

Penalty for non-compliance

(3) (a) Any person to whom the order is addressed who fails to comply with the requirements of a mandatory order shall, unless he satisfies the court that he has used all due diligence to carry out such order, be liable on conviction to a fine not exceeding two hundred and fifty ringgit a day during his default.

(b) Where the person fails to comply with the order, the local authority may enter the premises and execute the work so required to be executed and the expenses thereby incurred by the local authority shall be recoverable from the person in default in accordance with any law relating to the recovery of fines.

Provision as to appeal against order

92. (1) Where a person appeals to the High Court against a mandatory order, no liability to a fine shall arise nor, save as in this section mentioned, shall any proceedings be taken or work done under such order until after the determination or abandonment of such appeal.

Penalty where appeal fails

(2) Where a mandatory order is made and a person does not comply with it and appeals against it to the High Court and such appeal is dismissed or is abandoned, the appellant shall be liable on conviction to a fine not exceeding two hundred and fifty ringgit a day during the non-compliance with the order, unless he satisfies the court before which proceedings are taken for imposing a fine that there was substantial ground for the appeal and that the appeal was not brought merely for the purpose of delay and, where the appeal is heard by the High Court, the court may, on dismissing the appeal, impose the fine as if the court were the court before which the summons was returnable.

Proceedings pending appeal

(3) Where a mandatory order is made on any person and appealed against and the court which made the order is of opinion that the non-execution of the mandatory order will be injurious or dangerous to public health or safety and that the immediate execution thereof will not cause any injury which cannot be compensated by damages, such court may authorise the local authority immediately to execute the work.

(4) The local authority, if it does so and the appeal is successful, shall pay the cost of such execution there and the damages, if any, sustained by the said person by reason of such execution thereof, but, if the appeal is dismissed or abandoned, the local authority may recover the cost of such execution thereof from the said person.

Proceedings where owner is unknown

93. (1) Where the name or address of the owner of any premises with regard to which a Magistrate's Court is empowered to make a mandatory order is unknown and cannot with reasonable diligence be discovered, such court may issue a summons addressed to the owner of the premises.

(2) Such summons may be served in the manner specified in section 120.

(3) If the owner does not appear upon the hearing of the summons, such court may make such an order upon him in his absence as it might have made in his presence except that it shall not inflict any fine upon him.

In case of urgency order may be made *ex parte*

94. (1) If in any case in which a Magistrate's Court has jurisdiction to make a mandatory order, the court is of the opinion that the matter complained of will be injurious or dangerous to public health or safety and the immediate execution of the work will not cause any injury which cannot be compensated by damages, such court may, by an *ex parte* order, authorize the local authority immediately to execute such work.

(2) If the application for a mandatory order is subsequently refused, the local authority shall pay the damages, sustained by any person thereby, but if the mandatory order is subsequently granted the local authority may recover the cost of the work.

Protection of the State Authority and officers from personal liability

95. (1) No matter or thing done and no contract entered into by any State Authority and no matter or thing done by any officer employed in the administration of this Act or other person whomsoever acting under the direction of any State Authority shall if the matter or thing was done or the contract was entered

into *bona fide* for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(2) The State Authority, local authority and any public officer or officer or employee of the local authority shall not be subject to any action, claim, liabilities or demand whatsoever arising out of any building or other works carried out in accordance with the provisions of this Act or any by-laws made thereunder or by reason of the fact that such building works or the plans thereof are subject to inspection and approval by the State Authority, local authority, or such public officer or officer or employee of the State Authority or the local authority and nothing in this Act or any by-laws made thereunder shall make it obligatory for the State Authority or the local authority to inspect any building, building to ascertain that the provisions of this Act or any by-laws made thereunder are complied with or that plans, certificates and notices submitted to him are accurate.

Indemnity by local authority

96. Any expense incurred by any State Authority, officer or other person acting in accordance with the provisions of section 95 shall be borne by the local authority.

Power to enter upon lands for the purposes of this Act

97. Any local authority may, for the purposes of this Act, by its officers, employees, agents or contractors, enter at all reasonable hours in the daytime into and upon any building or land as well for the purpose of making any survey or inspection as for the purpose of executing any work authorized by this Act to be executed by it without being liable to any legal proceedings or molestation whatsoever on account of such entry or of anything done in any part of such building or land in pursuance of this Act:

Proviso

Provided that the local authority shall not enter into any dwelling house in actual occupation, except with the consent of the occupier thereof or after giving twenty four hours' previous notice to such occupier:

Provided also that the State Authority may declare that any class of premises, for the control and supervision of which by-laws may be made under this Act, are liable to night inspection, and thereupon

any officer, employee, agent or contractor in that behalf duly authorized in writing may, at any time of the day or night and without notice, enter using such force as may be necessary into and search or inspect any premises of the class specified in the declaration.

Power of any authority to enter on lands adjacent to works

98. (1) Any local authority may, by its officers, employees, agents or contractors, enter upon any land adjoining to or being within the distance of one hundred yards of any works by this Act authorized to be made, for the purpose of depositing upon such land any soil, gravel, sand, lime, brick, stone or other materials or for any other purposes connected with the formation of the said works without making any previous payment, tender or deposit, doing as little damage as may be in the exercise of the several powers hereby granted and making compensation for such temporary occupation or temporary damage of the said land to the owner and occupier thereof from time to time and as often as any such temporary occupation is taken or any such temporary damage done and making compensation to the owner also for the permanent injury, if any, to such land.

(2) If any dispute arises touching on the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided.

(3) Before any local authority makes any such temporary use as aforesaid of the land adjoining or lying near to the said works, it shall give seven days' notice of its intention to the owners or occupiers of such land and shall set apart by sufficient fences so much of the land as is required to be used as aforesaid from the other land adjoining thereto.

Any local authority in executing works to provide alternative roads, etc., where existing ones are interrupted, etc.

