (b) it has suspended payment to any extent that prejudices its operations,

shall immediately inform the Commission of the fact.

**Action of Commission in respect of licensee in certain circumstances****113. (1) Where the Commission—**

- (a) has been informed by a licensee of any circumstances referred to in section 112; or
- (b) is satisfied—
  - (i) that the licence or authorization of a licensee has been revoked and the licensee continues to provide water supply services or sewerage services in contravention of this Act and its subsidiary legislation;
  - (ii) that there has been or is a contravention by the licensee of any direction by the Commission as is serious enough to make it inappropriate for the licensee to continue to hold its licence;
  - (iii) that the licensee is insolvent or has suspended payment to any extent that prejudices its operations or that there are facts or circumstances which is likely to lead to the licensee becoming insolvent or to the licensee suspending payment to any extent that prejudices its operations; or
  - (iv) that the licensee has contravened any provision of this Act or its subsidiary legislation or has contravened any condition of its licence as is serious enough to make it inappropriate for the licensee to continue to hold its licence,

the Commission may, by order published in the *Gazette*, exercise any one or more of the following powers, as it deems necessary:

- (A) require the licensee to take any step, action or to do or not to do any act or thing in relation to the licensee or its business, directors or officers as may be specified, and within the period set out, by the Commission in the order;
- (B) notwithstanding anything in any written law or any limitations contained in the constituent documents of the licensee, remove an officer of the licensee from his office with effect from a date as may be set out in the order;

- (C) notwithstanding anything in any written law or any limitations contained in the constituent documents of the licensee, in particular, a limitation as to the minimum or maximum number of directors—
- (i) remove any director of the licensee from his office with effect from a date as may be set out in the order; or
  - (ii) appoint one or more persons as a director or directors of the licensee and provide for any of the persons so appointed to be paid by the licensee such remuneration as may be set out in the order; or
- (D) appoint a person to advise the licensee in relation to the proper conduct of its business and provide for the person so appointed to be paid by the licensee such remuneration as may be set out in the order.

(2) The powers of the Commission under paragraphs (1)(B), (C) and (D) shall be exercised only with the prior concurrence of the Minister.

(3) If any of the circumstances as set out in paragraphs (1)(a) and (b) exist in respect of a licensee and the Commission is of the opinion that it is necessary in the public interest, the Commission may, whether or not it has exercised any of its powers under paragraph (1)(A), (B), (C) or (D), make a recommendation to the Minister—

- (a) for the Commission to assume control of the whole of the property, business and affairs of the licensee and carry on the whole of its business and affairs;
- (b) for the Commission to assume control of such part of the property, business and affairs of the licensee as may be specified by the Commission and carry on such part of the business and affairs; or
- (c) for the Commission to appoint any person to exercise any of the powers of the Commission under paragraph (a) or (b) on behalf of the Commission; and
- (d) for the expenses of the Commission, or the remuneration of the person so appointed under paragraph (c), as the case may be, to be payable out of the assets of the licensee in priority to all other claims whether secured or unsecured.

(4) If the Minister agrees with the recommendation of the Commission under subsection (3), he shall make an order to be published in the *Gazette* specifying his decision and the action to be taken by the Commission accordingly.

(5) An order of the Commission under subsection (1), or an order of the Minister under subsection (4), may from time to time be amended or replaced by a further order under subsection (1) or (4), as the case may be.

(6) No order under subsection (1), (4) or (5) shall be made unless—

- (a) the licensee in respect of which the order is to be made; and
- (b) in the case of an order under paragraph (1)(B) or subparagraph (C)(i), the officer or director who is to be removed from office,

has been given a reasonable opportunity of making representations against, or otherwise in respect of, the proposed order.

(7) Notwithstanding subsection (6), if in the opinion of the Commission—

- (a) in the case of an order to be made by the Commission under subsection (1) or (5); or
- (b) in the case of an order to be made by the Minister under subsection (4) or (5),

any delay would be detrimental to the interests of the consumers or to the public or to any section of the public, the order may be made first and the opportunity to make representations against or otherwise in relation to the order shall, in such case, be given immediately after the order has been made, and the order may, in consequence of such representations either be confirmed or be amended or replaced under subsection (5), or be revoked under subsection (8).

(8) The Commission or the Minister may at any time revoke an order in the same manner as the order was made under subsection (1), (4) or (5), as the case may be.

(9) A person who contravenes an order of the Commission under paragraph 113(1)(A), (B), (C) or (D) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Action of Minister in respect of licensee in national interest**

**114.** (1) Notwithstanding any other provisions of this Act or any other written law, the Minister may, if he thinks it necessary for national interest, by order published in the *Gazette*, direct—

- (a) the Commission to assume control of the whole of the property, business and affairs of a licensee and to carry on the whole of the licensee's business and affairs;
- (b) the Commission to assume control of such part of the property, business and affairs of a licensee as may be specified by the Minister and to carry on such part of the licensee's business and affairs; or
- (c) the Commission to appoint any person to exercise any of actions directed in paragraph (a) or (b) on behalf of the Commission; and
- (d) for the expenses of the Commission, or the remuneration of the person so appointed under paragraph (c), as the case may be, to be payable out of the assets of the licensee in priority to all other claims whether secured or unsecured.

(2) The determination of what amounts to national interest shall be made by the Minister and such determination shall be final and binding upon all persons and shall not be challenged, appealed against, reviewed, quashed or questioned in any court.

(3) The power of the Minister under this section shall only be exercised with the prior approval of the Federal Government.

### **Provisions in relation to appointment under section 113**

**115.** (1) A person appointed by the Commission under subparagraph 113(1)(C)(ii), paragraph 113(1)(D) or subsection 113(4) shall be appointed for such period as may be determined by the Commission not exceeding, in any case, two years, but may be reappointed for three further consecutive periods not exceeding one year each.



(2) The terms and conditions of an appointment referred to in subsection (1) shall, subject to the order under which the appointment is made, be determined by the Commission and shall be binding on the licensee.

(3) The appointment of a director or directors under subparagraph 113(1)(C)(ii) shall not affect any provision of the constituent documents enabling the licensee to have additional directors where the maximum number of directors allowed under the constituent documents has not already been reached or exceeded by the appointment or appointments under subparagraph 113(1)(C)(ii).

(4) A person holding any appointment as is referred to in subsection (1) shall not incur any obligation or liability solely by reason of his holding such appointment.

### **Provisions in relation to removal from office under section 113**

**116.** (1) Any officer or director of a licensee who has been removed from his office under paragraph 113(1)(B) or subparagraph 113(1)(C)(i), as the case may be, shall cease to hold the office with effect from the date set out in the order, and shall not after that date hold any other office in the licensee or, in any manner, whether directly or indirectly, be concerned with, take part or engage in, any activity, affairs or business of or in relation to that licensee.

(2) The removal of an officer or director under paragraph 113(1)(B) or subparagraph 113(1)(C)(i) shall be lawful notwithstanding anything contained in any contract of service or other contract or agreement, whether express or implied, whether individual or collective, and whether or not made or provided for under any written law, and a person so removed from office shall not be entitled to claim any compensation for the loss or termination of office.

### **Provisions in relation to assumption of control under section 113 or 114**

**117.** (1) If the control of a licensee has been assumed under an order made under subsection 113(4) or section 114, the licensee and its directors and officers shall—

- (a) submit its property, business and affairs to such control to the Commission or the appointed person, as the case may be; and

(b) provide to the Commission or the appointed person, as the case may be, all such facilities as may be required to carry on the business and affairs of the licensee.

(2) If the control of a licensee has been assumed in pursuance of an order made under subsection 113(4) or section 114, the Commission, or the appointed person, as the case may be, shall remain in control of the property, business and affairs of the licensee concerned, and carry on the business and affairs of that licensee in the name and on behalf of that licensee, as provided in the order, until such time when the order is revoked.

