



NEGERI PERAK

Warta Kerajaan

DITERBITKAN DENGAN KUASA

GOVERNMENT OF PERAK GAZETTE

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*TAMBAHAN No. 1
ENAKMEN*

Enakmen yang berikut telah diluluskan oleh Dewan Negeri Perak Darul Ridzuan pada 27 November 2007 dan telah diperkenankan oleh Duli Yang Maha Mulia Paduka Seri Sultan Perak pada 20 Mac 2008, disiarkan untuk pengetahuan umum:

The following Enactment passed by the State Legislative Assembly of Perak Darul Ridzuan on 27 November 2007 and assented to by His Royal Highness the Sultan of Perak on 20 March 2008 is published for general information:

No.

Tajuk Ringkas/Short Title

Enakmen A11	Enakmen Air (Pindaan) 2009
Enactment A11	Waters (Amendment) Enactment 2009



UNDANG-UNDANG NEGERI PERAK

ENAKMEN A11

ENAKMEN AIR (PINDAAN) 2009

Tarikh Perkenan Diraja 20 Mac 2008

Tarikh Penyiaran dalam *Warta* 14 Ogos 2009

UNDANG-UNDANG NEGERI PERAK**Enakmen A11****AIR (PINDAAN)**

BETA PERKENANKAN,

RAJA DR. NAZRIN SHAH
Pemangku Raja

20 Mac 2008

Suatu Enakmen untuk meminda Akta Air 1920 sebagaimana yang dipakai di Negeri Perak Darul Ridzuan.

[]

DIPERBUAT oleh Badan Perundangan Negeri Perak Darul Ridzuan seperti berikut:

Tajuk ringkas

1. Enakmen ini bolehlah dinamakan Enakmen Air (Pindaan) 2009.

Pindaan seksyen 2

2. Akta Air 1920, selepas ini disebut “Akta ibu” dalam Enakmen ini dipinda dalam seksyen 2 -

(a) dengan memasukkan takrif yang berikut sebaik sebelum takrif “river”:

“ “domestic purposes” means purposes for the private use of dwelling households; ”

(b) dalam takrif “river”-

(i) dengan memotong perkataan “and” di akhir perenggan (a);

- (ii) dengan memasukkan perkataan “and” di akhir perenggan (b) dan memasukkan selepas itu perenggan yang berikut:

“(c) for the purposes of sections 7, 7A, 14C and 14D, includes-

- (i) any inland waters whether or not such inland waters fall within the definition of “river” in paragraphs (a) and (b) above;
- (ii) any subsurface water that occurs beneath the surface in soils and geologic formations and includes water from a well, borehole, tube, excavation, shaft or otherwise; and
- (iii) any water in an estuary or sea adjacent to the coast of the State;”.

Pindaan nota birai seksyen 7

3. Nota birai seksyen 7 Akta ibu dipinda dengan memasukkan perkataan “or abstraction” sebaik selepas perkataan “diversion”.

Pindaan seksyen 7

4. Seksyen 7 Akta ibu dipinda –

- (a) dalam subseksyen (1) dengan memasukkan perkataan “or abstract water from any river” sebaik selepas perkataan “natural course”;
- (b) dalam subseksyen (2) dengan memasukkan perkataan “or abstraction” sebaik selepas perkataan “diversion” di mana-mana jua terdapat dalam subseksyen;
- (c) dengan menggantikan subseksyen (3) dan (4) dengan subseksyen yang berikut:

“(3) Licences to –

- (a) divert or abstract water from a river in any State for use in the generation of electricity; or

(b) divert or abstract water from a river in any State for the purpose of providing water supply or services under the Water Services Industry Act 2006 [Act 655],

may be granted by the State Authority of such State.

(4) Licences to divert or abstract water from a river in any district for use:

(a) in the cultivation of rice; or

(b) for industrial and other purposes,

may be granted by the District Officer of such district with the approval, in each case falling under paragraph (b) of this subsection, of the State Authority.”; dan

(d) memasukkan sebaik selepas subseksyen (4) subseksyen yang berikut:

“(4A) Subsection (1) shall not apply to the diversion or abstraction of water from any river by any person for domestic purposes.”.