99. (1) Any local authority in executing any works directed or authorized to be made shall provide and make a sufficient number of convenient ways, water-courses, drains and channels in the place of such as are interrupted, injured or rendered useless by reason of the execution of such works.

(2) The local authority shall make reasonable compensation to any person who suffers damage by reason of the same, the amount of such compensation in case of dispute to be ascertained and determined in the manner hereinafter provided.

Penalty for obstructing any authority in its duty

100. Any person who at any time hinders, obstructs or molests any local authority or any of its 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 or in consequence of this Act or removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act, shall be liable on conviction to a fine not exceeding *one thousand ringgit or to imprisonment for a term which may extend to six months.

Compensation, damages and costs to be determined by court

101. (1) Except as herein otherwise provided in all cases when compensation, damages, fees, costs or expenses are by this Act directed to be paid by the local authority to any person or by any person to any other person the amount and, if necessary, the apportionment of the same and any question or liability shall, in case of dispute or failure to pay, be summarily ascertained and determined by a Magistrate's Court.

(2) If the amount of compensation, damages, fees, costs or expenses is not paid by the party liable to pay the same within seven days after demand, such default may be reported to a Magistrate's Court and such amount recovered in the same way as if it were a fine imposed by a Magistrate's Court.

(3) An appeal shall lie to the High Court from any decision of a Magistrate's Court under this section, and the provisions of the Criminal Procedure Code [Act 593] shall *mutatis mutandis* apply to all such appeals.

Where occupier defaults owner may execute work

102. Whenever default is made by an owner of any premises in the execution of any work required under this Act to be executed by him, an occupier of such premises may, with the approval of

*NOTE—Previously “two hundred ringgit” and “three months imprisonment—see Street, Drainage and Building (Amendment) Act 1994 [Act A903].

the local authority, cause such work to be executed and the expense thereof shall be paid to him by the owner or the amount may be deducted out of the rent from time to time becoming due from him to such owner and such occupier may, in the absence of any special agreement to the contrary, retain possession until such expense has been fully reimbursed to him.

Exemption of agent who has no funds in hand

103. (1) No person receiving the rent of premises as receiver or agent for another person shall be liable to do anything by this Act required to be done by the owner of such premises if, after he or the actual owner has been required to do any work, such person gives notice to the local authority, within seven days after such requisition has been made, that he has not sufficient funds of the person on whose behalf he is receiving the rents to pay for such work.

(2) In such case the local authority may itself execute the work and the expenses incurred thereby shall be charged and recoverable in the manner hereinafter provided.

Recovery of expenses and costs payable by owners

104. (1) All and any sums payable by or recoverable from the owner or owners in respect of expenses and costs incurred by the local authority in or about the execution of any work which are, under this Act recoverable from the owner or owners of any premises shall, subject and without prejudice to any other rights of the local authority, be a first charge on the premises in respect of which such expenses or costs have been incurred.

(2) In addition to any other remedies conferred by this Act any such sum may be recovered in the manner hereinafter provided, and the person or persons liable to pay the same shall be the owner or owners at the time when the work was completed.

(3) Any occupier who when requested by or on behalf of the local authority to state the name of the owner of the premises refuses or wilfully omits to disclose or wilfully mis-states the same shall, unless he shows cause to the satisfaction of the court for his refusal or mis-statement, be liable on conviction to a fine not exceeding five hundred ringgit.

Proceedings in default

(4) If any such sum remains unpaid at the expiration of the prescribed time, a notice shall be served upon the person or any one of the persons, if more than one, liable to pay the same, calling on him to pay the same together with a fee of such amount as may be prescribed for the cost of the notice, within fifteen days of the service of such notice.

(5) If no person liable to pay the same can be found, such notice shall be deemed to have been duly served by the posting thereof at the office of the local authority and by fixing a copy thereof on some conspicuous part of the premises in respect of which such expenses or costs have been incurred.

(6) At the expiration of the said period of fifteen days or such further period as may be allowed by the local authority, if any such sum or any part thereof remains due and unpaid, it shall be deemed to be in arrears and may be recovered in the manner hereinafter provided.

(7) The charge hereinbefore mentioned shall attach, and the powers and remedies hereinbefore conferred shall become exercisable as from the date of completion of the work, and thereafter such powers and remedies may be exercised against the premises or against any movable property or crops for the time being found thereon, notwithstanding any change or changes in the ownership or occupation of the premises subsequent to the said date.

Recovery of expenses and costs by instalments

105. (1) When any local authority has incurred expenses and costs in or about the execution of any work, which are, under this Act, payable by or recoverable from the owner or owners, the local authority may either recover such expenses and costs in manner hereinbefore provided or, if it thinks fit, may take an engagement or engagements from such owner or owners for the payment of such instalments as will be sufficient to defray the whole amount of such expenses and costs with interest thereon at a rate not exceeding six per centum per annum, within a period not exceeding ten years.

(2) Upon default in payment of any instalment or interest upon the date appointed for payment thereof by any such engagement, the whole of the balance then outstanding of such amount, together with any interest in arrears, shall immediately become due and payable and, notwithstanding any charge in the ownership or occupation of the premises since the date of the engagement, may be recovered by the same means and in like manner as provided in section 104.

Proceedings for recovery of arrears

106. (1) For the recovery of arrears the local authority shall have and may exercise, either successively or concurrently, in addition to any other remedies conferred by this Act, either or both of the powers following, that is to say:

- (a) the local authority may issue a warrant of attachment and may seize by virtue thereof any movable property and crops of any person liable to pay the arrears and may also seize any movable property or any crops to whomsoever belonging which are found on the premises in respect of which the arrears are due and may, after service of the prescribed notice, sell the same by public auction in the prescribed manner;
- (b) the local authority may, by notice of sale to be served or published in the prescribed manner, declare its intention of selling, at the expiration of three months from the date of such notice of sale, the premises in respect of which the arrears are due and, if, at the expiration of such period, such arrears have not been paid or satisfied, the local authority may sell by public auction, in lots or otherwise, the whole of such premises or such portion thereof or such interest therein as it deems sufficient for recovery of such arrears and costs:

Provided that the local authority shall not proceed under paragraph (b) to sell the premises in respect of which the arrears are due, or any portion thereof or interest therein, where there is or are upon the premises and liable to be seized and sold under paragraph (a) movable property or crops belonging to the owner of a value estimated by the local authority to be sufficient to realize the sum required to satisfy the arrears and costs.