(3) During the period that an order made under subsection 113(4) or section 114 is in force—

(a) all the powers of the licensee and of its directors under the licensee's constituent documents, or exercisable by the licensee or its directors under any written law, shall be vested in the Commission or in the appointed person, as the case may be, regardless whether such powers are exercisable by resolution, special resolution or in any other manner and any difficulty arising from the vesting may be resolved by the Minister by a direction in writing;

(b) no director of the licensee to which the order relates shall, either directly or indirectly, engage in any activity in relation to the licensee, except as may be required or authorized by the Commission or the appointed person, as the case may be, and no remuneration or any payment shall accrue or be payable to any director of the licensee, except such as may be approved in writing by the Commission or the appointed person, as the case may be, in relation to any activity required or authorized as aforesaid by the Commission or the appointed person, as the case may be; and

(c) the Commission or appointed person, as the case may be, shall manage the assets and affairs of the licensee to continue the supply of water and the provision of sewerage services to the public.

(4) An order under subsection 113(4) or section 114 shall not have the effect of conferring on or vesting in the Commission or the appointed person, as the case may be, any title to or any beneficial interest in any property of the licensee to which the order relates.

(5) Where the control of a licensee has been assumed in pursuance of an order made under subsection 113(4) or section 114, the Federal Government, Minister, Commission, any member of the Commission, any employee or agent of the Commission and the appointed person shall not be liable to any action or proceedings in a court by any party for any loss or damage caused by any act or matter done or omitted to be done by the Minister, Commission, any member of the Commission, any employee or agent of the Commission and the appointed person in good faith and in the intended exercise of any function or power under this Part.

(6) A person who contravenes subsection (1) or subsection (3)(b) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(7) For the purpose of this section, sections 118 and 119, “appointed person” means the person who has been appointed by the Commission to assume control over the whole or part of the property, business and affairs of a licensee on behalf of the Commission under an order made by the Minister under subsection 113(4) or section 114.

### **Effect of obstructing or hindering Commission or appointed person**

**118.** (1) If control of a licensee has been assumed by the Commission or the appointed person under an order made under subsection 113(4) or section 114, no person shall obstruct or hinder the exercise of any duty, right or power by the Commission or the appointed person.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Moratorium**

**119.** (1) The Minister may, on the recommendation of the Commission, if he considers it to be in the interest of the consumers or to the public or any section of the public, by order published in the *Gazette*, authorize the Commission or the appointed person

to apply to the High Court for an order staying the commencement or continuance of all, or any class, category or description of, actions and proceedings of a civil nature against the licensee.

(2) An order under subsection (1) may, from time to time, be amended, replaced or revoked by a further order under subsection (1).

### **Order to be final**

**120.** An order of the Minister under this Part shall be final and shall not be challenged, appealed against, reviewed, quashed or questioned in any court.

## PART X

### GENERAL OFFENCES AND PENALTIES

#### **Offence of contamination of water**

**121.** (1) A person who contaminates or causes to be contaminated any watercourse or the water supply system or any part of the watercourse or water supply system with any substance—

- (a) with the intention to cause death;
- (b) with the knowledge that he is likely to cause death; or
- (c) which would likely endanger the life of any person,

commits an offence.

(2) A person found guilty of an offence under subsection (1), on conviction—

- (a) where death is the result of the act, shall be punished with death or imprisonment for a term which may extend to twenty years, and where the punishment is not death, he shall also be liable to whipping;
- (b) where death is not the result of the act but the substance which is used to contaminate the watercourse or water supply system or any part of the watercourse or the water supply system is a radioactive or toxic substance, shall be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding five hundred thousand ringgit or to whipping or to all three; or

- (c) in any other case, shall be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) It shall not be a defence for the person who is charged with an offence under this section that the licensee who owns the water supply system or who provides the water supply services did not take any action to stop the supply of water as soon as it became aware that the watercourse or the water supply system had been contaminated.

### **Wrongful acts**

**122.** (1) A person who—

- (a) wilfully, negligently or recklessly damages or causes to be damaged any pipe, channel, conduit or structure, sewer, manhole, chamber, fixture, equipment, reservoir, cistern, pump, hydrant, valve, meter, sub-meter or any part of any public water supply system or public sewerage system;
- (b) flushes, draws off, diverts or takes water from any public water supply system or part of the system, unless the person is otherwise permitted under this Act or any other written law;
- (c) bathes, wastes or throws any rubbish or creature, dead or alive, into any public water supply system or part of the system; or
- (d) trespasses on any area of a service reservoir or booster station of a public water supply system or on any area of a sewage pumping station or sewage treatment works of a public sewerage system,

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 six months or to both.

(2) A person who is convicted for an offence under paragraph (1)(a) shall be liable to pay compensation for such damage and such compensation shall be recoverable from such person by the licensee in the manner provided under section 88.

**Unlawful connection of water supply**

**123.** (1) No person other than a licensee shall make any connection to a public mains or service water pipe.

(2) Where a service water pipe to any premises has been unlawfully connected to a public mains or to another service water pipe serving another premises, it shall be presumed until the contrary is proved that the unlawful connection was made by the owner or the occupier of the first-mentioned premises.

(3) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both.

**Tampering with meter or sub-meter**

**124.** A person who tampers with a meter or sub-meter or causes the tampering of a meter or sub-meter used for the measurement of water supplied to any premises in such a manner so as to cause the meter or sub-meter to show incorrect readings 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 six months or to both.

**Tampering of water supply system or sewerage system or part of the systems**

**125.** A person who tampers with any pipe, channel, conduit or structure, sewer, manhole, chamber, fixture and equipment, including any valve, hydrant or any part of a water supply system or sewerage system 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 six months or to both.

**Taking of water from fire hydrant**

**126.** (1) No person other than the persons referred to in subsection 42(1) shall take water from a fire hydrant.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### **Penalty for obstructing**

**127.** A person who at any time—

- (a) hinders or obstructs the licensee or any person authorized by the Commission under this Act or any of the licensee's or Commission's officers, employees, agents or contractors in the performance and execution of its duty or of anything which it is respectively empowered or required to do by virtue of or in consequence of this Act; or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act or its subsidiary legislation,

commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to a term of imprisonment not exceeding six months or to both.

### **Proceedings if occupier opposes the execution of works**

**128.** (1) If the occupier of any premises prevents the owner or the management corporation of the premises from carrying into effect in respect of the premises any of the provisions of this Act or its subsidiary legislation after notice of the owner's or the management corporation's intention to do so has been given by the owner or the management corporation to that occupier, a Magistrate's Court, upon proof thereof and upon application of the owner or the management corporation, may make an order requiring the occupier to permit the owner or the management corporation to execute all such works with respect to that premises as are necessary for carrying into effect the provisions of this Act or its subsidiary legislation and may also, if it thinks fit, order the occupier to pay to the owner or the management corporation the costs relating to the application or order.

(2) The occupier of any premises who continues, after the expiration of eight days from the date of an order made under subsection (1), to refuse to permit the owner or the management

corporation of the premises to execute the works specified in the order commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit, and the owner or the management corporation shall, during the continuance of the occupier's refusal, be discharged from any penalty to which the owner or the management corporation might otherwise be liable by reason of his or its default in executing the works.

### **Unlawful use or supply of non-standard equipment, device, material, system or facilities**

**129.** (1) A person who uses or supplies any non-standard equipment, device, material, system or facility that he knows or has reason to believe is a non-standard equipment, device, material, system or facility to be used for any purpose of installing, working or operating the equipment, device, material, system or facility 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 six months or to both.

(2) In any proceedings under this Act or its subsidiary legislation, any document purporting to be a certificate given by an authorized officer certifying that any particular equipment, device or material is a non-standard equipment, device or material shall be admissible as *prima facie* evidence of the facts stated in it until the contrary is proved.

### **Offence for giving false or misleading information**

**130.** A person who discloses or provides information to the Commission or its authorized officers that he knows or has reason to believe is false or misleading commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Power to take action**

**131.** Nothing in this Act shall prevent or shall be held to prevent a licensee from instituting any action or suit against any person for damage caused to any water supply system or sewerage system or any part of the systems, or to prevent any person from being prosecuted for an offence in respect of any water supply system or sewerage system or part of the systems which is under the control or management of the licensee.



PART XI

INFORMATION-GATHERING POWERS AND ENFORCEMENT  
PROVISIONS

Chapter 1

*Information-gathering powers*

**Provision of information**

**132.** (1) This section applies to any person if the Commission has reasonable grounds to believe that the person—

- (a) has any information or any document that is relevant to the performance of the Commission's powers and functions under this Act or its subsidiary legislation; or
- (b) is capable of giving any evidence which the Commission has reasonable grounds to believe that the evidence is relevant to the performance of the Commission's powers and functions under this Act or its subsidiary legislation.

