

STATE OF SABAH

SEWERAGE SERVICES ENACTMENT 2017 (No. 5 of 2017)

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Sabah LawNet

I assent,

TUN DATUK SERI PANGLIMA (DR) HAJI JUHAR
HAJI MAHIRUDDIN
Yang di-Pertua Negeri

28 DECEMBER, 2017.

No. 5 of 2017

An Enactment to provide for and regulate sewerage services and for matters connected therewith.

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

PART I

PRELIMINARY

Short title and commencement

1. (1) This Enactment may be cited as the Sewerage Services Enactment 2017.
(2) This Enactment comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Interpretation

2. In this Enactment, unless the context otherwise requires-

"Collector" has the meaning assigned to it in section 4 of the Land Ordinance [*Cap. 68*];

"common internal sewerage piping" means the pipes, private connection pipes, channels, conduits or similar structure, fixtures and other apparatus for the conveyance of sewage within or from more than one premises but under the common management and maintenance of owners or occupiers or a management corporation of the premises serviced by the internal sewerage piping up to the point of connection to a sewer, sewage treatment works or a septic tank or up to such other point of connection as may be determined by the Director, but does not include the sanitary system in a building;

"connection" means work necessary to connect a private connection pipe to a sewer or sewage treatment works;

"Director" means the Director of Sewerage Services appointed under section 6;

"disposal pipe" means a pipe, channel, conduit or similar structure used for the discharge of effluent from a sewerage system or septic tank for eventual discharge to a water course or other receiving medium;

"Government" means the Government of the State of Sabah;

"individual internal sewerage piping" means the pipes, private connection pipes, channels, conduits or similar structure, fixtures and other apparatus for the conveyance of sewage within or from premises up to the point of connection to a common internal sewerage piping, a sewer, sewage treatment works or a septic tank or up to such other point of connection as may be determined by the Director, but does not include the sanitary system in a building;

"industrial effluent" means liquid waste or waste water produced by reason of or in the course of the production processes taking place at any industrial premises;

"land" has the meaning assigned to it in section 4 of the Land Ordinance [*Cap.68*];

"local authority" means any local authority established or deemed to have been established under the Local Government Ordinance 1961 [*No.11 of 1961*];

"Minister" means the Minister charged with the responsibility for sewerage services;

"occupier" means-

- (a) a person in occupation or control of premises; and
- (b) in relation to premises where different parts of the premises are occupied by different persons, the respective persons in occupation or control of each part of the premises;

"premises" includes any hut, structure, house, building, conveyance and land whether or not enclosed or built upon;

"private connection pipe" means any pipe, channel, conduit or similar structure being part of the individual internal sewerage piping or common internal sewerage piping of premises used, or which can be used, for the conveyance of sewage from the premises up to the point of connection to a public sewerage system, sewage treatment works or a septic tank or up to such other point of connection as may be determined by the Director;

"private sewerage system" means a sewerage system other than a public sewerage system;

"prohibited effluent" means industrial effluent or such other effluent as may be prescribed by the Minister;

"public sewerage system" means-

- (a) a sewerage system which is connected to, or conveys sewage to, a public sewer;
- (b) a sewerage system which is not connected to nor conveys sewage to a public sewer but is determined by the Director to be or form part of a public sewerage system; or
- (c) such other sewerage system as may be determined by the Director;

"pumping station" means a pump and any associated plant and building used for the conveyance of sewage;

"septic tank" means a settlement tank with one or more compartments forming a system or part of a system to treat, either partially or fully, sewage from one premises;

"sewage" means any liquid discharges containing human excreta, animal or vegetable matters in suspension or solution derived from domestic activities and being generated from household, commercial, institutional and industrial premises including liquid discharges from water closets, basins, sinks, bathrooms and other sanitary appliances but excluding rain water and prohibited effluent;

"sewage sludge" means the residual mixture of solid and liquid produced during the partial or full treatment of sewage but does not include treated sewage effluent discharged through a disposal pipe;

"sewage treatment works" means the facility designed to accept and process sewage or sewage sludge before disposal to a receiving medium, but does not include septic tanks;

"sewer" means any pipe, with its appurtenances, designed to convey sewage from two or more premises to a sewerage treatment work other than an individual internal sewerage piping or common internal sewerage piping;