(2) Any tenant, subtenant, or occupier, who, in order to avoid the seizure or sale of his property for non-payment of arrears payable by the owner of the premises, pays such arrears and costs may thereafter, in the absence of any written agreement to the contrary, deduct the amount so paid by him from the rent due or to become due by him to his immediate landlord on account of the premises or such part thereof as is held or occupied by him, and may retain possession until such amount has been fully reimbursed to him whether by deduction from the rent or otherwise. Any tenant or sub-tenant who has reimbursed, whether by allowing a deduction from his rent or otherwise, any subtenant or occupier holding or occupying under him the amount so paid by such subtenant or occupier shall have a similar right to deduct the amount from the rent due or to become due to his immediate landlord and to retain possession until similarly reimbursed.

(3) The receipt of any duly authorized public officer for any amount so paid by any such tenant, subtenant or occupier shall be deemed an acquittance in full for the like amount of rent.

(4) If any premises in respect of which arrears are due, or any such movable property or crops as are mentioned in subsection (1) or the proceeds of sale thereof are already in the custody of the law under any process of execution whereby the local authority is unable to exercise the remedies herein before conferred, the local authority may notify the sheriff or the bailiff of the court concerned of the amount of the arrears, and shall be entitled without obtaining a judgment to be paid such amount out of the proceeds of sale of such premises or property in priority to the judgment debtor and to the judgment creditor and to any other creditor.

(5) A certificate from the local authority shall, unless the same be disputed by the judgment debtor, be *prima facie* evidence of the amount of such arrears, and, in case of dispute, the amount shall be summarily determined by a Magistrate's Court.

Attachment

107. (1) The attachment mentioned in paragraph 106 (1)(a) may be made by a person appointed for the purpose by the local authority who shall publicly notify the attachment and shall take an inventory of the property attached.

(2) Such person shall be deemed to be a public servant within the meaning of the Penal Code [Act 574].

(3) Such person may break open in daytime any house or building for the purpose of effecting such attachment.

Application of proceeds

108. (1) The proceeds of a sale under subsection 106(1) shall be applied in the first place in satisfaction of the arrears together with interest thereon at the rate of six per centum per annum and costs.

(2) In the event of there being any surplus remaining the local authority shall, if satisfied as to the right of any person claiming such surplus, pay the amount thereof to such person or, if not so satisfied, shall hold the amount in trust for the person who may ultimately succeed in due course of law in establishing his title thereto.

(3) If no title is established to such surplus within a period of two years from the date of the sale, it shall be paid into the Improvement Service Fund of the local authority.

Title conferred by purchase at sale under section 106

109. (1) The purchaser at a sale held under paragraph 106(1)(b) shall be deemed to have acquired the right offered for sale free from all subordinate interests derived from it except such as are expressly reserved by the local authority at the time of sale.

(2) The local authority shall notify in such manner as it deems fit the result of the sale and the conveyance to the purchaser of the property or right offered for sale.

Cost of proceedings for recovery of arrears

110. All costs of any proceedings for the recovery of arrears may be recovered as if they formed part of such arrears.

Power to stop sale

111. If any person having any interest in any property liable to be sold at any time previous to such sale tenders to the local authority the arrears with interest and costs, the local authority shall thereupon desist from all further proceedings in respect thereof.

Application to court

112. (1) If any person whose movable property, crop or land has been attached or advertised for sale disputes the propriety of the attachment or sale, he may apply for an order to stay the proceedings.

(2) The court, after hearing the local authority and making such further inquiry as is necessary, shall make such order as is just.

Security to be given

113. No application shall be entertained by the court under section 112 unless the applicant has deposited in court the amount of the arrears and costs or given security for the same to the satisfaction of the court.

Liability of transferor

114. (1) Every person who sells or transfers any property in respect of which costs and expenses have been incurred by the local authority in or about the execution of any work which are, under this Act, recoverable from the owner thereof shall continue to be liable for the payment of all such costs and expenses payable in respect of such property and for the performance of all other obligations imposed by this Act upon the owner of such property which become payable or are to be performed at any time before such notice of transfer has been given.

(2) Nothing herein shall affect the liability of the purchaser or transferee to pay such expenses or costs in respect of such property or affect the right of the local authority to recover such costs and expenses from or to enforce any obligation under this Act against the purchaser or transferee.

Proceedings if an occupier opposes the execution of works

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

(2) If after the expiration of eight days from the date of the order such occupier continues to refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable on conviction to a fine not exceeding one hundred ringgit, and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Disposal of matters and things removed by local authority

116. (1) Any matter or thing removed by any local authority in executing any work which it is entitled to execute under this Act shall except as otherwise provided be the property of the local authority and may be sold by public auction or, if the local authority thinks the circumstances of the case require, may be sold otherwise or be disposed of without sale.

(2) The moneys arising from the sale may be retained by the local authority and applied in or towards the expenses incurred and the surplus, if any, shall be paid on demand to the owner of such matter or thing.

(3) If such surplus is not claimed within two years it shall be paid into the Improvement Service Fund of the local authority.

(4) If any matters or things belonging to several persons are removed by the local authority in executing any such work, it shall cause such matters or things, if sold, to be sold separately.