(2) Notwithstanding the provisions of any other written law, the Commission may, by a written notice, order any person—

- (a) to give an authorized officer, within the period and in the manner and form specified in the notice, any such information;
- (b) to produce to an authorized officer, within the period and in the manner specified in the notice, any such documents, whether in a physical form or in electronic media;
- (c) to make copies of any such documents and to produce those copies to an authorized officer within the period and in the manner specified in the notice;
- (d) if the person is an individual, to appear, at a private hearing, before an authorized officer at a time and place specified in the notice to give any evidence, either orally or in writing, and produce any such documents, whether in a physical form or in electronic media;
- (e) if the person is a body corporate or a public body, to cause a competent officer of the body to appear, at a private hearing, before an authorized officer at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents, whether in a physical form or in electronic media; or

(f) if the person is a partnership, to cause an individual who is a partner in the partnership or an employee of the partnership to appear, at a private hearing, before an authorized officer at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents, whether in a physical form or in electronic media.

(3) The Commission shall allow the person so ordered under subsection (2) a reasonable time to provide any such information or documents specified in the notice.

(4) Any person required to provide information or documents under subsection (2) shall ensure that the information or documents provided are true, accurate and complete and such person should provide a representation to that effect, including a representation that he is not aware of any other information or document which would make the information or document provided untrue or misleading.

### **Proof of compliance**

**133.** A person shall, if at any time called upon in writing by the Commission to do so, provide to the Commission or its authorized officer all documents and information as the person may have relating to his compliance with any of the provisions of this Act or its subsidiary legislation, as the Commission may generally, or in relation to any particular case, require.

### **Commission may retain documents**

**134.** (1) The Commission may take and retain for as long as is necessary possession of a document provided by any person under this Chapter.

(2) The person who provided the document is entitled to be supplied, as soon as practicable, with a copy certified by the Commission to be a true copy of the document.

(3) Notwithstanding any other written law, the certified copy of the document shall be received by all courts and tribunals as evidence as if it was the original document.

(4) Until a certified copy of the document is supplied, the Commission shall, at such times and places as the Commission deems appropriate, permit the person who provided the document or a person authorized by the person to inspect and make copies of or take extracts from the original document.

(5) If the Commission is satisfied that the retaining of the documents is no longer necessary, the Commission may return the documents to the person who provided the documents under subsection (1) as soon as practicable.

### **Access to records**

**135.** (1) A person shall, if at any time requested by the Commission by notice in writing, allow the Commission or its authorized officer access to its records for the purposes of carrying out any of the Commission's functions or powers under this Act or its subsidiary legislation.

(2) A person who fails to comply with the written notice under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit.

### **Incorrect records**

**136.** A person shall not, in purported compliance with a requirement imposed by the rules made by the Commission under section 180 in relation to record-keeping, make a record of any matter or thing in such a way that it does not correctly record the matter or thing.

### **Record of information**

**137.** (1) The Commission shall maintain a record of all information or documents received pursuant to the orders given under subsection 132(2).

(2) A record maintained under subsection (1) may be made available to the public.

### **Publication of information**

**138.** (1) The Commission may publish any information received by it in the course of exercising its powers and functions under this Chapter.

(2) The Commission shall consider the commercial interest of the parties to whom the information relates before publishing such information.

(3) The Commission shall not publish any information or any part of any information disclosed to it if the publication—

- (a) is likely to prejudice the fair trial of a person; or
- (b) would involve the unreasonable disclosure of personal information about any individual (including a deceased person),

but the Commission may publish an extract relating to such information provided that the particulars in the extract shall not be arranged in any way which would compromise or prejudice the person providing such information.

### **Offence for non-compliance**

**139.** A person who fails to comply with an order of the Commission in accordance with this Chapter 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 six months or to both.

## Chapter 2

### *Powers of entry*

#### **Power to enter on and examine land**

**140.** (1) Whenever it appears to a licensee that it will be necessary for the licensee to exercise the powers conferred upon the licensee by this Act in respect of any land other than State land for the purpose of constructing a water supply system or a sewerage system or part of the systems, the licensee or any person authorized by the licensee may, after giving not less than twenty-four hours notice to the occupiers of the land, if any, enter upon the land, survey and take levels and do any other acts necessary to ascertain the suitability of the land, in so far as the same may be possible without causing damage or disturbance.

(2) Nothing contained in this section shall be deemed to authorize any person to cut down or clear away any vegetation or fence or other erection or to enter into any building or upon any enclosure attached to any building.

(3) In the case of reserved land, the notice under subsection (1) may be given to the person in charge of the reserved land or, in the absence of any such person, to the Land Administrator.

### **Power to enter on land for purposes of construction**

**141.** (1) Subject to the provisions of this Chapter, whenever it is necessary so to do for the purpose of installing any water supply system or sewerage system or part of the systems under this Act, a licensee may install, place or carry on, under or over any land, other than State land, such pipe, channel, conduit or similar structure, sewer, manhole, chamber, fixture or any other equipment forming part of a water supply system or sewerage system as may be necessary or proper for the purposes of the installation, as the case may be, and may take such other action as may be necessary to render the installation safe and efficient, and shall pay full compensation in accordance with section 146 to all persons interested for any disturbance, damage or disability that may be caused by such works.

(2) Before entering on any land for the purpose specified in subsection (1), the licensee shall give a notice stating as fully and accurately as possible the nature and extent of the acts intended to be done.

(3) The notice shall substantially be in the form to be specified by the Commission and the Land Administrator shall specify a date upon which the State Authority shall inquire into any objection that may have been made as provided in this Chapter.

(4) The notice under subsection (2) shall be given—

- (a) in the case of alienated land, to the owner, management corporation or occupier;
- (b) in the case of reserved land, to the person in charge of the reserved land or, in the absence of any such person, to the Land Administrator,

and may be sent by registered post or be left at the last known address of the person to whom it is to be given or served by the licensee or the Land Administrator at the expense of the licensee, either in the manner provided in this Chapter or in the manner provided for the service of notices under any written law relating to land in force in the State where the land is situated.

(5) Any of the persons mentioned in subsection (4) may, within fourteen days of the receipt of the notice referred to in subsection (2), lodge an objection to the intended acts of the licensee.

(6) The objection shall be made in writing to the Land Administrator and the licensee, and the Land Administrator shall give notice of the objection to the State Authority.

(7) If no objection is lodged within the time specified in subsection (5), the licensee may forthwith enter on the land and do all or any of the acts specified in the notice given under subsection (2).

(8) If an objection is lodged and is not withdrawn before the date fixed for the hearing of the objection, the Land Administrator shall hold an enquiry, giving all parties an opportunity to be heard.

(9) Upon the conclusion of the enquiry the Land Administrator may, either unconditionally or subject to such terms, conditions and stipulations as he thinks fit, make an order authorizing or prohibiting any of the acts mentioned in the notice given under subsection (2).

### **Appeal against order of Land Administrator**

**142.** (1) Any party who is dissatisfied with the order of the Land Administrator under subsection 141(9) may within twenty-one days after the order appeal against such order to the State Authority which may then uphold, set aside or vary the order upon such terms, conditions and stipulations as it thinks fit.

(2) The State Authority may, if it thinks fit, in lieu of making an order under subsection (1), direct the acquisition of any land or part of any land included in a notice given under subsection 141(2) in accordance with the Land Acquisition Act 1960 [*Act 486*].

(3) The licensee shall pay the compensation for any acquisition of land made by the State Authority under subsection (2).

(4) The decision of the State Authority under this section shall be final.

(5) Notwithstanding any written law relating to land matters, the Registrar—

- (a) upon the production to him of the notice issued by the licensee under subsection 141(2) together with the statement by the Land Administrator that no objection had been lodged by any of the persons mentioned in subsection 141(4); or
- (b) upon the production to him of the original order made under subsection 141(9) and upon the deposit with him of a certified true copy of the original order,

shall cause to be made on the register document of title relating to the land affected by the notice or order a note of the existence of the rights under such notice or order.