Pindaan seksyen 7A

5. Seksyen 7A Akta ibu dipinda -

(a) dengan memotong subseksyen (2);

(b) dalam subseksyen (6) dengan menggantikan angka “(7)” di mana-mana jua terdapat dengan angka “(6)”;

(c) dalam subseksyen (8) dengan menggantikan angka “(6)” dengan angka “(5)”;

(d) dalam subseksyen (9) dengan menggantikan angka “(4)” dengan angka “(3)”;

(e) dengan menomborkan semula subseksyen (3), (4), (5), (6), (7), (8), (9) dan (10) masing-masing sebagai subseksyen (2), (3), (4), (5), (6), (7), (8) dan (9).

Pindaan nota birai seksyen 8

6. Nota birai seksyen 8 Akta ibu dipinda dengan memasukkan perkataan “or abstract” sebaik selepas perkataan “divert”.

Pindaan seksyen 8

7. Seksyen 8 Akta ibu dipinda dalam subseksyen (1) dengan memasukkan perkataan “or abstract” sebaik selepas perkataan “divert”.

Pindaan seksyen 11

8. Seksyen 11 Akta ibu dipinda dengan memasukkan perkataan “or abstract” sebaik selepas perkataan “divert”.

Pindaan seksyen 12

9. Seksyen 12 Akta ibu dipinda -

(a) dalam subseksyen (3) -

(i) dengan menggantikan perkataan “water for use in the generation of electricity” dengan perkataan “or abstract water”; dan

(ii) dengan memasukkan sebaik sebelum nokhtah di akhir subseksyen proviso yang berikut:

“provided that in the case of any licence issued under subparagraph 7 (3) (b), the State Authority shall only impose the annual fee or such other payments hereof after consultation with the relevant Federal Government ministries or bodies”.

Seksyen baru 12A

10. Akta ibu dipinda dengan memasukkan selepas seksyen 12 seksyen yang berikut:

“12A. Power to exempt from requirement of licence

(1) The State Authority may, by order published in the *Gazette*, exempt any person or class of persons from -

- (a) any of the licensing requirement under this Act;
and
- (b) all or a part of the fee or other payment provided
under the Act.

(2) Any person who is so exempted under subsection (1) shall comply with the duties and obligations of a licensee as if he is a licensee under this Act unless otherwise specified in the exemption order.”.

Pindaan seksyen 14

11. Seksyen 14 Akta ibu dipinda dalam subseksyen (4) dengan menggantikan perkataan “of two thousand ringgit” dengan perkataan “not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both”.

Seksyen baru 14A, 14B, 14C dan 14D

12. Akta ibu dipinda dengan memasukkan selepas seksyen 14 seksyen yang berikut:

“14A. Water Catchment Area

(1) The State Authority may, whenever it is considered necessary or expedient to protect or conserve any watercourse, by order published in the *Gazette*, declare any area to be a catchment area.

(2) The order made under subsection (1) shall -

- (a) define the boundaries of the catchment area;
- (b) specify the types of activities, if any, which may be permitted within the catchment area or any part thereof; and
- (c) provide such other details concerning the catchment area as the State Authority may deem necessary.

(3) If it appears to the State Authority to be necessary for the purpose of preventing pollution, contamination or siltation of the catchment area which in the opinion of the State Authority could lead to the pollution, contamination or siltation of any watercourse, the State Authority may, by notification in the *Gazette*, make regulations to prohibit or regulate the doing within that area of any act specified in the regulations, and such regulations may contain different provisions of different catchment areas or part thereof provided that nothing herein shall permit the State Authority to regulate activities which have been expressly authorized under the provisions of the Environmental Quality Act 1974 [*Act 127*].

(4) Any regulations made under subsection (3) may provide that any person convicted of any offence under such regulations shall be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

14B. Powers of District Officer or Land Administrator in catchment area

(1) The District Officer or Land Administrator may, by notice in writing:

- (a) require any person who carries on, within a catchment area, any activity other than those permitted under this Act or any subsidiary legislations made hereunder to stop such activity within the period stipulated in such notice and if such activity causes or is likely to cause pollution, contamination or siltation of any watercourse, the District Officer or Land Administrator may, by notice in writing, require such person to execute and keep in good repair such works as the District Officer or Land Administrator considers necessary for preventing such pollution, contamination or siltation to such watercourse;

(b) require the owner or occupier of any premises within a catchment area whose use or occupation of or activities on such premises cause or is likely to cause pollution, contamination or siltation of any watercourse to execute and keep in good repair such works as he considers necessary for preventing such pollution, contamination or siltation to such watercourse.