Licences to be discretionary

117. (1) The grant or renewal of any licence in pursuance of this Act or any by-laws made thereunder shall be in the discretion of the local authority or person authorized to grant or renew the same and a licence may be granted, renewed or refused without assigning any reason therefor and may be granted or renewed subject to such restrictions and conditions as the local authority or person granting or renewing the same may think fit and such licence shall be subject to suspension or revocation at any time without compensation and without notice by the local authority upon breach of any restriction or condition subject to which it was issued.

(2) The local authority or person authorised to grant or renew such licence may require any applicant therefor to furnish such information as the local authority or that person may reasonably require for a full and proper consideration of the application and in the event of a refusal to furnish such information shall refuse to grant or renew such licence.

(3) Save as otherwise provided any licence granted or renewed in pursuance of this Act or any by-laws made thereunder may be for such period not exceeding twelve months as the local authority thinks fit.

(4) There shall be charged for the grant or renewal of any licence such fee, if any, as may be prescribed.

(5) No such licence shall be transferable without the consent of the local authority.

(6) Save as otherwise provided any person aggrieved by the refusal by any local authority to grant or renew a licence or by the suspension or revocation by such local authority of any licence may within the month of such refusal, suspension or revocation appeal to the State Authority whose decision thereon shall be final.

(7) In this section “licence” includes any approval, consent permit, permission, authorization or licence which may be granted in pursuance of this Act or any by-laws made thereunder.

Notices, etc.

118. The State Authority may prescribe the form of notices and other documents issued under this Act.

Receipts and notices may be given by officer authorized thereunto

119. (1) All notices, orders, receipts, warrants and other documents of whatsoever nature which a local authority is empowered to give by this Act or any by-laws made thereunder may be given by any officer or employee authorized thereunto by the local authority.

(2) Where any such notice, order, receipt, warrant or document requires authentication, the signature or a facsimile thereof of the local authority or any officer or employee authorized thereunto by the local authority affixed thereto shall be sufficient authentication.

Service of notices

120. (1) Every notice, order, summons or document required or authorized by this Act or any by-laws made thereunder to be served on any person may be served—

- (a) by delivering the same to such person or by delivering the same at the last known place of abode of such person to some adult member or servant of his family;
- (b) by leaving the same at the usual or last known place of abode or business of such person in a cover addressed to such person; or
- (c) by forwarding the same by post in a prepaid cover addressed to such person at his usual or last known place of abode or business.

(2) A notice, order, summons or document required or authorized by this Act or any by-laws made thereunder to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the “owner” or “occupier” of such premises without further name or description.

(3) A notice, order, summons or document required or authorized by this Act or any by-laws made thereunder to be served on the owner or occupier of any premises may be served by delivering the same or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom the same can with reasonable diligence be delivered, by affixing the notice, order, summons, or document to some conspicuous part of the premises.

Default in compliance with notice. General penalty

121. (1) When any notice under this Act or any by-laws made thereunder requires any act to be done or work to be executed by the owner or occupier of any premises and default is made in complying with the requirement of such notice, the person in default shall, where no fine is specially provided for such default, be liable on conviction to a fine not exceeding *ten thousand ringgit or if any work is required to be done, not exceeding one thousand ringgit a day.

**NOTE*—Previously “five hundred ringgit” and “one hundred ringgit”—see Street, Drainage and Building (Amendment) Act 1994 [Act A903].

(2) When any such notice requires any act to be done or work to be executed for which no time is fixed by this Act or any by-laws made thereunder, it shall fix a reasonable time for complying with the requirement.

Court for trial of offences

122. Any offence under this Act or any by-laws made thereunder may be tried by a Magistrate's Court.

Local authority may direct prosecution

123. (1) The local authority may direct any prosecution for any offence under this Act and any by-laws made thereunder and the local authority shall pay such expenses as may be incurred in such prosecution.

(2) Any officer of the local authority or police officer may conduct such prosecution on behalf of the local authority.

Employee of authority may demand names and addresses in certain cases

124. (1) Any person who is charged by any officer or employee of the local authority or any police officer with any offence under this Act or any by-laws made thereunder shall give his name and address to such officer, employee or police officer, if so required.

(2) The occupier of any premises shall, if required by any officer or employee of the local authority or any police officer, give the name and address of the owner of the premises, if known.

Penalty

(3) Any person who offends under this section or wilfully misstates his name and address or the name and address of the owner of any premises shall be liable on conviction to a fine not exceeding two hundred and fifty ringgit.

Power of arrest

125. (1) Any police officer or any officer or employee of the local authority duly authorized in writing by the local authority generally or in any particular case may arrest any person committing any offence in his view or who he has reason to believe has

committed any offence punishable under this Act or any by-laws made thereunder—

- (a) if the name and address of the person are unknown to him;
- (b) if the person declines to give his name and address; or
- (c) if there is reason to doubt the accuracy of the name and address, if given.

(2) A person arrested under this section may be detained until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a court unless the order of a court for his detention is obtained.

Saving of prosecutions

126. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act or any by-laws made thereunder or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or any by-laws made thereunder:

Provided that no person shall be punished more than once for the same offence.

General penalties

127. Any person guilty of an offence under this Act or any by-laws made thereunder for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding two thousand ringgit and shall also be liable to a further fine not exceeding one hundred ringgit for every day that the offence is continued after conviction.

Damage to property of local authority to be made good in addition to penalty

128. (1) If through any act, neglect or default any person has committed an offence under this Act or any by-laws made thereunder and by such act, neglect or default such person has caused damage

to any property belonging to the local authority, such person shall in addition to any penalty that may be imposed for that offence, be liable to make good the damage.

(2) The amount of such damage shall, in case of dispute be determined by the court by which the party incurring such penalty is convicted.

(3) The amount of such damage shall be recovered as if it were a fine imposed by the court.

Inaccuracies in documents

129. No misnomer or inaccurate description of any person, premises, building, holding, street or place named or described in any document prepared, issued or served under, by virtue of or for the purposes of this Act or any by-laws made thereunder shall in any way affect the operation of this Act or any such by-laws as respects that person or place if that person or place is so designated in the document as to be identifiable, and no proceedings taken under or by virtue of this Act or any such by-laws shall be invalid for want of form.