### **Installation of pipe, etc., on State land**

**143.** Subject to the approval of the State Authority and to such conditions as the State Authority may deem proper, a person holding an individual licence may install, place or carry on, under or over State land, to the extent permitted by its individual licence, such pipe, channel, conduit or similar structure, sewer, manhole, chamber, fixture or any other equipment forming part of a public water supply system or public sewerage system as may be necessary or proper for the purposes of the public water supply system or public sewerage system.

### **Maintenance, repair and upgrading of installation**

**144.** Whenever it is necessary so to do for the purpose of maintaining, repairing or upgrading any water supply system, sewerage system or any part of the systems, the licensee or any person authorized by the licensee in that behalf may at all reasonable times enter upon any land on, under or over which pipe, channel, conduit or similar structure, sewer, manhole, chamber, fixture or any other equipment forming part of a water supply system or sewerage system has been installed, and may carry out all necessary repairs, and may, in the course thereof, fell or lop trees, remove vegetation and do all other things necessary to the purpose, causing as little damage as possible and paying full compensation in accordance with section 146 to all persons interested for any damage that may be caused thereby for which compensation has not already been assessed under section 141.

**Saving of way leave agreement**

**145.** (1) Nothing in section 141 or 144 shall—

- (a) affect the right of a licensee to enter into a way leave agreement with the owner or occupier of any land for the purpose of carrying any pipe, channel, conduit or similar structure, sewer, manhole, chamber, fixture or any other equipment forming part of a water supply system or sewerage system across the land; or
- (b) affect any such way leave agreement subsisting at the commencement of this Act.

(2) Notwithstanding any written law relating to land, the Registrar, upon production to him of the original and the deposit with him of a certified copy of any such way leave agreement as is referred to in subsection (1), shall cause to be made on the register document of title relating to the land affected by the way leave agreement a note of the existence of the way leave agreement.

(3) Where a way leave agreement related to land which is a holding included in the Interim Register—

- (a) subsection (2) shall apply as if “Commissioner” and “appropriate folio of the Interim Register” were substituted for “Registrar” and “register document of title” respectively; and
- (b) when final documents of title are issued for the land under section 39 of the National Land Code (Penang and Malacca Titles) Act 1963 [*Act 518*], any note made pursuant to that subsection as varied by paragraph (a) shall (if it is still effective immediately before the issue of those documents) be entered by the Commissioner on the register document of title and shall continue to have effect as if it had been entered under that subsection.

(4) So long as there remains on the register document of title or the appropriate folio of the Interim Register a note made pursuant to subsections (2) and (3), all dealings with the land to which the note relates shall be deemed to be subject to the rights of the licensee under and by virtue of the way leave agreement in respect of which the note has been made.



(5) In this section, the words “Commissioner” and “Interim Register” have the meanings assigned to them respectively by the National Land Code (Penang and Malacca Titles) Act 1963.

### **Compensation**

**146.** (1) The amount of compensation, if any, payable under section 141 or 144 shall be assessed by the Land Administrator after such enquiry as he thinks sufficient.

(2) A person aggrieved with the Land Administrator’s assessment may within twenty-one days after the assessment appeal to the State Authority whose decision shall be final.

## Chapter 3

### *Enforcement*

### **Authorized officer**

**147.** (1) The Minister may in writing authorize any public officer or officer of the Commission to exercise the powers of enforcement under this Act.

(2) Any such officer shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

(3) In exercising any of the powers of enforcement under this Act, an authorized officer shall on demand produce to the person against whom he is acting the authority issued to him by the Minister.

### **Power of investigation**

**148.** (1) An authorized officer may investigate the activities of a licensee or other persons material to his compliance with this Act or its subsidiary legislation.

(2) In any case relating to the commission of an offence under this Act or its subsidiary legislation, any authorized officer carrying out an investigation may exercise all or any of the powers in relation to police investigation, except the power to arrest without warrant, given by the Criminal Procedure Code [*Act 593*].

**Entry into premises with search warrant**

**149.** (1) If it appears to a Magistrate, upon written information on oath and after such inquiry as he considers necessary, that there is reasonable cause to believe that an offence under this Act or its subsidiary legislation is being or has been committed on any premises, so that any evidence or thing which is necessary to the conduct of an investigation into an offence may be found in any premises, the Magistrate may issue a warrant authorizing any authorized officer named in the warrant to enter the premises at any reasonable time by day or by night, with or without assistance and if need be by force and there to search for and seize any such evidence of thing, provided that nothing shall authorize any court other than a High Court to grant a warrant to search for a postal article, telegram or other document in the custody of the postal or telegraph authorities.

(2) Without affecting the generality of subsection (1), the warrant issued by the Magistrate may authorize the search and seizure of—

- (a) copies of any books, account or other documents, including computerized data, which contain or are reasonably suspected to contain information as to any offence so suspected to have been committed;
- (b) any signboard, card, letter, pamphlet, leaflet or notice representing or implying that the person has a licence granted under this Act; or
- (c) any other document, equipment, instrument or matter that is reasonably believed to furnish evidence of the commission of the offence.

(3) An authorized officer conducting a search under subsection (1) may, for the purpose of investigating into the offence, search any person who is in or on the premises.

(4) An authorized officer making a search of a person under subsection (3) or section 150 may seize, or take possession of, and place in safe custody all things other than the necessary clothing, found upon the person, and any other things, for which there is reason to believe that they are the instruments or other evidence of the crime, and they may be detained until the discharge or acquittal of the person.

(5) Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(6) If, by the reason of its nature, size or amount, it is not practicable to remove any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, instrument or matter seized under this section, the seizing officer shall by any means seal such book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, instrument or matter in the premises or container in which it is found.

(7) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (6) or removes any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, instrument or matter under seal or attempts to do so 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 six months or to both.

### **Power of entry and search and seizure without warrant**

**150.** If an authorized officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under that section the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the officer may enter the premises and exercise in, upon and in respect of the premises all the powers referred to in section 149 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

### **Access to computerized data**

**151.** (1) An authorized officer conducting a search under section 149 or 150 shall be given access to computerized data whether stored in a computer or otherwise.

- (2) For the purposes of this section, “access” includes—
- (a) being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerized data; and
  - (b) the meaning assigned to it by subsections 2(2) and (5) of the Computer Crimes Act 1997 [Act 563].

### **Warrant admissible notwithstanding defects**

**152.** A search warrant issued under this Act shall be valid and enforceable notwithstanding any defect, mistake or omission therein or in the application for such warrant and any equipment, instrument, material, book, record, account, document or thing seized under such warrant shall be admissible in evidence in any proceedings under this Act or its subsidiary legislation.

### **List of things seized**

**153.** (1) Except as provided in subsection (2), where any equipment, instrument, material, book, record, account, document or thing is seized under this Chapter, the seizing officer shall as soon as practicable prepare a list of the things seized and of the places in which they are respectively found and deliver a copy of the list signed by him to the occupier of the premises which has been searched, or to his agent or servant, at the premises.

(2) Where the premises are unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously on the premises.

### **Release of things seized**

**154.** (1) If any thing has been seized under this Act, the authorized officer who effected the seizure, may at any time after that release the thing to the person as he determines to be lawfully entitled to the thing if he is satisfied that the thing is not otherwise required for the purpose of any proceedings under this Act or its subsidiary legislation, or for the purpose of any prosecution under any other written law, and in such event neither the officer effecting the seizure, nor the Federal Government, the Commission or any person

acting on behalf of the Government or the Commission shall be liable to any proceedings by any person if the seizure and the release of the thing had been effected in good faith.

(2) A record in writing shall be made by the authorized officer effecting the release of any thing under subsection (1) specifying in detail the circumstances of and the reason for the release and he shall send a copy of the record to the Public Prosecutor and to the Inspector-General of Police within seven days of the release.

### **Power to require attendance of person acquainted with case**

**155.** (1) An authorized officer making an investigation under this Act or its subsidiary legislation may by order in writing require the attendance before himself of any person who appears to the authorized officer to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If any person refuses to attend as so required the authorized officer may report such refusal to a Magistrate who shall issue a summons to secure the attendance of such person as may be required by the order made under subsection (1).

