



LAWS OF MALAYSIA

REPRINT

Act 354

DRAINAGE WORKS ACT 1954

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DRAINAGE WORKS ACT 1954

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LAWS OF MALAYSIA

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DRAINAGE WORKS ACT 1954

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LAWS OF MALAYSIA

Act 354

DRAINAGE WORKS ACT 1954

An Act relating to drainage works.

[25 February 1954]

Short title and application

1. (1) This Act may be cited as the Drainage Works Act 1954.

(2) This Act shall apply to the States of *Peninsular Malaysia only.

Interpretation

2. In this Act—

“appropriate authority” means the Ruler in Council or the Yang di-Pertua Negeri in Council as the case may be, of the State concerned;

“drainage area” means any area which shall have been declared by the appropriate authority under section 3 to be a drainage area;

“drainage works” includes the construction and maintenance of drains and water courses, embankments, culverts, sluices, water gates, access paths in drainage reserves and other similar works;

“land” includes any land whether held under title or occupied in expectation of registration of title or otherwise;

“occupier” includes a lessee or tenant and the cultivator or person in actual possession, management or control of any land;

“owner” means the registered proprietor of any land in States of *Peninsular Malaysia and the legal owner or holder by customary tenure of any land.

*NOTE—All references to “West Malaysia” shall be construed as reference to “Peninsular Malaysia”—see the Interpretation (Amendment) Act 1997 [Act A996], subsection 5(2).

Declaration of drainage area

3. (1) The appropriate authority may by notification in the *Gazette* declare any land within any area affected by any drainage works sanctioned or carried out, wholly or in part, by the Government of Malaysia or of any State to be a drainage area, and such notification shall specify the boundaries of the drainage area thereby created.

(2) The appropriate authority may in like manner cancel any such notification, or extend or otherwise vary the boundaries of any drainage area, or exclude therefrom land previously included therein.

Appointment of Drainage Board

4. (1) The appropriate authority shall by notification in the *Gazette* published at the same time as the notification referred to in subsection 5(1), and may from time to time thereafter by notification in the *Gazette*, appoint a Drainage Board, in this Act referred to as “the Board”, in respect of every drainage area or intended drainage area.

(2) Every such Board shall consist of a Chairman, appointed by the appropriate authority, the officer in charge of the drainage area and such public servants and other persons as the appropriate authority may appoint.

(3) Every such appointment shall cease and determine at the expiration of the year in respect of which the same is made.

(4) All questions at meetings of the Board shall be determined by the majority of the members personally present and voting and in the event of an equality of votes the Chairman shall have a casting vote.

(5) The Board may make rules for the conduct of its proceedings.

Declaration of intention to constitute or vary drainage area

5. (1) Whenever it is intended to make any such declaration as is specified in section 3, the appropriate authority shall publish in the *Gazette* a notification of his intention to do so, specifying the land affected. Copies of such notification in national language and

English language shall, within seven days of the date of such publication, be posted in conspicuous places in the locality wherein the land affected is situated.

(2) Within one month from the publication of any such notification in the *Gazette* the owner or occupier of any land included in such notification may object to the Chairman of the Board in writing, stating the grounds of his objection.

(3) The Board shall consider the objection and may, if it thinks fit, allow the objector to appear in person or by his advocate and state his case.

(4) The Chairman shall forward to the appropriate authority the recommendations of the Board with regard to any objection.

Board to make recommendations

6. In addition to the hearing of objections the Board may make recommendations as to any or all of the following matters:

- (a) extensions of or alterations in the boundaries of the drainage area;
- (b) additions to or the improvement of existing drainage works;
- (c) proposals for new drainage works;
- (d) the use, if disputed, of any drainage works the cost whereof is to be met by a drainage rate;
- (e) the letting of contracts or issue of indents for the construction of drainage works, for which purpose the Board may require to be supplied with such plans and specifications as may be necessary for the proper understanding of the nature of the work to be undertaken;
- (f) any other matter as to which the appropriate authority may request the views of the Board.