Evidence

130. (1) The contents of any document prepared, issued or served under, by virtue of or for the purpose of this Act shall until the contrary be proved be presumed to be correct and the production of any book purporting to contain any apportionment made under or by virtue of this Act or any by-laws made thereunder shall without any other evidence whatever, be received as *prima facie* proof of the making and validity of the apportionment mentioned therein.

(2) All records, registers and other documents required by this Act or any by-laws made thereunder to be kept by the local authority or by any public officer shall be deemed to be public documents and copies thereof or extracts therefrom certified by the officer responsible for the custody thereof to be true copies, or extracts, as the case may be, subscribed by such officer with his name and his official title shall be admissible in evidence as proof of the contents of such document or extract thereof.

Evidential provisions

131. Notwithstanding the provisions of any written law, in any proceedings under this Act or any by-laws made thereunder, a certificate for the purpose of establishing—

- (a) the registered proprietor of any land;
- (b) the registered owner of a motor vehicle;

which purports to be signed by the District Land Administrator or the Director for Road Transport, as the case may be, shall unless the contrary is proved, be evidence of any fact stated therein.

Improvement Service Fund

132. (1) There shall be established for the purpose of this Act in each local authority a fund to be known as the “Improvement Service Fund” into which shall be paid all moneys that may from time to time be paid to a local authority for the purposes of carrying out the provisions of this Act, all moneys recoverable by the local authority from any person under this Act or any by-laws made thereunder and any contributions from any person towards the beautification, construction or laying out of any street, *drain, culvert, gutter or water-course.

(2) The Improvement Service Fund shall be administered by the local authority at its absolute discretion.

(3) Without prejudice to the generality of paragraph (2) the local authority may pay out from the Improvement Service Fund any expenses which may be incurred in carrying out the provisions of this Act.

PART VII

BY-LAWS

By-laws

133. The State Authority shall have the power to make by-laws for or in respect of every purpose which is deemed by him necessary for carrying out the provisions of this Act, and for prescribing any matter which is authorized or required under this Act to be prescribed, and in particular and without prejudice to the generality of the

*NOTE—See section 17 of the Street, Drainage and Building (Amendment) Act 1993 [Act A867].

foregoing for or in respect of all or any of the matters specified hereunder—

- (i) the laying or carrying of any line of rails, mains, pipes, conduits or electric lines *(other than sewers) along, through, across, over or under any street or any place laid out or intended for a street;
- (ii) the granting of licences for the carrying and maintenance of telegraphic wires or cables or wires for the conveyance of electricity along or across or under public streets and the fixing and levying of annual or other fees therefor;
- (iii) the level, width and construction of streets and the repairing, cleaning, watering and lighting of streets, roads, canals and bridges and the planting and preservation of trees;
- (iv) the supervision and control of back-lanes under the control of the local authority, of public streets and of streets laid out or constructed by the local authority, the licensing of persons to use such streets and back-lanes for any purpose or in any particular manner other than in the exercise of any right of way thereover;
- (v) the construction, paving, width and level of arcades and footways;
- (vi) the construction, maintenance and repair in any building or on any premises of a water supply, sanitary accommodation, sink accommodation, bathing and washing accommodation;
- (vii) *(Deleted by Act A867);
- (viii) *the maintenance and repair of ash pits, dust bins and like receptacles;
- (ix) the provision, construction, maintenance and repair of wells, tanks and cisterns;
- (x) the prevention, removal and suppression of obstructions or encroachments in or on back-lanes, public streets, private streets and arcades abutting thereon and the provision, construction, dimensions and paving along any portion of any land alongside such streets;
- (xi) the closing, fencing, lighting and repair of any works, hole or place likely to be a danger to the public;

*NOTE—See section 17 of the Street, Drainage and Building (Amendment) Act 1993 [Act A867].

- (xii) the construction, alteration and demolition of buildings and the methods and materials to be used in connection therewith;
- (xii*a*) the submission of plans, specifications, calculations, particulars, documents and reports relating to erection of building, the persons qualified to submit the same and their duties and responsibilities, and the form and nature or classification of such plans, calculations, particulars, documents and reports;
- (xii*b*) the manner and procedure for making an application for the approval of plans and specifications for erection of building;
- (xii*c*) the planning, design and erection of building including—
 - (*a*) the structural strength of the building;
 - (*b*) the stability of the building;
 - (*c*) precautions against overloading;
 - (*d*) measures to safeguard adjacent buildings; and
 - (*e*) underpinning;
- (xii*d*) the provision of embankments and retaining walls;
- (xii*e*) the submission of particulars of qualified persons, contractors, skilled construction workers and construction site supervisors engaged or employed for the purposes of or in the erection of building;
- (xii*f*) the prescribing of documents, books or records to be kept and reports or certificates to be made or issued under this Act;
- (xii*g*) the time, manner and procedure for making applications for temporary certificate of fitness for occupation, partial certificate of fitness for occupation and certificate of fitness for occupation;
- (xii*h*) the manner and procedure for the sampling of building materials;
- (xii*i*) the manner for carrying out periodical inspection of buildings and the form in which the reports required in relation thereto shall be submitted;

- (xiii) the frontage of, air space about, lighting, air conditioning, ventilation, height of and approaches and entrances to, the provision of parking places for vehicles in or for and exits from buildings;
- (xiv) the minimum timber or other building material content in any building;
- (xv) the dimensions of rooms, cubicles, staircases and other parts of buildings and the provision of light and air thereto;
- (xvi) the provision for the paving, width and level of arcades and footways;
- (xvii) the provision in any building or on any premises of a water supply, sanitary accommodation, sink accommodation, bathing and washing accommodation;
- (xviii) the provision, construction, maintenance and repair of drains*;
- (xix) *the provision of ash pits, dust bins and like receptacles;
- (xx) the prescribing of forms for licences and other purposes for use in connection with this Act;
- (xxi) securing the prevention and the prevention of the spread and extinguishment of fire;