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

(3) No fine or punishment imposed under subsection (2) shall affect the power of the District Officer or Land Administrator to execute and keep in good repair such works as he considers necessary to prevent pollution, contamination or siltation of any watercourse and the reasonable cost of such execution or repair shall be recoverable from the person who has been served a notice under subsection (1) as a debt due to the State Government.

14C. General drought orders

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

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

(a) divert or abstract or cause any other person to divert or abstract water from any river or discharge water to any place as may be specified in the order;

- (b) prohibit or limit the diversion or abstraction of water from any river by any person or class of persons or in any localities as may be specified in the order; and
- (c) require any person to execute any works required for the performance of any duty or the exercise of any power which is imposed or conferred by the order.

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

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

14D. Water protection orders

(1) The State Authority may issue a water protection order if it is satisfied that, in respect of any river, there is a significant and immediate threat or risk to the quantity or quality of water;

(2) Such water protection order shall be published in the *Gazette* and in any media and it shall identify -

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

(f) the time allowed for action to be taken or for the activity to cease.

(3) An order may continue for a period of not more than thirty days and on expiry may be renewed for such further periods as may be determined by the State Authority with such modifications or variations as the State Authority may deemed fit.

(4) In the event that any person fails to take any action or measure stipulated in a water protection order or fails to take such action or measure within the time stipulated in a water protection order, the State Authority may take such action or measure or cause such action or measure to be taken and, where applicable, recover the cost incurred thereof from the person.

(5) Notwithstanding subsection (4) any person who contravenes this section commits an offence and shall upon conviction be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.”.

Pindaan seksyen 15

13. Seksyen 15 Akta ibu dipinda -

(a) dalam subseksyen (1) dengan menggantikan perkataan “of five hundred ringgit and additionally to a fine of ten ringgit” dengan perkataan “not exceeding one hundred thousand ringgit and additionally to a fine of one thousand ringgit”;

(b) dalam subseksyen (2) dengan -

(i) memasukkan koma sebaik selepas perkataan “section 5”;

(ii) memotong perkataan “or” sebaik sebelum angka “7”;

(iii) memasukkan perkataan “or 7A” sebaik selepas angka “7”; dan

- (iv) menggantikan perkataan “of one thousand ringgit” dengan perkataan “not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both”;
- (c) dalam subseksyen (3) dengan menggantikan perkataan “District Officer of the district wherein the offence is alleged to have been committed” dengan perkataan “Public Prosecutor”; dan
- (d) dengan menggantikan subseksyen (4) dengan subseksyen yang berikut:

“(4) Notwithstanding the provisions of any written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Act or any rule or regulation made thereunder and to award the full punishment for such offence.”.

Seksyen baru 15A

14. Akta ibu dipinda dengan memasukkan selepas seksyen 15 seksyen yang berikut:

“15A. Compounding of offences

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

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

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

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

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

Pindaan seksyen 16

15. Seksyen 16 Akta ibu dipinda -

(a) dalam subseksyen (1) dan (3) dengan -

- (i) memasukkan koma selepas perkataan “section 5” di mana-mana jua terdapat;
- (ii) memotong perkataan “or” sebelum angka “7” di mana-mana jua terdapat; dan
- (iii) memasukkan perkataan “or 7A” selepas angka “7” di mana-mana jua terdapat.

Penggantian seksyen 17 dan 18

16. Akta ibu dipinda dengan menggantikan seksyen 17 dan 18 dengan seksyen yang berikut:

“17. Offences by body corporate

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

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

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

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

- (c) by the employee of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person,

Provided that nothing herein shall affect the liability of such person's employee or agent or the employee of the agent.

18. Rules and Regulations

(1) Without prejudice to the powers of the State Authority to make rules or regulations under any other provision of this Act, the State Authority may from time to time make rules or regulations for the purpose of prescribing anything required under this Act to be prescribed and for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), rules or regulations may be made for any of the following purposes-

- (a) to prescribe matters pertaining to the licences granted under this Act;
- (b) to prescribe matters pertaining to the fees, charges and other payments permitted under this Act;
- (c) to regulate the manner of diversion and abstraction of water;
- (d) to prohibit or regulate any activity within a catchment area;
- (e) to prescribe matters to mitigate the effect of droughts;
- (f) to prescribe the offences which may be compounded and the forms to be used and the method and procedure for compounding the offences; and

(g) to prescribe for all other matters generally to give effect to the provisions of this Act.

