



LAWS OF SARAWAK

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Chapter 13

WATER ORDINANCE, 1994

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WATER ORDINANCE, 1994

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LAWS OF SARAWAK
Chapter 13
WATER ORDINANCE, 1994

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LAWS OF SARAWAK

Chapter 13

WATER ORDINANCE, 1994

An Ordinance to regulate the conservation, protection, development and management of water resources of the State and the supply and distribution of water and for matters connected therewith and incidental thereto.

**[1st June, 1995]
(Swk. L.N. 9/95)

Enacted by the Legislature of Sarawak—

**PART I
PRELIMINARY**

Short title and commencement

1.—(1) This Ordinance may be cited as the Water Ordinance, 1994.

(2) This Ordinance shall come into force on such date as the Minister may, by notification in the **Gazette*, appoint, and the Minister may appoint different dates for the coming into force of different Parts or provisions of this Ordinance.

Interpretation

2.—(1) In this Ordinance—

“abstraction”, in relation to groundwater contained in a source of supply within the limits of the area of supply of a water supply authority or in a water catchment area, means the doing of anything whereby any of that water is removed from that source of supply;

“area of supply” means any area where a water supply authority is authorized to supply water to the public;

“catchment area” means any area, including the underground strata, where water resources are available or could be obtained for the purposes of maintaining supply to waterworks or for human consumption and declared as such by an Order made under section 8(3);

“communication pipe” means that part of a service pipe which lies between the mains and a water supply authority’s stopcock or, where no stopcock is fitted, between the mains and the point at which the service pipe enters the premises supplied at its boundary with the road reserve in which the mains is laid, and includes the ferrule at the junction of the service pipe with the mains, and also—

- (a) where the communication pipe ends at a stopcock, that stopcock; and
- (b) any stopcock fitted on the communication pipe between the end thereof and the main;

“consumer” includes any person who is supplied or applies to be supplied with or who uses water from the waterworks, or who is liable for payment of rates in relation to the supply of water or for payment of moneys due or to become due under this Ordinance;

“contamination” means degrading the quality of water to a measurable and significant degree with respect to its drinking properties;

“Council” means the Sarawak Water Resources Council established under section 3;

“fittings” includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, filters, baths, sinks, water closets, water heaters, fire-fighting equipment, telemetering system and any other appliances or apparatus used in connection with the supply or use of water;

“Government” means the Government of the State of Sarawak;

“groundwater” means water naturally stored or flowing or occurring in the underground strata and is sometimes referred to as “underground water”, and includes water on wet land;

“health authority” means the Director of Health Services in Sarawak or such other authority having powers conferred by written law to determine the standards of safe drinking water in Sarawak;

“impounding works” means either of the following, that is to say—

(a) any dam, weir or other works in inland water whereby water may be impounded; and

(b) any works for diverting the flow of inland water in connection with the construction or alteration of any dam, weir or other works falling within the preceding paragraph (a);

“inland water” shall have the same meaning assigned to that expression by the Natural Resources and Environment Ordinance [*Cap. 84 (1958 Ed.)*];

“land” has the same meaning as that assigned to that term by the Land Code [*Cap. 81 (1958 Ed.)*], and includes land covered with water;

“licensed pipe fitter” means any person licensed by the State Water Authority to construct, alter or repair supply pipes and fittings which are connected with or to be connected with the waterworks;

“mains” means any pipe laid by a water supply authority for the purpose of giving a general supply of water under pressure, but does not include a communication pipe, a service pipe or a stopcock;

“mainslayer” means any person licensed by the State Water Authority to construct, alter or repair; pressure test and do tapping on watermains, valves, hydrants and associated fittings which are connected with or to be connected with the waterworks; inclusive of constructing, altering and repair of sewer and drainage pipes and associated fittings;

“meter” includes any appliance or equipment used to measure, ascertain or regulate the amount of water taken or used from the waterworks;

“Minister” means the Minister in the Government charged with the responsibility for public utilities;

“Natural Resources and Environment Board” means the Board established under section 3 of the Natural Resources and Environment Ordinance [*Cap. 84 (1958 Ed.)*];

“pollutant” means crude oil, diesel oil, fuel oil, lubrication oil or any substance whether liquid, solid or gaseous which is hazardous or potentially hazardous to public health, or to fish or aquatic life, or to plants, and includes minerals or radioactive chemicals or properties;

“pollutes” or “pollution”, in relation to water, waterworks or water resources, shall mean any direct or indirect alteration of such water or waterworks or water resources so as to cause a condition thereof which is hazardous to public health, animals or plants;

“premises” includes any building or structure or any part thereof (whether completed or not), land without any building or structure, and any wharf, pier, passenger landing facility, vessel, structures floating or erected on the waters of any rivers or streams in Sarawak;

“public stand pipe” includes any fountain, pipe, tap or appliance provided and maintained by a water supply authority for the purpose of supplying of water to the general public;

“repealed Ordinance” means the Water Supply Ordinance [*Cap. 141 (1958 Ed.)*];

“service pipe” means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that mains, or would be so subject but for the closure of some tap;

“State Water Authority” means the authority appointed under section 16(1);

“statutory water company” means any company appointed and licensed under Part V of this Ordinance to supply water to the public within the State of Sarawak or a company in whom the assets of any water supply authority are vested pursuant to this Ordinance or any other State laws;

“supply pipe” means any portion of any service pipe which is not a communication pipe;

“Water Board” means a Board established pursuant to the provisions of section 19(1);

“water resources” refers to water occurring in nature as a component of the hydrological cycle, mainly in the form of rainfall, surface and ground waterflows and its storage, which can be harnessed and utilized for the benefit of human beings;

“water supply authority” means any authority appointed or established under section 18(1), and includes a Water Board established under this Ordinance or any Water Authority or a Water Board constituted under the repealed Ordinance, or a statutory water company;

“waterworks” includes all reservoirs, dams, weirs, tanks, tunnels, aqueducts, mains, pipes, meters, fountains, standpipes, sluices, valves, wells, hydrants, pumps, treatment plants, water tankers, water towers, hydropower infrastructures and all other structures, equipment or appliances used or constructed for the collection, storage, conveyance, distribution, supply, measurement or regulation of water whether belonging to the Government or any water supply authority or any statutory water company;

“wet lands” means areas of marsh, fen, peatland, or areas of seasonally, intermittently or permanently waterlogged soils or inundated land, whether natural or otherwise, fresh or saline.

[Am. Cap. A76.]

(2) In this Ordinance, a reference to the Yang di-Pertua Negeri shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a member thereof acting under the general authority of the Majlis.

PART II

SARAWAK WATER RESOURCES COUNCIL

Establishment of the Council

3. There shall be established a body corporate with perpetual succession and a common seal and which may sue and be sued in its name to be called the Sarawak Water Resources Council.

Objects and functions of the Council

4.—(1) The duties and functions of the Council shall be—

(a) to identify all available water resources in the State and to promote the conservation, augmentation, development, management and proper use of these water resources;

(b) to promote the integration of water resources and land-use, planning and management in the State;

(c) to broadly monitor the plans and actions of any Government agencies or private agencies which may significantly affect the quality or quantity of the water resources of the State;

(d) to advise the Government on:

(i) the conservation, protection, development and management of the water resources of the State;

(ii) water and related land-use and environmental issues;

(iii) the formulation of policies and strategies to develop, manage and conserve water resources;

(iv) the system of supply and distribution of water in the State; and

(v) subject to any guidelines and directions provided by the Natural Resources and Environment Board, the policies to be adopted in relation to the use, development and management of water resources;

(e) to consider any matter affecting water resources referred to it;

(f) in collaboration with the appropriate Government departments and agencies of the State or with any person or body, to initiate, conduct, or arrange studies, investigations and research relating to the water resources of the State in general and the availability and use of such water resources in particular;

(g) on its own initiative, to make representation, to tender advice, and to make reports to the Government on any matter relating to the development, conservation and management of the water resources of the State;

(h) in consultation with the health authority, to ensure that the standards for safe drinking water are maintained by a water supply authority;

(i) to promote and undertake measures to foster public awareness and understanding the conservation, management and use of such water resources; and

(j) to carry out or undertake such other functions as the Yang di-Pertua Negeri may require or direct or as may be conferred by this Ordinance or any other written laws.