### **Examination of person acquainted with case**

**156.** (1) An authorized officer making an investigation under this Act or its subsidiary legislation may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) The person examined under subsection (1) shall be legally bound to answer all questions relating to such case put to him by the authorized officer, but such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

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

(4) An authorized officer examining a person under subsection (1) shall first inform the person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, wherever possible, be reduced into writing and signed by the person making it or affixed with his thumbprint, as the case may be—

- (a) after it has been read to him in the language in which he made it; and
- (b) after he has been given an opportunity to make any correction he may wish.

### **Admissibility of statements in evidence**

**157.** (1) If any person is charged with an offence under this Act or its subsidiary legislation, any statement, whether the statement 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 arrested and whether in the course of an investigation under this Act or not and whether or not wholly or partly in answer to questions, by that person to or in the hearing of an authorized officer or other person, shall be admissible in evidence at his trial and, if the person charged tenders himself as 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—

- (a) if the making of the statement appears to the court to have been caused by an 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.

(4) Notwithstanding anything to the contrary contained in any written law, a person accused of an offence to which subsection (1) applies shall not be bound to answer any questions relating to the case after any caution as referred to in paragraph (2)(b) has been administered to him.

**Authorized officer to complete investigation and hand over to police**

**158.** Upon the completion of his investigation into an offence under this Act or its subsidiary legislation, an authorized officer shall immediately give all information relating to the commission of the offence to an officer in charge of a police station and a police officer may arrest a person who may have committed an offence under this Act or its subsidiary legislation.

**Cost of holding equipment, etc., seized**

**159.** Where any equipment, instrument, material, book, record, account, document, thing or matter seized under this Act or its subsidiary legislation is held in the custody of the Government or the Commission pending completion of any proceedings in respect of an offence under this Act or its subsidiary legislation, the cost of holding such thing in custody shall, in the event of any person being found to have committed an offence, be a debt due to the Government by such person and shall be recoverable accordingly.

**No cost or damages arising from seizure to be recoverable**

**160.** No person shall, in any proceedings before any court in respect of any equipment, instrument, material, book, record, account, document, thing or matter seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

**Obstruction**

**161.** A person who—

- (a) refuses any authorized officer access to any premises which the authorized officer is entitled to have under this Act or in the execution of any duty imposed or power conferred by this Act;
- (b) assaults, obstructs, hinders or delays any authorized officer in effecting any entry which the authorized office is entitled to effect under this Act or in the execution of any duty imposed or power conferred by this Act; or
- (c) refuses to give any authorized officer any information relating to an offence or suspected offence under this Act or its subsidiary legislation or any other information which may reasonably be required of him and which he has in his knowledge or power to give,

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

**Additional powers**

**162.** An authorized officer shall, for the purposes of the execution of this Act or its subsidiary legislation, have power to do all or any of the following:

- (a) to require the production of records, accounts, computerized data and documents kept by a licensee or other person and to inspect, examine and to download from them, make copies of them or take extracts from them;
- (b) to require the production of any identification document from any person in relation to any case or offence under this Act or its subsidiary legislation; and
- (c) to make such inquiry as may be necessary to ascertain whether the provisions of this Act or its subsidiary legislation have been complied with.



### **Compounding of offences**

**163.** (1) The Minister may prescribe any offence under this Act or its subsidiary legislation as an offence which may be compounded.

(2) The Commission, with the consent in writing of the Public Prosecutor, may at any time before a charge is being instituted compound any of the offences prescribed under subsection (1) as an offence which may be compounded by accepting from the person reasonably suspected of having committed the offence a sum of money not exceeding fifty per centum of the maximum fine to which the person would have been liable to if he had been convicted of the offence, within such time as may be specified in his written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Commission may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by Commission, subject to such terms and conditions as it thinks fit.

(5) All sums of money accepted under subsection (2) shall be paid into the Federal Consolidated Fund.

### **Prosecution**

**164.** No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

**Offences by body corporate**

**165.** (1) If a body corporate commits an offence under this Act or its subsidiary legislation, a person who at the time of the commission of the offence was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) if the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—
  - (i) that the offence was committed without his knowledge, consent or connivance; and
  - (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

(2) If any person would be liable under this Act or its subsidiary legislation to any punishment or penalty for his act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of the agent, if the act, omission, neglect or default was committed—

- (a) by that person's employee in the course of his employment;
- (b) by the agent when acting on behalf of that person; or
- (c) by the employee of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person.

**Information or informer not to be disclosed**

**166.** (1) Except as provided in this section, no witness in any civil or criminal proceedings pursuant to this Act or its subsidiary legislation shall be obliged or permitted to disclose the name or

address of any informer or the substance and nature of the information received from him or state any matter which might lead to his discovery.

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

(3) If in a trial for an offence under this Act or its subsidiary legislation the court, after full inquiry into the case, is of the opinion that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties to the proceeding without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit an inquiry and require full disclosure concerning the informer.

### **Manner of service of documents**

**167.** (1) Service of a document on any person shall be effected—

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

(2) A document required to be served on the owner, management corporation or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the “owner”, “management corporation” or “occupier” of such premises without further name or description and may be served by delivering the document to an 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.

**Inaccuracies in document**

**168.** (1) No misnomer or inaccurate description of any person, premises, holding, street or place named or described in any document prepared, issued or place named or described in any document prepared, issued or served under, by virtue of or for the purposes of this Act or its subsidiary legislation shall in any way affect the operation of this Act or its subsidiary legislation with respect to that person or place if that person or place is so designated in the document as to be identifiable.

(2) No proceedings taken under or by virtue of this Act or its subsidiary legislation shall be invalid for want of form.

**Liability of transferors**

**169.** (1) Every person who sells or transfers any property in respect of which expenses have been incurred by a licensee or its servants and agents, as the case may be, in or about the execution of any work which are, under this Act or its subsidiary legislation, recoverable from the owner of the property shall continue to be liable for the payment of all such expenses payable in respect of the property and for the performance of all other obligations imposed by this Act upon the owner of the property which become payable or are to be performed at any time before the transfer becomes effective.

(2) Nothing in this Act shall affect the liability of the purchaser or transferee to pay the expenses in respect of the property referred to in subsection (1) or affect the right of a licensee or its servants or agents, as the case may be, to recover those expenses from, or to enforce any obligation under this Act or its subsidiary legislation against, the purchaser or transferee.

**Exemption of equipment from distress and attachment**

**170.** Notwithstanding anything to the contrary in any written law, when any equipment belonging to a licensee has been placed in or upon premises not owned or occupied by the licensee for the purpose of water supply services or sewerage services, such equipment shall not be subject to distress nor be liable to be taken in execution under any process of a court or in any bankruptcy or insolvency proceedings against any person.

PART XII

GENERAL

**Water Industry Fund**

**171.** (1) A fund to be known as the “Water Industry Fund” is established and shall be controlled and operated by the Commission.

(2) The Water Industry Fund shall consist of any sums contributed by any licensee or person authorized under Chapter 2 of Part XIII in accordance with the rates as may be prescribed.

(3) The Water Industry Fund shall be expended for the following purposes:

- (a) the protection and preservation of the watercourses and water catchment areas;
- (b) to ensure sustainability of water supply from the watercourses;
- (c) the improvement of water quality at the watercourses;
- (d) the provision of water and sewerage services in rural developments; or
- (e) such other purposes as may be determined by the Minister.

(4) The Commission shall cause proper accounts of the Water Industry Fund and proper reports of its activities in respect of the Fund to be kept and shall, as soon as practicable after the end of the financial year, cause to be prepared for that financial year—

- (a) a statement of accounts which shall include a balance sheet and an account of the contributions and expenditure; and
- (b) a statement of its activities.

(5) The Commission shall as soon as possible send a copy of the statement of accounts certified by the auditors and a copy of the auditors’ report to the Minister who shall cause them to be laid before both Houses of Parliament.

**Sewerage Capital Contribution Fund**

**172.** (1) A fund to be known as the “Sewerage Capital Contribution Fund” is established and shall be controlled and operated by the Commission.

(2) The Sewerage Capital Contribution Fund shall consist of any sums contributed by any developer or person who constructs—

- (a) a building and connects the building to a public sewer;
- (b) a sewage treatment works without a sludge processing facility or standby power generator or both; and
- (c) a septic tank or communal septic tank that requires an off-site sludge processing facility,

in accordance with the rates as may be prescribed.