(3) The rules and regulations made under subsection (1) or any other subsidiary legislation made under this Act may provide for any act or omission in contravention of the regulations, rules or other subsidiary legislation to be an offence and may provide for penalties of a fine not exceeding one hundred fifty thousand ringgit or a term of imprisonment not exceeding one year or to both provided that for rules, regulations or any other subsidiary legislation made for the purpose under subparagraph (2)(d), such rules, regulations or any other subsidiary legislation may provide for any act or omission in contravention of the regulations, rules or other subsidiary legislation to be an offence and may provide for penalties of a fine not exceeding five hundred thousand ringgit or a term of imprisonment not exceeding two years or to both.”.

Bertarikh 2 November 2007

[LAP(S) 4/1/70-25; PU. PK. 9/2007]

DATO' AHMAD KAMAL BIN MD. SHAHID
Penasihat Undang-Undang Negeri
Perak Darul Ridzuan



LAWS OF THE STATE OF PERAK

ENACTMENT A11

WATERS (AMENDMENT) 2009

Date of Royal Assent	20 March 2008
Date of publication in the <i>Gazette</i>	14 August 2009

LAWS OF THE STATE OF PERAK**Enactment A11****WATERS (AMENDMENT)**

I ASSENT,

RAJA DR. NAZRIN SHAH

Regent

20 March 2008

An Enactment to amend the Waters Act 1920 in so far as applicable in the State of Perak Darul Ridzuan.

[]

ENACTED by the Legislature of the State of Perak Darul Ridzuan as follows:

Short title

1. This Enactment may be cited as the Waters (Amendment) Enactment 2009.

Amendment of section 2

2. The Waters Act 1920, hereinafter referred to as the “principal Act” in this Enactment is amended in section 2 -

(a) by inserting the following definition immediately before the definition of “river”:

“ “domestic purposes” means purposes for the private use of dwelling households; ”

(b) in the definition of “river” -

- (i) by deleting the word “and” at the end of paragraph (a);
- (ii) by inserting the word “and” at the end of paragraph (b) and inserting after that the following paragraph:

“(c) for the purposes of sections 7, 7A, 14C and 14D, includes –

- (i) any inland waters whether or not such inland waters fall within the definition of “river” in paragraphs (a) and (b) above;
- (ii) any subsurface water that occurs beneath the surface in soils and geologic formations and includes water from a well, borehole, tube, excavation, shaft or otherwise; and
- (iii) any water in an estuary or sea adjacent to the coast of the State;”.

Amendment of marginal note of section 7

3. The marginal note of section 7 of the principal Act is amended by inserting the words “or abstraction” immediately after the word “diversion”.

Amendment of section 7

4. Section 7 of the principal Act is amended -

- (a) in subsection (1) by inserting the words “or abstract water from any river” immediately after the words “natural course”;
- (b) in subsection (2) by inserting the words “or abstraction” immediately after the word “diversion” wherever it appears in the subsection;
- (c) by substituting for subsections (3) and (4) the following subsections:

“(3) Licences to -

(a) divert or abstract water from a river in any State for use in the generation of electricity; or

(b) divert or abstract water from a river in any State for the purpose of providing water supply or services under the Water Services Industry Act 2006 [Act 655],

may be granted by the State Authority of such State.

(4) Licences to divert or abstract water from a river in any district for use:

(a) in the cultivation of rice; or

(b) for industrial and other purposes,

may be granted by the District Officer of such district with the approval, in each case falling under paragraph (b) of this subsection, of the State Authority.”; and

(d) inserting immediately after subsection (4) the following subsection:

“(4A) Subsection (1) shall not apply to the diversion or abstraction of water from any river by any person for domestic purposes.”.

Amendment of section 7A

5. Section 7A of the principal Act is amended -

(a) by deleting subsection (2);

(b) in subsection (6) by substituting the figure “(7)” wherever it appears therein with the figure “(6)”;

(c) in subsection (8) by substituting the figure “(6)” with the figure “(5)”;

(d) in subsection (9) by substituting the figure “(4)” with the figure “(3)”;

- (e) by renumbering subsections (3), (4), (5), (6), (7), (8), (9) and (10) as subsections (2), (3), (4), (5), (6), (7), (8) and (9) respectively.

Amendment of marginal note of section 8

6. The marginal note of section 8 of the principal Act is amended by inserting the words “or abstract” immediately after the word “divert”.

Amendment of section 8

7. Section 8 of the principal Act is amended in subsection (1) by inserting the words “or abstract” immediately after the word “divert”.