Such by-laws may include—

- (a) provisions for building materials to be fire resisting and for the fire resistance grading of such materials;
- (b) provisions regarding methods of construction and design of any building to secure its safety from fire;
- (c) provisions for means of escape from any premises in the event of fire and for the maintenance of such means of escape;
- (d) provisions for fire stops and fire breaks;
- (e) provisions with regard to access to premises for the fire brigade in the event of fire, and include means of access within a building for fire fighting purposes;
- (f) provisions for the ventilation of buildings for the purpose of removing gases and smoke that may be caused by a fire;

*NOTE—See section 17 of the Street, Drainage and Building (Amendment) Act 1993 [Act A867].

- (g) provisions for fire fighting equipment both manual and automatic and of fire detectors and fire alarms and their maintenance;
 - (h) provisions for an adequate supply of water for fire fighting purposes;
 - (i) any other measures for the safety of fires and the prevention and spread of fire;
- (xxii) to require the owner or occupier of premises, or any other person having a duty under this Act or any by-law made thereunder, to execute any work or perform any act necessary in the opinion of the local authority to secure compliance with such Act or by-laws and in default of compliance with such requirement on the part of such owner or occupier or other person, to authorize the local authority to execute such work or perform such act itself and to recover the expenses and costs incurred by it in or about the execution of such work or the performance of any such act, from such owner, occupier or other person, as the case may be;
- (xxiii) in case of emergency or where the owner cannot after due enquiry be found, to authorize the local authority to execute such work or perform such act itself without first requiring the owner, occupier or other person as aforesaid to do so, and to recover the expenses and costs incurred by it in or about the execution of such work or the performance of such act from such owner, occupier or other person;
- (xxiv) to apportion responsibility for failure to any building or parts of a building and to require any person or class of persons to report such failures and to explain the causes of such failure;
- (xxv) the payments to be made for, and other incidents of, licences and permits issued under this Act;
- (xxvi) the fees, costs and other sums charged for any matter or thing required or authorized to be done under this Act;
- (xxvii) the collection, remission, rebate or deferment of payment of any sum required to be paid under this Act;

- (xxviii) the offences under this Act and any by-laws made thereunder which may be compounded by the local authority, the persons who may compound, the limit of the sum of money to be collected by such local authority for compounding such offences and the procedure and forms to be complied with in compounding; and
- (xxix) in so far as they do not fall within any of the preceding paragraphs, all procedural and other matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

PART VIII

REPEALS, TRANSITIONAL PROVISIONS, *ETC.*

Repeals, transitional provisions, *etc.*

134. (1) The laws specified in the Schedule are hereby repealed as from the commencement of this Act.

(2) The Yang di-Pertuan Agong may, at any time within the period of five years beginning with the commencement of this Act, by order under this section—

- (a) repeal any other written law in force immediately before that commencement and rendered obsolete or unnecessary by any provision thereof;
- (b) make such repeals or amendments in any such law as he may consider necessary for the purpose of bringing the provisions thereof into accord with the provisions of this Act, or of supplementing the last mentioned provisions in any respect:

Provided that the power conferred by this subsection shall not be exercised in respect of a State Law otherwise than with the concurrence of the State Authority.

Power of State Authority to make transitional provisions, *etc.*

135. The State Authority may, by regulations, make such provision as it may consider necessary or expedient for the purpose of removing any difficulties occasioned by the coming into force of this Act, and any such regulations may be so made so as to have effect as from the commencement of this Act.

SCHEDULE

REPEAL

A. The Town Boards Enactment [*F.M.S. Cap. 137*] of the Federated Malay States.

Sections 67, 68, 69, 70, 71, 72, 73, 74, 76, paragraphs 78(a), (d), subparagraphs (g)(i) and (ii), paragraphs 78(h) and (l), 89, 90, 91, 91A, 92, 92A, 92B, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 110A, 111, 112, 113, 114, 115, 115A, 116, 117, 118, 119, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 133A, 134 and 134A.

B. Municipal Ordinance [*S.S. Cap 133*].

Paragraphs 58(1)(g), (j) and (ee), Sections 95, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 139A, 140, 141, 142, 142A, 143, 144, 144A, 144B, 144C, 145, 146, 147, 148, 150, 151, 152, 153, 154, 155, 156A, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 170A, 170B, 170C, 219, 229, paragraphs 245(a), (b), (except in so far as it applies to dung-pit and ash-pit), (e), subparagraphs 245(e)(i) and (ii), paragraphs 245(f) and (k), sections 369, 370 and 395A.

C. Johore Town Boards Enactment [*Johore No. 118*].

Sections 67, 68, 69, 70, 71, 72, 73, 74, 76, paragraph 78(d), subparagraphs 78(g)(i) and (ii), paragraphs 78(h) and (l), 89, 90, 91, 91A, 92, 92A, 92B, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 110A, 111, 112, 113, 114, 115, 115A, 116, 117, 118, 119, 120, 121, 122, 129, 130, 131, 132, 133, 133A, 134 and 134A.

D. Kelantan Municipal Enactment 1938 [*Kelantan 20 of 1938*].

Sections 11A, 44, 45, 45A, 46, 46A, 46B, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 57.

E. Terengganu Town Board Enactment 1355 [*Terengganu 12 of 1355*].

Sections 67, 68, 69, 70, 71, 72, 73, 74, 76, paragraphs 78(i), (iv), subparagraphs (vii)(a) and (b), paragraphs 78(viii) and (xii), 89, 90, 91, 91A, 92, 92A, 92B, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 110A, 111, 112, 113, 114, 115, 115A, 116, 117, 120, 121, 122, 129, 130, 131, 133, 133A, 134, 134A and 143.

APPENDIX

STREET, DRAINAGE AND BUILDING ACT 1974—ACT 133

Date of coming into force of the Act in local authority of:

| <i>State</i> | <i>Effective date</i> | <i>Authority</i> |
|---|------------------------------|-------------------|
| Federal Territory of Kuala Lumpur | 01-01-1977 | P.U. (B) 588/76 |
| JOHORE | | |
| Municipal Council of— | | |
| Johore Bahru | 01-02-1984 | P.U. (B) 53/1984 |
| District Council of— | | |
| Pontian | 01-02-1984 | P.U. (B) 54/1984 |
| Muar Utara | 01-02-1984 | P.U. (B) 55/1984 |
| Muar Selatan | 01-02-1984 | P.U. (B) 56/1984 |
| Kluang Utara | 01-02-1984 | P.U. (B) 57/1984 |
| Kluang Selatan | 01-02-1984 | P.U. (B) 58/1984 |
| Kota Tinggi | 01-02-1984 | P.U. (B) 59/1984 |
| Mersing | 01-02-1984 | P.U. (B) 60/1984 |
| Batu Pahat Barat | 01-02-1984 | P.U. (B) 61/1984 |
| Batu Pahat Timur | 01-02-1984 | P.U. (B) 62/1984 |
| Segamat Utara | 01-02-1984 | P.U. (B) 63/1984 |
| Segamat Selatan | 01-02-1984 | P.U. (B) 64/1984 |
| Kulai | 01-02-1984 | P.U. (B) 65/1984 |
| Johore Bahru Tengah | 01-02-1984 | P.U. (B) 66/1984 |
| Kawasan Rancangan Perumahan Kangkar Tebrau, Johor Bahru Peringkat I, II dan III | 03-02-1988 (ss. 6 to 135) | J.P.U. 4/1988 |
| Taman Perling, Mukim of Pulai, District of Johore Bahru | 03-02-1988 (ss. 6 to 135) | J.P.U. 5/1988 |
| Johore Tenggara Local Authority | 01-02-1988 | J.P.U. 10/1988 |
| KEDAH | | |
| Municipal Council of— | | |
| Kota Setar | 15-04-1078 | P.U. (B) 206/1978 |
| District Local Government Council of— | | |
| Kuala Muda | 15-04-1978 | P.U. (B) 206/1978 |
| Kulim | 15-04-1978 | P.U. (B) 206/1978 |

| <i>State</i> | <i>Effective date</i> | <i>Authority</i> |
|-----------------------|-----------------------|-------------------|
| Kubang Pasu | 15-04-1978 | P.U. (B) 206/1978 |
| Baling | 15-04-1978 | P.U. (B) 206/1978 |
| District Council of— | | |
| Sik | 01-01-1982 | P.U. (B) 727/1981 |
| Padang Terap | 01-01-1982 | P.U. (B) 728/1981 |
| Yan | 01-01-1982 | P.U. (B) 729/1981 |
| Pendang | 01-01-1982 | P.U. (B) 730/1981 |
| Bandar Bahru | 01-01-1982 | P.U. (B) 731/1981 |
| Langkawi | 01-01-1982 | P.U. (B) 732/1981 |
| KELANTAN | | |
| Municipal Council of— | | |
| Kota Bharu | 01-09-1983 | P.U. (B) 408/1983 |
| District Council of— | | |
| Pasir Puteh | 01-09-1983 | P.U. (B) 409/1983 |
| Machang | 01-09-1983 | P.U. (B) 410/1983 |
| Kota Bharu | 01-09-1983 | P.U. (B) 411/1983 |
| Ulu Kelantan | 01-09-1983 | P.U. (B) 412/1983 |
| Bachok | 01-09-1983 | P.U. (B) 413/1983 |
| Tumpat | 01-09-1983 | P.U. (B) 414/1983 |
| Kuala Krai Utara | 01-09-1983 | P.U. (B) 415/1983 |
| Kuala Krai Selatan | 01-09-1983 | P.U. (B) 416/1983 |
| Tanah Merah | 01-09-1983 | P.U. (B) 417/1983 |
| Pasir Mas | 01-09-1983 | P.U. (B) 418/1983 |
| MALACCA | | |
| Municipal Council of— | | |
| Central Malacca | 01-01-1978 | P.U. (B) 763/1977 |
| District Council of— | | |
| Jasin | 01-01-1982 | P.U. (B) 733/1981 |
| Alor Gajah | 01-01-1982 | P.U. (B) 734/1981 |
| NEGERI SEMBILAN | | |
| Municipal Council of— | | |
| Seremban | 01-05-1979 | P.U. (B) 215/1979 |
| District Council of— | | |
| Kuala Pilah | 01-07-1980 | P.U. (B) 349/1980 |
| Tampin | 01-07-1980 | P.U. (B) 350/1980 |