(3) The Sewerage Capital Contribution Fund shall be expended for the following purposes:

- (a) to supplement capital expenditure required for public sewerage systems;
- (b) for the implementation of a regional sewerage system; or
- (c) such other purposes as may be determined by the Minister.

(4) The Commission shall cause proper accounts of the Sewerage Capital Contribution Fund and proper reports of its activities in respect of the Fund to be kept and shall, as soon as practicable after the end of each financial year, cause to be prepared for that financial year—

- (a) a statement of accounts which shall include a balance sheet and an account of contributions and expenditure; and
- (b) a statement of its activities.

(5) The Commission shall as soon as possible send a copy of the statement of accounts certified by the auditors and a copy of the auditors’ report to the Minister who shall cause them to be laid before both Houses of Parliament.

## Registration of agreements

**173.** (1) The written agreements referred to in sections 32 and 53 shall be submitted to the Commission for registration.

(2) A person who wishes to enter into an agreement as referred to in subsection (1) shall submit the finalized draft of the written agreement to the Commission for endorsement.

(3) If the Commission is satisfied that the finalized draft agreement submitted to it under subsection (2) is consistent with this Act or its subsidiary legislation, the Commission shall endorse the finalized draft agreement and the person may enter into the written agreement on the same terms as the endorsed draft agreement and shall submit the written agreement to the Commission for registration.

(4) The Commission shall register any written agreement submitted to it under subsection (3).

(5) Where the parties to a written agreement referred to in subsection (1) chooses to enter into the written agreement prior to the Commission endorsing the written agreement, the parties to the agreement shall make provisions in the written agreement to the effect that the written agreement is only effective upon the Commission registering the written agreement.

(6) A written agreement referred to in subsection (1) shall only be enforceable upon its registration.

(7) The Commission shall register the written agreement if the Commission is satisfied that the agreement is consistent with this Act or its subsidiary legislation.

(8) The Commission shall maintain a register of all agreements registered under this section in accordance with section 176.

(9) The register shall contain—

(a) the names of the parties to the agreement;

(b) a general description of the matter pertaining to the agreement; and

(c) the date of the agreement,

except the terms and conditions of the agreement.

(10) A copy of the written agreement shall be deposited with the Commission.

### **Certifying agencies**

**174.** (1) The Commission may register certifying agencies or classes of certifying agencies for the purposes of—

- (a) approving plans, specifications or detailed designs with respect to the construction of the water supply system, sewerage system, septic tank individual internal sewerage piping and common internal sewerage piping;
- (b) certifying persons referred to in section 50; and
- (c) certifying compliance with technical standards made under any subsidiary legislation made under this Act.

(2) An approval by a registered certifying agency shall be deemed to be an approval by the Commission unless the Commission specify otherwise.

### **Reporting to Minister on industry performance**

**175.** (1) The Commission shall monitor all significant matters relating to the water supply and sewerage services industry and report to the Minister at the end of each financial year of the Commission.

(2) In performing its functions under subsection (1), the Commission shall have regard to such industry performance indicators as the Commission considers appropriate.

(3) The Commission shall monitor and report on the following matters:

- (a) the operation and administration of this Act and its subsidiary legislation;
- (b) the rates applicable for the supply of water and sewerage services;
- (c) the licensees' costing of capital expenditure to ensure transparency and quality;
- (d) the required investment in water supply system or sewerage system for future needs;
- (e) the service and performance standards of licensees;



- (f) the standards of water and sewerage asset maintenance;
- (g) the environmental and health standards;
- (h) the efficiency and effectiveness of the licensee's operations for the purposes of renewing licences;
- (i) the level of compliance with standards;
- (j) any deficiencies in the scope or operation of this Act and its subsidiary legislation; and
- (k) other matters the Minister thinks necessary.

(4) The Commission shall publish the report in a manner it deems appropriate as soon as practicable following the date on which the Commission conveys the report to the Minister.

### **Register**

**176.** (1) The Commission shall maintain a register in both physical and electronic form of all matters which are required to be registered under this Act and its subsidiary legislation.

(2) A person may, on payment of any fee specified by the Commission—

- (a) inspect the register; and
- (b) make a copy of, or take extracts from, the register.

(3) If a person requests that a copy be provided in an electronic form, the Commission may provide the relevant information—

- (a) on a data processing device; or
- (b) by way of electronic transmission.

### **Directions by Commission**

**177.** (1) The Commission may from time to time issue directions in writing to any person, as provided for in this Act, about the compliance or non-compliance of any licence conditions, including the remedying of a breach of a licence condition or the provisions of this Act or its subsidiary legislation.

(2) Prior to making a direction under subsection (1), the Commission shall issue a notice in writing to the person specifying the nature of the required compliance.

(3) The person shall be granted an opportunity to be heard or may submit a written submission on the reasons for its conduct or activity within a reasonable time period specified in the notice.

(4) After expiry of the notice specified in subsection (3), the Commission shall take into consideration any reasons provided by the person before making a decision in relation to the relevant conduct or activity of the person.

(5) After due consideration of any reasons provided by the person, the Commission may issue a direction pursuant to subsection (1) requiring the person to take a specified action directed towards ensuring that the person does not contravene or does not continue to contravene any of the conditions of licence or any of the provisions of this Act or its subsidiary legislation.

(6) The Commission shall give the person written notice of its direction as soon as practicable. The direction issued by the Commission shall be complied with.

(7) A direction made by the Commission under this Chapter shall be registered as soon as practicable.

(8) The direction shall be effective from the date of registration or such later date as the Commission may specify in the direction.

(9) The direction shall expire on such date as the Commission may specify in the written instrument or if no date is specified, the direction shall be in force until the direction is revoked.

(10) The Commission may vary or revoke a direction and the procedures set out in subsections (2), (3), (4), (5), (6), (7), (8) and (9) shall apply *mutatis mutandis* in respect of any variation or revocation of a direction.

(11) A person who fails to comply with a direction of the Commission under this section commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(12) The Commission shall maintain a register of all directions issued by the Commission, including any variation or revocation of a direction in accordance with section 176.

**Determination by Commission**

**178.** (1) The Commission may, from time to time, determine any matter specified in this Act as being subject to the Commission's determination.

(2) The Commission may conduct a public consultation prior to making a determination, either—

(a) in response to a written request from a person; or

(b) on its own initiative.

(3) Notwithstanding subsection (2), the Commission shall conduct a public consultation prior to making a determination if directed by the Minister.

(4) The procedures applicable to a public inquiry under sections 78, 79, 80, 81, 82 and 83 shall apply *mutatis mutandis* to the public consultation in subsection (2) or (3).

(5) A public consultation shall be carried out in a manner consistent with the provisions of this Act.

(6) Within three months from the conclusion of the public consultation, the Commission shall determine the matter.

(7) A determination made by the Commission under this section shall be registered as soon as practicable.

(8) A determination shall come into force on the date of registration or such later date as the Commission may specify in the determination.

(9) The determination shall expire on such date as the Commission may specify or if no date is specified, the determination shall be in force until the determination is revoked.

(10) Subject to the provisions of this Act, the Commission may vary or revoke a determination, in response to a written request or on its own initiative and the procedures set out in this section in respect of making a determination shall apply *mutatis mutandis* in respect of any variation or revocation of the determination.

(11) The Commission shall maintain a register of all determinations made by the Commission, including any variation or revocation of a determination, in accordance with section 176.

**Power of Minister to make regulations**

**179.** The Minister may make regulations for all or any of the following purposes:

- (a) to prescribe all matters relating to the issuance of individual licences and the registration of class licences granted under this Act, including the eligibility of persons applying for licences, licence fees for different types of licences and licensed activities, the duration of the licences, the forms of licences, the standard conditions of the licences, renewal fees and other processing charges;
- (b) to prescribe all matters relating to the hand over of the duties and functions of an existing service licensee to a new service licensee;
- (c) to prescribe any matter relating to the Sewerage Capital Contribution Fund including the rates of contribution;
- (d) to prescribe any matter relating to the Water Industry Fund including the rates of contribution;
- (e) to prescribe the charges or rates for capital contribution which a licensee may charge for the purposes of connecting a premises or a development to the licensee's water supply system;
- (f) to prescribe the form of notifications, notices and orders to be made under this Act;
- (g) to prescribe the offences which may be compounded and the forms to be used and the method and procedure for compounding the offences;
- (h) to prescribe fees and charges which may be prescribed under this Act;
- (i) to prescribe any matter for which this Act makes express provision to be made by regulations;
- (j) to prescribe all other matters as are necessary or expedient to be prescribed for giving effect to this Act or for the purposes of removing any difficulties occasioned by the coming into operation of this Act or any of its provisions.