"sewerage services" means the collection, conveyance, treatment and disposal of sewage or sewage sludge, and includes the operation and maintenance of a sewerage system and the desludging of septic tanks;

"sewerage services contractor" means a person who undertakes, provides or makes available sewerage services;

"sewerage system" means a system incorporating sewers, disposal pipes, pumping stations or sewage treatment works or any combination thereof and all other structures, equipment and appurtenances (other than individual internal sewerage piping, common internal sewerage piping or septic tanks) used or intended to be used for the collection, conveyance, pumping or treatment of sewage and sewage sludge or the disposal of treated sewage effluent or sewage sludge;

"vesting date" means the date on which property and rights are vested in the Government under section 4;

"watercourse" includes rivers, streams and creek including any tributary, distributary or artificial deviation thereof, seas, lakes, ground water, dams, reservoirs, ditches, drains and passages.

PART II

RESPONSIBILITY FOR SEWERAGE SYSTEMS AND SEWERAGE SERVICES

Government to have authority for sewerage systems and services

3. The Government shall, upon the coming into operation of this Enactment, have executive authority with respect to all matters relating to sewerage systems and sewerage services in Sabah.

Transfer of property for sewerage purposes

4. (1) After the Government and a local authority have mutually agreed to the transfer of any moveable or immovable property vested in the local authority for purposes of sewerage systems and sewerage services, the Minister may by order published in the *Gazette* appoint a date and on that date the moveable or immovable property shall be transferred to and vested in the Government in accordance with the terms and conditions mutually agreed to by the parties concerned.

(2) Where any property vested in, reserved for or alienated to a local authority for purposes of sewerage systems and sewerage services immediately prior to the coming into operation of this Enactment is needed for those purposes under this Enactment but no agreement is reached between the parties referred to in subsection (1) with respect to the transfer of that property, the property may be acquired by the Government-

(a) in the case of land, in accordance with the Land Acquisition Ordinance [Cap. 69]; and

(b) in the case of any other property, upon payment of adequate compensation,

and for the purposes of the law referred to in paragraph (a), the land shall be deemed to be needed for a public purpose.

(3) Any property transferred to the Government under subsection (1) or acquired by the Government under subsection (2) shall vest in the Government without any

conveyance, assignment or transfer and shall be so vested for the like title, estate or interest and on the like tenure as the property was vested before the transfer or acquisition.

(4) Where any property is vested under this section in the Government, all rights enjoyed wholly or mainly in connection with that property before the vesting date shall, as from the vesting date, be transferred to and vested in the Government.

(5) Any proceedings or cause of action pending or existing immediately prior to the vesting date by a local authority in respect of any property or right transferred to the Government under this section may be continued and enforced by the Government.

(6) Every chose-in-action vested in the Government under this section may be sued on, recovered or enforced by the Government, and it shall not be necessary for the Government to give notice to the person bound by the chose-in-action of the vesting effected by this section.

(7) Every right transferred to the Government under this section may, on and after the vesting date, be sued on, recovered or enforced by the Government and it shall not be necessary for the Government to give notice to the person whose right is affected by the vesting under this section.

Privatization agreement

5. Notwithstanding the provisions of any written law to the contrary, the Government shall, upon the coming into operation of this Enactment, have power to enter into any agreement with any sewerage services contractor authorizing the contractor to do all or any of the following matters:

- (a) to plan, design, construct, manage, inspect, operate, maintain, repair or refurbish any public sewerage system;
- (b) to provide sewerage services;
- (b) to do such other matters as may be agreed upon between the Government and the sewerage services contractors.

PART III

DIRECTOR OF SEWERAGE SERVICES

Director

6. (1) The Minister shall appoint, from amongst the members of the State public service, a Director of Sewerage Services.

(2) There shall be appointed from amongst the members of the State public service, such numbers of officers as may be necessary or expedient to assist the Director in the performance of his duties under this Enactment.

(3) A person appointed under subsection (2) shall be subject to the direction, control and supervision of the Director.

Functions and powers of the Director

7. The Director shall have the following functions and powers:

- (a) to formulate and implement a plan so that all reasonable demands for sewerage services are satisfied;
- (b) in consultation with the relevant authorities, prepare a structure plan formulating the policy and general proposals in respect of the development of any new sewerage system and measures for improvement of any existing sewerage system;
- (c) to prescribe the minimum standards and specifications of any installation or equipment relating to sewerage systems, septic tanks, connections and private connection pipes and to register persons supplying such installation or equipment;
- (d) to set standards and specifications and to prescribe codes of practice for the planning, design, construction, installation, commission and maintenance of sewerage systems;
- (e) to exercise regulatory functions specified in this Enactment and any subsidiary legislation made under this Enactment;

- (f) to issue licences under this Enactment;
- (g) to secure that the functions and obligations of any sewerage services contractor with whom an agreement has been entered into under section 5 are properly carried out;
- (h) to ensure that a sewerage services contractor with whom an agreement has been entered into under section 5 is able to finance the proper carrying out of his functions;
- (i) to promote the interests of customers of sewerage services or connection services provided by any person licensed under this Enactment in respect of-
 - (i) the prices to be charged for the services;
 - (ii) the quality of the services;
 - (iii) in relation to sewerage services, the continuity of the services;
- (j) so far as it appears to him practicable from time to time to do so, to keep under review the performance of every sewerage services contractor with whom an agreement has been entered into under section 5; and
- (k) to do all such things as may be necessary for the purpose of carrying out, or in connection with, the performance of his functions and powers under this Enactment.

Power to Delegate

8. (1) The Director may, in writing, delegate any of his functions or powers subject to such conditions, limitations or restriction as he thinks fit, to any officer, and such person to whom the functions or powers is delegated shall perform the functions and powers in the same manner and with the same effect as if the functions or powers had been conferred on him under this Enactment.

(2) A person purporting to act pursuant to a delegation made under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(3) A delegation made under this section may at any time be revoked by the Director.

(4) A delegation made under this section shall not preclude the Director himself from carrying out at any time the delegated functions or powers.

Power of the Minister to give directions

9. The Minister may, from time to time, give directions of a general character not inconsistent with the provisions of this Enactment as to the performance of the functions and the exercise of the powers of the Director under this Enactment and it shall be the duty of the Director to give effect to such directions.

PART IV
LICENSING

Requirement for a licence

10. (1) No person shall-

- (a) own a sewerage system or any part of the systems;
- (b) undertake, provide or make available any sewerage services or part of the services by means of operating a sewerage system;
- (c) carry out any works necessary to connect a private connection pipe to a sewer or sewage treatment works;
- (d) construct, install or modify any part of a sewerage system;
- (e) carry out maintenance services for a sewerage system; or
- (f) undertake, provide or make available sewerage desludging services or any other sewerage services,

unless he holds a licence.

(2) Any person who –

- (a) in relation to a public sewerage system, contravenes paragraph (1)(b)

commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both;

(b) in relation to a private sewerage system, contravenes paragraph (1)(a) or (b) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both; or

(c) contravenes paragraph (1)(c), (d), (e) or (f) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(3) The Minister may, upon recommendation of the Director, by order published in the *Gazette*, exempt a person from the licensing requirements under this section subject to such terms and conditions as the Minister thinks fit.

Application for licence

11. (1) An application for a licence under section 10 shall be made to the Director in the prescribed form.

(2) Every application under subsection (1) shall be accompanied by such documents and information as may be specified by the Director.

(3) The Director may, in writing at any time after the receipt of an application under subsection (1), request the applicant to give him within the period specified in the request, additional information, particulars or document on the application.

(4) If any additional information, particulars or document required under subsection (3) is not given by the applicant within the period specified in the request or any extension of time granted by the Director, the application shall be deemed to be withdrawn and shall not be further proceeded with, but without affecting the right of the applicant to make a fresh application.

Grant or refusal of licence

12. (1) Upon receipt of an application made under section 11 and after given due consideration, the Director may grant or refuse to grant a licence to the applicant.

(2) If the Director decides to grant a licence under subsection (1), he shall –

(a) require the licensee to pay the prescribed fees within the prescribed period;
and

(b) impose standard licence conditions or such conditions as may be prescribed.

(3) Where the Director refuses to grant a licence, he shall inform the applicant in writing of such refusal.

Power to impose additional conditions or to vary conditions

13. The Director may, at any time –

(a) impose any additional conditions on the licence granted under section 12; or

(b) vary any of the conditions imposed on the licence granted under section 12.

Renewal of licence

14. (1) A licensee may apply for a renewal of his licence in such form and manner as may be prescribed by the Director.

(2) The licensee shall furnish to the Director any information as the Director considers necessary and relevant to the application.

(3) The Director may, after receiving an application for a renewal of licence under subsection (1), renew the licence or refuse to renew the licence.

(4) Where an application for a renewal of licence is approved by the Director, the licence shall be renewed upon payment of the prescribed fee and the Director may impose such terms and conditions as the Director considers necessary.

Transfer of licence

15. (1) The grant of a licence under section 12 shall be personal to the licensee and the licence shall not be assigned or transferred to any other person except with the prior written approval of the Director.

(2) A licensee who assigns or transfers his or its licence to any other person without the prior written approval of the Director commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Revocation of licence

16. (1) The Director may revoke a licence under any of the following circumstances:

- (a) the licensee has failed to comply with any provisions of this Enactment or any subsidiary legislation made under this Enactment;
- (b) the licensee has failed to comply with any of the conditions of the licence;
- (c) the licensee had obtained the licence by fraud or misrepresentation;
- (d) the licensee has been convicted of an offence under this Enactment or subsidiary legislation made under this Enactment;
- (e) a receiver, receiver and manager, provisional liquidator or like official has been appointed over the whole or substantial part of the licensee's assets and such appointment is not revoked or annulled within a period of sixty days from the date of such appointment; or
- (f) there has been any act or default on the part of the licensee or there has been a change of circumstances such that the licensee would no longer be entitled to be granted a licence under this Enactment.

(2) Before the Director makes a decision under subsection (1), the Director may, by notice in writing, give the licensee an opportunity to show cause against the revocation.

(3) The licensee shall not be entitled to any form of compensation if the licence is revoked in accordance with subsection (1).

Effect of revocation or non-renewal of licence

17. (1) If the revocation of a licence under section 16 has taken effect or where the licence has not been renewed under section 14, the licensee shall immediately cease to provide any service in respect of which the licence was granted.

(2) Notwithstanding subsection (1), the Director may authorize the licensee in writing to carry on providing any service for such duration and upon such terms and conditions as the Director may specify in the authorization for the purpose of winding up the licensee's affairs.

PART V

APPROVAL OF PLANS AND SPECIFICATIONS OF SEWERAGE SYSTEMS OR
SEPTIC TANKS

Construction of sewerage systems and septic tanks

18. (1) No person shall construct, alter, modify or closed up a sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping unless the relevant plans or specifications which requires the approval of the Director have first been approved in writing by the Director.

(2) The Director shall set out the standards as to the type and extent of construction, alteration, modification or closing up of a sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping which require the relevant plans and specifications to be first approved by the Director.

(3) A person seeking the approval of the Director under subsection (1) shall submit to the Director such information and document in a form and manner and within the time as may be determined.

(4) If a person fails to comply with subsection (3), the person's application for approval shall be deemed to be withdrawn without affecting the person's right to submit a fresh application.

(5) In considering whether to grant an approval under subsection (1), the Director shall take into consideration the following:

- (a) the business plan submitted by person operating and maintaining the sewerage system or septic tank;
- (b) the plans and specifications for the sewerage system or septic tank submitted by the person; and
- (c) such other matters as the Director deems fit.

(6) In granting the approval to the person under subsection (1), the Director may impose such terms and conditions as he deems fit.

(7) A person who-

- (a) constructs, alters, modifies or closes up a sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping without the plans and specifications which are required to be approved by the Director being first approved in writing by the Director;
- (b) constructs, alters, modifies or closes up any sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping not in accordance with approved plans and specifications; or
- (c) makes any alteration to approved plans and specifications for the sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping otherwise than in accordance with this Enactment or any subsidiary legislation made under this Enactment,

commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both; and he shall alter the sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping so as to comply with the approved plans and specifications.

(8) If any person has committed any of the offences under subsection (7), notwithstanding that the construction, alteration, modification or closure may have been approved under any written law, the Director may-

- (a) if the construction, alteration, modification or closure has been completed, direct that person, the owner or management corporation of the land or any combination of them, within a specified period, to bring the construction, alteration, modification or closure into conformity in the manner as the Director deems fit or, where this is not possible, to restore the land as far as possible to the condition it was in before the construction, alteration, modification or closure was commenced; or
- (b) if the construction, alteration, modification or closure has not been completed, direct that person, the owner or management corporation of the land to immediately cease the construction, alteration, modification or closure works and comply with such requirement as the Director deems fit or, where this is not possible, to restore the land as far as possible to the condition it was in before the construction, alteration, modification or closure was commenced.

(9) Notwithstanding subsections (7) and (8), the Director may execute any work or take any measure-

- (a) if the Director considers such work or measure to be in the interest of public health;
- (b) if the Director considers such work or measure necessary to prevent an imminent danger to the environment; or
- (c) in the case of non-compliance with any directions given under subsection (8), and such work and measure may be in addition to or in place of anything required to be done under any directions the Director may issue under subsection (8) and the Director may recover all expenses reasonably incurred by the Director in doing so from the person who committed the offence under this section.

(10) Where cessation has been directed by the Director, the Director may allow the resumption of the construction, alteration, modification or closure subject to compliance with such directions and conditions as the Director may specify.

(11) The Director may refuse to allow the resumption of the construction, alteration, modification or closure under subsection (10) until all expenses reasonably incurred by the Director in securing the cessation, executing the work and taking the measures have been reimbursed.

(12) A person who-

- (a) continues to carry out any activity after being directed to cease work under subsection (8);
- (b) fails to comply with a direction or condition given by the Director under this section; or
- (c) does any act to obstruct in any manner the Director or any person authorized by the Director in the execution of the powers under this section,

commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Requirement for developer to construct sewerage system

19. A developer of a new development shall be required to construct a sewerage system or part of the systems in its development in accordance with requirements set out in any plan and specification approved by the Director according to section 18.

Developer to hand over sewerage system of new development to Director

20. (1) Subject to subsections (2) and (5), a developer of a new development shall, upon the issuance of the certificate of practical completion of the sewerage system or part of the systems by a qualified person, hand over the sewerage system or part of the systems within the development to the Director at no cost, for the purposes set out in subsection (3).

(2) The Director shall accept the sewerage system or part of the systems after the Director is satisfied that the sewerage system or part of the systems meets the standards and specifications requirements of the sewerage services as set out by relevant authorities.

(3) Upon the sewerage system or part of the systems being handed over to the Director, the Director shall operate and maintain such system.

(4) The developer shall provide or cause the owner of the land to provide the Director access to the sewerage system or part of the systems for the purposes of operating and maintaining such system.

(5) Notwithstanding subsection (1), a developer who owns a private sewerage system or any part of the system or provides sewerage services for the sole purpose of collecting, conveying, treating and disposing sewage by means of a private sewerage system is exempted from the obligations under this section.

(6) A person who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(7) In this section, "qualified person" means a person who is recognized by the Director as a person qualified to issue a certificate of practical completion for the purpose of subsection (1).

PART VI

PUBLIC SEWERAGE SYSTEMS

Sewerage system deemed to be public sewerage system

21. (1) Any sewerage system vested in the Government under section 4 shall be deemed to be a public sewerage system.

(2) Any sewerage system constructed or to be constructed by a sewerage services contractor pursuant to an agreement entered into under section 5 shall be deemed to be a public sewerage system.

Declaration of public sewerage system

22. Subject to the Land Acquisition Ordinance [Cap. 69], the Minister may from time to time, by notice published in the *Gazette*, declare that any sewerage system, not being a public sewerage system, shall become a public sewerage system.

Public sewerage system may be constructed

23. The Director may-

- (a) cause any sewerage system to be constructed as he may deem necessary;
- (b) cause to be constructed or installed any public sewer or disposal pipe through, across or under any place laid out as, or intended for, a road or any cellar or vault which is under any road; or
- (c) after giving notice in writing to the relevant authorities, cause to be constructed or installed any public sewer or disposal pipe through, across, under or over any premises.

Requirements in respect of sewer or sewerage system which will form part of public sewerage system

24. (1) Where a person proposes to construct a sewer or a sewerage system and the Director considers that the proposed sewer or sewerage system will be or is, or is likely to be, needed to form part of a public sewerage system, the Director may require that person-

- (a) to construct the sewer or sewerage system in such manner as may be specified by the Director; or
- (b) to repair and maintain the sewer or sewerage system until the sewer or sewerage system becomes part of the public sewerage system.

(2) The person referred to in subsection (1) shall comply with the requirements of the Director under that subsection.