| <i>State</i> | <i>Effective date</i> | <i>Authority</i> |
|-----------------------|-----------------------|-------------------|
| Rembau | 01-07-1980 | P.U. (B) 351/1980 |
| Port Dickson | 01-07-1980 | P.U. (B) 352/1980 |
| Jempol | 01-07-1980 | P.U. (B) 415/1980 |
| Seremban | 01-04-1985 | P.U. (B) 165/1985 |
| PAHANG | | |
| District Council of— | | |
| Temerloh | 01-07-1981 | P.U. (B) 348/1981 |
| Bentong | 01-07-1981 | P.U. (B) 349/1981 |
| Raub | 01-07-1981 | P.U. (B) 350/1981 |
| Maran | 01-04-1993 | P.U. (B) 99/1993 |
| Pekan | 01-04-1993 | P.U. (B) 100/1993 |
| Rompin | 01-04-1993 | P.U. (B) 101/1993 |
| Municipal Council of— | | |
| Kuantan | 01-07-1981 | P.U. (B) 351/1981 |
| District Council of— | | |
| Cameron Highlands | 01-03-1982 | P.U. (B) 102/1982 |
| Lipis | 01-03-1982 | P.U. (B) 103/1982 |
| Jerantut | 01-03-1982 | P.U. (B) 104/1982 |
| PENANG | | |
| Municipal Council of— | | |
| Penang | 01-01-1980 | P.U. (B) 649/1979 |
| Seberang Perai | 01-01-1980 | P.U. (B) 650/1979 |
| PERAK | | |
| Municipal Council of— | | |
| Ipoh | 01-04-1980 | P.U. (B) 137/1980 |
| Taiping | 01-04-1980 | P.U. (B) 138/1980 |
| District Council of— | | |
| Tapah | 01-04-1980 | P.U. (B) 139/1980 |
| Dinding | 01-04-1980 | P.U. (B) 140/1980 |
| Selama | 01-04-1980 | P.U. (B) 141/1980 |
| Kuala Kangsar | 01-04-1980 | P.U. (B) 142/1980 |
| Lenggong | 01-04-1980 | P.U. (B) 143/1980 |
| Grik | 01-04-1980 | P.U. (B) 144/1980 |
| Kinta Barat | 01-04-1980 | P.U. (B) 145/1980 |
| Krian | 01-04-1980 | P.U. (B) 146/1980 |

| <i>State</i> | <i>Effective date</i> | <i>Authority</i> |
|------------------------------------|-----------------------|-------------------|
| Perak Tengah | 01-04-1980 | P.U. (B) 147/1980 |
| Kroh | 01-04-1980 | P.U. (B) 148/1980 |
| Hilir Perak | 01-04-1980 | P.U. (B) 149/1980 |
| Tanjung Malim | 01-04-1980 | P.U. (B) 150/1980 |
| Kinta Selatan | 01-04-1980 | P.U. (B) 151/1980 |
| PERLIS | | |
| Municipal Council of— | | |
| Kangar | 01-01-1980 | P.U. (B) 648/1979 |
| SELANGOR | | |
| All the Local Authority Areas | 01-06-1978 | P.U. (B) 279/1978 |
| Taman Seri Muda, District of Klang | 14-04-1983 | Sel. P.U. 10/1983 |
| TERENGGANU | | |
| District Council of— | | |
| Marang | 01-02-1984 | P.U. (B) 36/1984 |
| Hulu Terengganu | 01-02-1984 | P.U. (B) 37/1984 |
| Kemaman | 01-02-1984 | P.U. (B) 38/1984 |
| Dungun | 01-02-1984 | P.U. (B) 39/1984 |
| Besut | 01-02-1984 | P.U. (B) 40/1984 |
| Municipal Council of— | | |
| Kuala Terengganu | 01-02-1984 | P.U. (B) 41/1984 |

LAWS OF MALAYSIA

Act 133

STREET, DRAINAGE AND BUILDING ACT 1974

LIST OF AMENDMENTS

| Amending law | Short title | In force from |
|--------------|--|---------------------------------|
| Act 160 | Malaysian Currency (Ringgit) Act 1975 | 29-08-1975 |
| Act A324 | Criminal Procedure Code (Amendment and Extension) Act 1976 | 10-01-1976 |
| Act A435 | Street, Drainage and Building (Amendment) Act 1978 | 03-03-1978 |
| Act A867 | Street, Drainage and Building (Amendment) Act 1993 | <i>See</i> P.U. (B)* 84/1994 |
| Act A903 | Street, Drainage and Building (Amendment) Act 1994 | 01-10-1995 |

**NOTE*—The date of coming into force for every District Council is different—*see* Schedule in P.U. (B) 84/1994 Street, Drainage and Building (Amendment) Act 1993.

LAWS OF MALAYSIA

Act 133

STREET, DRAINAGE AND BUILDING ACT 1974

LIST OF SECTIONS AMENDED

| Section | Amending authority | In force from |
|---------|----------------------|---------------------------------|
| 3 | Act A867 Act A903 | P.U. (B) 84/1994* 01-10-1995 |
| 46 | Act A435 Act A867 | 03-03-1978 P.U. (B) 84/1994* |
| 49 | Act A867 | P.U. (B) 84/1994* |
| 51 | Act A867 | P.U. (B) 84/1994* |
| 53 | Act A867 | P.U. (B) 84/1994* |
| 54 | Act A867 | P.U. (B) 84/1994* |
| 55 | Act A867 | P.U. (B) 84/1994* |
| 58 | Act A867 | P.U. (B) 84/1994* |
| 60 | Act A867 | P.U. (B) 84/1994* |
| 62 | Act A867 | P.U. (B) 84/1994* |
| 63 | Act A867 | P.U. (B) 84/1994* |
| 64 | Act A867 | P.U. (B) 84/1994* |
| 70 | Act A867 Act A903 | P.U. (B) 84/1994* 01-10-1995 |
| 70A | Act A435 Act A903 | 03-03-1978 01-10-1995 |
| 70B-70D | Act A903 | 01-10-1995 |
| 71 | Act A435 Act A903 | 03-03-1978 01-10-1995 |

| Section | Amending authority | In force from |
|----------|----------------------|---------------------------------|
| 77 | Act A867 | P.U. (B) 84/1994* |
| 81 | Act A867 | P.U. (B) 84/1994* |
| 85 | Act A903 | 01-10-1995 |
| 85A | Act A903 | 01-10-1995 |
| 100 | Act A903 | 01-10-1995 |
| 121 | Act A903 | 01-10-1995 |
| 132 | Act A867 | P.U. (B) 84/1994* |
| 133 | Act A867 Act A903 | P.U. (B) 84/1994* 01-10-1995 |
| Schedule | Act A435 | 03-03-1978 |

*NOTE—The date of coming into force for every District Council is different—see Schedule in P.U. (B) 84/1994 Street, Drainage and Building (Amendment) Act 1993.