**Power of Commission to make rules**

**180.** The Commission may make such rules for all or any of the following matters:

- (a) to provide for the following technical and performance standards:
  - (i) the minimum standards and specifications which shall be used in the design, construction, installation, protection, operation and maintenance of any water supply system or sewerage system;
  - (ii) installation of meters and sub-meters or monitoring systems with respect to connection, disconnection, use, maintenance, authentication, testing and commissioning of meters and sub-meters or monitoring systems and with respect to any related matters;
  - (iii) the minimum qualifications to be possessed by persons before they may be allowed to construct, install, test, commission, operate, maintain or manage any water supply system or sewerage system or part of the system;
  - (iv) the standards of performance and adoption of key performance indicators for water supply services and sewerage services;
  - (v) the performance related specifications for infrastructure development to be undertaken by the facilities licensee or any other person;
  - (vi) the internal reticulation including internal piping and water filters;
  - (vii) the standardization of equipment, devices and materials used for water supply systems and sewerage systems and for the purposes of providing water supply services and sewerage services;
- (b) the form and substance of any of the following agreements:
  - (i) lease agreements referred to in section 32;
  - (ii) agreements between consumers and the water distribution licensee for the supply of water under section 52;

- (iii) agreements to supply water in bulk between service licensees providing water supply services under section 53; and
  - (iv) agreements for the provision of sewerage services contracted between the owner, management corporation or occupier of any premises with the service licensee providing sewerage services under section 67;
- (c) all matters relating to consumer standards under this Act;
- (d) the efficiency of billing and collection of revenue generated from the provision of water supply services and sewerage services;
- (e) the intervals and the manner in which the owner, management corporation or occupier who is responsible for a private sewerage system or septic tank shall cause his septic tank to be desludged and, in the case of a private sewerage system, to be serviced or maintained;
- (f) the intervals, times and manner in which any water supply system or sewerage system shall be inspected, the notice, if any, to be given in relation to audits or inspections and the preparations to be made by the licensee or its management for audits or inspections;
- (g) all matters relating to the issuance of permits granted under this Act, including the procedures for application, fees, forms, conditions and duration of the permits;
- (h) the manner of record keeping under section 136;
- (i) all matters relating to the provision of information by the licensee to the Commission and the level of detail, interval, manner and form in which such information is to be provided;
- (j) all matters relating to the types of development referred to in sections 46 and 47;
- (k) all matters relating to the safety and security of water supply systems and sewerage systems;
- (l) all matters relating to the formulation and implementation of water and sewerage safety plans;

- (m) all matters relating to the registration of persons supplying installations, devices or equipment relating to water supply systems, sewerage systems, septic tanks, individual internal sewerage piping or common internal sewerage piping;
- (n) the procedures and manner in which plans and specifications in respect of any proposed water supply system and sewerage systems are to be submitted and approved under this Act, the duties and responsibilities of the certifying agencies, licensees, developers and other relevant persons in the approval process including the approval of the detailed design and specifications, inspection obligations and the imposition of fees;
- (o) all matters relating to the prevention against wastage, undue consumption, misuse, contamination of water and to provide for the proper use of water fittings to ensure the safety of the public;
- (p) such other matters for which this Act makes an express provision for the Commission to make rules.

### **Penalties for subsidiary legislation**

**181.** The regulations made under section 179 and the rules made under section 180 or any other subsidiary legislation made under this Act may provide for any act or omission in contravention of the regulations, rules or other subsidiary legislation to be an offence and may provide for penalties of a fine not exceeding three hundred thousand ringgit or a term of imprisonment not exceeding three years or to both.

### **Power of Minister to amend Schedule**

**182.** The Minister may by order published in the *Gazette* amend the Schedule.

### **Public Authorities Protection Act 1948**

**183.** The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Commission or against any officer, servant or agent of the Commission in respect of any act, neglect or default done or omitted by him in such capacity.

**Protection of officers and other persons**

**184.** The Commission, any employee or agent of the Commission, certifying agency, an authorized officer or any other person shall not be liable to be sued in any court for loss or damages for or on account of, or in respect of, any act or matter done or ordered to be done or omitted to be done by it or him in good faith and in the intended exercise of any power or discharge of any duty conferred on it or him under this Act.

## PART XIII

## REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

## Chapter 1

*Repeal and savings***Repeal**

**185.** (1) The Sewerage Services Act 1993 [*Act 508*], which is referred to as the “repealed legislation” in this Part, is repealed in respect of its application to Peninsular Malaysia and the Federal Territories of Putrajaya and Labuan.

(2) Any subsidiary legislation made under the repealed legislation shall, in so far as it is consistent with this Act, remain in operation until revoked or replaced by any subsidiary legislation made under this Act, and shall be deemed for all purposes to have been made under this Act.

(3) The Minister may, whenever it appears to him necessary or expedient so to do whether for the purpose of removing difficulties or in consequence of the passing of this Act, by order to be published in the *Gazette*, make such modifications to the subsidiary legislation made under the repealed legislation as he thinks fit.

**Savings**

**186.** Subject to Chapter 2 of this Part, any registration, instruction, act, order, direction, approval or decision done, made or given before the appointed date under any written law relating to—

- (a) water supply system or sewerage system; and
- (b) water supply services or sewerage services,



which is consistent with this Act shall be deemed to have been done, made or given under this Act and shall continue in full force and effect in relation to whom they apply until amended or revoked under this Act or its subsidiary legislation or until the date of the expiry of the registration, instruction, act, order, direction or decision.

**Continuance of other rights, liabilities, etc., under the repealed legislation**

**187.** Subject to the provisions of this Act, the repealed legislation or anything contained in this Act shall not affect any person liable to be prosecuted or punished for offences committed under the repealed legislation before the date of coming into operation of this Act, or any proceedings brought or sentence imposed before that day in respect of such offence.

Chapter 2

*Transitional provisions for existing operators*

**Existing water supply services**

**188.** (1) All State agencies, departments, water boards or water authorities who are, prior to the coming into operation of this Act, authorized under any written law to—

- (a) own a water supply system; or
- (b) provide water supply services by means of a water supply system,

shall continue to be authorized under this Act to own or provide the aforesaid facilities and services for a period of one year from the appointed date or such other period as may be extended by the Commission if such State agencies, departments, water boards or water authorities registers with the Commission within three months or such other period as may be extended by the Commission after the appointed date.

(2) The authorization granted to the State agencies, departments, water boards or water authorities under subsection (1) shall lapse if they fail to register with the Commission within three months or the extended period after the appointed date.

(3) The State agencies, departments, water boards or water authorities may at any time prior to the expiry of the authorization period apply for a licence under this Act to continue to—

- (a) own a water supply system; or
- (b) provide water supply services by means of a water supply system,

after the expiration of the authorization period.

### **Existing sewerage services**

**189.** (1) All local authorities who are, prior to the coming into operation of this Act, authorized under any written law to—

- (a) own a sewerage system; or
- (b) provide sewerage services,

shall continue to be authorized under this Act to own or provide the aforesaid facilities and services for a period of one year from the appointed date or such other period as may be extended by the Commission if such local authority registers with the Commission within three months or such other period as may be extended by the Commission after the appointed date.

(2) The authorization granted to the local authorities under subsection (1) shall lapse if they fail to register with the Commission within three months or the extended period after the appointed date.

(3) The local authorities may at any time prior to the expiry of the authorized period apply for a licence under this Act to continue to—

- (a) own a sewerage system; or
- (b) provide sewerage services,

after the expiration of the authorized period.

### **Existing licences or permits**

**190.** (1) A licence or permit granted or issued—

- (a) under the repealed legislations; or
- (b) under the relevant State water supply enactments,

shall continue to be authorized under this Act and shall only be effective for a period of three months after the appointed date or such other period as may be extended by the Commission if the licence or permit is registered with the Commission within such period or extended period.

(2) Nothing in this section shall be construed to extend the term or duration of a licence or permit specified in subsection (1) beyond the date of its expiry.