Amendment of section 11

8. Section 11 of the principal Act is amended by inserting the words “or abstract” immediately after the word “divert”.

Amendment of section 12

9. Section 12 of the principal Act is amended -

(a) in subsection (3) -

- (i) by substituting the words “water for use in the generation of electricity” with the words “or abstract water”; and
- (ii) by inserting immediately before the full stop at the end of the subsection the following proviso:

“provided that in the case of any licence issued under subparagraph 7(3)(b), the State Authority shall only impose the annual fee or such other payments hereof after consultation with the relevant Federal Government ministries or bodies”.

New section 12A

10. The principal Act is amended by inserting after section 12 the following section:

“12A. Power to exempt from requirement of licence

- (1) The State Authority may, by order published in the *Gazette*, exempt any person or class of persons from -
 - (a) any of the licensing requirement under this Act; and
 - (b) all or a part of the fee or other payment provided under the Act.
- (2) Any person who is so exempted under subsection (1) shall comply with the duties and obligations of a licensee as if he is a licensee under this Act unless otherwise specified in the exemption order.”.

Amendment of section 14

11. Section 14 of the principal Act is amended in subsection (4) by substituting the words “of two thousand ringgit” with the words “not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both”.

New sections 14A, 14B, 14C and 14D

12. The principal Act is amended by inserting after section 14 the following sections:

“14A. Water Catchment Area

- (1) The State Authority may, whenever it is considered necessary or expedient to protect or conserve any watercourse, by order published in the *Gazette*, declare any area to be a catchment area.
- (2) The order made under subsection (1) shall -
 - (a) define the boundaries of the catchment area;
 - (b) specify the types of activities, if any, which may be permitted within the catchment area or any part thereof; and

- (c) provide such other details concerning the catchment area as the State Authority may deem necessary.

(3) If it appears to the State Authority to be necessary for the purpose of preventing pollution, contamination or siltation of the catchment area which in the opinion of the State Authority could lead to the pollution, contamination or siltation of any watercourse, the State Authority may, by notification in the *Gazette*, make regulations to prohibit or regulate the doing within that area of any act specified in the regulations, and such regulations may contain different provisions of different catchment areas or part thereof provided that nothing herein shall permit the State Authority to regulate activities which have been expressly authorized under the provisions of the Environmental Quality Act 1974 [Act 127].

(4) Any regulations made under subsection (3) may provide that any person convicted of any offence under such regulations shall be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

14B. Powers of District Officer or Land Administrator in catchment area

(1) The District Officer or Land Administrator may, by notice in writing:

- (a) require any person who carries on, within a catchment area, any activity other than those permitted under this Act or any subsidiary legislations made hereunder to stop such activity within the period stipulated in such notice and if such activity causes or is likely to cause pollution, contamination or siltation of any watercourse, the District Officer or Land Administrator may, by notice in writing, require such person to execute and keep in good repair such works as the District Officer or Land

Administrator considers necessary for preventing such pollution, contamination or siltation to such watercourse;

(b) require the owner or occupier of any premises within a catchment area whose use or occupation of or activities on such premises cause or is likely to cause pollution, contamination or siltation of any watercourse to execute and keep in good repair such works as he considers necessary for preventing such pollution, contamination or siltation to such watercourse.

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

(3) No fine or punishment imposed under subsection (2) shall affect the power of the District Officer or Land Administrator to execute and keep in good repair such works as he considers necessary to prevent pollution, contamination or siltation of any watercourse and the reasonable cost of such execution or repair shall be recoverable from the person who has been served a notice under subsection (1) as a debt due to the State Government.

14C. General drought orders

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

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

(a) divert or abstract or cause any other person to divert or abstract water from any river or

discharge water to any place as may be specified in the order;

- (b) prohibit or limit the diversion or abstraction of water from any river by any person or class of persons or in any localities as may be specified in the order; and
- (c) require any person to execute any works required for the performance of any duty or the exercise of any power which is imposed or conferred by the order.

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

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

14D. Water protection orders

(1) The State Authority may issue a water protection order if it is satisfied that, in respect of any river, there is a significant and immediate threat or risk to the quantity or quality of water;

(2) Such water protection order shall be published in the *Gazette* and in any media and it shall identify -

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

(f) the time allowed for action to be taken or for the activity to cease.

(3) An order may continue for a period of not more than thirty days and on expiry may be renewed for such further periods as may be determined by the State Authority with such modifications or variations as the State Authority may deemed fit.

(4) In the event that any person fails to take any action or measure stipulated in a water protection order or fails to take such action or measure within the time stipulated in a water protection order, the State Authority may take such action or measure or cause such action or measure to be taken and, where applicable, recover the cost incurred thereof from the person.