(2) In the discharge or execution of its duties and functions, the Council may form Committees or sub-committees comprising of such members (including *ex officio* members) of the Council and such other persons as the Council may deem fit or appropriate to be co-opted members of such Committee or sub-committee.

Composition of the Council

5.—(1) The Council shall consist of the following members:

(a) the State Secretary or his nominee as Chairman;

(b) the State Financial Secretary or his nominee as the Deputy Chairman;

- (c) the Permanent Secretary to the Ministry of Resource Planning or his nominee;
- (d) the Director of State Planning Unit or his nominee;
- (e) the health authority or his nominee;
- (f) the Director of Public Works or his nominee;
- (g) the Director of Irrigation and Drainage or his nominee;
- (h) not less than two but not more than five other members appointed by the Yang di-Pertua Negeri.

(2) The public officer acting as or appointed to discharge the duties and functions of the State Water Authority, the General Manager of a Water Board and the General Manager of any statutory water company or their respective nominees shall be *ex officio* members of the Council.

(3) *Ex officio* members of the Council and their respective nominees mentioned in subsection (2) shall not have the right to vote at any meeting of the Council.

(4) The quorum of any meeting of the Council shall be constituted by five of the members referred to in subsection (1).

(5) If the Chairman is unable to exercise his functions under this Ordinance or any regulations made hereunder due to illness, absence from Sarawak or any other cause, his functions shall be exercised by the Deputy Chairman, and in the absence of the Chairman and the Deputy Chairman, the Council shall elect one of its members to preside.

(6) The Council shall meet at least once in every six months.

(7) A meeting of the Council shall be convened by the Chairman by notice in writing to the other members (including *ex officio* members) and the meeting shall be held at such time and place specified in the notice.

(8) (a) Subject to this Ordinance, the Council, with the approval of the Minister, shall regulate its procedure for the conduct of its meetings. A copy of such procedure shall be lodged with the Minister and copies thereof issued to all members upon their appointment or assumption of office as the case may be.

(b) No alteration or amendment shall be made to the procedure for meetings of the Council until and unless such alteration or amendment has been approved by the Minister.

Tenure of office of members of the Council

6.—(1) A member who is appointed under section 5(1)(h) shall hold office for a term not exceeding three years and is eligible for re-appointment.

(2) A member who is appointed under section 5(1)(h) shall be deemed to have vacated his office—

(a) if his appointment is terminated by the Yang di-Pertua Negeri;

(b) if he becomes an undischarged bankrupt;

(c) if he is disqualified by virtue of any of the provisions of the Companies Act 1965 [*Act 125*] to hold office as a director of a company registered under that Act;

(d) if he resigns his office by service of a letter of resignation on the Yang di-Pertua Negeri; or

(e) if he is absent without leave of the Council for three consecutive meetings of the Council.

(3) A member of the Council (including an *ex officio* member) shall be entitled to reimbursement for any expenses reasonably incurred by him in the performance of his duties and functions under this Ordinance, and for attendance at any meeting of, or any function organized or approved by, the Council.

Appointment of Secretary of the Council

7.—(1) Unless a Secretary is appointed by the Council pursuant to subsection (2), the State Water Authority shall discharge the functions and duties of Secretary of the Council.

(2) The Council, with the approval by the Minister, may appoint a Secretary of the Council on such terms and remuneration or allowance as the Council may deem fit.

(3) The Secretary of the Council shall have custody of the Seal of the Council and its official records and shall be responsible for—

(a) recording and executing the decisions of the Council and the general administration of its affairs;

(b) preparing annual budgets and estimates of expenditure of the Council for approval of the Council; and

(c) performing such other duties as the Council may from time to time determine or as the Chairman may from time to time direct.

PART III

PROTECTION AND DEVELOPMENT OF WATER RESOURCES

Water catchment area

8.—(1) Whenever it is considered necessary or expedient for the State Water Authority to protect or conserve the water resources in any area, the State Water Authority shall submit its proposal to the Council and the Natural Resources and Environment Board for their comments and advice.

(2) Upon receipt of the comments and advice of the Council and the Natural Resources and Environment Board, the State Water Authority shall submit its proposal to declare the area a water catchment area to the Majlis Mesyuarat Kerajaan Negeri, through the Minister.

(3) Where the Majlis Mesyuarat Kerajaan Negeri agrees with the proposal, it shall, by Order published in the *Gazette*, declare the area a water catchment area.

(4) The Order made under subsection (3) shall—

(a) define the limits and the extent of the water catchment area;

(b) specify the types of activities, if any, within the water catchment area or any part thereof, which shall be controlled or prohibited in order to protect and conserve the water resources;

(c) stipulate a place nominated by the State Water Authority where a map or plan showing clearly the limits of the water catchment area is kept and open for inspection by the public during normal office hours; and

(d) provide such other details concerning the water catchment area as may be required for public information.

(5) The Majlis Mesyuarat Kerajaan Negeri may, by Order published in the *Gazette*, amend, vary, modify or rescind any Order made under subsection (3).

[Sub. Cap. A76.]

Alienated land in a water catchment area

9.—(1) Whenever any alienated land situate within the limits of a water catchment area is required for any purpose connected with the waterworks, including the protection of the waterworks from contamination or the conservation of water resources, such purpose shall be deemed to be a public purpose within the meaning of section 46 of the Land Code *[Cap. 81 (1958 Ed.)]*, and the Government may acquire the said land under Part IV of the Land Code *[Cap. 81 (1958 Ed.)]* and alienate the same to a water supply authority.

(2) If the Majlis Mesyuarat Kerajaan Negeri is satisfied that any unalienated land within a water catchment area is required by a water supply authority for the protection of the waterworks from contamination or for the conservation of water resources, the Majlis Mesyuarat Kerajaan Negeri may order such land to be alienated to the water supply authority: Provided that such alienation shall be carried out in accordance with the provisions of the Land Code [*Cap. 81 (1958 Ed.)*].

[Am. Cap. A76.]

Water supply authority to comply with Natural Resources and Environment Ordinance, etc.

10. Nothing in this Part shall relieve a water supply authority from compliance with the provisions of the Natural Resources and Environment Ordinance [*Cap. 84 (1958 Ed.)*] or any rules, regulations or order made thereunder, in the execution of any waterworks or other activities relating to water resources within a water catchment area.

Prohibited activity in a water catchment area

11.—(1) Where any person in any water catchment area carries on an activity which is prohibited under the Order made under section 8(3) in respect of that water catchment area, the State Water Authority may, upon receipt of information from a water supply authority or any other person or on its own motion issue an Order (herein described as a “Stop Order”) requiring that person to stop such activity.

[Am. Cap. A76.]

(2) Any person who fails to comply with a Stop Order shall be guilty of an offence: Penalty a fine up to a sum of RM100,000 and imprisonment for 5 years.

(3) The State Water Authority and any person properly authorized by the State Water Authority may seize and remove any tool, appliances and equipment used in connection with any prohibited activity carried out in a water catchment area upon the issuance of a Stop Order by the State Water Authority.

(4) Any property seized pursuant to subsection (3) shall be dealt in accordance with an Order of Court or any regulations made under this Ordinance.

Licence to abstract groundwater

12.—(1) No person shall abstract groundwater or cause or permit any person so to abstract any such water from any source of supply or within a catchment area, except in pursuance of a licence granted by the State Water Authority and in accordance with the terms and conditions imposed on such licence.

(2) For the purpose of this section, water for the time being contained in—

(a) a well, borehole or similar structure, including any adit or passage constructed in connection with it for facilitating the collection of water in the well, borehole or structure; or

(b) any excavation into underground strata, where the level of water in the excavation depends wholly or substantially on water entering it from those strata,

shall be treated as groundwater contained in the underground strata into which the well, borehole or work was sunk, or the excavation was made, as the case may be.

(3) The prohibition in subsection (1) shall not apply to—

(a) the abstraction of groundwater by or on behalf of an individual as a supply of water for domestic purposes of his household: Provided the quantity of water abstracted shall not exceed 2500 litres per day;

(b) any abstraction of groundwater in the course of, or resulting from, any operations for drainage of wet lands undertaken or approved by the Director of Irrigation and Drainage, Sarawak;

(c) in so far as the abstraction is necessary for mining or quarrying, carried out under the terms of a licence or permit issued under any written law, and the quantity of water abstracted does not exceed the amount allowed under the terms of such licence or permit.

