



LAWS OF MALAYSIA

REPRINT

Act 386

IRRIGATION AREAS ACT 1953

Incorporating all amendments up to 1 January 2006

PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
IN COLLABORATION WITH
PERCETAKAN NASIONAL MALAYSIA BHD
2006

IRRIGATION AREAS ACT 1953

First enacted	1953 (Ord. No. 31 of 1953)
Revised	1989 (Act 386 w.e.f. 21 September 1989)

PREVIOUS REPRINT

<i>First Reprint</i>	<i>2001</i>
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IRRIGATION AREAS ACT 1953

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LAWS OF MALAYSIA

Act 386

IRRIGATION AREAS ACT 1953

An Act relating to the establishment and regulation of irrigation areas in Malaysia.

[25 June 1953]

Short title and application

1. (1) This Act may be cited as the Irrigation Areas Act 1953.

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

Interpretation

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

“appropriate authority” means the Ruler in Council or the Yang di-Pertua Negeri in Council of a State;

“irrigation” means the practice of causing water to flow upon, or spread over, or under, the surface of land or of retaining water on or under the surface of land for agricultural purpose and includes drainage for the removal of water which is injurious to agriculture;

“irrigation area” means any area which may from time to time be so declared by the appropriate authority under this Act;

“irrigation water” means water which is put on to or retained on land by means of irrigation works and includes water reaching such land as rainfall;

“irrigation works” includes the construction and maintenance of headworks, main canal, subsidiary canals, distribution channels, drainage channels, banks, bunds, *batas*, water gates, culverts, sluices, drains and other similar works;

*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).

“Land Administrator” has the same meaning as defined in the National Land Code [*Act 56 of 1965*];

“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 the States of *Peninsular Malaysia and the legal owner or holder by customary tenure of any land in the States of Malacca and Penang.

Declaration of irrigation areas

3. The appropriate authority may, by notification in the *Gazette*, declare any lands in a State within the area affected by any irrigation works wholly or in part carried out or sanctioned by the Government of that State to be an irrigation area. Such notification shall define the boundaries of such area and may include any headworks and main canals.

Nature of cultivation

4. The appropriate authority may, by notification in the *Gazette*, declare in respect of any unalienated lands within an irrigation area that such lands shall not be used for any industry, cultivation or other purpose except such as may be in such notification specified.

***Padi* cultivation**

5. (1) Notwithstanding anything to the contrary contained in section 3 of the **Rice Cultivation Ordinance of the Straits Settlements [*S.S. Cap. 145*], no land within an irrigation area to which this section applies shall be used for any purpose other than the cultivation of *padi*, without the consent of such officer as may be authorized by the appropriate authority in that behalf, hereinafter referred to as the authorized officer.

(2) Any consent given under subsection (1) and the extent and particulars of the land affected by such consent shall be recorded in a register, to be called the “Tambak Register”, to be kept by the Land Administrator, who shall issue to the owner or occupier of such land a copy of the entry in the Tambak Register.

*NOTE— All references to “West Malaysia” shall be construed as reference to “Peninsular Malaysia”—see the Interpretation (Amendment) Act 1997 [*Act A966*], subsection 5(2).

**NOTE—The Rice Cultivation Ordinance of the Straits Settlements [*S.S. Cap 145*] in respect of the State of Malacca has since been repealed by the Malacca Enactment No. 3 of 1968.

(3) A consent given under subsection (1) may be varied from time to time, and thereupon such memorial shall be made on the Tambak Register as may be necessary to indicate the variation, or a fresh entry may be made therein. In either case the owner or occupier shall surrender the copy referred to in subsection (2) for alteration or cancellation as the case may be.

(4) In the case of any land within an irrigation area which the owner or occupier thereof has used for any purpose other than the planting of *padi*, without obtaining the consent referred to in subsection (1), the authorized officer may refuse to grant such consent and may serve a notice on the owner or occupier directing him to fill up any drain or remove any bund or embankment or building or structure which prevents water from coming on to or remaining on the land, and every such owner or occupier shall comply with such notice within the period specified therein, not being less than one month from the date thereof.

(5) If such owner or occupier fails to comply with such notice he shall be guilty of an offence and shall be liable to imprisonment for a period not exceeding six months or to a fine not exceeding one thousand ringgit or both and the court may direct that the whole or any part of the fine, if paid, shall be handed to the authorized officer who shall use it for carrying out the works, if any, specified in the notice.

(6) Any person aggrieved by any consent, refusal, order or notice under this section may appeal to the appropriate authority or to any Board or Committee to whom the appropriate authority may delegate its powers in writing and the decision of the appropriate authority, or of such Board or Committee in such appeal shall be final.

(7) No proceedings under sections 3 and 7 of the *Rice Cultivation Ordinance of the Straits Settlements, shall be instituted against the owner or occupier of any land for failure to cultivate *padi* on any area shown in the Tambak Register to be exempted from such cultivation.

(8) This section applies only to such areas of land within an irrigation area as the appropriate authority may, by notification in the *Gazette*, direct.

*NOTE—The Rice Cultivation Ordinance of the Straits Settlements [S.S. Cap 145] has since been repealed by Malacca Enactment No. 3 of 1968.

Classification of the lands within an irrigation area

6. (1) The appropriate authority may, by notification in the *Gazette*, classify the lands within an irrigation area:

Provided that no lands shall be liable to any higher classification within a period of five years from the date of the last classification unless they shall in the meantime be used for some industry, cultivation, or purpose other than that for which they were used at the time of such classification and involving the use of a greater supply of water.

Imposition of water rate

(2) The appropriate authority may, by notification in the *Gazette*, impose upon all or any land within an irrigation area, annual rates, hereinafter called water rates. Different rates may be imposed on different classes of land, as classified under subsection (1).

Water rate when payable

7. A water rate imposed under section 6 shall become payable as follows—

(a) in the case of lands used for cultivation of *padi*—

- (i) no water rate shall be payable in respect of any lands until irrigation water has been available on such lands or a period sufficiently long to allow a crop or *padi* to be planted and gathered; and
- (ii) upon the first day of January, next following the date when such a crop has first been, or might first have been, gathered there shall be payable to the Land Administrator one half of the water rate imposed upon such lands, and upon every first day of January, thereafter shall be payable the full amount of the water rate imposed upon such lands;

(b) in the case of lands used for any other industry, cultivation, or purpose, the water rate imposed upon such lands shall become payable on the first day of January, next following

the date at which a water supply has been available on such lands sufficient for the conduct of such industry, cultivation, or other purpose, and thereafter on the first of January, of each succeeding year:

Provided that, where the full supply of water necessary to the purpose to which the lands are applied has not been available or for any other reason approved by the appropriate authority, any officer appointed for this purpose by the appropriate authority may reduce the amount so payable to such amount as may seem to be just and shall notify the Land Administrator accordingly.

Collection of water rates

8. All sums due for water rates 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.

Management of irrigation areas

9. (1) Every irrigation area and the irrigation works therein shall be in the charge of a Drainage and Irrigation Engineer, or such other officer as the appropriate authority may, from time to time, appoint.

(2) Such Engineer or officer shall report to the appropriate authority annually, and at such other times as the appropriate authority may require, upon the working of the area in his charge, and shall in like manner furnish an annual balance sheet showing the receipts on account of water rates, and the expenditure on construction, management, supervision and maintenance of the works in his charge.

(3) For the purposes of such balance sheet the Land Administrator shall furnish to the Drainage and Irrigation Engineer or other officer in charge of the irrigation area a monthly statement of the amount of water rate collected by him.

Delegation of powers and duties

10. (1) Any Drainage and Irrigation Engineer or other officer appointed under section 9 to have charge of an irrigation area may, with the approval of the appropriate authority and subject to such

limitations as the appropriate authority may think fit, by writing under his hand, from time to time, authorize any officer to exercise any of the powers and perform any of the duties conferred and imposed by this Act on the Drainage and Irrigation Engineer or other officer in charge of such area and may in like manner and with the like approval withdraw any such authority.

(2) Everything done in pursuance of an authority granted under this section shall have the same effect as if it were done by the Drainage and Irrigation Engineer or other officer in charge of the irrigation area.

Filling up obnoxious water-ways

11. The Drainage and Irrigation Engineer or other officer in charge of an irrigation area may, if it appears to him that it will be of benefit to the irrigation works in his charge so to do, fill up, construct, widen or drain any canal, water-course, drain, ditch, pond or swamp whether within or without an irrigation area:

Provided that he shall pay to the owner or occupier thereof, if any, reasonable compensation for any damage, loss or inconvenience arising therefrom; and if the parties fail to agree as to the amount so payable the question shall be referred to the appropriate authority whose decision thereon shall be final.

Removal of trees or refuse

12. (1) (a) The Drainage and Irrigation Engineer or other officer in charge of an irrigation area may, by notice in writing, require the owner or occupier of any lands within such area to clear the banks or sides of any irrigation works on such lands from any trees or plants growing thereon or to remove from any lands adjoining any irrigation works any growth or refuse likely to damage such works or harbour rats or other vermin.

(b) Such notice shall require the owner or occupier to take the necessary action within a certain fixed time, which shall not be less than fourteen days from the date of the service of the notice, and if default is made in complying with such notice the officer acting under this subsection may cause such action to be taken as is required by the notice and may recover the cost of so doing from the said owner or occupier in any court of competent jurisdiction.

(2) (a) The Drainage and Irrigation Engineer or other officer in charge of an irrigation area may, by notice in writing, prohibit the owner or occupier of any lands within such area from planting any trees or plants on the banks or sides of any irrigation works on such lands or from depositing on any lands adjoining any irrigation works any refuse likely to damage such works or harbour rats or other vermin.

(b) If default is made in complying with such notice the officer acting under this subsection may cause action to be taken to clear any trees or plants from such banks or sides or any such refuse and may recover the cost of so doing from the said owner or occupier in any court of competent jurisdiction.

(3) In cases in which the officer acting under this section requires the destruction of, or destroys, valuable trees or plants he shall, if no previous notice has been issued under this section in respect of the land on which such trees or plants are growing, pay to the owner or occupier reasonable compensation for the same; and if the parties fail to agree as to the amount so payable the question shall be referred to the appropriate authority whose decision thereon shall be final.

Power to withhold water

13. The Drainage and Irrigation Engineer or other officer in charge of an irrigation area may refuse to allow water to be supplied or taken for the irrigation of lands in respect of which the water rate is in arrears, or for the irrigation of lands which are not properly provided with banks or *batas* for the retention of water, or for the irrigation of lands the owners or occupiers of which have been convicted of an offence under this Act; and the water rate payable upon such lands shall be payable notwithstanding such refusal.

Damage to irrigation works by fire

14. (1) In any case in which damage is done to any irrigation works by fire originating on adjoining or neighbouring lands the cost of repairing such damage may be recovered from the owner or occupier of such lands by the officer in charge of such works by suit in any court of competent jurisdiction.

(2) In any such suit it shall not be necessary to prove the negligence of the defendant nor shall it be a defence that the fire was the result of accident.

Obstruction or damage

15. Any person who—

- (a) wilfully or maliciously blocks up or obstructs or causes to be in any way blocked up or obstructed;
- (b) encroaches on or attempts to take fish by means of a fish trap out of any irrigation tank, channel or water-course; or
- (c) breaches or cuts through the banks or sides of the same,

shall be liable to imprisonment for a period not exceeding six months or to a fine not exceeding three hundred ringgit or both.

Waste or obstruction of water

16. (1) Any person who—

- (a) wilfully causes waste of water conserved by any irrigation works; or
- (b) not being entitled to the use of such water, wrongfully draws off or converts to his own use any such water,

shall be guilty of an offence and shall be liable to imprisonment for a period not exceeding six months or to a fine not exceeding three hundred ringgit or both.

(2) Where such water is found to be used on the land of a person not entitled to the use thereof the onus of proving that he did not draw off or convert to his own use or cause to be drawn off or converted to his own use such water shall lie on such person.

Further penalty for wasting water

17. If the owner or occupier of any land irrigated by any irrigation works—

- (a) suffers or permits water obtained from such works or from any water-course or channel connected therewith to run to waste on his land; or

- (b) obtains water for such land from such works, water-course or channel in a manner not authorized by the Drainage and Irrigation Engineer or other officer in charge of such works,

he shall, in addition to any other punishment, penalty or liability which he may incur or be liable to under this Act, be liable to pay double the water rate for the time being assessed under section 6 for every year or portion of any year in which he has so suffered or permitted such water to run to waste or has obtained it in an unauthorized manner, and such double water rate shall be recovered in the manner provided by section 8.

Compulsory provision of *batas*

18. (1) The Drainage and Irrigation Engineer or other officer in charge of an irrigation area may, by notice in writing, require the owner or occupier of any land within such area to provide, either individually or jointly with other owners or occupiers, proper banks or *batas* and distribution or drainage channels for the supply, drainage, retention or exclusion of water:

Provided that no person shall be required under this section to provide banks, *batas*, distribution or drainage channels which will not benefit land whereof he is the owner or occupier.

(2) Such notice shall require the owner or occupier to take the necessary action within a stated time, which shall not be less than fifteen days from the date of the service of the notice.

(3) If default is made in complying with the provisions of such notice, the Drainage and Irrigation Engineer or other officer in charge of such area may cause such action to be taken as is required by the notice and may thereafter certify under his hand the cost thereof, and thereupon the amount so certified shall be recoverable from the person by whom default was made as aforesaid in the manner provided by law for the recovery of land revenue.

