

STATE OF SABAH

PUBLIC HEALTH ORDINANCE 1960

(Sabah No. 7 of 1960)

LIST OF AMENDMENTS

<i>Ordinance/ Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
11/1961	2 (definitions of "local authority" and "urban area")	1-1-1962
16/1961	46 (a)	1-1-1962
G.N.S 155/1963	3 (1), (2), 4 (1), 6 (3) - (6), 8, 9, 12 (1), (2), 13 (d), 20, 30, 37, 44, 51, 52 (1), 60 (1), 67 (1), 70 (1), 77 (3), 80 (3), 89 (2), 102 (5), 104, 108 (3), 113 (2), 127 (1), (2), 130(1), 134 (1), 136 (1), 138 (1), (2), 150 (c)	16-9-1963
G.N.S 87/1965	147	16-9-1963
P.U. (A) 466/1970	2 (definitions of "Director-General", "Director", "Deputy Director", "Director of Agriculture", "Federal matter", "Government", "Minister", "State matter"), 3, 7 (1), 8, 15, 20, 21 (1),	1-1-1971

	40, 44, 51 (c), 52 (1), (2), 54, 72 (1), 80 (3), 84 (3) (i), (4), 122 (1), 127 (1), (2), 136 (1), 139, 144, 147, 150 (a)	
Act 160	7 (1), 25 (2), 31 (1), 38 (1), 39 (3), 43, 45 (2), 87 (1), 103, 115 (2), 136 (20, 142	29-8-1975
G.N.S 18/1975	7 (1), 8	4-12-1975
Act 281	Part VI (repealed to the extent it relates to food)	1-10-1985
P.U. (A) 380/1992	Part VI (repealed to the extent it relates to drugs)	1-9-1989
8/1994	5 (3)	15-9-1994
An Ordinance relating to public health.		
[1st January 1961]		

ENACTED by the Governor of the Colony of North Borneo with the advice and consent of the Legislative Council as follows:

PART I
PRELIMINARY

Short title.

1. This Ordinance may be cited as the Public Health Ordinance 1960 and shall come into operation on such date as the Governor may, by notification in the *Gazette*, *appoint.

* In force 1st January 1961 – see G.N.S 156/60.

Definitions.

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

“building” includes any structure whatsoever whether permanent or temporary for whatsoever purpose used;

“Director-General” means the Director-General of Health, Malaysia, the “Director” means the Director of Medical Services, Sabah, and the “Deputy Director” means the Deputy Director of Medical Services, Sabah;

“Director of Agriculture” means the Director of Agriculture, Sabah;

“Federal matter” means any matter enumerated in the Federal List or the Concurrent List (that is to say, the First or Third List set out in the Ninth Schedule to the Federal Constitution);

“Government” means the Government of Malaysia or the Government of Sabah or both as the context may require;

“Health Officer” means a person appointed as such under section 4;

“house” means a dwelling-house, whether private or not and whether realty or personalty;

“local authority area” means the area under the jurisdiction of a local authority;

“Minister” in relation to any Federal matter means the Federal Minister and in relation to any State matter means the Sabah Minister for the time being charged with the responsibility for the matter to which the provision relates;

“occupier” means the person in occupation of any premises or having the charge, management or control thereof either on his own account or as agent of another person, but does not include a lodger;

“owner” includes the person for the time being receiving the rent of any premises, whether on his own account or as agent, trustee or receiver, or who would receive the rent if the premises were let to a tenant, and includes the Government;

“premises” includes messages, buildings, lands, easements and hereditaments of any tenure, whether open or enclosed, whether built on or not, whether public or private and whether maintained under statutory authority or not;

“State matter” means any matter enumerated in the State List (that is to say, the Second List set out in the Ninth Schedule to the Federal Constitution).

PART II ADMINISTRATION

The Director-General and Director.

3. (1) Subject to any general or special direction by the Minister —
- (a) the Director-General shall be responsible for the administration of this Ordinance so far as it relates to Federal matters; and
 - (b) the Director shall be responsible for the administration of this Ordinance so far as it relates to State matters.
- (2) The Director-General may delegate to the Director or the Deputy Director, and the Director may delegate to the Deputy Director, the exercise of the several powers and duties vested in him by this Ordinance or such of them as he may deem expedient.

Health Officers.

4. (1) For the purposes of this Ordinance, the Director may, with the prior approval of the local authorities in an administrative division, or, where that approval is withheld, with the prior approval of the Minister, by notification in the *Gazette*, appoint a Health Officer for such administrative division.
- (2) The Director and the Deputy Director may exercise all the powers and duties of a Health Officer under this Ordinance.

Local authority.

5. (1) Every local authority shall have, within the local authority area of that authority, the powers and duties imposed on local authorities by this Ordinance.
- (2) The powers of a local authority under this Ordinance, except the powers to

make by-laws, may be exercised by any officer or servant of the local authority generally or specially authorised in this respect by the local authority and, for the purposes of this subsection, a Health Officer and any person to whom the powers of a Health Officer are delegated under section 10 shall be deemed to be officers of the local authority.

(3) Save where the local authority is the District Officer, there shall be established by each local authority a committee thereof, which may be a committee of all the members of the authority and which shall include the Health Officer as a voting member, to advise the authority upon the exercise of the powers conferred upon that authority by this Ordinance and upon matters pertaining thereto.

By-laws.

6. (1) No by-law shall be made by a local authority under this Ordinance unless and until a copy of such proposed by-law shall have been deposited at the office of the local authority for inspection at all reasonable times; and unless and until a notice shall have been published in the *Gazette* and exhibited in a conspicuous place at or near the main entrance to the office of the local authority twenty-one days prior to the meeting of the authority held for the purpose of making such by-law setting forth the general purport of the proposed by-law.

(2) Any objection to any such proposed by-law shall be lodged with the local authority within fourteen days after the publication of the notice and exhibition thereof as aforesaid whichever is the latest and shall be considered at the meeting of the local authority.

(3) The local authority shall submit the proposed by-law, and if an objection has been lodged, with the objections and the comments of the local authority thereon, to the Minister, who may approve, amend or reject the by-law and if the Minister approves the by-law, with or without amendment thereof, the by-law shall, unless the Minister otherwise directs, be published in the *Gazette* and thereafter has the full force of law within the area of the local authority.

(4) - (6) (Repealed).

(7) In this section, the word "make" and grammatical variations thereof include "amend", "vary" and "revoke".

Penalties for breaches of subsidiary legislation.

7. (1) Any authority empowered to make by-laws or regulations under this Ordinance may by by-law or regulation, as the case may be, provide a penalty by way of a fine for the breach or contravention of any such by-law or regulation and such by-law or regulation may also impose different fines in case of successive or continuous breaches or contraventions, but no such penalty shall for any one offence exceed five hundred ringgit and in the case of a continuing offence no such penalty shall exceed a fine of fifty ringgit for every day during which such offence is continued.

(2) Any by-law or regulation may further provide that, in addition to or in substitution for any such penalty, any expense incurred in consequence of any breach or contravention of such by-law or regulation, or in the execution of any work directed by any such by-law or regulation to be executed by any person and not executed by him, whether performed by the local authority, the Director or by some contractor together with a surcharge of not more than ten per centum of such expense shall be paid by the person committing such breach or failing to execute such work and may be recovered as if such sum were a civil debt.

Application of by-laws and regulations.

8. Any by-laws made by any local authority may be restricted in their application to any part of the area of the local authority or may be general and any orders or regulations made by any other authority may be restricted in their application to any part of the area of Sabah or may be general.

Default by local authorities.

9. The Minister, on it being proved to his satisfaction that any local authority has made default in the exercise of its powers, other than the power to make by-laws, or in performing any duty imposed upon it by this Ordinance may, without prejudice to any other action which may be taken by any person under any law for the time being in force, exercise the powers and duties of such local authority in the area for that local authority for the purpose of exercising such power or performing such duty.

Delegation of duties of Health Officer.

10. (1) Any Health Officer appointed under subsection (1) of section 4 may, with the approval of the Director, delegate in writing the exercise of the several powers vested in

him by the Ordinance in respect of any local authority area to any duly qualified Health Inspector in the service of such local authority or to any duly qualified public servant in the medical department of Government and for the purposes of the exercise of the powers so delegated such Health Inspector and such public servant shall have all the powers of a Health Officer under this Ordinance.

(2) In this section, the term “duly qualified” means any person possessing any of the qualifications which the Director may, by order*, prescribe.

PART III
NOTIFICATION, PREVENTION AND SUPPRESSION OF DISEASE

Interpretation.

11. (1) In this Part —

“notifiable disease” means any of the following diseases, namely —

- (i) amoebiasis
- (ii) anthrax
- (iii) bacillary dysentery
- (iv) brucellosis
- (v) cerebro-spinal meningitis
- (vi) chancroid
- (vii) chickenpox
- (viii) cholera
- (ix) diphtheria
- (x) erysipelas
- (xi) glanders
- (xii) gonorrhoea

* See G.N.S 159/60.

- (xiii) leprosy
- (xiv) lymphogranuloma venereum
- (xv) measles
- (xvi) melioidosis
- (xvii) non-specific urethritis
- (xviii) paratyphoid fever
- (xx) plague
- (xx) Poliomyelitis
- (xxi) puerperal pyrexia
- (xxii) rabies
- (xxiii) relapsing fever
- (xxiv) scarlet fever
- (xxv) smallpox
- (xxvi) syphilis
- (xxvii) tuberculosis (all types)
- (xxviii) typhoid fever
- (xxix) typhus
- (xxx) whooping cough
- (xxxi) yellow fever

(2) In subsection (1), “puerperal pyrexia” means any febrile condition occurring in a woman in whom a temperature of 100.4°F. (38°C) or more has occurred within fourteen days after childbirth or miscarriage.

Powers of Minister.

12. (1) The Minister may by order* declare that any disease other than those specified in the definition of “notifiable disease” in subsection (1) of section 11 be a notifiable disease for the purposes of this Part.

(2) The Minister may by order —

- (a) declare that only such provisions of this Part as are mentioned in the order shall apply to any notifiable disease;
- (b) restrict the provisions of this Part, as regards the notification of any disease, to any local authority area or to any area defined.

Obligation to notify notifiable disease.

13. When a person is known to be suffering from a notifiable disease, it shall be the duty of the persons hereafter mentioned, according to the circumstances hereafter mentioned, forthwith to send to the Health Officer a notice in the prescribed form —

- (a) if the person is in a house, of the head of the family dwelling therein, or failing him of anyone in charge of and in attendance on the person, or failing him of the occupier of the house in which the person dwells;
- (b) if the person is in a school or other institution of any kind, of the head of the school or institution;
- (c) if the person is an employee, of his employer, or of the person in charge of the employee’s place of work;
- (d) if the person is in premises occupied by any visiting force lawfully present in Sabah, of the person in charge there;
- (e) if the person is attended by or calls a registered medical practitioner, of the medical practitioner.

Penalty on exposure of persons liable to convey notifiable disease.

14. Any person who —

* See G.N.S 27/62, 117/64.

- (a) knowing he is suffering from a notifiable disease, exposes other persons to the risk of infection by his presence or conduct in any street, public place, place of entertainment or assembly, club, hotel, lodging-house or shop, or, having the care of a person whom he knows to be so suffering, permits that person to expose others to the risk of infection in any such place; or
- (b) knowing he is suffering from a notifiable disease, engages in any trade, business or occupation, which he cannot engage in without risk of spreading the disease or having the care of a person so suffering permits such person to engage in any such trade, business or occupation,

shall be guilty of an offence.

Use of public conveyance by persons suffering from certain notifiable diseases.

15. No person, knowing he is suffering from a notifiable disease, which the Director-General may by order* declare to be a notifiable disease to which this section applies, shall enter or, having the care of a person whom he knows to be so suffering, permit that person to enter any public conveyance, without first notifying the owner, driver or person in charge of such conveyance that he or that person, as the case may be, is so suffering.

Duty of owner of public conveyance.

16. The owner, driver or person in charge of any public conveyance may refuse to transport any person whom he knows to be suffering from a notifiable disease to which section 15 applies unless the person is in possession of a certificate, signed by or on behalf of the Health Officer, stating that he may travel on a public conveyance. The owner, driver or person in charge of the conveyance may in his discretion carry such person, although not in possession of any such certificate, but if he does so he shall as soon as possible notify the Health Officer of the fact, and shall subsequently take or cause to be taken such steps to disinfect the conveyance as the Health Officer may direct.

Child liable to convey notifiable disease not to attend school.

17. (1) If the Health Officer notifies a person having the care of a child who is, or has been, suffering from, or has been exposed to infection by, a notifiable disease that

* See G.N.S 160/60.

the child should not be sent to school, such person shall not permit the child to attend school until the Health Officer certifies that he may do so without undue risk of infecting others.

(2) The person in charge of a school in which any person is suffering, or is suspected to be suffering, from a notifiable disease shall, if required by the Health Officer, furnish him with a complete list of the names and addresses of the scholars, teachers and other persons working at such school.

Duty of employer of persons suffering from notifiable disease.

18. (1) If the Health Officer notifies an employer that one of his employees is suffering, or is suspected to be suffering, from a notifiable disease, the employer shall ensure that the employee does not work or attend for work until the Health Officer certifies that he may do so without undue risk of infecting others.

(2) The employer of any person who is suffering, or is suspected to be suffering, from a notifiable disease shall, if required by the Health Officer, furnish him with a complete list of the names and addresses of all employees at such person's place of work.

Power to order isolation of persons.

19. (1) The Health Officer may, in his discretion, order the isolation, to his satisfaction, of any person suffering, or suspected to be suffering, from a notifiable disease, or of any person who has been in contact with a case of a notifiable disease, in the place where the person is found, or order that any such person be moved to and detained in a hospital or other place approved by the Health Officer.

(2) Such person shall not depart from such isolation or detention without the written permission of the Health Officer and the Health Officer may, in such written permission, impose conditions as to future treatment and any person who departs from isolation without such permission or having departed from isolation subject to any conditions fails to comply with such conditions shall be guilty of an offence.

(3) The officer in charge of a police district shall supply such watchman as are necessary for the proper maintenance of isolation or detention in accordance with this section.

Removal of persons suffering from leprosy to Sarawak.

20. On a representation being made to the Minister by the Director-General that a person detained under section 19 who is suffering from or suspected to be suffering from leprosy should go outside Sabah for treatment, the Minister may order the removal of such persons from Sabah to Sarawak there to undergo treatment at the Rajah Sir Charles Brooke Memorial Settlement, Kuching.

Compulsory examination and treatment.

21. (1) The Director-General, in any case where in the interests of public health he thinks expedient so to do, may by order in writing —

- (a) direct any person suffering from or suspected to be suffering from any notifiable disease to attend a hospital or registered medical practitioner for examination and treatment if necessary, and may specify the hospital or medical practitioner to be attended by such person;
- (b) direct that any such person who is found to be suffering from any notifiable disease be detained and remain in hospital until discharged therefrom;
- (c) direct the officer in charge of police district to procure the removal to hospital of any person failing to comply with an order under paragraph (a) or (b) of this subsection.

(2) Any officer in charge of a police district who has been so directed under paragraph (c) of subsection (1) of this section may procure the removal of any person to hospital and for this purpose may cause such degree of force as may be necessary, to be used.

(3) Any person who wilfully disobeys an order under this section or who obstructs or delays or in any way interferes with the prompt execution thereof shall be guilty of an offence.

Information given.

22. (1) If a patient found by a Health Officer or registered medical practitioner to be suffering from a notifiable disease gives to such Health Officer information as to a person

from whom the patient suspects that disease was contracted, such information shall be deemed, for the purposes of the law relating to defamation to have been communicated in pursuance of a statutory duty.

(2) If, in furnishing any information as is mentioned in the preceding subsection, any person makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence.

Power to inspect premises and persons.

23. The Health Officer may at any time enter and inspect any premises in which he has reason to believe that any person suffering, or who has recently suffered, from a notifiable disease is or has recently been present, or any inmate of which has recently been exposed to infection by a notifiable disease, and may medically examine any person in such premises for the purpose of ascertaining whether the person is suffering or has recently suffered from or is a carrier of any such disease, and may cause a post-mortem examination to be made on any corpse for the purpose of ascertaining if the cause of death has been a notifiable disease:

Provided that no person shall, unless with the permission of the occupier, enter any house by virtue of this section without four hours' notice being given to the occupier, if any.

Power to disinfect premises etc..

24. (1) Where the Health Officer is of the opinion that the disinfection of any building or part thereof, or if any article therein, or of any article used in or when transporting any person thereto or therefrom, would tend to prevent or check any notifiable disease, he shall take such steps as he considers necessary to ensure that adequate disinfection is carried out.

(2) It shall be the duty of the owner of any such building, article or vehicle to co-operate fully with the Health Officer in carrying out such disinfection.

(3) Where any building, article or vehicle is damaged during disinfection no compensation shall be payable if suitable methods of disinfection have been employed and due care has been taken to prevent unnecessary damage.

(4) No compensation shall be payable in respect of the deprivation of the occupation or use of any building or part thereof, or of the use of any article or vehicle, occasioned, by disinfection, provided that no undue delay has occurred.

Power to order destruction of infected buildings and articles.

25. (1) The local authority may cause the destruction of any building, bedding, clothing or other article which has been exposed to infection from a notifiable disease. The local authority shall pay reasonable compensation for any building or article so destroyed to the person having interest therein, unless the neglect or default of the claimant thereto shall have made such destruction necessary.

(2) Any person aggrieved by a decision of the local authority upon the amount of compensation under subsection (1) may, within thirty days of the notification to him of the decision by which he is aggrieved, appeal to the Court of a Magistrate of the First Class, or where the matter relates to a building valued at more than three thousand ringgit to the High Court, whose decision shall be final.

Penalty for letting infected premises.

26. Any person who sells or lets for hire any premises or part thereof in which he knows that any person has been suffering from a notifiable disease, without having the same, and all articles therein liable to retain infection, efficiently disinfected to the satisfaction of the Health Officer as testified by a certificate signed by him, shall be guilty of an offence.

Notification of deaths and removal of bodies of persons dying of notifiable disease.

27. (1) In every case of death from a notifiable disease it shall be the duty of the occupier of the premises in which the death has occurred immediately to notify the Health Officer.

(2) It shall be an offence for the occupier of any premises to keep any dead body in any room in which food is kept, prepared or eaten, or to keep any dead body for more than twenty-four hours in any room in which any person lives, sleeps or works, or to keep the body of any person who is known to have died of a notifiable disease in any place other than a mortuary or other place set aside for the keeping of dead bodies without first obtaining the sanction of the Health Officer.

(3) Where any person dies of a notifiable disease, it shall be an offence to remove the body except to a mortuary or for the purposes of immediate burial, unless with the sanction of the Health Officer, and it shall be the duty of any person who removes the body to take it direct to the mortuary or to the place of internment for burial unless the Health Officer shall otherwise direct.

Disposal of bodies of persons dying of notifiable disease.

28. Notwithstanding the provisions of the preceding section, the body of any person who has died of a notifiable disease shall be disposed of in such manner as the Health Officer may direct, and any person who fails to obey any direction of the Health Officer shall be guilty of an offence:

Provided that as far as practicable the Health Officer shall pay due regard to burial and other racial customs.

Duty of Veterinary Officers and veterinarians.

29. Any Government Veterinary Officer or person practising as a veterinarian with the approval of the Director of Agriculture shall immediately report to the Health Officer any case of rabies, anthrax, glanders, melioidosis, trichiniasis or schistosomiasis in an animal which comes to his notice.

Power to make regulations.

30. The Minister may make regulations for any of the following purposes —

- (a) regarding the measures to be taken for the prevention of the spread or for the eradication of any notifiable disease requiring to be dealt with in a special manner;
- (b) restricting or prohibiting the sale or distribution of any medicine, appliance or article purporting to alleviate or cure any notifiable disease, or restricting or prohibiting any advertisement intended to promote the sale of any such medicine, appliance or article.

Offence and penalties.

31. (1) Any person convicted of an offence under this Part shall be liable to a fine of

one thousand ringgit and, where the offence is a continuing offence, a fine of one hundred ringgit for each day during which the offence continues.

(2) Any person who contravenes any provision of this Part, or fails to discharge any duty imposed upon him by this Part or to comply with any order given in accordance with this Part, shall be guilty of an offence under this Part.

PART IV
SUPPRESSION AND DESTRUCTION OF
DISEASE-BEARING INSECTS

Interpretation.

32. In this Part —

“disease-bearing insect” shall include any insect carrying or causing, or capable of carrying or causing, any disease of human beings or domestic animals, and any of the life-stages of any such insect.

Power to enter and examine premises.

33. (1) The Health Officer may, between the hours of six in the morning and six in the evening, enter and examine any premises in order to ascertain whether they or anything therein are in a condition favourable to the propagation or harbouring of disease-bearing insects:

Provided that no person shall, unless with the permission of the occupier, enter any house by virtue of this section without four hours' previous notice being given to the occupier, if any.

(2) Subject to the giving of such notice as aforesaid, the owner and the occupier of any premises shall permit the Health Officer to have access thereto and to any part thereof for the purpose of subsection (1), and shall supply all such information as the Health Officer requires and as is reasonably necessary for that purpose.

General power to order action.

34. The Health Officer, if as a result of any such examination it appears that any premises or anything therein is favourable to the propagation or harbouring of disease-

bearing insects, may, by order in writing addressed to the owner or occupier of such premises, direct him within a specified time to take such specified measures with regard to the premises or for the treatment, destruction or removal of anything therein as may bring them into a condition not favourable to the propagation or harbouring of disease-bearing insects.

Enforcement of order.

35. (1) If the owner or occupier of any premises on whom an order under section 34 has been served fails to comply, or is unable or unwilling to comply, with the terms thereof, the Health Officer may enter the said premises and may perform and do therein all acts and things required by the said order to be performed or done, and the cost thereof shall be recoverable from the owner or occupier by the local authority, in the same manner as a civil debt.

(2) Nothing in this section shall affect any liability of any person to prosecution and punishment under section 38.

Food and drink to be protected from disease-bearing insects.

36. It shall be the duty of the owner, the occupier and the person in charge of any bake-house, food factory, eating-shop, coffee-shop or restaurant, or any place where food or drink is manufactured or prepared for sale, or is sold, for human consumption, to take such steps as will ensure that disease-bearing insects cannot come in contact with or contaminate such food or drink.

Regulations for eradication of disease-bearing insects.

37. The Minister may make regulations* for the measures to be taken for the eradication or wide-spread destruction of any disease-bearing insect in any area and, without prejudice to the generality of the foregoing, any such regulations may provide for the following matters —

- (a) to empower any authorised person to enter any premises in such area at any time;
- (b) to authorise the spraying of any place in such area with insecticide and to specify the type of insecticide to be used;

* See Public Health (Mosquito) (Malaria Eradication) Regulations 1960 at page 67 infra.

- (c) to require all persons in such area to submit to medical examination including blood examination and treatment;
- (d) to require the supply of such information as may be prescribed from within or without such area.

Offences and penalties.

38. (1) Any person convicted of an offence under this Part shall be liable to a fine of one thousand ringgit and where the offence is a continuing offence to a fine of one hundred ringgit for each day during which the offence continues.

(2) Any person who contravenes any provision of this Part or fails to discharge any duty imposed upon him by this Part or to comply with any order given in accordance with this Part, shall be guilty of an offence under this Part.

PART V
WATER SUPPLIES

Prevention of pollution of certain water supplies.

39. (1) It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures for preventing any pollution dangerous to health of any water supply other than a piped water supply supplied by any public authority or any department of Government which any person in its area has a right to use and does use for drinking or domestic purposes or in the manufacture or preparation of food or drink (whether such supply is derived from sources within or beyond its area); and to take measures (including, if necessary, proceedings at law) against any person so polluting any such supply that it becomes a nuisance or prejudicial to health.

- (2) The Director may-
 - (a) by notice to the local authority, define minimum standards of purity and freedom from pollution of any water supply to which subsection (1) of this section relates; and
 - (b) by notice to the local authority or by order to the owner of such supply require such local authority or such owner to supply him with samples of any water supply to which subsection (1) of this section relates.

(3) Any person failing to comply with an order by the Director under paragraph (b) of subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of one thousand ringgit.

Piped water supplies.

40. It shall be the duty of any public authority or any department of Government supplying a piped water supply to any part of Sabah to take all necessary measures for preventing any pollution dangerous to health of any such supply and to take measures (including, if necessary, proceedings at law) against any person polluting any such supply.

A report on sufficiency, etc..

41. It shall be the duty of every local authority from time to time to ascertain the sufficiency and wholesomeness of the water supplies within its area and to submit reports thereon to the Director as and when requested by the Director.

New houses to be provided with sufficient water supply.

42. (1) When plans of any premises are deposited with a local authority for approval under any written law, the local authority may reject the plans unless —

- (a) there is a satisfactory proposal for providing in, or within a reasonable distance of, the premises a supply of wholesome water sufficient for the needs of the occupants and users of the premises; and
- (b) the local authority is satisfied that the proposal can be put into effect.

(2) A local authority may prohibit the occupation of any such premises if such proposal has not been put into effect, or has not resulted in the provision of such supply of wholesome water.

Occupied houses may be required to be provided with sufficient water supply.

43. A local authority may by notice require the owner of any premises to provide within a specified time a sufficient and wholesome supply of water for such premises, and if the owner does not comply with such notice may take such steps as may be necessary for

the provision of the supply and recover the expenses thus incurred in so doing from the owner in the same manner as a civil debt:

Provided that the expenses recoverable in respect of any one premises shall not exceed five hundred ringgit.

Right of appeal against action of local authority.

44. The owner of any premises may appeal to the Minister against any action of a local authority under section 42 or 43 and the decision of the Minister shall be final.

Power to close polluted source of water supply.

45. (1) If in the opinion of a local authority any well or other source of water supply in its area is or is likely to be used for domestic purposes or in the manufacture or preparation of food or drink and is so polluted as to be prejudicial to health, the local authority may apply to the Court of a Magistrate in this respect and the Magistrate may order the closure of the well or prohibit the use of the water supply concerned.

(2) Any person contravening any order made under subsection (1) shall be guilty of an offence and liable on conviction to a fine of one thousand ringgit and one hundred ringgit for everyday during which the offence continues.

Power of local authority to establish certain services.

46. A local authority may —

- (a) enter into any contract or arrangement with Government, any department thereof or any public authority for the supply of water to such local authority; and
- (b) establish, maintain and control public wells, springs, bathing places, wash houses and swimming pools, and make by-laws, controlling, regulating and imposing charges for the use of any such service.

PART VI
FOOD AND DRUGS

Interpretation.

47. (1) In this Part —

“food business” means any trade or business for the purposes of which any person engages in the handling of food, but does not include any agricultural activity nor (except in so far as the handling of food may be involved in the course of supplying food for immediate consumption) so much of any trade or business as consists of the handling of food, at, in or upon —

- (a) any dock, wharf, public warehouse or cold-air store; or
- (b) any premises or place occupied by a carrier of goods for the purposes of his trade or business as such a carrier; or
- (c) any slaughterhouse; or
- (d) any premises which —
 - (i) are used exclusively for the storage of food manufactured or packed by the occupier thereof; and
 - (ii) are situated outside the curtilage or the premises used for the manufacture or packing of that food; and
 - (iii) are not used for the storage of any food which is not in a container;

“food premises” means any premises on or from which there is carried on any food business;

“slaughterhouse” means a place for slaughtering any animal, the flesh of which is intended for sale for human consumption, and includes any place available in connection therewith for the confinement of animals while awaiting slaughter there or for keeping or subjecting to any treatment or process, products of the slaughtering of animals there;

“stall” includes any stand, tent, vehicle or place in a market or tamu.

(2) For the purposes of this Part, a person shall be deemed to engage in the handling of food if for the purpose of a food business he carries out or assists in the carrying out of any process or operation in the sale of food or in the preparation, transport, storage, packing, wrapping, exposure for sale, service or delivery of food.

48-59. (Repealed).

Regulations as to food hygiene.

60. (1) The Minister may make regulations* for securing the observance of sanitary and cleanly conditions and practices in connection with —

- (a) the sale of food for human consumption; or
- (b) the importation, preparation, transport, storage, packing, wrapping, exposure for sale, service or delivery of food intended for sale or sold for human consumption,

or otherwise for the protection of the public health in connection with the matters aforesaid.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision —

- (a) for imposing requirements as to the construction,† lay-out, drainage, equipment, maintenance, cleanliness, ventilation, lighting, water supply and use † of premises in, at or from which food is sold for human consumption, or offered, exposed, stored or prepared for sale † for human consumption including any parts of such premises in which apparatus and utensils are cleansed, or in which refuse is disposed of or stored;
- (b) for imposing requirements as to the provision, maintenance and cleanliness of sanitary and washing facilities in connection with such premises, the disposal of refuse and the maintenance and cleanliness of apparatus, equipment, furnishings and utensils used in such

* See footnote at page 28 supra.

† See corrigenda at page LXXiii of 1960 Annual Volume.

premises;

- (c) for prohibiting or regulating the use of any specified materials, or of materials of any specified class, in the manufacture of apparatus or utensils designed for use in the preparation of food for human consumption, and the sale of apparatus or utensils designed for such use and containing any specified materials, or materials of any specified class;
- (d) for prohibiting spitting or smoking on premises where food is sold for human consumption, or offered, exposed, stored or prepared for sale for human consumption (including any parts of such premises where apparatus and utensils are cleansed);
- (e) for imposing requirements as to the clothing worn by persons in such premises;
- (f) for securing the inspection of animals intended for slaughter, and of carcasses of animals, for the purpose of ascertaining whether meat intended for sale for human consumption is fit for such consumption;
- (g) for requiring the staining or sterilization in accordance with the regulations of meat which is unfit for human consumption, or which is derived from animals slaughtered in knackers' yards, or which, though not unfit for human consumption, is not intended therefor;
- (h) for regulating generally the treatment and disposal of any food unfit for human consumption;
- (i) for prohibiting or regulating, and enabling local authorities to prohibit or regulate, the sale for human consumption, or the offer, exposure or distribution for sale for human consumption, of shell-fish taken from beds or other layings for the time being designated by or under the regulations.

(3) In subsection (2), "animals" includes poultry.

(4) Regulations under this section may make different provisions in relation to different classes of business, and without prejudice to the foregoing provisions of this section, any such regulations imposing requirements in respect of premises may impose

responsibility for compliance with those requirements on the occupier of the premises and, in the case of requirements of a structural character, on any owner of the premises who either lets them for use for a purpose to which the regulations apply or permits them to be so used after notice from the authority charged with the enforcement of the regulations.

(5) If any person who has incurred, or is about to incur, expenditure in securing that the requirements or regulations made under this section, being requirements of a structural character, and complied* with in respect of any premises owned or occupied by him claims that the whole or any part of the expenditure ought to be borne by any other person having an interest in the premises, he may apply to the Court of a Magistrate of the First Class, and the Court may make such order concerning the expenditure or its apportionment as appears to the Court, having regard to all the circumstances of the case, including the terms of any contract between the parties, to be just and equitable; and any order made under this subsection may direct that any such contract as aforesaid shall cease to have effect in so far as it is inconsistent with the terms of the order.

(6) Regulations made under this section may impose in respect of vehicles, stalls and places other than premises, any such requirements as may be imposed thereunder in respect of premises.

Food business not to be carried on at insanitary premises, etc..

61. Without prejudice to the generality of section 60, no food business shall be carried on in or at any insanitary* premises, stall or place or in or at any premises, stall or place the use of which because of the situation, construction or condition thereof, exposes food to the risk of contamination.

Preparation or packing by subcontract.

62. A person carrying on a food business shall not for the purposes of that business give out any food or arrange for or permit the giving out of any food for preparation or packing by another person for reward in or about any house other than that of the person carrying on the business.

* See Corrigenda at page LXXiii of 1960 Annual Volume.

* See Corrigenda at page LXXiii of 1960 Annual Volume.

Persons suffering from certain infection to give notice thereof.

63. (1) As soon as any person engaged in the handling of food becomes aware that he is suffering from, or is a carrier of, typhoid fever, paratyphoid⁺ fever or any other salmonella infection, or dysentery, or any staphylococcal infection likely to cause food poisoning, he shall forthwith give notice of that fact —

- (a) to the occupier of the food premises, if he is engaged in the handling of food at or from food premises;
- (b) to the owner of the food business, if he is engaged in the handling of food otherwise than at or from food premises,

and the occupier or owner, as the case may be, shall immediately after receipt of the notice, notify the Health Officer to the same effect.

(2) Where the person referred to in subsection (1) is himself the occupier of the food premises or the owner of the food business, as the case may be, he shall give the notice immediately to the Health Officer.

(3) Where any report is received by the Health Officer under subsection (1) of this section, the Health Officer may, without prejudice to any other action he may be authorised to take under this Ordinance or any other written law, order that the person suffering from or being a carrier of any such disease shall cease to engage in such food business until such time as such person has obtained a certificate from the Health Officer or a medical practitioner that he is fit to engage in such business.

General requirement as to stalls.

64. (1) Every stall at or from which there is carried on any food business —

- (a) shall bear conspicuously the name and address of the person carrying on the business; and
- (b) shall be kept clean and in such good order, repair and condition as to enable it to be effectively cleansed.

(2) No such stall shall be used as a sleeping place.

Power of Court to disqualify trader.

65. (1) Where a person is proceeded against for an offence against this Part in respect of any food business carried on at any premises or stall or in respect of any premises or stall used in connection with a food business, the following provisions shall have effect.

(2) If the person is convicted of the offence and the Court thinks it expedient to do so having regard to the gravity of the offence or (in the case of an offence committed in respect of premises or a stall) to the unsatisfactory nature of the premises, or stall, or having regard to any offences against this Part of which the person has previously been convicted, the Court may, on the application of the local authority or Health Officer, make an order disqualifying the person from using the premises or stall for the purpose of carrying on a food business for such period not exceeding two years as may be specified:

Provided that an order under this section shall not be made against any person unless the local authority or Health Officer has, not less than fourteen days before the date of hearing, given that person written notice of his intention to apply for an order to be made.

(3) A person subject to an order under this section shall be guilty of an offence if, while the order is in force —

- (a) he uses the premises or stall to which the order relates for the purpose of carrying on a food business; or
- (b) he participates in the management of any business in the course of which the premises or stall are so used by another person.

(4) A person so subject may, at any time after the expiration of three months from the date on which the order came into force and from time to time thereafter, apply to the Court by which the order was made to revoke the order, and on any such application the Court may, if it thinks proper having regard to all the circumstances of the case, including in particular the person's conduct subsequent to the conviction and any improvement in the state of the premises or stall to which the order relates, grant the application.

(5) If an application under subsection (4) is refused by the Court to which it is made, a further application thereunder shall not be entertained if made within three months after the date of the refusal.

(6) The Court to which an application under subsection (4) is made shall have the power to order the applicant to pay the whole or any of the costs of the application.

(7) In this section, the expression "the Court" shall mean the Court of a Magistrate of the First Class.

By-laws as to handling and sale of food.

66. A local authority may make by-laws for securing the observance of sanitary and cleanly conditions and practices in connection with the handling, wrapping, and delivery of food sold or intended for sale for human consumption, and in connection with the sale or exposure for sale in the open air of food intended for human consumption.

Regulations relating to certain foods.

67. (1) The Minister may make regulations regulating the manufacture for* sale, preparation for sale, sale, exposure for sale or storage before sale of ice-cream, sausages, horse-flesh, shell-fish or potted, pressed, pickled or preserved food.

(2) For the purposes of this section —

- (a) the preservation of meat or fish by any process of cooking shall be deemed to be the preparation thereof; and
- (b) the preparation of shell-fish shall include the cleaning of shell-fish by any process and the subjection of shell-fish to any germicidal treatment.

Cases of poisoning to be notified.

68. If a medical practitioner becomes aware, or suspects, that a patient whom he is attending is suffering from food poisoning, he shall forthwith send to the Health Officer a certificate stating —

- (a) the name, race, age and sex of the patient, and the address of the premises where the patient is; and
- (b) particulars of the food poisoning from which he is, or is suspected to be, suffering.

* See Corrigenda at page LXXiv of 1960 Annual Volume.

Inspection and control of infected food.

69. (1) If the Health Officer has reasonable ground for suspecting that any food of which he has procured a sample under the provisions of this Part is likely to cause food poisoning, he may give notice to the person in charge of the food that, until his investigations are completed, the food or any specified portion thereof, is not to be used for human consumption and either is not to be removed, or is not to be removed except to some place specified in the notice. A person who uses or removes any food in contravention of the requirements of a notice given under this subsection shall be guilty of an offence.

(2) If, as a result of his investigations, the Health Officer is satisfied that the food in question, or any portion thereof, is likely to cause food poisoning he may deal with it as food falling within subsection (1) of section 56 and subsections (2) and (3) of that section shall apply accordingly, but, if he is satisfied that it may safely be used for human consumption, he shall forthwith withdraw the notice.

(3) If a notice given under subsection (1) is withdrawn by the Health Officer, or if the Magistrate before whom any food is brought under this section refuses to condemn it, the local authority shall compensate the owner of the food to which the notice related for any depreciation in its value resulting from the action taken by the Health Officer.

Regulations relating to milk and dairies.

70. (1) The Minister may make regulations * making provision in respect of public health —

- (a) for the inspection of cattle on dairy farms;
- (b) for the inspection of dairies, and of person in or about dairies who have access to milk, or to the churns or other milk vessels;
- (c) for the lighting, ventilation, cleansing, drainage and water supply of dairies;
- (d) for securing the cleanliness of churns and other milk vessels and appliances;
- (e) for prescribing the precautions to be taken for protecting milk against

* See Public Health (Milk and Dairies) Regulations 1960 at page 95 infra. See also Act 281.

- infection or contamination;
- (f) for preventing danger to health from the sale of infected, contaminated or dirty milk, and in particular for prohibiting the supply or sale of milk suspected of being infected;
 - (g) for imposing obligations on dairymen and their employees in regard to cases of infectious illness;
 - (h) for regulating the cooling,* storage, conveyance and distribution of milk;
 - (i) for the labelling, marking or identification, and the sealing or closing of churns and other vessels used for the conveyance of milk, the labelling of vessels in which milk is sold or offered or exposed for sale or delivered, and the display of the vendor's name and address on any stall, or any cart, barrow or other vehicle, from which milk is sold or delivered;
 - (j) for prohibiting or restricting —
 - (i) the addition of any substance to milk, or the abstraction from milk of fat or any other constituent;
 - (ii) the sale of milk to which any such addition, or from which any such abstraction, has been made, or which has been otherwise artificially treated;
 - (k) for requiring milk to be subjected to a specified treatment before being sold for human consumption;
 - (l) for prohibiting, subject to prescribed exceptions, the sale of human consumption of milk obtained from cows milked —
 - (i) at any stage of a journey to or from a dairy farm;
 - (ii) at a slaughterhouse or knacker's yard; or
 - (iii) in any market or other place where cattle are collected for the purposes of sale or showing.

(2) In the foregoing subsection, "milk" means milk intended for sale or sold for human consumption, or intended for manufacture into products for sale for human consumption.

Registration of dairymen, etc..

71. A local authority may make by-laws to provide for the registration (or the cancellation of any such registration) of persons carrying on, or* proposing to carry on, the trade of a dairyman or dairy farmer, and for the registration of dairy farms and dairies.

Prohibition of sale of milk from diseased cows.

72. (1) No person shall —

(a) sell, or offer or expose for sale, for human consumption; or

(b) use in the manufacture of products for sale for human consumption,

the milk of any cow which to his knowledge has given tuberculous milk, or is suffering from emaciation due to tuberculosis, or from tuberculosis of the udder or any other disease which the Director-General by order declares to be a disease to which this section shall apply.

(2) In proceedings under this section, the defendant shall be deemed to have known that a cow had given tuberculous milk, or was so suffering as aforesaid, if he could with ordinary care have ascertained the fact.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

Slaughterhouses to be licensed.

73. (1) It shall not be lawful —

(a) for the occupier of any premises to use or to permit such premises to be used as a slaughterhouse, unless he holds a licence authorising him to keep those premises as a slaughterhouse;

(b) for any person other than the occupier to use any premises as a

* See Corrigenda at page LXXiv of 1960 Annual Volume.

slaughterhouse unless the occupier of the premises holds a licence in respect thereof.

(2) Licences under this section shall be granted by the local authority on the payment of such fee as the local authority may deem fit, and shall be valid for the year in which they are granted only.

(3) In relation to the use of any premises for or in connection with the slaughter of horses, a licence under this section shall be of no effect unless the licence expressly authorises the use of the premises for that purpose.

(4) A person who uses any premises as a slaughterhouse in contravention of the provisions of this section, or permits any premises to be so used, shall be guilty of an offence.

(5) Nothing in this section shall apply to the slaughtering, with the prior approval of the District Officer, of any animal for ceremonial purposes.

Application for and grant of licences.

74. A local authority on receiving from the occupier, or a person proposing to occupy, any premises an application for the grant of a licence authorising him to keep those premises as a slaughterhouse, may grant to him a licence in respect of those premises:

Provided that no such licence shall be granted until the Health Officer has inspected the premises named in the application, and has reported to the local authority.

By-laws relating to slaughterhouses.

75. (1) A local authority may make by-laws —

- (a) in respect of the construction of slaughterhouses;
- (b) for securing that slaughterhouses are kept in a sanitary condition and are properly managed.

(2) If a person convicted of an offence against any by-law made under this section holds a licence under section 74 the Court may, in addition to any other punishment, cancel the licence.

Mandatory grounds for refusal of licence.

76. Without prejudice to the proviso to section 74, a local authority shall refuse an application made to it for the grant of a licence under section 74 in respect of any premises if it is not satisfied that the requirements of any other written law for the time being in force are complied with in respect of those premises.

Notification of, an appeal against, refusal of licence.

77. (1) If a local authority refuses to grant a licence under section 74, it shall forthwith give notice to the applicant of its decision.

(2) A local authority which has given to any person such a notice as aforesaid shall, if so required by such person within fourteen days from the date of its decision, give to him, not later than seventy-two hours after receiving the requirement, a statement of the grounds on which its refusal was based.

(3) A person aggrieved by the refusal of a local authority to grant a licence under section 74, may within fourteen days of the receipt by him of the grounds of refusal, appeal to the Minister whose decision shall be final.

Local authorities to provide slaughterhouses.

78. (1) A local authority may, and shall within the limits of any urban area, provide one or more public slaughterhouses.

(2) It is hereby declared the provisions of subsection (1) may be performed in either of the following ways, that is to say —

- (a) by acquiring (whether by purchase, lease or otherwise) land and providing slaughterhouse facilities there; or
- (b) by acquiring (whether by purchase, lease or otherwise) land on which such facilities have been provided by other persons and securing that such facilities continue to be provided there.

(3) The local authority, if and so far as it appears to it that additional slaughterhouse facilities are required in or for the local authority area having regard to the reasonable requirements of persons making use of such facilities, may take such measures as it thinks expedient for securing the provision of the facilities required.

(4) The expression “slaughterhouse facilities” means facilities for carrying on the activities of a slaughterhouse, including plant and apparatus and the services of persons as slaughtermen or otherwise.

Management of public slaughterhouses.

79. (1) In the case of a public slaughterhouse, a local authority may, subject to subsection (2), make such arrangements as it thinks expedient for securing that all the activities of the slaughterhouse, or any particular activities, are carried on there by its servants or agents to the exclusion of other persons.

(2) A local authority shall not exercise the power conferred by subsection (1) in such a manner as to deny to any religious community reasonable facilities for obtaining as food the flesh of animals slaughtered by the method specially required by their religion.

Charges in respect of public slaughterhouses.

80. (1) Subject to the provisions of this section, a local authority which has provided a public slaughterhouse may make charges, according to scales determined by it from time to time, in respect of the use of the slaughterhouse or of any services provided there.

(2) Every scale of charges determined by a local authority for the purposes of this section shall be published in the *Gazette*.

(3) If it appears to the Minister that a scale of charges determined by a local authority for the purposes of this section is in any respect unreasonable, he may after consultation with the authority, direct the authority —

- (a) to make such alterations in the scale as he considers appropriate; and
- (b) except with his approval, not to depart from the scale as altered for such period as he may specify,

and the authority shall comply with the direction.

Saving for slaughter under direction.

81. Nothing in this Part shall apply to any slaughterhouse or knacker's yard used solely for the immediate slaughter of animals suffering, or suspected to be suffering, from a disease capable of being transmitted to other animals or to human beings, if such slaughter is ordered by the Health Officer or a Government Veterinary Officer.

82-85. (Repealed).

Presumptions.

86. For the purpose of this part and of any regulations or by-laws made thereunder —

- (a) any article commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale, for human consumption;
- (b) any article commonly used for human consumption which is found on premises used for the preparation, storage, or sale of that article and any article commonly used in the manufacture of products for human consumption which is found on premises used for the preparation, storage or sale of those products, shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing products for sale, for human consumption;
- (c) any substance capable of being used in the composition or preparation of any article commonly used for human consumption which is found on premises on which that article is prepared shall, until the contrary is proved, be presumed to be intended for such use.

Offences and penalties.

87. (1) Any person convicted of an offence under this Part shall be liable to a fine of one thousand ringgit and where the offence is a continuing offence to a fine of one hundred ringgit for each day during which the offence continues.

(2) Any person who contravenes any provision of this Part or fails to discharge any duty conferred on him by this Part or fails to comply with any order given in

accordance with this Part shall be guilty of an offence under this Part.

PART VII
NUISANCES

Interpretation.

88. In this Part —

“infectious disease” means any disease which can be communicated directly or indirectly by any person suffering therefrom to any other person;

“trade premises” means any premises used or intended to be used for carrying on any trade or business.

Definition of a nuisance.

89. The following shall be deemed to be nuisances liable to be dealt with in the manner provided by this Part —

- (a) any vehicle in such a state or condition as to be prejudicial to health;
- (b) any unlawful obstruction in any street, road, track, path, harbour, lake, river or channel lawfully used by the public;
- (c) any tank, well or excavation dangerous to the public by virtue of being in an unfenced or insufficiently fenced condition;
- (d) any building or part thereof which is of such construction or in such a state or so situated or so dirty or so verminous or so damp as to be likely to be prejudicial to health or which is liable to favour the spread of any infectious disease;
- (e) any street, road, track, path or any part thereof, or any stream, pool, ditch, gutter, watercourse, sink, watertank, cistern, water-closet, earth-closet, privy, urinal, cesspool, soak-away pit, septic tank, cesspit, soil-pipe, waste-pipe, drain, sewer, garbage-receptacle, dustbin, dung-pit, refuse-pit, slop-tank, soak-pit or manure-heap, so foul or in such a state or so situated or constructed as to be offensive or to be likely to be prejudicial to health;
- (f) any growth of weeds, long grass, tree, undergrowth, hedge, bush or

vegetation of any kind which is, or is liable to be, prejudicial to health;

- (g) any source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by human beings for drinking or domestic purposes, or in the manufacture or preparation of any food or drink which is in a condition liable to render any such water prejudicial to health;
- (h) any noxious matter or waste water, flowing or discharged from any premises, wherever situated, into any public street or road, or into the gutter or side channel of any street or road not provided for the reception of such discharge;
- (i) any collection of water, sewage, refuse or other fluid or solid substance, or any cesspit, latrine, urinal or ash-pit, which is in such a state or so situated, constructed or maintained as to permit, or be liable to permit, the breeding or development of any of the lifestages of mosquitoes, flies, helminths or other insects or parasites which may convey or cause diseases of human beings or domestic animals;
- (j) any stable, cowshed or other buildings used for keeping of animals or birds which is so constructed, situated or maintained as to be offensive, or which is prejudicial to health;
- (k) any animal which is so kept or is in such a condition as to be offensive or prejudicial to health;
- (l) any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is prejudicial to health;
- (m) any accumulation of stones, timber or other material of any nature whatever if such is likely to harbour rats or other vermin;
- (n) any premises in such a state or condition or any building so constructed as to harbour or be likely to harbour rats or other vermin;
- (o) any dwelling, trade premises or other building which is so overcrowded as to be prejudicial to health of the inmates, or which is dilapidated or defective in lighting or ventilation;

- (p) any public or other building or tree which is so situated, constructed, maintained or used as to be unsafe or prejudicial to health;
- (q) any building or dwelling capable of occupation for which such a proper, sufficient and wholesome water supply is not available within a reasonable distance as in the circumstances it is possible to obtain;
- (r) any trade premises not kept in a sanitary state and free from offensive smell arising from any drain, privy, water-closet, earth-closet or urinal, or in which suitable and adequate arrangements are not made to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated;
- (s) any trade premises causing or giving rise to smell or effluvia which are offensive or prejudicial to health;
- (t) any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious or preventable disease;
- (u) any chimney sending forth smoke in such quantity or in such a manner as to be offensive or prejudicial to health;
- (v) any cemetery, burial place or crematorium which is so situated or maintained as to be offensive or prejudicial to health;
- (w) any gutter, drain, stack-pipe, down-spout, water-tank or cistern which by reason of its insufficiency or its defective condition causes damp in any building;
- (x) any deposit of material in or on or alongside any building which causes damp in any building;
- (y) any dwelling, public building, trade premises or workshop not provided with sufficient and sanitary latrines;
- (z) any other nuisance which the Minister may by order declare to be a nuisance for the purpose of this Part.

Duty of local authority to prevent nuisances.

90. It shall be the duty of every local authority to take such measures as may be necessary for maintaining its area at all times in a clean and sanitary condition, and for preventing the occurrence therein of, or for remedying or causing to be remedied, any nuisance or condition liable to be prejudicial to health, and to take proceedings at law against the author of any nuisance.

Authors of nuisances.

91. (1) For the purposes of this Part, the author of a nuisance shall ordinarily be any person by whose act, default, or sufferance the nuisance is caused, exists or is continued.

(2) Should it prove impossible after reasonable investigation to discover or contact any person referred to in subsection (1), and should the occupier of the premises on which the nuisance occurs be a different person, then for the purposes of this Part the occupier shall be deemed to be the author of nuisance.

(3) Should it prove impossible after reasonable investigation to discover or contact any person referred to in subsection (1) or (2), and should the owner of the premises on which the nuisance occurs be a different person, then for the purposes of this Part the owner shall be deemed to be the author of the nuisance.

Notice to abate nuisance.

92. A local authority, if satisfied of the existence of a nuisance in its area, may serve a notice on the author of the nuisance requiring him to abate such nuisance within the time specified in the notice and, if the local authority thinks fit, specifying any work to be executed to abate or prevent a recurrence of the nuisance:

Provided that —

- (a) where the nuisance arises from any want or defect of a structural character in any premises, the notice shall be served on the owner; and
- (b) where the author of the nuisance cannot be found, the local authority shall remove the nuisance and shall do what is necessary to prevent the recurrence thereof.

Procedure in case author fails to comply with notice.

93. (1) If the person on whom a notice to abate a nuisance has been served under section 92 fails to comply with any of the requirements thereof within the time specified therein, or if the nuisance although abated since the service of the notice is in the opinion of the local authority likely to recur on the same premises, the local authority may cause a complaint relating to such nuisance to be made before the Court of a Magistrate and the Court may thereupon issue a summons requiring the person on whom the notice was served to appear before it.

(2) If the Court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, the Court shall make an order against the author of the nuisance requiring him to comply with all or any of the requirements of the notice or otherwise to abate the nuisance within a time specified in the order and to do any works necessary for that purpose; or an order prohibiting the recurrence of the nuisance and directing the execution of any necessary works to prevent the recurrence; or an order requiring abatement and prohibiting the recurrence of the nuisance and directing the execution of any necessary works.

(3) Where the nuisance proved to exist is such as to render a dwelling unfit, in the judgment of the Court, for human habitation, the Court may issue a closing order prohibiting its use as a dwelling until in the judgment of the Court it is fit for that purpose; and, if the nuisance arises from the nature of the dwelling and not from the use to which it has been put, may further order that no rent shall be payable by the occupier in respect of the period for which the closing order exists. On the Court being satisfied that the dwelling has been rendered fit for human habitation, the Court may terminate the closing order and by a further order declare the dwelling habitable, and thereafter the dwelling may be let or inhabited, but notwithstanding any such last-mentioned order, further proceedings may be taken under this section in respect of the dwelling in the event of any further nuisance occurring or of the dwelling being again found to be unfit for human habitation.

Closure of overcrowded premises.

94. Where the Court of a Magistrate has twice within a period of three months issued an order under subsection (2) of section 93 on account of the overcrowding of the same premises or part of the same premises, the Court may on the application of the local

authority order the premises to be closed for such period as the Court may deem necessary.

Penalty for failure to comply with Court order.

95. (1) Any person who fails to comply with an order made under section 93 or 94 shall be guilty of an offence.

(2) The local authority by its officers, servants or agents may enter any premises to which any order made under subsection (2) of section 93 relates and remove or prevent the nuisance and do whatever may be necessary in the execution of the order and recover in the Court of a Magistrate the expenses incurred from the person against whom the order was made.

Procedure where author of nuisance cannot be found.

96. If on the application of a local authority it appears to the satisfaction of the Court of a Magistrate that the author of any nuisance affecting its area is not known or cannot be found, the Court may make an order permitting the local authority to execute such works as may be necessary and the cost of executing the works shall be a charge on the property on which the nuisance exists which may be registered in accordance with the provisions of the Land Ordinance [Cap. 68.].

Power to sell property removed in abating nuisance.

97. Any matter or thing removed by a local authority in abating any nuisance under this Part may be sold by public auction, and the money arising from the sale may be retained by the local authority and applied in payment of the expenses incurred by it in relation to the nuisance, and the surplus (if any) shall be paid, on demand, to the owner of the matter or thing if he shall establish his claim thereto within two years from the date of the sale, falling which the surplus shall become part of the revenue of the local authority.

Procedure where nuisance is caused by two or more persons.

98. (1) Where any nuisance liable to be dealt with under this Part appears to be wholly or partly caused by the acts or defaults of two or more persons, a local authority may institute proceedings against any one of such persons* or may include all or any two or more of them in one proceedings, and any one or more of such persons may be

* See Corrigenda at page LXXiv of 1960 Annual Volume.

ordered to abate the nuisance, so far as it appears to be caused by his or her or their acts or defaults, or may be prohibited from continuing any acts or defaults which contribute to the nuisance or may be fined or otherwise dealt with notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance; and the costs of and incidental to the proceedings and the abatement of the nuisance may be distributed as may appear to the Court fair and reasonable.

(2) Proceedings under the preceding subsection against several persons included in one complaint shall not abate by reason of the death of any of the persons so included, but all such proceedings may be carried on as if such deceased person had not been originally so included.

(3) Where some only of the persons by whose act or default any nuisance has been caused or partly caused have been proceeded against under this Part, they shall, without prejudice to any other remedy, be entitled to recover from any other persons who are not so proceeded against and by whose act or default the nuisance was caused or partly caused a proportionate part of the costs of and incidental to the proceedings and the abatement of the nuisance, and of any fine ordered to be paid in the proceedings.

Demolition of premises.

99. (1) Where, in the opinion of the local authority, a nuisance exists in respects of premises which, in its opinion, are so dilapidated or so defectively constructed or so situated that repairs to or alterations of the premises are not likely to remove the nuisance, the local authority may apply to the Court of a Magistrate of the First Class for a demolition order; and on the Court being satisfied that such nuisance exists, and that repairs to or alterations of the premises are not likely to remove the nuisance, the Court may order the owner thereof to commence to demolish the premises on or before a specified day, being at least one month after the date of the making of the order, and to complete the demolition and to remove the materials which comprised the premises from the site before another specified day, being at least one month after such first mentioned day:

Provided that before any demolition order is made, notice of the application for the order shall be served on the owner of the premises who may attend and give evidence at the hearing of the application by the Court.

(2) The Court shall give notice to the occupier of premises in respect of which a demolition order has been made requiring him to move from the premises within a time to

be specified in the notice, and if any person fails to comply with such a notice or enters the premises to which such an order relates without lawful excuse after the date specified in the order, he shall be guilty of an offence.

(3) If any person fails to comply with a demolition order he shall be guilty of an offence, and the local authority may cause the premises to be demolished and may recover from him the expense incurred in doing so after deducting the net proceeds of the sale of the materials, which the local authority may sell by auction.

(4) No compensation shall be payable by the local authority to the owner or occupier of any premises in respect of the demolition thereof under this section, and from the date of the demolition order no rent shall be payable by the occupier in respect of such premises.

Examination of premises.

100. A local authority by its officers, servants or agents may enter any premises in its area at all reasonable times for the purpose of examining as to the existence of any nuisance there and may if necessary open up the ground of any premises and cause the drains thereof to be tested, or do such other work as may be necessary for the effectual examination of the premises:

Provided that if no nuisance is found to exist on the premises the local authority shall, at its own expense, restore them to the condition in which they were prior to examination.

Cost of enforcing provisions relating to nuisances.

101. (1) All reasonable costs and expenses incurred by a local authority in serving a notice, making a complaint, obtaining an order under this Part or carrying such an order into effect shall be deemed to be money paid at the request of the person against whom the order is made; or, if no order is made but the nuisance is proved to have existed when the notice was served or the complaint made, then of the author of the nuisance.

(2) Such costs and expenses incurred in relation to any nuisance may be recovered by local authority as a civil debt, and the Court to which the local authority applies for such recovery shall have power to divide the costs and expenses between the authors of the nuisance in such a way as the Court may deem* just.

* See Corrigenda at page LXXiv of 1960 Annual Volume.

(3) Where in accordance with this Part a local authority has itself abated or removed a nuisance or done what is necessary to prevent a recurrence thereof, and no owner or occupier of the premises appears or pays the expenses thereby incurred or can be found within six months after the completion of the abatement or removal of the nuisance, the Court of a Magistrate of the First Class may order the premises upon which the work shall have been done, or any part thereof, or any movable property found thereon, to be sold by public auction, and the amount realized by such sale shall be applied in defraying the expenses, and the balance (if any) paid over to the owner or occupier if he shall establish his claim thereto within two years after the date of such sale, failing which such balance shall become part of the revenue of the local authority.

Nuisances occurring on ships or aircraft.

102. (1) For the purposes of this Part, any ship lying in any port, harbour, river, or other water, and any aircraft being in any place, within or adjoining the area of a local authority, shall be subject to the jurisdiction of the local authority in the same manner as if the ship or aircraft were a house or other building within the area.

(2) For the purpose of this section, the master of any such ship and the captain of any such aircraft shall be deemed to be the occupier thereof.

(3) If any person on whom a notice to abate a nuisance occurring on any ship or aircraft has been served under section 92 fails to comply with any of the requirements thereof within the time specified therein, the local authority by its officers, servants and agents may from time to time and forcibly if need be enter the ship or aircraft and remove or remedy the nuisance.

(4) Any expenses incurred by a local authority in removing or remedying a nuisance occurring on any ship or aircraft may be recovered from the master or captain* thereof.

(5) In this section, the terms "ships" and "aircraft" shall not include any ship or aircraft belonging to the government of any member of the Commonwealth or any foreign country.

* See Corrigenda at page LXXiv of 1960 Annual Volume.

Offences and penalties.

103. Any person convicted of an offence under this Part shall be liable to a fine of one thousand ringgit and where the offence is a continuing offence, one hundred ringgit for every day during which the offence continues.

PART VIII
OFFENSIVE TRADES

Definition of offensive trades.

104. In this Part, the following shall be deemed to be offensive trades, namely the trade or business of a blood boiler, blood cleaner, blood drier, bone storer, bottle buyer, brick burner, charcoal burner, fat extractor, fat melter, feather dresser, fish curer, glue maker, gut maker, gut scraper, insecticidal manufacturer, knacker, lime burner, manure maker, manure storer, rag and bone dealer, sago manufacturer, sauce manufacturer, scrap rubber processer, size maker, skin curer, skin storer, soap boiler, tallow melter, tanner, tyre processer and any other trade or business which the Minister may by order declare to be an offensive trade.

Offensive traders to be licensed.

105. (1) It shall not be lawful —

- (a) for the occupier of any premises to use or permit such premises to be used for the purpose of any offensive trade or business unless he holds a licence authorising him to keep those premises for the purpose of such offensive trade or business;
- (b) for any person other than the occupier to use any premises for the purpose of any offensive trade or business unless the occupier of the premises holds a licence in respect thereof.

(2) Licences under this section shall be granted by the local authority on the payment of such fee as the local authority may deem fit and shall be valid for the year in which they are granted only.

(3) A person who uses any premises for any offensive trade or business in contravention of the provisions of this section, or permits any premises to be used, shall

be guilty of an offence and shall be liable on conviction to a fine of one thousand ringgit and one hundred ringgit for every day during which the offence continues.

Application and grant of licences.

106. A local authority on receiving from the occupier of, or a person proposing to occupy, any premises an* application for the grant of a licence authorising him to keep those premises for the purposes of an offensive trade or business may grant to him a licence in respect of those premises:

Provided that no such licence shall be granted until the Health Officer has inspected the premises named in the application and has reported to the local authority that they are suitable to be so licensed.

Mandatory grounds for refusal of licence.

107. Without prejudice to the proviso to section 106, a local authority shall refuse an application made to it for the grant of a licence under section 106 in respect of any premises if it is not satisfied that the requirements of this Ordinance or any other written law for the time being in force are complied with in respect of those premises.

Appeals against refusal to grant licence.

108. (1) If a local authority refuses to grant a licence under section 106 it shall forthwith give notice to the applicant of its decision.

(2) A local authority which has given to any person such notice as aforesaid shall, if so required by such person within fourteen days of its decision give to him, not later than seventy-two hours after receiving the requirement, a statement of the grounds on which its refusal was based.

(3) A person aggrieved by the refusal of a local authority to grant a licence under section 106 may, within fourteen days of the receipt by him of the grounds for such refusal appeal to the Minister whose decision shall be final.

By-laws for offensive trades.

109. The local authority may make by-laws —

* See Corrigenda at page LXXiv of 1960 Annual Volume.

- (a) for preventing or diminishing any noxious or injurious effects of any offensive trade or business;
- (b) for securing that premises licensed for any* offensive trade or business are kept in a sanitary condition and are properly managed; and
- (c) requiring a person licensed under section 105 to undertake the offensive trade of a knacker to keep, and to produce when required records of animals brought into the yard and the dates on which those animals and the different parts* thereof were disposed of.

PART IX
SANITATION AND BUILDINGS

Interpretation.

110. In this Part –

“cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings, and any receptacle for night soil or for offensive matter above or below the ground;

“closet” includes privy;

“drain” includes a private drain and a public drain;

“drainage” includes the conveyance by means of a sink and any other necessary appliance, of refuse water and the conveyance of rain water from roofs and yards;

“earth closet” means a closet having a movable receptacle for the reception of faecal matter and its deodorisation by the use of earth, ashes or chemicals, or by other methods;

“private drain” means a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;

“private sewer” means a sewer which is not a public sewer;

* See Corrigenda at page LXXiv of 1960 Annual Volume.

“public drain” means a drain connecting a private drain with a sewer or water course;

“public sewer” means a sewer constructed by or on behalf of or vested in or under the control of a local authority or where a contract or arrangement has been made under section 113 means a sewer constructed by or on behalf of or vested in or under the control of the authority supplying the sewerage services;

“sanitary convenience” includes a closet, urinal or place for washing;

“sewer” does not include a drain as defined in this section;

“tank” includes any receptacle, whether movable or fixed, and whether made of wood, metal, stone, brick, concrete or other material;

“water closet” means a closet which has a separate fixed receptacle connected to a drainage system, cesspool or pit and having a separate provision for flushing from a supply of clean water, either by the operation of mechanism or by automatic action.

Sanitary services.

111. It shall be the duty of the local authority to establish, maintain and carry out sanitary services for the removal and destruction of, or otherwise dealing with, night-soil, slops, surface water, rubbish, carcasses of dead animals and all kinds of refuse and effluent.

Sewerage services and public drains.

112. (1) Without prejudice to the generality of section 111, a local authority may and shall where so required by the Yang di-Pertua Negeri*, provide, repair and maintain such public sewers and public drains as may be necessary for effectually draining and cleansing its area, and make such provision by means of sewage disposal works or otherwise as may be necessary for effectually dealing with the contents of such sewers.

(2) Any such public sewer or public drain may be constructed in, under or over any public street, road,† square or open space, or any place laid out as or intended for a

* Throughout the Ordinance “Yang di-Pertua Negeri” substituted for “Yang di-Pertua Negara” by virtue of Enactment No. 17 of 1976.

† See Corrigenda at page LXXiv of 1960 Annual Volume.

public street, road, square or open space, or/and land in private ownership.

(3) Any such sewage disposal or drainage outfall works as are mentioned in subsection (1) may be constructed on any land acquired by a local authority for the purpose.

Contracts for services.

113. (1) For the purposes of subsection (1) of section 112, a local authority may enter into any contract or arrangement with Government, or any department thereof, or any public authority to supply any of the services specified in subsection (1) of section 112 on behalf of such local authority.

(2) Where any contract or arrangement has been made under subsection (1) the same shall be submitted for the approval of the Minister who may approve, amend or reject any such contract or arrangement and if the Minister approves such contract or arrangement, with or without amendment thereof, he shall publish notification of such approval in the *Gazette* and thereupon the powers and duties vested in the local authority by subsections (2) and (3) of section 112, section 114, 115, 116, 117, 118, 119 and 121 shall vest in and be exercised by the party with whom such contract or arrangement* was made as though such party were the local authority to the extent specified in such notification.

Local authority may open up streets and land.

114. (1) For the purposes of section 112, a local authority may from time to time as occasion requires open and break up any public street, road, square or open space, or any place laid out as or intended for a public street, road, square or open space:

Provided that the local authority shall keep open alternative routes where necessary, provide outlets where access to premises is obstructed, cause all works to be fenced and lighted so as to provide adequate warning for passers-by and as far as possible restore all such places to their condition previous to being opened up.

(2) For the like purposes a local authority may enter upon any land in private ownership, and may survey and take levels thereof and ascertain and set out any parts thereof as may be necessary, and may bore, dig, cut, trench, get, remove and lay earth, clay, stone, rubbish, gravel or sand:

* See Corrigenda at page LXXiv of 1960 Annual Volume.

Provided that the powers conferred by this subsection shall not be exercisable unless the local authority shall previously have given one month's notice in writing to every owner and occupier of the land concerned:

Provided further that the local authority shall do as little damage as possible in the exercise of the powers conferred by this subsection, and at its option shall make good, or pay compensation in accordance with section 115 for any damage done.

Compensation for damage done by local authority.

115. (1) Any person whose land is used by a local authority in exercise of the powers conferred by subsection (2) of section 114 shall be entitled to reasonable compensation for any damage sustained by him by reason of such use of his land.

(2) Any person aggrieved by a decision of the local authority upon the amount of compensation under subsection (1) may, within thirty days of the notification to him of the decision by which he is aggrieved, appeal to the Court of a Magistrate of the First Class, or where such person's claim is more than three thousand ringgit to the High Court whose decision shall be final.

Local authority to keep map showing sewers and drains.

116. Every local authority shall keep deposited at its office, for inspection by any person free of charge, a map showing and distinguishing as far as practicable all public and private sewers and public and private drains existing or in course of construction within its area.

Local authority may require private sewers and drains to conform with its requirements.

117. (1) Where a person proposes to construct a private sewer or private drain he shall inform the local authority and the local authority may, if it considers that the proposed sewer or drain is, or is likely to be, needed to form part of a general sewerage or drainage system which it has provided or proposes to provide, require him to construct the sewer or drain in a manner differing, as regards material or size of pipes, depth, fall direction or outfall, or otherwise, from the manner in which he proposes to construct it, and it shall be his duty to comply with the requirements of the local authority.

(2) A local authority which exercises the power conferred upon it by this section shall repay to the person constructing the sewer or drain the extra expense reasonably incurred by him in complying with such requirements, and unless the sewer or drain becomes vested in such authority, it shall also from time to time repay to him so much of any expenses reasonably incurred by him in repairing or maintaining the sewer or drain, as may be attributable to its requirements having been made and complied with.

Communication of private sewers and drains with public sewers and drains.

118. (1) The owner or occupier of any premises shall be entitled to, and if directed by the local authority shall, have any private sewer or private drain made to communicate with a public sewer or public drain:

Provided that the local authority shall have the right to prohibit such communication when in the opinion of the authority liquid or other matter which is liable to be in any way detrimental to the sewerage or drainage system will be discharged into the public sewer or public drain.

(2) The provisions of this section shall not apply unless there is a public sewer within 100 feet of the premises and at a suitable level.

Alternative drainage system of premises.

119. Where there is on any premises a private sewer or private drain, cesspoll or septic tank, but that system of drainage, though sufficient for the effectual drainage of the premises, is not adapted to the general sewerage or drainage system in the local authority area, or is in the opinion of the local authority otherwise objectionable, the local authority may at its own expense and on condition that it first provides for the premises a private sewer or private drain equally effective for the drainage thereof, close the existing sewer or drain, and do any work necessary for that purpose.

Provisions as to drainage of proposed buildings.

120. No person shall construct or extend any building unless the local authority shall have accepted as satisfactory the provision proposed to be made for the drainage of the building or the extension thereto or shall be satisfied that in the particular case of the building or extension it may properly dispense with any provision for drainage.

Buildings not to be erected over sewers or drains.

121. No person shall erect a building or any extension of a building over any sewer or drain unless he shall have obtained the consent of the local authority so to do and shall have complied with any requirements which may be attached by the local authority to its consent.

Provisions as to drainage of existing buildings.

122. If it appears to the local authority that in the case of any existing building —

- (a) satisfactory provision has not been, and ought to be, made for the drainage of such building; or
- (b) any private sewer, private drain, pipe, spout, sink or other necessary appliance provided in respect of such building, is insufficient; or
- (c) any private sewer or private drain provided in respect of such building which communicates directly or indirectly with a public sewer is so defective as to admit subsoil water; or
- (d) any private sewer or private drain formerly, but no longer, used for the drainage of such building is prejudicial to health or a nuisance,

the local authority shall by notice require the owner of the building to make provision satisfactory to the authority for the drainage of the building, or require either the owner or the occupier of the building to do such work as may be necessary for renewing, repairing, or cleansing the existing private sewer, private drain, pipe, spout, sink or other appliance, or for filling up, removing or otherwise rendering innocuous the disused private sewer or private drain.

Further provisions as to drainage of existing buildings.

123. If it appears to a local authority that in the case of any existing building —

- (a) any soil-pipe, waste-pipe, cesspool, septic tank or other necessary appliance or any closet accommodation is lacking or insufficient; or
- (b) any soil-pipe, waste-pipe, cesspool, septic tank or other necessary appliance

or any closet is in such a condition as to be prejudicial to health or a* nuisance; or

- (c) any soil-pipe, waste-pipe, cesspool, septic tank or other necessary appliance or any closet formerly, but no longer, used in connection with the building is in such a condition as to be prejudicial to health or a nuisance; or
- (d) that the soil-pipe from any water closet is improperly ventilated,

the local authority shall by notice to the owner of the building require him to make provision satisfactory to the authority for soil-pipes, cesspools or other necessary appliances or for closet accommodation or require the owner or occupier of the building to do such work as may be necessary for renewing, repairing or cleansing any existing soil-pipe, cesspool or other necessary appliance, or any closet, or for filling up any disused cesspool, or for removing or otherwise rendering innocuous any disused soil-pipe, cesspool or other necessary appliance, or for the proper ventilation of the soil-pipe of any water closet.

Replacement of earth closets by water closets.

124. (1) If any premises have a sufficient water supply available the local authority may by notice to the owner of any premises require that any closet provided for or in connection with the premises shall be replaced by a water closet.

(2) A notice under this section may require the owner to execute the necessary works, or may require that the local authority itself shall be allowed to execute them.

(3) When any works are carried out following a notice under this section, the owner of the premises shall not be required to pay more than one-half of the expenses reasonably incurred, the remainder being borne by the local authority.

(4) Where the owner of any premises proposes to provide them with a water closet in substitution for a closet of any other type, the local authority may, if the local authority thinks fit, pay him up to one-half of the expenses reasonably incurred in effecting the replacement, notwithstanding that a notice has not been served under this section.

(5) A local authority shall permit only such number of water closets as the local authority thinks proper to discharge into one septic tank.

* See Corrigenda at page LXXv of 1960 Annual Volume.

Leaking and overflowing cesspools.

125. If the contents of any cesspool or septic tank soak therefrom or overflow, the local authority may by notice require the person by whose act, default or sufferance the soakage or overflow occurred or continues, to execute such works, or to take such steps by periodically emptying the cesspool or septic tank or otherwise, as may be necessary for preventing the soakage or overflow:

Provided that this section shall not apply in relation to the effluent from a properly constructed tank for the reception and treatment of sewage, if that effluent is of such a character and is so conveyed away and disposed of, as not to be prejudicial to health or a nuisance.

Provision as to soil pipes and ventilating shafts.

126. (1) Save with the approval of the local authority, no pipe for conveying rain water from a roof or yard shall be connected to a pipe used for conveying the soil or drainage from any sanitary convenience.

(2) No pipe for conveying surface water from any premises shall be permitted to act as a ventilating shaft to any drain conveying foul water.

(3) If it appears to a local authority that there is on any premises a contravention of this section, it may by notice require the owner or the occupier of such premises to execute such work as may be necessary to remedy the matter.

Appeal to Minister against local authority's exercise of its powers.

127. (1) Any person aggrieved by the exercise or intended exercise of any power conferred by sections 117 to 126 inclusive or section 135* may appeal to the Minister whose decision in the matter shall be final.

(2) Any person appealing to the Minister under subsection (1) shall send a copy of his appeal to the local authority.

* See Corrigenda at page LXXv of 1960 Annual Volume.

Certain matters not to be passed into public sewers and drains connecting therewith.

128. (1) No person shall throw, empty or pass or permit to be thrown or emptied or passed into any public sewer or any private sewer or drain communicating with the public sewer —

- (a) any matter likely to injure the sewer or drain, or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or
- (b) any chemical refuse or waste steam, or any liquid of a temperature higher than one hundred and ten degrees Fahrenheit, being refuse or steam which, or a liquid which when of such temperature is, either alone or in combination with the contents of the sewer or drain, dangerous, or the cause of a nuisance, or prejudicial to health; or
- (c) any petroleum as defined by the Petroleum Ordinance* [Ord. 21/60.] or mixture containing petroleum or carbide of calcium.

(2) No person shall throw, empty or pass or permit to be thrown, emptied or passed any faecal or other offensive matter into any drain not communicating with a public sewer, septic tank or cesspool.

(3) Any person who contravenes any of the provisions of this section † shall be guilty of an offence.

Saving for streams, etc..

129. Nothing in this Part shall authorise any authority to construct or use any sewer or drain for the purpose of conveying sewage into —

- (a) any natural or artificial stream, watercourse or pond until the sewage has been so treated as not to affect prejudicially the purity and quality of the water in the stream, watercourse or pond; or
- (b) the sea so as to contaminate the foreshore or the water adjacent thereto.

* Petroleum Ordinance 1960 has been repealed by Petroleum (Safety Measures) Act 1984 (Act 302).

† See Corrigenda at page LXXv of 1960 Annual Volume.

Local authorities to provide for scavenging and cleaning.

130. (1) A local authority may, and shall within the limits of any urban area and in any other area if the Minister so directs, undertake the efficient execution of the following services within its area, or any specified part of its area —

- (a) the removal of house refuse and other rubbish from any premises;
- (b) the cleansing and disinfection of building or parts thereof, the cleansing and disinfection of closets, dustbins, ashpits, cesspools, septic tanks, private sewers and private drains, and the collection, removal and disposal of night-soil, upon such charges as such local authority may from time to time fix;
- (c) the sweeping, cleansing and watering of streets;
- (d) the provision and maintenance in sanitary condition of suitable places, buildings and appliances for the deposit or destruction of refuse, rubbish and night soil.

(2) Every person who in any way obstructs or hinders a local authority in the execution of any services under this section shall be guilty of an offence.

Local authority may impose duty of scavenging or cleaning on occupiers.

131. Where a local authority does not either of itself or by contract, provide the service of cleansing closets, dustbins, ashpits, cesspools, septic tanks, sewers or drains belonging to any premises, or removing house refuse, rubbish or night-soil from any premises, it may make by-laws imposing on the owner or occupier of such premises the duty of effectually performing such service in such manner and at such intervals as are prescribed.

By-laws.

A local authority may make by-laws as to all or any of the following matters—

- (a) preventing the accumulation of dust, filth, ashes and refuse on premises, and the duties of owners or occupiers with regard thereto;
- (b) for prescribing the size, material and make of dustbins or movable

receptacles for refuse to be provided by owners or occupiers of premises and the places where and the times at which such dustbins or receptacles shall be deposited for facilitating the removal of their contents by the local authority;

- (c) the duties of owners or occupiers in connection with house refuse, so as to facilitate the removal of it by scavengers;
- (d) regulating or preventing the keeping of any live or dead animals or birds;
- (e) regulating the situation, construction, drainage and use of any place in which animals or birds are kept, and the disposal of manure;
- (f) for prescribing the times for the removal or carriage through any part of its area of any faecal or other offensive matter or liquid whether such matter or liquid shall be in course of removal or carriage from within or without its area;
- (g) for providing that the vessel, receptacle, cart or carriage used therefor shall be properly constructed and covered so as to prevent the escape of any faecal or other offensive matter or liquid;
- (h) for compelling the cleansing of any place whereon any faecal or other offensive matter or liquid shall have been dropped or split in such removal or carriage;
- (i) for prescribing that no person shall engage in the business of carrying or removing any faecal or other offensive matter or liquid except with a permit from the local authority;
- (j) for prescribing that the owner or occupier of any premises from which any faecal or other offensive matter or liquid is at any time carried or removed by a person who has not a permit from the local authority shall be guilty of an offence;
- (k) for controlling the construction of private sewers and private drains.

Prohibition of interference with rubbish.

133. No person other than a person employed by a local authority or its contractor in connection with the removal and disposal of refuse or rubbish shall —

- (a) sort over or disturb the contents of any dustbin when put in any street or other place for the purpose of its contents being removed by the local authority or its contractor;
- (b) sort over or disturb the material deposited in any place provided by the local authority or its contractor for the deposit of refuse.

Provision of public conveniences.

134. (1) A local authority may, and shall where and as the Minister may direct, provide public sanitary conveniences in proper and convenient situations.

- (2) A local authority which provides any public sanitary conveniences may —
 - (a) make by-laws as to the conduct of persons using or entering them;
 - (b) let them for such terms, at such rent and subject to such conditions as it thinks fit;
 - (c) charge such fees for the use of any such convenience, other than a urinal, as it thinks fit.

Power to require sanitary conveniences to be provided in certain places.

135. A local authority may by notice require the owner or occupier of any hotel, lodging house, club, restaurant, coffee-shop, shop, sports ground or place of entertainment to provide and maintain in a suitable position such number of sanitary conveniences for the use of persons frequenting the premises as may be reasonable and in such notice the local authority may further prescribe that any such conveniences shall be water closets.

Offences and penalties.

136. (1) Any person who contravenes any provision of this Part or fails to comply with any requirement of a local authority under this Part shall be guilty of an offence:

Provided that this subsection shall not apply if an appeal to the Minister concerning the matter has been made in accordance with section 127 and has not been determined.

(2) Any person guilty of an offence against this Part shall be liable to a fine of one thousand ringgit and where the offence is a continuing offence, one hundred ringgit

for every day during which the offence continues.

PART X
MISCELLANEOUS PROVISIONS

Movable dwellings.

137. (1) The provisions of this Ordinance shall apply to movable dwellings as though such movable dwellings were buildings.

(2) A local authority may make by-laws to regulate and control the use of movable dwellings and, without prejudice to the generality of the foregoing, any such by-law may prohibit—

- (a) any person from allowing land occupied by him to be used as a site for a movable dwellings save under, and in accordance with any conditions contained in, a licence issued by the local authority; and
- (b) any person from erecting or stationing any movable dwelling upon any land save under, and in accordance with any conditions contained in, a licence issued by the local authority.

(3) In this section, “movable dwelling” includes any tent, *sulap*, and any caravan, boat or other conveyance being a caravan, boat or other conveyance which is used either regularly or at certain seasons only, or intermittently for human dwelling.

Local authority may establish Health Centres.

138. (1) A local authority may, with the approval of the Minister, establish and conduct Health Centres for the purpose of providing —

- (a) maternity and child welfare services;
- (b) anti-tuberculosis services;
- (c) for health education; and
- (d) generally for the prevention of disease and the promotion of health.

(2) Any proportion of the cost establishing such a Health Centre may be paid to the local authority by the Government.

(3) For the purpose of conducting a health centre, a local authority may employ such staff on such conditions as the authority may deem fit:

Provided that the Director may by order prescribe minimum qualifications for such staff and no local authority shall employ any staff for any duty not possessing the qualifications so prescribed for that duty.

Regulations requiring notification of births.

139. The Director may make regulations requiring the notification of births in any part of Sabah to the Health Officer and prescribing the procedure therefor.

PART XI
GENERAL PROVISIONS

Power of Health Officer to enter premises.

140. (1) Subject to the provisions of this section, the Health Officer shall, on producing, if so required, a document showing his authority, have a right to enter any premises at all reasonable hours —

- (a) for the purpose of ascertaining whether there is or has been on, or in connection with, the premises any contravention of the provisions of this Ordinance or of any subsidiary legislation made thereunder, being provisions which he is required or empowered to enforce; or
- (b) generally for the purpose of performing his functions under this Ordinance or any such subsidiary legislation:

Provided that admission to any house shall not be demanded as of right unless four hours' notice of the intended entry has been given to the occupier.

- (2) If a Magistrate, on sworn information in writing —
 - (a) is satisfied that there is reasonable ground for entry into any premises for any purpose mentioned in subsection (1); and
 - (b) is also satisfied that admission to the premises has been refused or that a refusal is apprehended and notice of the intention to apply for a

warrant has been given to the occupier, or that an application for admission would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent, the Magistrate may by warrant under his hand authorise the Health Officer to enter the premises, if need be by force.

(3) When the Health Officer enters any premises by virtue of this section, or of a warrant issued thereunder, he may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such warrant shall leave them as effectively secured against trespassers as he found them.

(4) Every warrant granted under this section shall continue in force for a period of one month.

(5) If any person who, in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or place of work discloses to any person any information thus obtained by him with regard to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

Power of Health Officer to enter ships, aircrafts, vehicles, etc..

141. (1) The Health Officer shall, on producing, if so required, a document showing his authority, have a right at all reasonable hours to enter any ship, aircraft, vehicle, movable dwelling^{*}, stall or place other than premises, for any purpose for which he is empowered under section 140 to enter premises.

(2) Subsections (2) to (4) of section 140 shall apply in relation to any ship, aircraft, vehicle, movable dwelling^{*}, stall or place which may be entered under the powers conferred by the foregoing subsection as they apply in relation to premises, and as if any reference to the occupier of premises were a reference to the master, captain^{*}, or other person in charge of the ship, aircraft, vehicle, stall or place.

Recovery of expenses.

142. Where a local authority or Health Officer has incurred expenses for the repayment whereof the owner of the premises for or in respect of which the same are incurred is

* See Corrigenda at page LXXv of 1960 Annual Volume.

made liable under this Ordinance or by an agreement with the local authority or Health officer, those expenses may be recovered, together with interest at a rate not exceeding four ringgit per centum per annum from the date of service of a demand thereof until payment thereof, from any person who is the owner of the premises when the works are completed for which the expenses have been incurred, and until recovery of the expenses and interest the same shall be a charge on the premises which may be registered in accordance with the provisions of the Land Ordinance [Cap. 68].

Legal proceedings.

143. Subject to the provisions of section 335 of the Criminal Procedure Code† [Ord. 4/59.], all proceedings under this Ordinance may be instituted and conducted either by the local authority or the Health Officer.

144. (Repealed).

Service of notices and orders.

145. Notices and orders under this Ordinance, may be served by delivering the same to the person to whom they are addressed or, if addressed to two or more persons by delivering the same to or at the residence of any of those persons, and when addressed to the owner of any premises they may also be served by delivering the same or a copy thereof to some person upon the premises or * by fixing the same upon some conspicuous part of the premises.

Owner of premises need not be further designated.

146. Whenever in any legal proceedings under this Ordinance it becomes necessary to refer to the owner of any premises, it shall be sufficient to designate him as the owner of those premises without name or further description.

† Ordinance No. 4 of 1959 was repealed by Act A324 which extended to Sabah F.M.S. Cap. 6.

* See Corrigenda at page LXXv of 1960 Annual Volume.

Exemption.

147. The Yang di-Pertua Negeri or the Minister as the case may require may by order ‡ exempt any local authority or any part of Sabah not within the limits of any local authority from all or any of the provisions of this Ordinance.

PART XII
REPEAL AND TRANSITION

Repeals.

- 148.** (1) The Lepers Ordinance [*Cap. 70.*] is repealed.
- (2) The Mosquito Destruction Ordinance [*Cap. 82.*] is repealed.
- (3) The Vaccination Ordinance [*Cap. 153.*] is repealed.
- (4) Sections 93, 94, 95, 96, 97, 98, 99, 100, 101, and 102 of the Criminal Procedure Code, Cap. 30 [*Cap. 30.*], which remain in force under section 359 of the Criminal Procedure Code, Ordinance No. 4 1959 [*Ord. 4/59.*], are repealed.

Amendments Cap. 132.

- 149.** (1) Subsection (1) of section 15 of the Rural Government Ordinance* is amended —
- (a) by deleting paragraphs (29), (31), (35), (36), (37), (38), (39) and (40) thereof; and
- (b) in paragraph (30) thereof by deleting the words and punctuation “mosquitoes” and, “bugs”.
- (2) Section 49 of the Municipal and Urban Authorities Ordinance‡ is amended —
- (a) in subsection (1) thereof by deleting paragraphs (b) and (d) thereof; and
- (b) in subsection (2) thereof by deleting —

‡ See G.N.S 157/60.

* Title has been changed to Rural Administration Ordinance No. 11 of 1961.

- (i) paragraphs (b) and (c); and
 - (ii) paragraph (d)(iii) and substituting therefor the following —
 - “(iii) social and recreational centres;”.
- (3) Section 59 of the Municipal and Urban Authorities Ordinance[†] is repealed.

Transitional provisions, by-laws.

150. Where at the commencement of this Ordinance there are in force in any local authority area or in any area not within the limits of any local authority any by-laws made under any of the provisions of the Rural Government Ordinance* deleted from that ‡ Ordinance by subsection (1) of section 149 or made under any of the provisions of the Municipal and Urban Authorities Ordinance[†] deleted from that Ordinance by subsection (2) of section 149, the following provisions[‡] shall apply to any such by-law —

- (a) if any such by-law is inconsistent with any provision contained in this Ordinance, such by-laws shall cease to have effect upon the coming into operation of this Ordinance:

Provided that if upon the coming into operation of this Ordinance the Yang di-Pertua Negeri or the Minister, as the case may require, by an order under section 147, exempts any local authority or any part of Sabah not within the limits of any local authority from any of the provisions so applied such provision shall not be deemed to have come into operation in such area until such exemption shall cease to have effect;

- (b) if any such by-law makes provision which may lawfully be made in any subsidiary legislation which any authority is empowered to make under this Ordinance, such by-law shall remain in force in such local authority area or such other area as if made by the appropriate authority under this Ordinance until the same shall be amended or revoked by such authority in accordance with the provisions of this Ordinance;
- (c) any other such by-law shall remain in force until revoked by the Minister which the Minister, notwithstanding the provisions of the Interpretation

[†] Municipal and Urban Authorities Ordinance Cap. 162 was repealed by Ordinance No. 11 of 1961.

* Title has been changed to Rural Administration Ordinance No. 11 of 1961.

‡ See Corrigenda at page LXXv of 1960 Annual Volume.

Ordinance and any other written law, is hereby empowered to do.

Sabah LawNet