Abstraction of groundwater to be certified as safe for drinking

13.—(1) No licence may be issued under section 12(1) unless the groundwater abstracted complies with the standard of safe drinking water determined by the health authority or has not been contaminated or unless the licensee undertakes in writing that none of the water abstracted under licence will be used for human consumption.

(2) The State Water Authority shall revoke or suspend any licence issued under section 12(1), if, at any time during the currency of the period of the licence, the groundwater abstracted for the purpose of human consumption does not comply with the standard of safe drinking water determined by the health authority or has been contaminated.

Power of State Water Authority to stop abstraction of groundwater

14. The State Water Authority may order any person abstracting groundwater for domestic purpose to stop such abstraction for reason that the groundwater has been contaminated or does not comply with the standard of safe drinking water determined by the health authority.

General restriction on impounding of water

15.—(1) Subject to the provisions of this section, no person shall construct or alter, or cause or permit any other person to begin or to construct or alter any impounding works at any point in inland water within the limit of a catchment area or an area of supply of a water supply authority, unless—

(a) a licence granted by the State Water Authority and in accordance with the terms and conditions imposed on such licence to obstruct or impede the flow of that inland water at that point by means of impounding works is in force;

(b) the impounding works will not obstruct or impede or alter the flow of inland water except to the extent and in the manner authorized by the licence; and

(c) any other requirements of the licence, whether as to the provision of compensation or rates or tariffs for water impounded or otherwise, are complied with.

(2) The restrictions stipulated in subsection (1) shall not apply to—

(a) any works authorized by the Sarawak Rivers Board established under section 3 of the Sarawak Rivers Ordinance, 1993 [*Cap. 4*]; or

(b) the construction or alteration of any impounding works which is specially or expressly authorized by the State Water Authority or by any State law.

PART IV

WATER MANAGEMENT AND ADMINISTRATION OF WATER SUPPLY

Appointment or establishment of State Water Authority

16.—(1) The Yang di-Pertua Negeri shall, by notification published in the *Gazette*,—

(a) appoint an officer from the State Public Service, as the State Water Authority; or

(b) establish a body corporate with perpetual succession and a common seal and which may sue and be sued in its name to be called the State Water Authority consisting of not less than three members, including the Chairman, but not more than six members as may be appointed by the Yang di-Pertua Negeri,

and shall have all the powers conferred on it by this Ordinance and regulations made hereunder.

(2) There shall be appointed such number of officers and servants as are necessary to assist the State Water Authority in the discharge of its duties and functions under this Ordinance.

(3) Any legal proceedings by or against the State Water Authority may be brought by or against or instituted in the name of the “State Water Authority”.

(4) All documents, licences, deeds, contracts and other instruments to be issued, signed or executed by or in the name of the State Water Authority, shall be signed by the public officer appointed pursuant to subsection (1)(a) as the State Water Authority or any person specially authorized by the State Water Authority in that behalf.

Functions and duties of State Water Authority

17.—(1) In addition to the powers or functions conferred on the State Water Authority by this Ordinance or regulations made hereunder, the State Water Authority shall have the general control and supervision of all water supply authorities and the management of all water resources and water catchment areas in the State.

(2) No person shall supply water for public consumption without a licence issued by the State Water Authority.

(3) In the discharge of its powers and functions, the State Water Authority shall comply with such directions as may be given by the Minister from time to time, and such directions or guidelines made by the Council.

(4) The State Water Authority may, with the approval of the Minister, delegate any of its powers or functions conferred by this Ordinance or regulations made hereunder, to any statutory body, or another public officer or any other person.

Appointment or establishment of water supply authority

18.—(1) The State Water Authority may, with the approval of the Minister, appoint or establish a water supply authority for any particular area of supply.

(2) The appointment or establishment of a water supply authority pursuant to subsection (1) shall be published in the *Gazette*, and the *Gazette* notification shall stipulate—

(a) the waterworks and other immovable properties to be vested in that water supply authority;

(b) its area of supply; and

(c) rates or tariffs for water supplied to consumers.

(3) A water supply authority shall have the custody, management and administration of the waterworks and of the water therein and the management of the supply and distribution of such water within its area of supply, subject, nevertheless, to the general control and supervision of the State Water Authority.

(4) It shall be the duty of a water supply authority, subject to the provisions of this Ordinance and any regulations made hereunder, to supply water to the consumers within the limits of its area of supply.

Establishment of Water Board, a body corporate

19.—(1) Whenever the Yang di-Pertua Negeri considers it necessary or expedient that any waterworks shall be managed or administered by a body corporate and having powers normally exercised by such a body, he may subject to section 24(4), by Order, published in the *Gazette*, establish a Water Board.

(2) A Water Board established under this section shall consist of not less than five members, including the Chairman, but not more than eleven members.

[Am. Cap. A76.]

(3) An Order under subsection (1) shall—

- (a) provide for the constitution of the Water Board;
- (b) name the Chairman thereof;
- (c) direct by what name the Water Board shall be known;
- (d) state the waterworks and other immovable properties to be vested in the Water Board; and
- (e) provide for such other matters, not inconsistent with the provisions of this Ordinance, as the Yang di-Pertua Negeri may consider expedient.

(4) The provisions contained in the Schedule shall apply to a Water Board established under this section. The Yang di-Pertua Negeri may, by notification in the *Gazette*, amend or vary any of the provisions in the Schedule.

[Ins. Cap. A76.]

(5) Any Order made pursuant to this section may be amended, varied or modified by the Yang di-Pertua Negeri, and where it is considered necessary to dissolve such Board, he may revoke such Order.

Power to lay water mains, etc.

20. A water supply authority may make, construct, provide, repair and alter such mains and other waterworks as may be necessary for supplying any area of supply and the inhabitants thereof with water and, in executing such works, may carry such mains and other waterworks through, across or under any street or road, or any place laid out or intended for a street or road, or any premises under any street or road:

Provided that—

(a) as regards any street or road which is a State road as defined under the State Roads Ordinance, 1994 [*Cap. 9*], the State Water Authority shall ensure that a water supply authority complies with the provisions of that Ordinance when executing any works on such State road;

(b) whenever any street or road, or any place laid out or intended for a street or road, or any premises under any street or road, are opened or broken up in the execution of such works, the water supply authority shall, with all convenient speed, complete the work for which the same shall be opened or broken up, and reinstate and make good such street, road, place or premises; and

(c) the construction, laying, repair and alteration of such mains shall only be undertaken by mainslayers licensed by the State Water Authority.

Power to fix standpipes and hydrants

21. It shall be lawful for a water supply authority to fix standpipes and fire hydrants together with the connexions to the waterworks in, under or over any private street or road; and such standpipes and connexions shall remain vested in the water supply authority.

Power to enter on land for purposes of construction

22.—(1) Subject as hereinafter provided, whenever it is necessary so to do for the purpose of making, constructing, providing, repairing or maintaining any mains or other waterworks under this Ordinance, the water supply authority may lay, place or carry on, under or over any land, other than State land, mains and other waterworks, paying reasonable compensation to all persons interested for any disturbance, damage or disability that may be caused thereby.

(2) Before entering on any land for the purpose specified in subsection (1), the water supply authority shall, except in the case of urgency, give notice to the owner or occupier of such land, stating as fully and accurately as possible the nature and extent of the acts intended to be done, and informing the owner or occupier of the provisions of subsection (4).

(3) Such notice shall be deemed to be properly given if sent by registered post or left at the usual or last known place of abode of the person to whom it is to be given or, if the usual or last known place of abode of such person cannot be ascertained, by fixing the notice conspicuously on some part of the land.

(4) If any objection or dispute arises touching the acts intended to be done or the amount or apportionment of compensation under subsection (1), the same shall be ascertained and determined by a Sessions Court in Sarawak, subject to any appeal to the High Court whose decision shall be final.

Power of water supply authority to transfer its functions and duties to a statutory water company

23. A water supply authority may with the approval of the Yang di-Pertua Negeri—

(a) transfer, assign or delegate any of the functions, duties, obligations imposed upon the water supply authority; or

(b) transfer, convey, or lease any of its assets, movable and immovable,

to a statutory water company.

PART V
STATUTORY WATER COMPANY

Power to appoint a statutory water company

24.—(1) The Yang di-Pertua Negeri may, by Order published in the *Gazette* (to be referred to in this Part as a “Statutory Order”), appoint a company registered under the Companies Act 1965 [*Act 125*] (to be called a “statutory water company”) whose principal business is the supply and distribution of water and who has entered into an Agreement with the Government pursuant to section 26(4)—

(a) to take over, assume or carry out the functions, duties, obligations, activities and business of any water supply authority; or

(b) to assign the assets, both movable and immovable, of any water supply authority that may be vested or to whom such assets may be conveyed, transferred or leased by the water supply authority; or

(c) to manage or administer any water supply authority; or

(d) to manage, distribute and supply water in any area where supply of water is not already undertaken by any water supply authority.

(2) The Statutory Order shall stipulate—

(a) the name and address of the statutory water company;

(b) the name of the water supply authority whose functions, duties, obligations, activities and business have been taken over by the statutory water company or whose assets have been conveyed, transferred or leased or whose management and administration have been taken over by the statutory water company;

(c) the waterworks that would be managed, administered or operated by or vested in the statutory water company;

(d) its area of supply;

(e) the water rates or tariffs that the statutory water company can charge the consumers;

(f) the date of commencement of the Statutory Order and the period during which the statutory water company shall discharge or undertake the functions, duties, activities or business stipulated in the Statutory Order.

(3) The Yang di-Pertua Negeri may by Order published in the *Gazette* vary, amend, modify or rescind any Statutory Order made pursuant to this section.

(4) In the event of the Statutory Order being rescinded pursuant to subsection (3), the statutory water company shall forthwith cease to discharge or carry out any of the functions, duties, obligations, activities or business stipulated in the Statutory Order; and the Yang di-Pertua Negeri shall be at liberty to appoint another statutory water company to take over such functions, duties, activities or business or to permit the State Water Authority to assume responsibility for the same.

Licensing of statutory water company

25.—(1) A statutory water company shall be subject to the general supervision and control of the State Water Authority and shall undertake the supply and distribution of water to consumers under a licence to be issued by the State Water Authority.

(2) The period of such licence shall be determined by the Minister and shall contain such terms and conditions as he deems fit to impose.

Paid-up capital of statutory water company

26.—(1) The initial authorized and paid-up capital of a statutory water company shall be fixed by the statutory water company with the consent of the Minister.

(2) The shares in a statutory water company shall be held by—

(a) the State Financial Secretary Incorporation (in this section referred to as “the Corporation”) for and on behalf of the Government; and/or

(b) such other parties as may be approved by the Minister.

(3) In the event that the assets of a water supply authority are to be transferred to a statutory water company, the statutory water company shall issue to the Corporation shares at its nominal value which will be equal to the value of such assets transferred to the statutory water company.

(4) The management and administration of a statutory water company shall be governed by an Agreement between the Government and the statutory water company. Such an Agreement shall be concluded prior to the making of the Statutory Order and may not be varied, amended or modified without the express approval of the Minister.

(5) Without prejudice to the generality of subsection (4), the Agreement between the Government and a statutory water company shall incorporate the following specific terms and conditions:

(a) the appointment by the Government, through the Corporation, of a majority of the members of the Board of Directors of a statutory water company during a period of at least five (5) years from the date of the making of the Statutory Order;

(b) certain decisions of the statutory water company, including the appointment of its Chief Executive Officer, shall not be made by the statutory water company without the prior approval of the Minister;

(c) the transfer of staff of the water supply authority to the statutory water company upon such terms and conditions not less favourable than those enjoyed by such staff in the water supply authority, prior to their transfer.

Statutory water company to comply with directions of the State Water Authority

27. A statutory water company shall comply with all directions, instructions and guidelines relating to the supply and distribution of water issued by the State Water Authority.

Revocation of statutory water company licence

28.—(1) Any licence issued to a statutory water company pursuant to section 25(1) may be revoked or terminated if—

(a) there has been any breach of any condition of the licence or provision of this Ordinance or any regulations made hereunder;

(b) there has been a breach by the statutory water company of the terms and conditions of the Agreement referred to in section 26(4) and (5);

(c) the water supplied does not meet the standard set by the health authority for safe drinking water;

(d) the statutory water company has registered the transfer of any shares held by parties referred to in section 26(2)(b), without the express approval of the Minister; or

(e) the statutory water company has become insolvent, or a liquidator or receiver appointed either by a Court of competent jurisdiction or by its creditors for the Company.

(2) Upon the termination or revocation of the licence, the Statutory Order in respect of the statutory water company shall forthwith be revoked by the Yang di-Pertua Negeri.

PART VI

WATER SUPPLY

Construction and connection of supply pipes and fittings

29.—(1) Any consumer shall make arrangement with a water supply authority or a licensed pipe fitter to construct a supply pipe in any premises for the supply of water from the waterworks.

(2) Every supply pipe and fitting shall be constructed, and the type, size and quality of the materials and fittings used therewith shall be in accordance with regulations made under section 51.

(3) When the construction of a supply pipe and fitting has been completed to the satisfaction of the water supply authority, it shall be connected by the water supply authority to the waterworks, subject to—

(a) the consumer entering into such agreement with the water supply authority for the supply of water;

(b) payment of such charges for such connexion as are prescribed by regulations made under section 51;

(c) payment of such contribution as shall be determined from time to time by the water supply authority, with the consent of the State Water Authority, towards the capital outlay necessarily incurred to provide this supply; and

(d) full payment to the water supply authority from the consumer of—

(i) all moneys due to that water supply authority in respect of respect of water previously supplied to the premises to which the supply pipe is to be connected;

(ii) any money in arrears due and owing by the consumer to that water supply authority or any other water supply authority in Sarawak for water supplied to other premises or property currently or previously owned or occupied by him; and

(iii) any money due to or any outstanding penalty, fine or fee imposed by a water supply authority on him under the provisions of this Ordinance or any regulations made thereunder.

[Am. Cap. A126.]

(4) Notwithstanding the provisions of subsections (1), (2) and (3), the water supply authority shall not, unless otherwise directed by the State Water Authority, be under any obligation to connect with the waterworks the supply pipes of any premises which are—

- (a) more than one hundred metres from a mains; or
- (b) at an altitude higher than that to which water from the waterworks can be supplied.

(5) Nothing in this section shall be deemed to restrict the drawing of water by any person from any public standpipe in any area of supply in which public standpipes are provided by the water supply authority.

Unlawful connection of water supply

29A.—(A) Any person who connects or permits or causes to be connected, a supply pipe to any waterworks so as to enable water to be supplied to premises owned or occupied or used by him, in contravention of section 29(1) or (3) commits an offence and shall, on conviction, be liable to—

(a) in the case of a first offence, or for a second or subsequent offence, a fine not exceeding one thousand ringgit or imprisonment not exceeding one month or both such fine and imprisonment, and a fine not exceeding five thousand ringgit or imprisonment not exceeding two months or both such fine and imprisonment, if the water is used by him for domestic purposes;

(b) a fine not exceeding ten thousand ringgit or imprisonment not exceeding six months or both such fine and imprisonment, if the water is used by him for commercial purposes; and

(c) a fine exceeding ten thousand ringgit or imprisonment not exceeding six months or both such fine and imprisonment, if the water is used by him for industrial purposes.

(2) Any person who aids or abets in the commission of any offence under subsection (1) commits an offence and shall, on conviction, be liable to fines and imprisonments stipulated for the offender in subsection (1), and if the person is a licensed pipe fitter or mainslayer, the Court may, on his conviction, or suspended for such period of time as the Court may determine.

[Ins. Cap. A126.]

Costs relating to supply pipes

30. The cost of constructing, altering or repairing all supply pipes shall be borne by the consumer.

Supply pipes may be repaired by water supply authority

31. The water supply authority may in its discretion repair any part of a supply pipe at the request of the consumer and, on completion thereof, the consumer shall pay the cost of the repairs at such time and place as may be prescribed by regulations made under section 51.

Vesting of communication pipes and repairs of such pipes

32. All communication pipes at present existing or hereafter laid shall vest in the water supply authority, and the water supply authority shall, at its own expense, carry out any necessary works of maintenance, repair or renewal of such pipes, and any work on their mains and incidental thereto.

Measurement of water supplied

33.—(1) All water supplied to premises through supply pipes shall be measured by meter or otherwise measured or charged for in such manner as shall be determined by the water supply authority.

(2) The reading in the meter shall be *prima facie* evidence of the quantity of water supplied unless the contrary is proved.

(3) The water supply authority shall fix the meter or cause the meter to be fixed at such part of the premises of the consumer as may be determined by regulations made under section 51.

Disconnection of supply pipe

34.—(1) It shall be lawful for the water supply authority to disconnect from the waterworks the supply pipe to any premises, without prejudice to any water rate, meter rent or other sums due or to become due under this Ordinance or any rating regulations made hereunder, if the consumer—

(a) fails to settle the amount due for charges for the supply of water and for meter rent or for services rendered in connection with the supply of water on the premises to which the supply pipe is to be disconnected or in connection with the supply of water to any other premises;

(b) fails to settle the amount for any deposit required by the water supply authority under section 37;

(c) has carried out the construction, alteration or repair of any supply pipe and fittings which is not to the satisfaction of the water supply authority in accordance with the provisions of this Ordinance or any regulations made thereunder or without the approval of the water supply authority;

(d) is found to be willfully or negligently wasting water supplied from the waterwork through the supply pipe to his premises; or

(e) has done or omitted to do any act or thing in contravention of the provisions of this Ordinance or any regulations made thereunder.

(2) Before exercising its powers under subsection (1), the water supply authority shall give a written notice to the consumer to remedy or rectify the default or contravention within such period as may be specified in the notice.

(3) If on the expiry of the period specified in the notice given under subsection (2), the consumer fails to remedy or rectify the default or contravention, the water supply authority may proceed to disconnect the supply pipe to the premises.

(4) Where the supply pipe to any premises has been disconnected by the water supply authority and it is found that the supply of water has been reconnected to the premises without the permission of the water supply authority, the occupier of such premises shall be presumed, until the contrary is proved, to have reconnected or authorized the reconnection of the water supply and he shall be guilty of an offence and subject to the penalty under section 29A.

[Sub. Cap. A126.]

Power to enter into premises

35. It shall be lawful for the State Water Authority or a water supply authority, or any person duly authorized in writing by any such Authority, without notice and at any reasonable time, or, in the case of urgency, at any time, for the following purposes to enter into and upon any premises into or upon which any supply pipe has been laid for the supply of water from the waterworks—

(a) to inspect any supply pipe and to ascertain whether there is any waste, leakage, obstruction, alteration, interference or damage to any supply pipe or meter therein, and anything in connection therewith;

(b) to regulate and repair any supply pipe or meter;

(c) to ascertain the consumption;

(d) to disconnect the supply pipe to any premises, or to diminish, withhold or suspend, stop, turn off or divert the supply of water to any premises through or by means of any supply pipe, either wholly or in part;

(e) to repair, alter, take up, re-lay, re-arrange or otherwise to deal with any supply pipe or meter, as circumstances may require.

Power to restrict, suspend, etc., the supply of water

36. It shall be lawful for the water supply authority to restrict, withhold or suspend, stop, turn off or divert the supply of water through or by means of any mains, supply pipe or standpipe, either wholly or in part, whenever the water supply authority may think fit, and without prejudice to any water rate, meter rent or other sums due or to become due under this Ordinance or any regulations made hereunder—

(a) whenever the available supply of water from the waterworks shall, in the opinion of the water supply authority, be insufficient;

(b) whenever it may be expedient or necessary for the purpose of extending, altering, testing or repairing the waterworks, or for the purpose of the connection of supply pipes or fire services;

(c) whenever any public standpipe is damaged or the waters thereof are polluted or wasted;

(d) in the case of an outbreak of fire; or

(e) in case of a breakdown in the waterworks,

and neither the water supply authority nor any servant or agent of the water supply authority shall be liable for any damage or loss which may result from such restriction, withholding, suspension, stoppage, turning off or diversion.

[Am. Cap. A126.]

Special powers during emergency

36A.—(1) The Minister shall have any or of the following powers during an emergency:

(a) to prohibit or restrict the use of water in any particular area or throughout the State:

(i) generally or for a specified purpose;

(ii) during specified hours of the day or otherwise;

or

(iii) in a specified manner;

(b) to impose in any specified area or throughout the State:

(i) limits on the quantities of water which may be consumed over any specified period;

(ii) any surcharge in respect of the consumption of water in excess of any limit imposed; or

(iii) any other conditions as the Minister may think necessary.

(2) The Minister shall, as soon as practicable, after exercising any or all of its powers specified in subsection (1), publish in the Gazette and in at least one newspaper circulating in the State, a notice specifying the particulars of the powers exercised and action taken under subsection (1).

(3) Any person who fails to comply with any of the decision or action of the Minister as specified in the notice referred to in subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment not exceeding three years or to both such fine and imprisonment.

[Ins. Cap. A126.]

Power to demand deposit

37.—(1) It shall be lawful for the water supply authority, in consultation with the State Water Authority, to fix the amount of, and to demand in advance, deposits from consumers to cover the amount due or to become due for meter rent and for chargeable water at any premises, and for work to be carried out by the water supply authority at the cost of a consumer.

(2) Such deposits may be held by the water supply authority for such time as the water supply authority shall direct and shall bear no interest and may, in the discretion of the water supply authority and without prejudice to the powers of such authority under section 34, be applied to the payment of any money in respect of which the deposit was made and which has not been duly paid in accordance with any regulations made under section 51.

Set-off and combining of account

37A. A water supply authority may without notice to the consumer combine, consolidate or merge all or any of the consumer's accounts with, and liabilities to, the water supply authority and may set-off or transfer any sum standing to the credit of any such accounts in or towards satisfaction of any of the consumer's liabilities to the water supply authority, and may do so notwithstanding that a suit in respect of such liabilities, instituted on the date of set-off or transfer, may be dismissed pursuant to the Limitation Ordinance [*Cap. 46 (1958 Ed.)*].

[Ins. Cap. A126.]

Recovery of moneys

38.—(1) All moneys, other than penalties or fines, payable or recoverable under this Ordinance shall be recoverable at the suit of the water supply authority together with interest thereon at a rate of eight per cent per annum or such other rate as may be determined by the State Water Authority; and any judgment given or order made in any court thereon shall be enforced in the same manner as that in which any judgment or order may be enforced in any other action in such court.

(2) In any such action, a certificate, purporting to be under the hand or seal of the water supply authority, that any sum of money is due to the water supply authority shall, until the contrary is proved, be evidence of such debt and of the non-payment thereof.

PART VII OFFENCES AND PENALTIES

Waste

39. Any person who wilfully or negligently misuses or wastes or allows to be misused or wasted any water supplied from the waterworks, either through any supply pipe or public standpipe, shall be guilty of an offence: Penalty, a fine of one thousand ringgit, and, in the case of a second or subsequent offence, imprisonment for six months and a fine of three thousand ringgit.

[Am. Cap. A126.]

Offences relating to water and waterworks

40. Any person who wilfully or negligently—

- (a) injures, interferes with or pollutes the waterworks;
- (b) draws off, diverts or takes water from the waterworks, or from any stream or waters by which the waterworks are supplied;
- (c) interferes with or opens or shuts any valve, hydrant or stopcock belonging to a water supply authority;
- (d) abstracts groundwater without a licence from the State Water Authority; or

(e) begins or carries out any construction of or alteration to any impounding works without a licence from the State Water Authority or in breach of such licence,

shall be guilty of an offence: Penalty, in the case of a first offence, a fine of five thousand ringgit and, in the case of a second or subsequent offence, imprisonment for three years and a fine of twenty thousand ringgit.

[Am. Cap. A126.]

Fraudulent measurement

41.—(1) Any person who—

(a) alters or causes or permits to be altered or tampered, any supply pipe with intent to avoid the accurate measurement of water;

(b) wilfully or negligently interferes or tampers with or injures or damages any meter;

(c) dishonestly alters the index of any meter used by the water supply authority for measuring the water supplied by such authority; or

(d) dishonestly prevents any meter used by the water supply authority from registering correctly the quantity of water supplied,

shall be guilty of an offence: Penalty, in the case of a first offence, a fine not exceeding five thousand ringgit and imprisonment not exceeding two years and, in the case of a second or subsequent offence, a fine not exceeding ten thousand ringgit and imprisonment not exceeding four years.

[Am. Cap. A126.]

(2) Any supply pipe so altered or meter so injured, altered, tampered or interfered with shall be replaced or repaired by the water supply authority, and the cost of such replacement or repair may be recovered, upon the order of a Magistrate, from the person convicted under subsection (1) in the same manner as a fine.

Presumption in relation to altering of meters

42. For the purposes of section 41(1), if it is proved that a person has altered the index of a meter, it shall rest upon him to prove that he did not alter it dishonestly; and the existence of any artificial means, under the control of such person, for preventing a meter from registering correctly, or for enabling him dishonestly to abstract or use water, shall be evidence that he has dishonestly prevented the meter from registering correctly or, as the case may be, has dishonestly abstracted or used water.

Offences relating to water meters

42A. Whoever—

(a) without the approval of a water supply authority or the consumer removes or takes away any water meter fixed on or outside the premises of the consumer pursuant to section 33(3) to measure water supplied to that consumer; or

(b) has in his possession a water meter which does not belong to him or which is not for the measurement of water supplied by a water authority to him, as a consumer of water,

commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment not exceeding twelve months, or to both such fine and imprisonment.

[Ins. Cap. A126.]

Water from unauthorized source

43. Any person who takes any water from the waterworks, except through a metered supply pipe or from a public standpipe, without the permission of the water supply authority shall be guilty of an offence: Penalty, in the case of a first offence, a fine of one thousand ringgit and, in the case of a second or subsequent offence, a fine of two thousand ringgit.

[Am. Cap. A126.]

Using domestic water for other purposes

44. Any person who, having agreed for a service for domestic purposes only, uses or causes or permits the use of water passing through the pipes from his service for purposes other than domestic shall be guilty of an offence: Penalty, in the case of a first offence, a fine not exceeding one thousand ringgit and, in the case of a second or subsequent offence, a fine not exceeding two thousand ringgit.

[Am. Cap. A126.]

Pollution

45.—(1) Any person who deposits or allows to be deposited any earth, material or liquid in such manner or place that it may be washed, fall or be carried into the waterworks shall be guilty of an offence: Penalty, in the case of a first offence, a fine not exceeding five thousand ringgit and, in the case of a second or subsequent offence, a fine not exceeding twenty thousand ringgit and imprisonment not exceeding three years.

(2) If any earth, material, liquid or other pollutants is allowed to remain so deposited after the water supply authority has given notice in writing to such person (which notice may be given in the manner provided by section 22(3)) requiring such earth, material or liquid to be removed, or the continuing deposit of any such earth, material or liquid to cease, such person shall be guilty of an offence: Penalty, in the case of a first offence, a fine not exceeding five thousand ringgit and, in the case of second or subsequent offence, a fine not exceeding twenty thousand ringgit and imprisonment not exceeding three years.

(3) Any person who washes or bathes in, or throws into, any water course or stream forming part of the waterworks, or washes, throws or causes to enter therein any creature, dead or alive, shall be guilty of an offence: Penalty, in the case of a first offence, a fine not exceeding five thousand ringgit and, in the case of a second or subsequent offence, a fine not exceeding twenty thousand ringgit and imprisonment not exceeding three years.

[Am. Cap. A126.]

(4) Nothing in this section shall be construed as prohibiting or restricting—

(a) any method of cultivation of land which is in accordance with the acceptable principles of good agricultural practices; or

(b) the use of oil or tar for the construction or maintenance of any public highway,

so long as all reasonable steps are taken for preventing the pollution of any part of any water of the waterworks.

Who may prosecute

46. Prosecutions for offences against this Ordinance or any regulations made hereunder may be conducted by the Public Prosecutor or any person authorized in writing by him under section 377 of the Criminal Procedure Code *[Act 593]*.

[Sub. Cap. A76.]

Compounding of offences

46A.—(1) The State Water Authority may, by Order published in the *Gazette*,—

(a) prescribe any offence under this Ordinance or regulations made under this Ordinance as compoundable offences and the procedure for compounding such offences; and

(b) authorize the persons named therein who are officers of a water supply authority to compound such offences.

(2) A person who is authorized to compound offences under subsection (1), may compound any such offence under this Ordinance or regulations made thereunder by collecting from the person reasonably suspected of having committed the offence a sum of money not exceeding one half of the maximum fine prescribed for such offence.

(3) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person whose offence has been compounded, and any document or thing seized in connection with the offence may be released to him by the water supply authority, subject to such terms and conditions as it thinks fit.

(4) All sums collected for compounding an offence under subsection (2) shall be paid into the State Consolidated Fund or if so directed by the Minister, to an account specially designated by a water supply authority to receive such moneys.

[Ins. Cap. A126.]

Power to take action

47. No fine or punishment imposed under this Ordinance shall affect or prejudice the powers of the water supply authority under section 34 nor shall anything in this Ordinance be held to prevent proceedings by civil suit against any person for damage caused to any waterworks, or to prevent any person from being prosecuted criminally for an offence in respect of any waterworks.

Authorized officers

47A.—(1) The powers of investigation of offences under this Ordinance or regulations made thereunder and to enforce the provisions thereof shall be vested on—

(a) any public officer or officer of a water supply authority duly authorized in writing by the State Water Authority to exercise such powers (“the authorized officer”). and

(b) any police officer not below the rank of Sergeant (“a police officer”).

(2) In exercising any of the powers of enforcement under this Ordinance, an authorized officer shall on demand produce and show to the person against whom he is acting the authority issued to him under subsection (1)(a).

Power of arrest

47B.—(1) Any offence under section 29A, 40, 41, 42A or under regulation 157 of the Water Supply Regulations, 1995 [*Swk. L.N. 50/95*] shall be a seizable offence within the meaning of the Criminal Procedure Code [*Act 593*].

(2) Any authorized officer or any police officer may, without a warrant, arrest any person reasonably suspected of having been concerned in any such seizable offence or if the person refuses to give his name and residence, or gives a name or residence which there is reason to believe is false, or if there is reason to believe that he will abscond.

(3) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person or, if the offence is compoundable under section 46A, to a person empowered under that section to compound the offence:

Provided that, in the latter case, if the arrested person refuses to compound the alleged offence, he shall forthwith be sent to the officer in charge of the nearest police station.

(4) Where the person arrested under this section is required, for purposes of investigation, to be detained for more than twenty-four hours the provisions of section 47F shall apply.

(5) Whenever any authorized officer has reasonable cause to suspect that an offence under this Ordinance or regulations made thereunder has been committed, he may search any conveyance, building or facility under the control of the suspect, his agents or servants.

Power to investigate

47C.—(1) An authorized officer or any police officer in charge of a police station may carry out investigation into any offence under this Ordinance or regulations made thereunder and in carrying out such investigation, the authorized officer may exercise all or any of the special powers in relation to police investigation in seizable cases provided in the Criminal Procedure Code [*Act 593*].

(2) Any authorized officer may by order in writing require the attendance before himself of a person who appears to be acquainted with the facts and circumstances of that case or is suspected of being concerned with the offence under investigation.

(3) If the person who is ordered to attend fails to comply therewith, the authorized officer may report such failure to Magistrate who shall issue a warrant to secure the attendance of that person.

Examination of person acquainted with case

47D.—(1) An authorized officer making an investigation under section 47C may examine orally any person who may be acquainted with the facts and circumstances of the case.

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

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

(4) The authorized officer obtaining information from a person shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by a person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb print, as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish.

Admissibility of statement in evidence

47E.—(1) If any person is charged with an offence under this Ordinance or any regulations made thereunder, any statement, whether the statement amounts to a confession or not or whether it is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of an investigation under this Ordinance or not and whether or not wholly or partly in answer to questions, by that person to or in the hearing of an authorized officer and whether or not interpreted to him by another officer or any other person, shall be admissible in evidence at his trial and, if the person charged tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching him.

(2) No statement referred to in subsection (1) shall be admissible or used in any criminal proceedings—

(a) if the making of the statement appears to the Court to have been caused by any inducement, threat or promise from a person in authority and sufficient in the opinion of the Court to give the person charged grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him; or

(b) in the case of a statement made by the person after his arrest, unless the Court is satisfied that he was cautioned by any authorized officer or a police officer of or above the rank of Inspector in the following words or words to the like effect:

“It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to question or not, may be given in evidence.”.

(3) A statement made by a person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of his not having been cautioned if he is cautioned as soon as possible after that.

Where investigation cannot be completed within twenty-four hours

47F.—(1) Whenever any person who is arrested under section 47B or whose attendance is secured by a warrant under section 47C(3) in connection with an offence, and the investigation cannot be completed within the period of twenty-four hours and there are reasonable grounds for believing that the accusation or information against him is well-founded, the authorized officer investigating the case may deliver him to the nearest police station to be released on a bond or police bail or to be detained thereat pending arrangement to produce the person before a Court competent to try the offence.

(2) Where a person is brought before a Court under subsection (1), the authorized officer investigating the case shall comply with section 117(1) of the Criminal Procedure Code [*Act 593*], and the Court shall have such powers over that person as are prescribed in section 117(2) of that Code.

[Ins. Cap. A126.]

PART VIII
MISCELLANEOUS

Personal immunity of Council members and State Water Authority

48. No members of the Council or any of its committees, or the State Water Authority or officers or employees of the Council or State Water Authority or any person whomsoever acting under the direction of the Council or State Water Authority shall be personally liable for any act or default of the Council or State Water Authority due or omitted to be done in good faith and without negligence in the course of the performance or execution of the duties and functions of the Council or State Water Authority.

Public Authorities Protection Act 1948

49. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Council or its committees or State Water Authority or agent of the Council or State Water Authority in respect of any act, neglect or default done or committed by any of them in such capacity.

Civil proceedings

50. In regard to any suit or proceedings of a civil nature by or against the Council or the State Water Authority, the State Attorney-General or any person duly appointed or authorized by him shall represent, appear and plead on behalf of the Council in any court having jurisdiction over such suit or proceedings.

Regulations

51.—(1) The Yang di-Pertua Negeri may make regulations generally for the purpose of carrying out the provisions of this Ordinance and, in particular, such regulations may provide for—

- (a) the form of all notices required to be given or sent under this Ordinance, and the issuing and service thereof;
- (b) fees, surcharges and deposits to be paid by consumers;
- (c) the time and place for the payment of all moneys due or to become due under this Ordinance;
- (d) the sale of water by water supply authority and the price of such water;
- (e) free allowances of water to approved hospitals, charitable institutions and fire hydrants;
- (f) the fixing of meters, the amount of meter rents and the ascertaining of the consumption at any premises;

(g) the notification of restriction or suspension of water supply and the disconnection or re-connection of the water supply from or to a consumer;

(h) the licensing of pipe-fitters and mainslayers;

(i) the type, size and quality of pipes and fittings to be used on supply pipes and fire services;

(j) the construction, alteration and maintenance of supply pipes, fittings and fire hydrants; and notification to consumers that any supply pipe or fire hydrants is defective;

(k) the prevention of waste and the prohibition of the re-sale of water;

(l) the taking of water from public stand pipes, the regulation or restriction of the persons resorting or desiring to resort thereto, the apportionment, rationing or restriction of the supplies which may be taken therefrom, and the giving of powers to police officers and law enforcement agencies with a view to such regulation, apportionment, rationing and restriction;

(m) the use of water for fire services or sewerage purposes, or the impounding of water for hydro-electricity projects or any public sewerage system;

(n) the conservation and use of water from the waterworks;

(o) the regulation, protection and control of the impounding works and matters connected therewith;

(p) the procedure of the Council;

(q) the licensing of statutory water company or the abstraction of groundwater and the fees to be paid for such licences;

(r) the manner in which any property seized under the provisions of this Ordinance may be dealt;

(s) prescribing, in consultation with the Director of Health, Sarawak, the minimum standards of water quality;

[Sub. Cap. A126.]

(t) the payment of rewards and other incentives to persons for information leading to the arrest or conviction of persons for offences committed under this Ordinance;

(u) the transfer of staff and other employees of a water supply authority to a statutory water company;

(v) the manner in which a statutory water company may undertake the duties, functions and obligations transferred or delegated to them under a Statutory Order;

(w) the control of drawing, draining or taking away of water from wet lands;

(x) the control and prevention of contamination and pollution of water or sources of water supply;

(y) the establishment of drinking water quality surveillance programme or scheme; and

(z) prescribing anything which is by this Ordinance to be prescribed by regulations.

[Am. Cap. A126.]

(2) Such regulations may provide that contravention of any specified regulation shall constitute an offence, and may prescribe penalties not exceeding a fine of five thousand ringgit and imprisonment for two years for such contravention.

Repeal and savings

52.—(1) The Water Supply Ordinance *[Cap. 141 (1958 Ed.)]* is repealed.

(2) The repeal of the said Ordinance shall not affect the rights, obligations, functions and duties of any Water Authority established prior to the date of the repeal thereof, nor affect in any way, any order, declaration or notification issued prior to the date of such repeal and such order, declaration and notification should continue in full force and effect until replaced or substituted or amended by new order, declaration or notification made hereunder.

(3) Any Water Authority constituted under the repealed Ordinance shall, on the date of the repeal thereof, be known and referred to as a water supply authority and its name shall be amended accordingly.

(4) Any water rates which have been paid in respect of any period still current when this Ordinance comes into force shall be deemed to have been paid under the provisions of this Ordinance.

(5) Any civil proceedings or cause of action pending or existing immediately before the commencement of this Ordinance by or against the Water Authority constituted under the repealed Ordinance or any person acting on its behalf may be continued and instituted by or against the State Water Authority as it might have been by or against the Water Authority constituted under the repealed Ordinance or such person as if this Ordinance had not been passed.

Prevention of anomalies

53.—(1) If any difficulty or anomaly arises in connection with the transitional may, subject to subsection (2), by Order make such modifications therein as may appear to him necessary for removing, resolving or preventing such difficulty or anomaly.

(2) The Minister shall not exercise the powers conferred by subsection (1) after the expiration of two years from the commencement of this Ordinance.

SCHEDULE

(Section 19)

PROVISIONS RELATING TO WATER BOARDS

Incorporation of authority established under section 19 of the Ordinance

1.—(1) Every Water Board established under section 19 of the Ordinance shall be a body corporate having perpetual succession and a common seal, and shall have all the powers conferred by the Ordinance.

(2) The seal of a Water Board shall be authenticated by the signature of the Chairman and any member of the Water Board authorized in that behalf, and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, a Water Board may be signified under the hand of the Chairman or any member of the Water Board and the General Manager or Secretary authorized in that behalf.

(4) A Water Board may sue and be sued in its corporate name and may for all purposes be described by that name

(5) A Water Board may, until its common seal is available, use a stamp bearing the name by which the Water Board is known.

Procedure and meetings of authority

2.—(1) A Water Board shall meet at such times as may be necessary or expedient for the transaction of the business of the Water Board, and such meetings shall be held at such place and time, and on such days, as the Water Board may determine.

(2) The Chairman may at any time call a special meeting of a Water Board and shall call a special meeting within fourteen days of a requisition for that purpose addressed to him by any member thereof.

(3) The Chairman shall preside at all meetings of a Water Board at which he is present, and, in case of his temporary absence, the members present and constituting a quorum shall elect a Chairman from among their number.

(4) A quorum of a Water Board shall be three.

(5) The decisions of a Water Board shall be by a majority of votes and in the event of an equality of voting, the Chairman shall have a casting vote in addition to an original vote.

(6) Minutes in proper form of each meeting of a Water Board shall be kept by the Secretary, and shall be confirmed by the Chairman at the next succeeding meeting.

(7) The powers of a Water Board shall not be affected by any vacancy in the membership thereof, nor by the fact that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member thereof.

(8) Where a member of a Water Board has any interest in any company or undertaking with which the Water Board proposes to make any contract or has any interest in any such contract, he shall disclose to the Water Board the fact of such interest and the nature thereof, and such disclosure shall be recorded in the Minutes of the Water Board, and, unless specifically authorized by the Chairman, such member shall take no part in any deliberation or decision of the Water Board relating to such contract.

(9) Members of a Water Board may receive such remuneration and allowances out of funds of the Water Boards as may be prescribed by standing orders made under paragraph 14(2).

Appointment of Secretary and employment of staff

3.—(1) With the approval of the Minister a Water Board shall appoint—

- (a) an executive officer to be known as the General Manager; and
- (b) a Secretary,

and may with the like approval employ such other officers and such servants as it considers expedient for the performance of its functions under this Ordinance.

(2) A Water Board may, subject to the approval of the Minister, pay to any person in its employment such salary, wages or other remuneration as it may think fit, and may pay bonuses and the like to any such person, and may grant to any such person such leave as it may think fit, and may for the benefit of employees make Standing Orders to establish and provide for contributions to funds—

- (a) for the provision of pensions, gratuities and other retiring allowances;
- (b) for the provision of provident and superannuation benefits.

General powers of authority

4. A Water Board shall, in so far as may be necessary or expedient for the carrying out of its powers and duties under this Ordinance, have power—

- (a) to purchase, acquire, hold, manage and dispose of movable and immovable property;

(b)(i) to make contracts and to enter into, renew or terminate any arrangements with the Government or any authority, local or otherwise, that may seem conducive to the Water Board's objects, and to obtain from any such government or authority any rights, privileges and concessions which the Water Board may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;

(ii) to enter into contracts of guarantee or indemnity for the purpose of facilitating the acquisition or erection of dwelling houses by officers or other servants of the Water Board;

(c) subject to the approval of the Yang di-Pertua Negeri, to invest any moneys of the authority not immediately required by the Water Board in and upon such investments and securities, as are allowed by law for the investment of trust funds, in such manner as the Water Board may think fit, and from time to time to vary or realize such investment;

(d) to draw, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments or securities;

(e) with the approval of the Yang di-Pertua Negeri, to raise moneys by way of loan in such amounts, by such methods and for such purposes of the Water Board as the Yang di-Pertua Negeri may approve, and to redeem the same;

(f) with the approval of the Yang di-Pertua Negeri and subject to such conditions as the Yang di-Pertua Negeri may impose, to borrow money by the issue of shares, stocks, debentures or debenture stock for all or any of the following purposes—

(i) the repayment of loans raised under the powers conferred by subparagraph (e) or of State Treasury advances obtained under paragraph 6, or of both such loans and advances;

(ii) the provision of working capital or additional working capital;

(iii) the redemption of any shares, stock, debentures or debenture stock which the Water Board is required or enabled to redeem;

(iv) any other expenditure properly chargeable to capital account;

(g) with the approval of the Yang di-Pertua Negeri, to create and issue shares, stock, debentures and debenture stock, whether non-interest bearing or otherwise, for the purpose of enabling the Water Board to raise any money which it is empowered under this Ordinance to borrow by the issue of shares, stock, debentures or debenture stock, and the interest thereon, on the undertaking and revenues of the whole or any specified part of its property;

(h) to work or otherwise beneficially use and, with the approval of the Yang di-Pertua Negeri, to exchange, let, sell or hypothecate any of the property, rights, privileges, machinery or plant of the authority acquired or contorted for use in connexion with the performance of the functions of the Water Board;

(i) to construct, maintain, alter and improve any building, works, machinery and plant necessary or convenient for the performance of the functions of the Water Board;

(j) to do all lawful things incidental or conducive to the exercise or enjoyment of the rights, interests and powers conferred on a Water Board by this Ordinance.

Rate of dividend or interest on shares, etc., issued by a Water Board to be specified by the Yang di-Pertua Negeri

5. The dividends or interest payable on any shares, stock, debentures or debenture stock issued pursuant to subparagraph (g) of paragraph 4 shall be at such rate as the Yang di-Pertua Negeri shall specify.

Treasury advances

6.—(1) In addition to the powers to raise moneys by way of loan, a Water Board may obtain by way of advance from the State Treasury, and the State Treasury may, out of moneys appropriated by the Dewan Undangan Negeri for the purpose, advance to a Water Board, moneys sufficient to carry out any of its powers, duties or functions.

(2) Any moneys so advanced and the interest thereon shall be a liability of the Water Board to which such moneys are advanced.

Banking accounts and reserve and sinking funds

7.—(1) Unless a Water Board has opened a banking account or banking accounts, all moneys received by a Water Board shall be paid into a separate account at the State Treasury, and all payments made by a Water Board shall be made out of such account.

(2) A Water Board may establish a sinking fund or a reserve fund, or either or both of such funds, and shall set aside annually toward any such fund such sums as the Water Board may consider reasonable.

(3) A sinking fund shall be utilized for the payment of moneys borrowed by a Water Board.

(4) A reserve fund and all interest accruing thereon shall be utilized by a Water Board for the renewal of all assets owned by the Water Board, or, with the sanction of the Minister, for any emergency, but shall not be utilized for ordinary maintenance or operating expenses.

Approval by the Majlis Mesyuarat Kerajaan Negeri of estimates of Water Board

8.—(1) A Water Board shall, not less than thirty days before the 31st day of December in each year, submit for the approval of the Majlis Mesyuarat Kerajaan Negeri the estimates of such Water Board for the ensuing years.

(2) Where, during the course of any financial year, additional financial provision is required, supplementary estimates thereof shall, in like manner, be submitted by a Water Board for the approval of the Majlis Mesyuarat Kerajaan Negeri.

(3) A Water Board shall not without the sanction of the Minister incur expenditure which has not been included in approved estimates or supplementary estimates:

Provided that a Water Board may, within the limits of the approved estimates, make re-allocations, so, however, that no such re-allocation shall increase or decrease any one item of expenditure by more than fifty thousand ringgit or such other sum as the Minister may from time to time specify in writing.

(4) The annual and supplementary estimates shall be prepared in such manner and shall contain such particulars as the Majlis Mesyuarat Kerajaan Negeri may require.

(5) The annual and supplementary estimates as approved by the Majlis Mesyuarat Kerajaan Negeri shall be recorded in the minutes of the Water Board.

Accounts

9. A Water Board shall cause to be kept proper books of account and other books in relation thereto and to all its undertakings, waterworks and property, and shall prepare yearly, balance sheets made up to the 31st day of December, in each year, showing in detail the assets and liabilities, and the revenue and expenditure of the authority.

Audit

10.—(1) The accounts of a Water Board shall be audited by the Auditor General or other auditors appointed by the Water Board with the approval of the Minister; and the auditor or auditors so appointed shall make a report on the accounts so audited.

(2) As soon as its accounts have been audited as provided in subparagraph (1), a Water Board shall submit to the Majlis Mesyuarat Kerajaan Negeri a copy of such accounts and of the audited report in respect thereof.

(3) The expenses of and incidental to the audit shall be borne and paid by the Water Board.

Annual report to Minister

11.—(1) A Water Board shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Water Board during the preceding financial year and such report shall contain a copy of the audited accounts of the Board and such other information relating to the proceedings and policy of the Water Board as the Minister may from time to time require.

(2) Every report furnished under subparagraph (1) shall be laid upon the table of the Dewan Undangan Negeri as soon as possible after it has been so furnished.

Committees

12.—(1) The Water Board may appoint such Committees out of its own body, with or without other persons, as it may determine.

(2) Any Committee so appointed shall conform to instructions that may from time to time be given to it by the Board and the Board may at any time discontinue or alter the constitution of such Committee.

(3) Subject to the Ordinance and to the direction of the Board, the quorum and procedure of a Committee shall be determined by the Committee.

Board may invite others to the meeting

13. The Board may request any person, other than a member of the Board, to attend any meeting or deliberation of the Board for the purpose of advising on any matter under discussion, but any person so attending shall have no right to vote at the said meeting or deliberation.

A Water Board may make standing orders

14.—(1) A Water Board shall, with the approval of the Minister, make standing orders generally for the better conduct of the business of the Board.

(2) Without prejudice to the generality of subparagraph (1), standing orders may provide for—

- (a) the keeping of the accounts of the Water Board;
- (b) the conditions of service of employees, the appointment dismissal, disciplinary, pay and leave of, and the security to be given by, any such officer or servant;
- (c) the pensions, gratuities, allowances, provident fund or other superannuation benefits of any such officer or servant;
- (d) any appeals by any such officer or servant against his dismissal or against any other disciplinary measures taken against him; and
- (e) any other matters as to which it is necessary or expedient to make standing orders for any such officer or servant.

LAWS OF SARAWAK
Chapter 13
WATER ORDINANCE, 1994
LIST OF AMENDMENTS

Amending Law	Short Title	In force from
Cap. A76	Water (Amendment) Ordinance, 2000	1.6.2000.
Cap. A126	Water (Amendment) Ordinance, 2006	1.1.2008 (Swk. L.N. 6/2008)