(3) Notwithstanding subsection (1), a licence or permit registered under subsection (1) shall continue to have effect under this Act until—

(a) its expiry; or

(b) for a period of two years or such other period as may be extended by the Commission after the appointed date,

whichever is the earlier, unless the holder of the registered licence or permit has been granted a licence or permit under this Act.

(4) The authorization granted to a person holding a licence or permit under subsection (1) shall lapse if he fails to register with the Commission within three months or the extended period after the appointed date.

### **Agreements stipulated in the Schedule**

**191.** (1) A person listed out as an authorized person in column (1) of the Schedule shall only be authorized to carry out the services and activities stipulated in the agreement and supplementary agreement set out opposite his name in column (2) of the Schedule for a period of three months from the appointed date or such other period as may be extended by the Commission unless the person lodges a certified true copy of the agreement and supplementary agreement with the Commission within such period or extended period.

(2) Notwithstanding subsection (1), the authorized person who lodges a certified true copy of the agreement and supplementary agreements with the Commission under subsection (1) shall continue to be authorized under this section until the expiry of a period of two years or such other period as may be extended by the Commission after the appointed date.

(3) The authorization granted to the persons authorized under subsection (1) shall lapse if they fail to register with the Commission within three months or the extended period after the appointed date.

(4) The person authorized under subsection (1) shall as soon as possible after lodging his agreement and supplementary agreements, but in any event not later than three months after the lodgement date, commence renegotiation of his agreement and supplementary agreement with the Federation and the other counter parties to the agreement and supplementary agreement so as to address any national interest issues arising from the coming into operation of this Act.

(5) The determination of what amounts to national interest issues arising from the coming into operation of this Act shall be made by the Minister and such determination shall be final and binding upon all persons and shall not be challenged, appealed against, reviewed, quashed or questioned in any court.

(6) Upon the finalization of the renegotiated agreement or supplementary agreement effecting the amendments, if any, the Commission shall register the amended agreements notwithstanding section 173.

(7) Notwithstanding the provisions of this Act, any other written law or any rule of law or contract, the failure of a person authorized under subsection (1) to commence renegotiation of his agreement and supplementary agreement as required under subsection (4) shall be a ground for the authorization referred to in subsection (1) to be revoked or for a licence under this Act not to be granted to such person.

(8) If an authorization has been revoked under subsection (7) or if a grant of licence is refused on the ground specified in subsection (7), the Federal Government, Minister or Commission shall not be liable—

(a) to pay any compensation to; and

(b) for any loss or damage suffered or incurred by,

the person affected by the revocation of the authorization or the refusal of the grant of licence.

(9) If a person's authorization is revoked under subsection (7) or the person has been refused a licence on the ground specified in subsection (7), the Minister shall exercise his powers under section 114 and all provisions relating to section 114 shall apply accordingly.

### **Indication to migrate to licence**

**192.** (1) Within a period of one year or such other period as may be extended by the Commission from the appointed date—

- (a) the holder of a registered existing licence; or
- (b) an authorized person under section 191,

shall send a notice in writing to the Commission indicating whether he intends to apply for a licence under this Act in substitution of the registered existing licence or authorization.

(2) There shall be attached to the notice specified in subsection (1)—

- (a) in the case where the person intends to apply for a licence under this Act in substitution of his registered existing licence or authorization, an application for a licence under this Act; or
- (b) in the case where the person intends not to apply for a licence under this Act, an application for a written authorization under this Act.

(3) Subsection (1) shall not apply to a holder of a registered existing licence whose activities require a class licence or permit under this Act.

(4) A holder of a registered existing licence whose activities require a class licence or permit under this Act may register for a class licence or apply for a permit under this Act, as the case may be, on or before the expiry of his existing licence or permit or the period specified in subsection (1), whichever is the earlier.

(5) The Commission may issue a written authorization to an applicant subject to such conditions as the Commission may require and the written authorization granted to an applicant under this subsection shall only be for the initial term of its agreement stipulated in the Schedule or until the earlier termination of the agreement.

(6) Where an authorized person under section 191 is also a holder of a registered existing licence, the authorized person is not required to indicate his intention as to whether he intends to apply for a licence under this Act in substitution of the registered existing licence. The authorized person's indication with respect to his authorization granted under section 191 shall be deemed to be the same for his registered existing licence.

(7) The Commission may revoke a written authorization or modify, vary or revoke the conditions of a written authorization or impose further conditions on a written authorization.

(8) The procedures set out in—

- (a) section 11; and
- (b) section 13,

shall apply *mutatis mutandis* in respect of any modification, variation or revocation of the conditions of a written authorization, the imposition of further conditions on a written authorization and the revocation of a written authorization.

(9) The Minister may prescribe the criteria to apply for a licence in substitution of an registered existing licence and authorization and conditions to be fulfilled by—

- (a) the holder of a registered existing licence; or
- (b) an authorized person under section 191.

### **Status of a registered existing licence and authorization**

**193.** Notwithstanding the terms of the registered existing licence and the agreement stipulated in the Schedule, a person with—

- (a) a registered existing licence;
- (b) an authorization under sections 188, 189 and 191; or
- (c) a written authorization under section 192,

shall for the purposes of this Act comply with the duties and obligations of a licensee under this Act including the obligations to meet the minimum quality standards under section 41 and to contribute to the Water Industry Fund and to the powers of the Minister and the Commission under this Act as if the person is a holder of a licence of a similar scope under this Act and its subsidiary legislation but shall not be entitled to any new benefits conferred under this Act including the rights of a service licensee under section 32.

## SCHEDULE

[Section 191]

## AGREEMENTS

<i>Column (1)</i> <i>Authorized person</i>	<i>Column (2)</i> <i>Agreement and Supplementary Agreements</i>
1. Air Utara Indah Sdn Bhd	Privatisation Agreement dated 22 November 1990  Supplementary Concession Agreement dated 26 November 1998  Supplementary Concession Agreement dated 14 September 2000
2. <i>[deleted by P.U. (A) 431/2007]</i>	
3. Equiventures Sdn Bhd	Privatisation cum Concession Agreement dated 28 June 1992
4. Indah Water Konsortium Sdn Bhd	Concession Agreement dated 9 December 1993
5. Innovest-Lyonnaise Sdn Bhd	Concession Agreement dated 5 October 1989  Supplementary Concession Agreement dated 21 February 1992
6. Kelantan Water (Malaysia) Sdn Bhd	Concession Agreement dated 26 February 1995
7. Konsortium Abass Sdn Bhd	Privatisation cum Concession Agreement dated 9 December 2000  Supplementary Privatisation cum Concession Agreement dated 10 February 2001

<i>Column (1)</i> <i>Authorized person</i>	<i>Column (2)</i> <i>Agreement and Supplementary Agreements</i>
8. Metropolitan Utilities Sdn Bhd	Concession Agreement dated 28 March 1989  Supplementary Concession Agreement dated 18 September 1997  Supplementary Concession Agreement dated 12 August 2003  Agreement for the Supply of Treated Water dated 19 August 1994
9. Puncak Niaga (M) Sdn Bhd	Privatisation cum Concession Agreement dated 22 September 1994  Construction cum Operation Agreement dated 22 March 1995  Supplementary Construction cum Operation Agreement dated 6 September 1997  Supplementary Construction cum Operation Agreement dated 9 April 1999
10. Southern Water Corporation Sdn Bhd	Concession Agreement dated 31 May 1994
11. Syarikat Air Johor Sdn Bhd  Lambang Optima Sdn Bhd  SAJ Holdings Sdn Bhd	Concession Agreement dated 20 April 1999  Supplementary Concession Agreement dated 8 May 2002
12. Syarikat Air Terengganu Sdn Bhd	Corporatisation Agreement dated 1 July 1999  Supplementary Corporatisation Agreement dated 3 March 2004
13. Syarikat Bekalan Air Selangor Sdn Bhd	Concession Agreement dated 15 December 2004
14. Syarikat Pengeluar Air Sungai Selangor Sdn Bhd	Privatisation Agreement dated 24 January 2000  Operations and Maintenance Agreement dated 24 January 2000
15. Taliworks (Langkawi) Sdn Bhd	Langkawi Water Supply Privatisation Agreement dated 7 October 1995