Appropriate authority not bound by recommendations of Board

7. The appropriate authority shall give due consideration to any recommendation made by the Board under this Act but shall not be bound to act in accordance with the same.

Imposition of drainage rate

8. (1) The appropriate authority may by notification in the *Gazette* impose upon all or any land within any drainage area an annual rate, hereinafter called a “drainage rate”, to meet the cost of drainage works affecting such drainage area, and may in like manner cancel or vary such annual rate:

Provided that no rate shall be imposed under this section upon any land until the drainage work in respect of which the same is imposed has been completed.

(2) Any drainage rate shall be in addition to any rate, assessment or other liability imposed on any land within a drainage area by the terms of the document of title under which such land is held or under any other written law.

Remission of rate in certain cases

9. The appropriate authority may remit in part or in whole either generally or in particular cases, and subject to such restrictions and conditions as he may think fit to impose, the drainage rate imposed on any land within the drainage area which in his opinion does not receive the full benefit of the drainage works within such area.

Mode of recovery

10. Except as may be otherwise provided by rule under section 16, all sums due in respect of any drainage rate under this Act shall be collected, so far as the same may be practicable, in the manner provided by law for the collection of land revenue.

Interference with drainage works

11. (1) Any person who without having authority from the officer in charge of such drainage work—

- (a) blocks up or obstructs any drainage work or causes any drainage work to be blocked up or obstructed;
- (b) encroaches on any drainage work;
- (c) places any fish trap in any drainage work;
- (d) breaches or cuts through the banks or sides of any drainage work;

- (e) opens, closes or otherwise tampers with any sluice, water gate, regulator, pipe, bench mark, water gauge or other work forming part of such drainage work;
- (f) suffers or permits fruit, leaves, tree branches, tree trunks or other vegetation to grow across or fall into any drainage work or fails to take adequate steps to prevent the same; or
- (g) leads any animal, or suffers or permits any animal to stray upon, the banks or sides of any drainage work,

shall be liable to imprisonment for six months or to a fine of five hundred ringgit or to both.

(2) Where the land of any person is benefited by reason of any interference with any drainage work the onus shall be on such person of proving that he did not so interfere or cause such interference.

(3) (a) The officer in charge of any drainage area may, by notice in writing, require the owner or occupier of any land within such area within such time as may be specified in the said notice, not being less than fourteen days from the date of service of the said notice upon the person concerned, to take such steps in regard to any tree or other vegetation on such land as may be necessary to ensure that no fruit, leaves, tree branches, tree trunks or other vegetation shall grow across or fall into any drainage work.

(b) If default shall be made in complying with such notice within the time specified therein, the officer in charge of the drainage area may enter upon such land and cause such action to be taken as is required by such notice and may recover the cost of, and all expenses incurred in doing, any necessary work from the said owner or occupier in any court of competent jurisdiction.

(c) Service of any notice under this subsection may be effected in the same manner as service of a notice may be effected under the National Land Code [*Act 56 of 1965*].

Construction of unauthorized drains

12. Any person who shall construct any canal, water course, drain, ditch or pond within any drainage area so as to connect with any drainage works without having previously obtained permission

in writing for such construction from the officer in charge of such area shall be liable to imprisonment for six months or to a fine of five hundred ringgit or to both.

Unauthorized use of vehicles and boats

13. (1) The officer in charge of any drainage area shall have the power to license sampans and small craft using the drains, canals or waterways within the drainage area of which he is in charge. Such licences shall be valid only within such drainage area. The officer in charge may refuse to license any sampan or craft which he has reasonable cause to believe is likely to be used at any time in waters outside such drainage area.

(2) Such licences shall be valid only till the 31st day of December, or, in the State of Kedah, the last day of *Zulhijjah*, of the year in which they have been issued, and the licence fee shall be one ringgit in respect of each sampan or craft.

(3) The officer in charge of any drainage area may give permission in writing to bring within the drainage area and to use therein, any craft not mechanically propelled, which has been licensed under any other written law.

(4) Any person who shall bring into any drainage area, or use therein, any unlicensed craft, or any craft licensed under any other written law in respect of which permission in writing has not previously been obtained under subsection (3), shall commit an offence.

(5) Any person who, without previously having obtained permission in writing from the officer in charge of any drainage area—

(a) drives, draws or pushes any vehicle, other than a bicycle, or causes any such vehicle to be driven, drawn or pushed along the banks or sides of any drainage channel or bund; or

(b) floats, or causes to be floated, in any drainage channel any wood or other material,

shall commit an offence.

(6) Any person convicted of an offence under this section shall be liable to imprisonment for three months or to a fine of two hundred ringgit or to both.

Officer-in-charge of a drainage area

14. Every drainage area shall be in charge of a Drainage and Irrigation Engineer or such other officer as the appropriate authority may from time to time appoint, and such Drainage and Irrigation Engineer, or such other officer shall be known, and is referred to in this Act, as the officer in charge of the drainage area.

Prosecution

15. The officer in charge of any drainage area may conduct any prosecution in respect of an offence against this Act relating to such drainage area.

Rules

16. The appropriate authority may make rules—

- (a) to prescribe the manner of determining the drainage rate to be imposed on any lands;
- (b) to prescribe the manner of collecting amounts accrued due in respect of any drainage rate;
- (c) generally to give effect to this Act.

Power to arrest

17. Any *penghulu* or *penggawa*, any police officer or any officer of the Drainage and Irrigation Department not below the rank of Inspector, may arrest without warrant any person found committing an offence against sections 11, 12 or 13, and shall forthwith bring such person before the officer in charge of the drainage area who may, if so empowered, compound the offence under section 18 or may order the person arrested to be produced before a Magistrate.

Power to compound offences

18. (1) The appropriate authority may, by notification in the *Gazette*, empower any Drainage and Irrigation Engineer by name to accept from any person against whom a reasonable suspicion exists that such person has committed any offence under this Act a sum of

money not exceeding seventy-five ringgit by way of composition for the offence which such person is suspected of having committed, and all sums so received by a Drainage and Irrigation Engineer shall be credited to the general revenue of Malaysia.

(2) On payment of such sum of money no further proceedings shall be taken against such person in relation to the offence for which such composition has been accepted.

Right of access

19. All public officers and all contractors and workmen thereto duly authorized shall have, at all reasonable times, free access to all land for the purpose of constructing drainage works and for the purpose of doing all acts necessary or preliminary thereto, and may for such purposes bring on to such land any surveying, engineering or constructional plant, equipment or stores.

Repeal and saving

20. The Enactments specified in the first and second columns of the Schedule are hereby repealed to the extent specified in the third column of the said Schedule:

Provided that—

- (a) any appointment made under any of the Enactments hereby repealed shall be deemed to have been made under this Act;
 - (b) any declaration, rate or rule made or imposed under any of the Enactments hereby repealed shall continue in force as if it had been made or imposed under this Act and may be revoked or varied in the same manner as if it had been made or imposed thereunder.
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SCHEDULE

[Section 20]

(1)	(2)	(3)
F.M.S Cap. 144	Drainage Works Enactment	The whole
Johore Enactment No. 17 of 1940	Drainage Works Enactment 1940	The whole
Kedah Enactment No. 11 of 1346	Enactment No. 30 (Drainage Rate)	The whole
Kelantan Enactment No. 18 of 1935	Rivers and Drainage Enactment 1935	Part III

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LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 60/1956	The Settlements Nominated Council (Change of Title) Ordinance 1956	01-09-1956
L.N. 332/1958	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13-11-1958
Act 56/1965	National Land Code	01-01-1966
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975

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LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Ord. 60/1956 L.N. 332/1958	01-09-1956 13-11-1858
3	L.N. 332/1958	13-11-1958
11	L.N. 332/1958 Act 56/1965 Act 160	13-11-1958 01-01-1966 29-08-1975
12	Act 160	29-08-1975
13	Act 160	29-08-1975
18	Act 160	29-08-1975