(5) Notwithstanding subsection (4) any person who contravenes this section commits an offence and shall upon conviction be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.”.

Amendment of section 15

13. Section 15 of the principal Act is amended -

(a) in subsection (1) by substituting the words “of five hundred ringgit and additionally to a fine of ten ringgit” with the words “not exceeding one hundred thousand ringgit and additionally to a fine of one thousand ringgit”;

(b) in subsection (2) by -

(i) inserting a comma immediately after the words “section 5”;

(ii) deleting the word “or” immediately before the figure “7”;

(iii) inserting the words “or 7A” immediately after the figure “7”; and

- (iv) substituting the words “of one thousand ringgit” with the words “not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both”;
- (c) in subsection (3) by substituting the words “District Officer of the district wherein the offence is alleged to have been committed” with the words “Public Prosecutor”; and
- (d) by substituting for subsection (4) the following subsection:

“(4) Notwithstanding the provisions of any written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Act or any rule or regulation made thereunder and to award the full punishment for such offence.”.

New section 15A

14. The principal Act is amended by inserting after section 15 the following section:

“15A. Compounding of offences

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

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

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any

prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the District Officer or Land Administrator may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

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

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

Amendment of section 16

15. Section 16 of the principal Act is amended -

(a) in subsections (1) and (3) by -

- (i) inserting a comma immediately after the words “section 5” wherever they appear therein;
- (ii) deleting the word “or” immediately before the figure “7” wherever they appear therein; and
- (iii) inserting the words “or 7A” immediately after the figure “7” wherever they appear therein.

Substitution of sections 17 and 18

16. The principal Act is amended by substituting for sections 17 and 18 the following sections:

“17. Offences by body corporate

(1) If a body corporate commits an offence under this Act or its subsidiary legislation, a person who at the time of the

commission of the offence was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management -

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

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

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

Provided that nothing herein shall affect the liability of such person's employee or agent or the employee of the agent.

18. Rules and Regulations

(1) Without prejudice to the powers of the State Authority to make rules or regulations under any other provision of this Act, the State Authority may from time to time make rules or regulations for the purpose of prescribing anything required under this Act to be prescribed and for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), rules or regulations may be made for any of the following purposes -

- (a) to prescribe matters pertaining to the licences granted under this Act;
- (b) to prescribe matters pertaining to the fees, charges and other payments permitted under this Act;
- (c) to regulate the manner of diversion and abstraction of water;
- (d) to prohibit or regulate any activity within a catchment area;
- (e) to prescribe matters to mitigate the effect of droughts;
- (f) to prescribe the offences which may be compounded and the forms to be used and the method and procedure for compounding the offences; and
- (g) to prescribe for all other matters generally to give effect to the provisions of this Act.

(3) The rules and regulations made under subsection (1) or any other subsidiary legislation made under this Act may provide for any act or omission in contravention of the regulations, rules or other subsidiary legislation to be an offence and may provide for penalties of a fine not exceeding one hundred fifty thousand ringgit or a term of imprisonment not

exceeding one year or to both provided that for rules, regulations or any other subsidiary legislation made for the purpose under subparagraph (2)(d), such rules, regulations or any other subsidiary legislation may provide for any act or omission in contravention of the regulations, rules or other subsidiary legislation to be an offence and may provide for penalties of a fine not exceeding five hundred thousand ringgit or a term of imprisonment not exceeding two years or to both.”.

Dated 2 November 2007

[LAP(S) 4/1/70-25; PU. PK. 9/2007]

DATO' AHMAD KAMAL BIN MD. SHAHID
State Legal Adviser
Perak Darul Ridzuan

Hakcipta Pencetak (H)

PERCETAKAN NASIONAL MALAYSIA BERHAD

Semua Hak Terpelihara. Tiada mana-mana bahagian jua daripada penerbitan ini boleh diterbitkan semula atau disimpan di dalam bentuk yang boleh diperolehi semula atau disiarkan dalam sebarang bentuk dengan apa jua cara elektronik, mekanikal, fotokopi, rakaman dan/atau sebaliknya tanpa mendapat izin daripada **Percetakan Nasional Malaysia Berhad (Pencetak kepada Kerajaan Malaysia yang dilantik)**.



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PERCETAKAN NASIONAL MALAYSIA BERHAD,
CAWANGAN IPOH, PERAK DARUL RIDZUAN
BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA