

## STATE OF SABAH

### INTERPRETATION AND GENERAL CLAUSES ENACTMENT, 1963 (Sabah 34 of 1963)

#### LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
14/1966	3 (1) (definition of "State Secretary")	1-10-1966
17/1971	3 (1) (definition of "Assistant Minister")	15-10-1971
Act 21	3 (1) (definition of "infant" or "minor" deleted)	30-4-1971
17/1976	3 (1) (definitions of "Minister", "Yang di-Pertua Negara"), 22, 23 (1), (2), 31, 51	27-8-1976
Act 160	25 (d), 48 (1) (a), (b)	29-8-1975
19/1978	3 (1) (definitions of "division", "residency" and "Resident")	1-1-1979
Act 261	37	1-1-1982

Act A 606	3 (1) ("Supreme Court" substituted for "Federal Court")	1-1-1985
Act A885	3 (1) (definitions of "Chief Judge" substituted for "Chief Justice", "Federal Court" substituted for "Supreme Court", "High Court in Sabah and Sarawak" substituted for "High Court in Borneo")	24-6-1994
8/1994	3 (1) (definition of "local authority")	15-9-1994

An Enactment to define certain terms and expressions when used in State laws and in public documents, to provide for the commencement, application, construction and operation of State laws; to provide for matters in relation to the exercise of statutory powers and duties; and for matters connected thereto.

[9th October, 1963.]

ENACTED by the Legislature of the State of Sabah as follows:

PART I  
APPLICATION AND GENERAL DEFINITIONS

**Short title.**

1. This Enactment may be cited as the Interpretation and General Clauses Enactment, 1963.

**Application.**

2. This Enactment shall apply to this Enactment and to every State law, as hereinafter defined, in operation at the commencement of this Enactment or coming into operation after such commencement, and to every instrument made or issued under or by virtue of any such law, and to every public document made or issued before or after such commencement, unless the contrary intention appears in the written law, instrument or document concerned.

**General definitions.**

3. (1) The following words and expressions shall, without prejudice to anything done prior to the commencement of this Enactment, have the meanings hereby assigned to them respectively, and any grammatical variations or cognate expressions of such words and expressions shall be construed by reference to such meanings-

“abet” in relation to the doing of any thing means –

- (a) the instigation of any person to do that thing;
- (b) the engagement, with one or more other person or persons, in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; and
- (c) the intentional aiding, by any act or illegal omission, of the doing of that thing;

“Accountant-General” means the Accountant-General of the State;

“act” used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to illegal omissions;

“advocate” means a person admitted or licensed to practise as such under any written law for the time being in force;

“amend” includes repeal, add to or vary and the doing of all or two or more of such things simultaneously or by the same written law;

“Assistant Minister” means an Assistant Minister of the State appointed under Article 7A of the Constitution;

“Attorney-General” means the State Attorney-General appointed under Article 11 of the Constitution;

“British Commonwealth” or “Commonwealth” means collectively the Members of the Commonwealth, any part of Her Britannic Majesty’s dominions not being a Member of the Commonwealth, any territory under the protection of a Member of the Commonwealth and any territory administered by the Government of a Member of the Commonwealth under the trusteeship system of the United Nations;

“British possession” means any part of Her Britannic Majesty’s dominions not being a Member of the Commonwealth, and, where parts of such dominions are under both a central legislature and a local legislature, shall include the parts under the central legislature as if they together constituted one British possession as well as each part with a local legislature:

Provided that in any law enacted after the first day of July, 1954, the expression “British possession” shall not include a Member of the Commonwealth or any dependent Commonwealth territory;

“Cabinet” means the State Cabinet established under Article 6 of the Constitution, and in respect of any period prior to Malaysia Day includes the Executive Council of the Colony of North Borneo;

“Chapter”, “Part”, “section” and “Schedule” shall denote respectively by Chapter, Part, section of and Schedule to the law in which the word occurs, and “subsection” shall denote a subsection of the section of the law in which the word occurs;

“Chief Judge” means the Chief Judge of the High Court;

“Chief Minister” means the Chief Minister of the State appointed under Article 6 of the Constitution;

“citizen” means a citizen of the Federation;

“Consolidated Fund” means the Consolidated Fund of the State mentioned in Article 29 of the Constitution;

“Constitution” means the Constitution of the State;

“commencement” used with reference to an Enactment means the time at which such Enactment comes into operation;

“common law” means the common law of England;

“consular officer” means consul-general, consul, vice-consul, consular agent, and any person for the time being authorised to discharge the duties of consul-general, consul or vice-consul;

“court” means any State or Federal court of competent jurisdiction;

“Crown Agents” means the persons for the time being acting in England as the Crown Agents for Oversea Governments and Administration, or any of them;

“dependent Commonwealth territory” means any territory for the international relations of which any Member of the Commonwealth other than the United Kingdom is responsible;

“district” means any of the districts into which the State is for the time being divided in accordance with the Administrative Divisions Ordinance [Cap. 167.];

“District Officer” means the officer in charge of a district and includes an Assistant District Officer;

“division” means one of the divisions into which the State is for the time being divided in accordance with the provisions of the Administrative Divisions Ordinance [Cap. 167.];

“Enactment” means an Enactment of the Legislature of the State and includes an Ordinance;

“export” means to take or cause to be taken out of the State by land, sea or air;

“Federal Court” means the Federal Court mentioned in Article 121 of the Federal Constitution;

“Federal Government” means the Government of Malaysia;

“Federal law” means any Act of the Legislature of Malaysia, and any law having the force of such an Act, and any subsidiary legislation made under the authority of any such Act or law, having effect within the State;

\*(Omitted).

“financial year” means the period from the first day of January to the thirty-first day of December;

“*Gazette*” means the *Gazette* published by the order of Government and includes any Supplement thereto or Extraordinary *Gazette* so published;

“Government” means the Government of the State;

“Government Printer” includes any printer purporting to be the printer authorised to print Enactments and other documents of the Government;

“High Court” means the High Court in Sabah and Sarawak;

“immovable property” includes land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

“import” means to bring or cause to be brought into the State by land, sea or air;

“imprisonment” means imprisonment under any written law for the time being in force relating to prison;

“Judge” means a Judge of the High Court and includes any person appointed to perform any or all of the functions of such Judge;

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\* Definition of “Financial Secretary” omitted by virtue of Enactment No. 3 of 1965.

“Legislative Assembly” means the Legislative Assembly of the State;

“legislature” when used with reference to any part of the Commonwealth means the authority, other than the Parliament of the United Kingdom or Her Britannic Majesty in Council, competent to make laws for such part;

“local authority” means an Authority established under the Local Government Ordinance [Ord. 11/1961.] and, where no such Authority has been so established in respect of any area, the District Officer of the district in which such area is situate;

“Magistrate” means a person appointed to be a Magistrate under any written law creating the office of Magistrate and sitting as such within the State;

“Malaysia Day” means the sixteenth day of September, 1963;

“master” used with reference to a ship means any person, other than a pilot or harbour master, having for the time being control or charge of such ship;

“Member of the Commonwealth” means the United Kingdom, Canada, Australia, New Zealand, India, Pakistan, Sri Lanka, Ghana, Nigeria, Cyprus, Sierra Leone, Jamaica, Trinidad and Tobago, and Uganda;

“Minister” means any member of the Cabinet who is for the time being entrusted by the Yang di-Pertua Negeri with responsibility for a subject or department to the Government;

“monogamous marriage” means a marriage which is recognised by the law of the place where it is contracted as a voluntary union of a man and one woman to the exclusion of all others during the continuance of the marriage;

“month” means calendar month according to the Gregorian calendar;

“movable property” means property of every description other than immovable property;

“oath” and “affidavit”, in the case of persons for the time being allowed by law to

affirm or declare instead of swearing, include affirmation and declaration, and “swear” in the like case includes affirm and declare;

“offence” means any act or omission made punishable by any written law for the time being in force;

“Ordinance” means any Ordinance, or proclamation having the force of an Ordinance; in force in the Colony of North Borneo immediately before Malaysia Day;

“person” or “party” includes any company or association or body of persons corporate or unincorporate;

“police officer” and terms or expressions referring to ranks in the police force shall bear the meanings respectively assigned to them by the Police Act, 1967 [Act 344.] or any other written law adding to or amending or substituted for that Act;

“prescribed” means prescribed by the Enactment in which the word occurs or by any subsidiary legislation made thereunder;

“public holiday” means any day which under the provisions of any written law for the time being in force is to be observed as a public holiday;

“public place” includes any highway and public street, road, park or garden, any sea beach, any public bridge, lane, footway, square, court, alley or passage, whether a thoroughfare or not, any unalienated land, and any open space, enclosed or unenclosed, to which for the time being the public have or are permitted to have access, whether on payment or otherwise;

“Public Seal” means the Public Seal of the State;

“registered” used with reference to a document, means registered under the provisions of the written law for the time being applicable to the registration of such document;

“regulations” includes rules, rules of court and by-laws;



“repeal” includes revoke;

“rules of court” when used in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court, together with the forms necessary thereto;

“sale” and “sell” include exchange, barter and offering or exposing for sale;

“service by post” where any State law authorises or requires any document to be served by post, whether the expression “serve”, or the expression “give” or “send” or any other expression is used, then, unless a contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which such letter would be delivered in the ordinary course of post;

“ship” includes every description of vessel used in navigation not exclusively propelled by oars or paddles;

“sign” with reference to a person who is unable to write his name, includes mark;

“signature” and “signed” include and apply to the fixing of a mark;

“the State” means the State of Sabah;

“State law” means any Enactment and any subsidiary legislation made thereunder;

“State Secretary” means the officer appointed as such under Article 11 of the Constitution;

“statutory declaration”, if made –

- (a) in the State, means a declaration made under the Statutory Declaration Act, 1960 [Act 13.];
- (b) in the Federation outside the State, means a declaration made by virtue of the provisions of any law providing for such declarations and having

effect in the place where such declaration is made;

(c) in any part of the Commonwealth outside the Federation, means a declaration made before a justice of the peace, notary public, commissioner for oaths or other person having authority therein under any law for the time being in force to take or receive a declaration;

(d) in any other place, means a declaration made before a Federal or British consular officer;

“street” or “road” includes any highway, street, road, bridge, thoroughfare, parade, square, court, alley, lane, bridle-way, foot-way, passage or open place whether situate on land leased from the State or not, used and frequented by the public or to which the public have, or are permitted to have access;

“subsidiary legislation” means any order, proclamation, rule, regulation, order, notice, by-law or other instrument made under any Enactment or other lawful authority and having legislative effect in the State;

“territorial waters” means the inland waters of the State and such part of the sea adjacent to the coast of the State as is deemed by international law to constitute the territorial waters of the State;

“United Kingdom” means Great Britain and Northern Ireland;

“urban area” has the meaning assigned to it by section 2 of the Local Government Ordinance [Ord. 11 of 1961.];

“urban authority” in respect of any urban area, means the local authority having jurisdiction in such area;

“vessel” includes floating craft of every description;

“will” includes a codicil;

“writing” or “written” includes typewriting, printing, lithography, photography, electronic storage or transmission or any other method of recording information or fixing information in a form capable of being preserved;

“written law” means all State law and Federal law;

“words” includes figures and symbols;

“Yang di-Pertuan Agong” means the Supreme Head of the Federation elected under Article 32 of the Federal Constitution and includes any person for the time being lawfully exercising the function of the Yang di-Pertuan Agong;

“Yang di-Pertua Negeri” means the person appointed as such under the provisions of the Constitution and includes any person for the time being lawfully exercising the functions of the Yang di-Pertua Negeri;

“year” means a year reckoned according to the British calendar.

- (2) In every State law unless a contrary intention appears –
- (a) words importing the masculine gender shall include females;
  - (b) words in the singular include the plural and words in the plural shall include the singular;
  - (c) where the words “or”, “other”, and “otherwise” are used they shall be construed disjunctively;
  - (d) a description or citation of a portion of any local law shall be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.
- (3) Where in any State law any word or expression is defined, then any grammatical variation or cognate expression appearing in such law shall be construed by reference to such definition.

PART II  
GENERAL PROVISIONS REGARDING ENACTMENT ETC.

**Enactments to be public Enactments.**

**3A.** Unless the contrary be expressly provided and declared therein, every Enactment shall be deemed and taken to be a public Enactment and shall be judicially notice as such.

**Enactments to be divided into sections.**

**4.** All Enactments shall be divided into sections, if there be more enactments than one, which sections shall be deemed to be substantive enactments without introductory words.

**Long title, preamble and Schedules.**

**5.** The long title and preamble and every schedule (together with any note or table annexed to the Schedules) to an Enactment or to any subsidiary legislation shall be construed and have effect as part of the Enactment or subsidiary legislation.

**Subdivision of Enactments.**

**6.** Where an Enactment is divided into parts, chapters, titles or other subdivisions, the fact and particulars of such division shall, with or without express mention thereof in such Enactment, be taken notice of in all courts and for all purposes whatsoever.

**Forms.**

**7.** Save as is otherwise expressly provided, whenever forms are prescribed slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them.

**Mode of citing Enactments.**

**8.** (1) Where any Enactment is referred to, it shall be sufficient for all purposes to cite such Enactment either by the short title, if any, by which it is made citable (with or without the year of enactment), or by the year of enactment and by its number among the Enactments of

that year, or, in the case of a revised edition of the State law issued under any Enactment providing for the issue of a revised edition, by its short title or chapter number, and the reference may in all cases be made according to the copies of Enactments printed by the Government Printer.

(2) Any citation of an Enactment under the provisions of this section shall, unless the contrary intention appears, be construed as a reference to such written law as from time to time amended.

**Regard to be had to the purpose of Enactment.**

**8A.** In the interpretation of a provision of an Enactment, a construction that would provide the purpose or object underlying the Enactment (whether that purpose or object is expressly stated in the Enactment or not) shall be preferred to a construction that would not promote that purpose or object.

**Time of coming into operation.**

**9.** Where any State law, or part of such law, came or comes into operation on a particular day, it shall be deemed to have come, or shall come, as the case may be, into operation immediately on the expiration of the day next preceding such day.

**Citation of United Kingdom Statutes.**

**10.** Any Act of the Parliament of the United Kingdom may be referred to by the expression "Imperial Act" and may be cited by its short title, if any, or by reference to the regnal year in which it was passed and its chapter.

**Imperial Acts to be read with necessary modifications.**

**11.** Whenever any Imperial Act is extended or applied to the State, such Act shall be read with such formal alterations as to names, localities, courts, officers, persons, moneys, penalties and otherwise as may be necessary to make the same applicable to the circumstances.

**References in State law to provisions of Imperial Act.**

12. Where in any State law reference is made to any provision of an Imperial Act and that provision is subsequently repealed and re-enacted without substantial modification, the reference in such State law to the provision so repealed shall, if the context so requires and unless the contrary intention appears, be construed as a reference to the provision so re-enacted.

PART III

REPEAL, RE-ENACTMENT AND AMENDMENT OF LAWS

**Repeal of a repealing law.**

13. Where any State law repealing in whole or in part any former law is itself repealed, such last repeal shall not revive the law or provisions before repealed unless words be added reviving such law or provisions.

**Effect of repeal.**

14. (1) Where any State law which has been amended by any other State law is itself repealed, such repeal shall be deemed to include the repeal of all State laws or parts thereof by which such first mentioned State law has been amended.

(2) Where any written law repeals in whole or in part any State law, then, unless the contrary intention appears, such repeal shall not –

- (a) revive anything not in force or existing at the time at which such repeal takes effect;
- (b) affect the previous operation of any State law so repealed or anything duly done or suffered under such law;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any State law so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the State law so repealed;

- (e) affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing law had not been passed:

Provided that when the penalty, forfeitures or punishment imposed by the repealing law is heavier than that imposed by the repealed law, the provisions by which the lighter penalty, forfeiture or punishment is imposed shall, unless such repealing law otherwise provides, be applied if the court decides to inflict any punishment.

**Repeal and substitution.**

15. Where an Enactment repeals in whole or in part any provisions of another Enactment, and substitutes other provisions therefor, the repealed provisions shall remain in force until the substituted provisions come into operation.

**Effect of re-enactment.**

16. (1) Where an Enactment repeals and re-enacts, with or without modifications, any provisions of a former Enactment, subsidiary legislation issued under or made in virtue of such former Enactment shall remain in force, so far as it is not inconsistent with the repealing Enactment and unless the contrary intention appears, until it has been revoked or replaced by subsidiary legislation issued or made under the provisions of such repealing Enactment.

(2) Where any State law repeals and re-enacts, with or without modifications, any provisions of a former State law, references in any other State law to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted.

**Effect of amendments.**

17. (1) Where in any State law a reference is made to another State law, such reference shall, unless the contrary intention appears, be deemed to include a reference to

such last-mentioned State law as the same may have been or may be from time to time amended.

(2) Where any State law amends or adds to any other State law, the amending law shall, so far as is consistent with the tenor thereof, and unless the contrary intention appears, be construed as one with the amended law and as part thereof.

**Effect of expiration.**

18. The expiration of a State law shall not affect any criminal or civil proceeding previously commenced under such law, but every such proceeding may be continued and everything in relation thereto may be done in all respects as if such law continued in force.

PART IV  
SUBSIDIARY LEGISLATION

**Construction of powers under which subsidiary legislation is made.**

19. Where any subsidiary legislation is expressed to be made or issued in exercise of a particular power or powers, it shall be deemed also to be made or issued in exercise of all other powers thereunto enabling whether in the Enactment or other State law under which it is made or under this Enactment.

**Exercise of statutory powers before commencement of Enactment.**

20. Where an Enactment which is not to come into operation immediately on the passing thereof confers power to make any appointment, or to make subsidiary legislation, or to issue notices, or to prescribe forms, or to do any other thing for the purposes of such Enactment, such power may, unless the contrary intention appears, be exercised at any time after the passing of such Enactment:

Provided that nothing done in such exercise of such power shall, unless it is necessary for bringing the Enactment concerned into operation, have any effect until the Enactment comes into operation.



**Commencement of subsidiary legislation.**

21. (1) Subsidiary legislation shall, unless it be otherwise provided by the law under the authority of which it is made or issued, be published in the *Gazette* and, unless it be otherwise provided in such subsidiary legislation, shall take effect and come into operation on the date of such publication.

(2) Notwithstanding the absence of any express provision in any Enactment or other State law, where such Enactment or other State law empowers any person to make subsidiary legislation, such subsidiary legislation may be made to operate retrospectively to any date not being a date earlier than the commencement of the law under which such subsidiary legislation is made:

Provided that no subsidiary legislation shall be made to operate on a date earlier than the date upon which it was made or issued if it has the effect of –

- (a) imposing any penalty, forfeiture or punishment; or
- (b) abolishing or otherwise infringing any right or privilege acquired prior to the date upon which it was made or issued.

**Judicial notice of subsidiary legislation.**

22. Judicial notice shall be taken of every proclamation, order or regulation made or issued by the Yang di-Pertua Negeri, or by the Governor or Governor in Council before Malaysia Day, made or issued, or purporting to be made or issued, under the authority of any Enactment.

**Subsidiary legislation made by Yang di-Pertua Negeri or Minister to override others.**

23. (1) Subject to any express provision in any Enactment, where power is given to the Yang di-Pertua Negeri to make subsidiary legislation any such legislation made by him shall take precedence over any subsidiary legislation made by any other authority empowered to make such legislation in respect of the same matters, and where any such subsidiary legislation conflict the legislation made by the Yang di-Pertua Negeri shall prevail.

(2) Subject to any express provision in any Enactment, where power is given to the

Chief Minister or a Minister to make subsidiary legislation any such legislation made by him shall take precedence over any subsidiary legislation made by any other authority, other than the Yang di-Pertua Negeri, empowered to make such legislation in respect of the same matters, and where any such subsidiary legislation conflict the legislation made by the Chief Minister or Minister shall prevail.

**Use of defined terms in subsidiary legislation etc.**

24. Where an Enactment confers powers to make any subsidiary legislation or to make or issue any instrument not having legislative effect, expressions used in such legislation or instrument shall, unless the contrary intention appears, have the same respective meanings as in the Enactment conferring the power, and any reference in such legislation or instrument to “the Enactment” or “the Ordinance” shall be read as meaning the Enactment conferring such power.

**General provisions as to subsidiary legislation.**

25. The following provisions shall, unless the contrary intention appears, have effect with regard to subsidiary legislation –

- (a) no subsidiary legislation shall be inconsistent with the provisions of any Enactment;

For the purposes of this paragraph, any subsidiary legislation made under an Enactment is not inconsistent with that Enactment or any other Enactment merely by reason of the absence in the Enactment under which it is made of any provision relating to the commencement, application, operation, interpretation or construction of the subsidiary legislation or to any other matter in connection with such subsidiary legislation if provision, relating to the commencement, application, operation, interpretation or construction of, or other matter in connection with, subsidiary legislation generally are contained in this Enactment.

- (b) subsidiary legislation may at any time be amended, varied, rescinded, revoked or suspended, or such suspension removed, by the same authority and in the same manner by and in which it is made:

Provided that –

- (i) where any Enactment is to come into operation on a date to be fixed by subsidiary legislation the power to make such legislation shall not include the power of amending, revoking or suspending the same;
  - (ii) where any such authority has been replaced wholly or partially by another authority, the power conferred hereby upon the original authority may be exercised by the replacing authority concerning all matters and things within its jurisdiction as if it were the original authority;
- (c) where any Enactment confers power on any authority to make subsidiary legislation for any general purpose and also for any special purposes incidental thereto, the enumeration of such special purposes shall not be deemed to derogate in any manner whatsoever from the generality of the powers conferred with reference to such general purpose;
- (d) there may be annexed to the breach of any subsidiary legislation such penalty not exceeding one thousand ringgit or such term of imprisonment not exceeding six months, or both, as the authority making such legislation may think fit;
- (e) such subsidiary legislation may amend any forms prescribed by the Enactment under which it is made and prescribe new forms for the purposes thereof and for the purposes of the subsidiary legislation;
- (f) authority to provide for fees and charges shall include authority to provide for the reduction, waiver or refund thereof either generally or in any particular event or case or class of case or in the discretion of any person;
- (g) where an Enactment conferring power on any authority to make a particular form of subsidiary legislation is repealed or amended so that while a subsidiary legislative power over similar subjects is provided the form thereof is changed, any subsidiary legislation made and in force under the repealed or amended Enactment shall, in so far as it concerns matters or things within the jurisdiction of the authority constituted under the repealing or amending Enactment, be

deemed to have been made by that authority and shall continue in force until other provisions shall be made by virtue of such last-mentioned Enactment;

- (h) all regulations shall be laid before the Legislative Assembly as soon as may be after they are made, and, if a resolution is passed by the Assembly within the next subsequent twenty-one days on which the Assembly has sat after any such regulation is laid before it that the regulation be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new regulation.

**Penalties in subsidiary legislation.**

**25A.** Notwithstanding the absence of any express provision in any Enactment or other State law, subsidiary legislation may provide that contravention of any provision of the subsidiary legislation shall constitute an offence and for persons guilty of such offence to be liable on conviction to a fine or a term of imprisonment or both, but may not provide for any such fine not exceed one thousand ringgit or any such term to exceed six months.

**Construction of general penalty clause.**

**26.** (1) A provision in an Enactment to the effect that any breach or contravention of subsidiary legislation made or deemed to be made or taking effect by virtue of such Enactment shall constitute an offence, or prescribing punishment for such breach or contravention, shall be deemed to include power to prescribe by such subsidiary legislation that the contravention of any particular provision shall or shall not constitute an offence and to so prescribe punishment therefor not exceeding that so prescribe by such Enactment:

Provided that except in so far as the power deemed by this subsection to be included in such provision is exercised, such provision shall be construed and take effect as if no such power had been conferred.

(2) This section shall apply to any Enactment which came into operation prior to the tenth day of December, 1952, notwithstanding any contrary expression in such Enactment, and to any Enactment coming into operation after that date unless the operation of this section is expressly excluded.

**Acts done under subsidiary legislation deemed done under Enactment.**

**27.** An act shall be deemed to be done under any Enactment, or by virtue of the powers conferred by any Enactment, or in pursuance or execution of the powers of, or under the authority of, any Enactment, if it is done under or by virtue of, or in pursuance of, any subsidiary legislation made or issued under any power contained in such Enactment.

**Use of electronic means or medium.**

**27A.** Where under any State law any information is permitted or required to be given or kept or maintained, and no means or medium is specified, such information may be given or kept or maintained by electronic means and on electronic medium if the identity of the person giving the information or the source of any information given by such means is capable of being determined or verified, and if sufficient precautionary measures have been applied to prevent unauthorised access to any information recorded or fixed by such means or on such medium.

PART V  
POWERS AND APPOINTMENTS

**Construction of provisions as to exercise of powers and duties.**

**28.** (1) Where any State law confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised, and the duty shall be performed, from time to time as occasion requires.

(2) Where any State law confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being or by a person duly appointed to act for him.

(3) Where any State law confers power on any person to do or enforce the doing of any act or thing, all such powers shall be understood to be also conferred as are reasonably necessary to enable such person to do or enforce the doing of such act or thing.

**Appointments generally.**

29. (1) Where by or under any State law any authority is empowered to appoint or name a person to have or exercise any powers or perform any duties, such authority may either appoint a person by name or direct the person for the time being holding such office as may be designated by such authority to have and exercise such powers and perform such duties, and thereupon, or from such date as the authority may specify, the person so appointed or holding such office shall have and may exercise such powers or perform such duties accordingly.

(2) Any appointment may be made with retrospective effect to any date not being earlier than the commencement of the law under which such appointment is made.

(3) Where any State law confers upon any authority a power to make appointments to any office or place, the power shall, unless the contrary intention appears, be construed as including a power to dismiss or suspend any person appointed and to appoint another person temporary in the place of any person so suspended or in place of any sick or absent holder of such office or place:

Provided that where the power of such authority to make such appointment is only exercisable upon the recommendation, or subject to the approval or consent, of some other authority, the powers conferred by this subsection shall, unless the contrary intention appears, only be exercisable upon such recommendation or subject to such approval or consent.

**Official designation to include officer executing duties.**

30. Where reference is made in any State law, or in any instrument, warrant or process of any kind made or issued under the authority of such law, to any public officer by the term designating his office, such reference shall be deemed to include any officer for the time being executing the duties of such office or any portion of such duties.

**Performance of statutory duties of public officer during absence etc.**

31. Where by or under any State law any powers are conferred or any duties are imposed upon a public officer, the Yang di-Pertua Negeri may direct that if, during any period, owing to

absence or inability to act from illness or any other cause, such public officer is unable to exercise the powers or perform the duties of his office in any place under his jurisdiction or control, such powers shall be had and may be exercised and such duties shall be performed in such place by a person named by, or by a public officer holding the office designated by the Yang di-Pertua Negeri, and thereupon such person or public officer, during the period as aforesaid, shall have and may exercise the powers and shall perform the duties aforesaid subject to such conditions, exceptions and qualifications as the Yang di-Pertua Negeri may direct.

**Power to appoint to substantive office not vacant.**

**32.** Notwithstanding the provisions of any State law constituting an office, when the substantive holder of such office is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to such office, and thereupon all rights, powers, functions and duties of such office shall, as from the date of such appointment, vest exclusively in the person so appointed.

**Boards and tribunals.**

**33.** (1) Where by or under any State law power is conferred to appoint persons as members of any committee then, unless the contrary intention appears, such power shall include the power to appoint persons as alternate members of such committee.

(2) Where by or under any State law a power is conferred upon any authority to appoint or establish any committee such authority may, unless the contrary intention appears, appoint any member of such committee to be the chairman or deputy chairman thereof and may appoint any person to be the secretary of such committee.

(3) Where by or under any State law any committee whether corporate or unincorporate, is established, then, unless the contrary intention appears, the powers and proceedings of such committee shall not be affected by –

- (a) any vacancy in the membership thereof;
- (b) any defect afterwards discovered in the appointment or qualification of a person purporting to be a member thereof; or

(c) any minor irregularity in the convening of any meeting thereof.

(4) For the purposes of this section, "committee" means any board, committee, commission, tribunal or similar body.

PART VI  
DISTANCE AND TIME

**Measurement of distance.**

34. In the measurement of any distance for the purposes of any State laws, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

**Time of commencement.**

35. Where any State law or any part thereof, or any instrument or notification made thereunder, is expressed to come into operation on a particular day, it shall, unless it be otherwise expressly provided, be construed as coming into operation immediately on the expiration of the day next preceding such day.

**Computation of time.**

36. In computing time for the purposes of any State law, unless the contrary intention appears –

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done;
- (b) if the last day of any such period is a Sunday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day which is not an excluded day;
- (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day is an excluded day, the act or proceeding shall be



considered as done or taken in due time if it is done or taken on the next day following which is not an excluded day;

- (d) where any act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of such time.

37. (Repealed).

**Provision when no time prescribed.**

38. Where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed and as often as the prescribed occasion arises.

**Construction of power of extending time.**

39. Where in any State law a time is prescribed for doing any act or taking any proceeding and power is given to a court or other authority to extend such time, then, unless the contrary intention appears, the power may be exercised by the court or other authority although the application for the same is not made until after the expiration of the time prescribed.

**Computation of age.**

40. In computing age for the purpose of any State law a person shall be treated as having reached a specified age at the beginning of the corresponding anniversary of his birth, reckoned according to the Gregorian calendar.

PART VII  
PENAL PROVISIONS

**Attempts to commit an offence.**

41. A provision which constitutes an offence shall, unless the contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence against such provision, punishable as if the offence itself had been committed.

**Penalty no bar to civil action.**

42. The imposition of a penalty by or under the provisions of any State law, in the absence of express provision to the contrary, shall not relieve any person from liability to answer for damages to a person injured.

**Offences under two or more laws.**

43. Where any act or omission constitutes an offence under two or more State laws, or under a State law and any other law applicable to the State, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of such laws but shall not be liable to be punished twice for the same offence.

**Sentence of imprisonment.**

44. (1) Notwithstanding the provisions of any State law, no person shall be sentenced by a court to rigorous imprisonment or to simple imprisonment, and every State law conferring power on a court to pass a sentence of rigorous imprisonment, simple imprisonment or imprisonment of either description shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the term for which a sentence of rigorous imprisonment, simple imprisonment or imprisonment of either description could have been passed in that case.

(2) Any person who is undergoing or liable to undergo a term of rigorous imprisonment or a simple imprisonment under a sentence passed by any court or as a commuted punishment for any offence shall be treated hereafter as if he had been sentenced to, or were undergoing or liable to undergo, imprisonment for such term.

**Certain penalties may be cumulative.**

45. (1) Whenever in or by virtue of any State law more than one penalty is prescribed for an offence, the use of the word "and" shall signify that the penalties may be inflicted alternatively or cumulatively.

(2) Whenever the words "with or without" are used in any State law connecting different types of punishment for an offence, the type or types of punishment immediately

following such words shall be construed as being a type or types of punishment which the court may impose in addition to but not in substitution for the type of punishment immediately preceding those words.

**Prescribed penalties deemed to be maxima.**

46. Whenever in any State law a penalty is provided for an offence against such law, such provision shall be deemed to indicate that such offence, whether by act or omission, shall be an offence against such law and punishable, upon conviction, by a penalty not exceeding (except as may be otherwise expressly mentioned in such law) the penalty provided.

**Contravention of condition of licence etc.**

47. If by virtue of any State law it is an offence to do any act or thing without a licence, permit, approval or other authority, the contravention of any condition to which any such licence, permit, approval or other authority has lawfully been made subject shall itself be an offence, punishable in like manner and with the like penalties as the offence first mentioned.

**Absence of specific provision relating to offence.**

48. (1) Subject to the provisions of this section, a contravention of any State law which came into operation prior to Malaysia Day which has not been expressly declared to be an offence shall constitute an offence and the offender shall be liable, on conviction –

(a) in the case of an Ordinance, to imprisonment for six months and a fine of one thousand ringgit; and

(b) in the case of subsidiary legislation, to a fine of five hundred ringgit.

(2) Subsection (1) of this section shall not apply –

(a) if some other remedy is provided by the relevant law;

(b) without prejudice to disciplinary proceedings in respect thereof, if the contravention consists merely of the dereliction of a duty imposed upon an officer in the service of the Government; or

(c) to a breach of any law which contains any provision declaring which breaches shall constitute offences.

(3) The penalties provided in subsection (1) of this section shall be applicable also if a contravention of any law therein mentioned had been declared to be an offence but no provision has been made for the punishment thereof.

**Carrying out of certain orders.**

49. Where in any State law powers is given to any authority to impose any fine or make any order or give any direction whatever, and it is stated that such fine, order or direction shall be imposed, be recoverable or in any manner have effect as if the same were a fine, order or direction imposed, made or given by a court or by a judicial or other officer, any such court or officer having jurisdiction in the place where such fine, order or direction was imposed, made or given, or where the person who was ordered to pay the fine or who is required to obey the order or direction resides or may happen to be, may take the necessary steps to enforce the payment of the fine or the carrying out of the order or direction, as the case may be, in all respects as if the fine, order or direction had been imposed, made or given by such court or judicial or other officer.

**Application of forfeitures.**

50. Where by any State law anything or any animal is declared to be forfeited or where, under any such law, any such thing or animal is adjudged by any court or other lawful authority to be forfeited it shall, unless some other provision is made by such law, be forfeited to the Government and if ordered by a competent authority to be sold the proceeds of sale, less the costs thereof, shall be paid into the Consolidated Fund.

PART VIII  
MISCELLANEOUS

**Evidence of certain signatures.**

51. Whenever the fiat, authorisation or sanction of the Yang di-Pertua Negeri or of the Attorney-General, Public Prosecutor or a Deputy Public Prosecutor is necessary before any prosecution or action is commenced or continued, or for any purpose whatsoever in

connection with any proceeding, any document purporting to bear the fiat, authorisation or sanction of the Yang di-Pertua Negeri, the Attorney-General, the Public Prosecutor or a Deputy Public Prosecutor, as the case may be, shall be received as *prima facie* evidence in any proceeding without proof being given that the signature to such fiat, authorisation or sanction is that of the Yang di-Pertua Negeri or the Attorney-General or other person as aforesaid.

**Public officers.**

52. A reference in any State law to any public officer by the usual or common title of his office shall, if there be such an office customarily in the State and unless the contrary intention appears, be read and construed as referring to the person for the time being holding or carrying out the duties of that office in the State.

**Ex-officio proceedings not to abate.**

53. Any civil or criminal proceedings taken by or against any person in virtue of his office shall not be discontinued or abated by his death, resignation, or absence or removal from office, but may be carried on by or against, as the case may be, the person appointed to perform the duties of the office.

**Gazette to be evidence.**

54. All printed copies of the *Gazette*, purporting to be published by authority and to be printed by the Government Printer, shall be admitted in evidence by all courts and in all legal proceedings whatsoever without any proof being given that such copies were so published and printed, and shall be taken and accepted as *prima facie* evidence of the proclamations, regulations, orders, appointments, notifications and other publications therein printed, and of the matters and things contained in such proclamations, regulations, orders, appointments, notifications and publications respectively.

**Reprint of State laws.**

55. (1) Where any State law is amended, the Government Printer may, with the authority of the Attorney-General, print copies of such law with the necessary additions, omissions, substitutions and amendments effected by any State law amending it, and any

such copy purporting to be so printed shall be deemed, until the contrary is shown, to be the authentic text of the amended law as in force, except in so far as may be specified in such copy, on such date as may be so specified.

(2) A reference in the State law to the number of a line of any provision of any State law shall mean such line in the latest official printed copy of such State law at the time of the enactment of the law containing such reference.

**Act from which payment is required need not be performed until payment is made.**

56. Where by or under any State law any person, public officer, public department or local authority is required to do anything for which a fee is to be paid or charge made, such person, officer, responsible officer of the public department or local authority may decline to do that thing until the fee or charge is paid or, where the precise amount of the payment to be made cannot be ascertained until the thing is done, until there be paid such amount as may be estimated to be the correct amount by such person or officer, such estimated amount to be corrected when the precise amount is ascertained.

**English text of laws to prevail.**

57. In the case of any conflict or discrepancy between the English text of any State law and any translation thereof, the English text shall prevail.

**Saving of State rights.**

58. No State law shall in any manner whatsoever affect the rights of the State or the Government unless it is therein expressly provided or unless it appears by necessary implication that the State or the Government is to be bound thereby.

**Enactment to bind the State.**

59. This Enactment shall be binding on the State and on the Government.

**Repeal of Cap. 63.**

- 60.** The Interpretation Ordinance\*, is hereby repealed.

Sabah LawNet

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\* See Corrigenda in 1963 Annual Volume at page Lxxxi.