Refusal to allow passage of water

19. Any owner or occupier or other person who refuses to allow the passage of irrigation water over his land or who obstructs such passage shall be liable to imprisonment for a period not exceeding three months or to a fine not exceeding one hundred and fifty ringgit or both.

Construction of unauthorized water-ways

20. Any person who constructs any canal, water-course, drain, ditch or pond, or deepens or enlarges any existing canal, water-course, drain, ditch or pond within any irrigation area without having previously obtained the consent thereto in writing of the Drainage and Irrigation Engineer or other officer in charge of such area, shall be liable to imprisonment for a period not exceeding six months or to a fine not exceeding three hundred ringgit or both.

Allowing animals to stray

21. Any person who leads any animal or allows any animal to stray upon the banks or sides of any irrigation works shall be guilty of an offence and shall be liable to imprisonment for a period not exceeding three months or to a fine not exceeding one hundred and fifty ringgit or both.

Unauthorized use of vehicles and boats

22. Any person who drives, draws or pushes or causes to be driven, drawn or pushed any vehicle along the banks or sides of or uses or causes to be used any boat, vessel, raft or float or causes to be floated any wood or other material on any irrigation canal or water-course without having previously obtained the consent thereto in writing of the Drainage and Irrigation Engineer or other officer in charge of such works shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding fifty ringgit or both.

Pollution of water

23. Any person who bathes or washes articles in or otherwise pollutes or causes to be polluted any irrigation tank, channel or water-course shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred and fifty ringgit or both:

Provided that the appropriate authority may, by order notified in the *Gazette*, declare that this section shall not apply in any irrigation area specified in such order.

Tampering with irrigation works

24. (1) Any person who without authority from the Drainage and Irrigation Engineer or other officer in charge of an irrigation area, opens or closes or otherwise tampers with any sluices, water gates, regulators, pipes, bench marks, water gauges or other works forming part of any of the irrigation works within such area shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding three hundred ringgit or both.

(2) Where by reason of any irrigation works having been so tampered with the land of any person is benefited the onus of proving that he did not so tamper therewith or cause them to be so tampered with shall lie on such person.

Power to arrest

25. 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 under section 15, 16, 19, 20, 21, 22, 23 or 24, and shall forthwith bring such person before the Drainage and Irrigation Engineer or other officer in charge of the irrigation area who may compound the offence under section 26 or may order the person arrested to be produced at once before a Magistrate.

Power to compound offences

26. (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 he 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 to have 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.

Power to make rules

27. The appropriate authority may, from time to time, by notification in the *Gazette*, make rules for the encouragement and extension of cultivation and for the enforcement of ancient customs within irrigation areas and for any other purposes consistent with this Act.

Service of notices

28. Any notice issued under this Act may be served in the manner prescribed for the service of notices under the National Land Code.

Prosecution of offences

29. The Drainage and Irrigation Engineer or other officer of the Drainage and Irrigation Department, not below the rank of Inspector, authorized in writing by the Drainage and Irrigation Engineer may conduct any prosecution in respect of an offence against this Act relating to such irrigation area.

Repeal

30. The Enactments and Ordinance specified in the Schedule to this Act are hereby repealed:

Provided that—

- (a) any officer appointed to be in charge of any irrigation area under or by virtue of any of the written laws hereby repealed shall be deemed to have been appointed under this Act; and
 - (b) any declaration, consent, classification, authorization, notice or rule made, given or granted or any water rate imposed under any of the written laws hereby repealed shall, in so far as the same is not inconsistent with this Act, continue in force and have effect as if it had been made, given, granted or imposed under this Act.
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SCHEDULE

No.	Title
F.M.S. Cap. 145	Irrigation Areas Enactment
Johore Enactment No. 6 of 1941	Irrigation Areas Enactment
Kelantan Enactment No. 17 of 1935	Irrigation Areas Enactment 1935
Kedah Enactment No. 4 of 1370 (1950)	Irrigation Areas Enactment 1370 (1950)
S.S. Cap. 143	Irrigation Areas Ordinance

LAWS OF MALAYSIA

Act 386

IRRIGATION AREAS ACT 1953

LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 44/1956	The Irrigation Areas (Amendment) Ordinance 1956	01-01-1957
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 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A587	National Land Code (Amendment) Act 1984	25-03-1985

LAWS OF MALAYSIA
Act 386
IRRIGATION AREAS ACT 1953

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Ord. 60/1956 Act A587	01-09-1956 25-03-1985
5	Act A587	25-03-1985
7	Ord. 44/1956	01-01-1957
28	Act A587	25-03-1985
Throughout the Act	Act 160	29-08-1975