Management, operation, maintenance, etc., of public sewerage system

25. (1) The Director shall cause public sewerage systems to be managed, operated, maintained, inspected, repaired, refurbished, altered, arched over or otherwise improved and shall treat and dispose of the contents thereof, and may discontinue, close up or remove any part thereof.

(2) If by reason of any inspection, refurbishment, repair, alteration or improvement of any public sewerage system under subsection (1) any person is deprived of the lawful use of any sewer, the Director shall reasonably provide some other facility as effectual as the one of which that person is so deprived.

Desludging public sewerage system

26. The Director shall cause public sewerage systems to be properly desludged and, for the purpose of desludging the public sewerage systems, he may construct and place, either above or under ground, such reservoirs, sluices, engines and other works as are necessary.

Power to require premises to be connected to public sewerage system

27. (1) The Director may direct the owner or management corporation, or if the owner or management corporation cannot be traced, the occupier of any premises not connected to a public sewerage system, to construct or install for the premises, within the period specified in the direction, a private connection pipe of such materials or size and at such level as to enable the premises to be properly and effectively connected to any public sewer or public sewerage system located within thirty meters from the boundary of the premises.

(2) If the owner, management corporation or occupier to whom a direction under subsection (1) has been issued fails to comply with the direction within the period specified in the direction, the Director or any person authorized by the Director may construct or install the private connection pipe or caused the pipe to be constructed or

installed and recover the expenses incurred in the construction and installation of such pipes from the owner, management corporation or occupier.

Requirement that proper drainage for sewage be made

28. (1) If any premises is at any time not properly drained for sewage by a sufficient private connection pipe communicating with a public sewer or public sewerage system in accordance with this Enactment or any subsidiary legislation made under this Enactment or otherwise to the satisfaction of the Director, the Director may give notice in writing requiring the owner or management corporation of the premises or, if the owner or management corporation cannot be traced, the occupier thereof to construct or install from such premises a pipe of such material or size and at such level and with such gradient as the Director deems necessary for the draining of sewage from the premises or to construct such other system as the Director deems necessary.

(2) If the owner, management corporation or occupier to whom a notice under subsection (1) has been issued fails to comply with the notice within the period specified in the notice, the Director or any person authorized by the Director may construct or install the pipe or such other system as the Director thinks necessary or cause the pipe or system to be constructed or installed and recover the expenses incurred in the construction and installation of the pipe or system from the owner, management corporation or occupier.

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

Unauthorized connection to public sewer, etc.

29. (1) No person shall, without the prior written permission of the Director-

- (a) make or cause or permit any private connection pipe, drain or sewer to connect directly or indirectly to any public sewer or public sewerage treatment works; or
- (b) close up, obstruct, stop or deviate or cause to close up, obstruct, stop or deviate any public sewer.

(2) The Director may-

- (a) order any person contravening paragraph 1(a) to take necessary action as the Director thinks fit; or
- (b) demolish or otherwise remove the obstruction, private connection pipe, drain or sewer and recover the expenses incurred in doing so from the person.

(3) The Director may refuse to permit any person to make a connection to any public sewer or public sewage treatment works if-

- (a) the public sewer or public sewage treatment works do not or will not have the necessary capability or capacity to receive the sewage which will be discharged through the proposed connection; or
- (c) it appears to the Director that the mode of construction or the condition of the public sewer or public sewage treatment works is such that the making of the connection is likely to be prejudicial to the public sewerage system.

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

Prohibited effluent or noxious matter not to be discharged into public sewer, etc.

30. (1) No person shall discharge into or allow to be discharged into any public sewer or public sewage treatment works-

- (a) any prohibited effluent, without the approval of the Director;
- (b) any noxious, volatile or inflammable substance or any other matter likely to damage or impair the functioning of any public sewer or public sewage treatment works or to interfere with the free flow of its contents or to affect prejudicially the treatment or disposal of its contents; or
- (d) any effluent, matter or substances from a garbage grinder or such other device determined by the Director, without the approval of the Director.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for term not exceeding one year or to both.

Damage to public sewerage system to be made good

31. (1) If, through any act, neglect or default, any person has committed an offence under this Enactment or any subsidiary legislation made under this Enactment and by that act, neglect or default he has caused damage to any public sewerage system, that person shall in addition to any penalty that may be imposed for that offence, be liable to make good the damage and pay compensation to the Government for the damage caused.

(2) The amount to be paid in making good any damage under subsection (1) shall, in case of dispute, be determined by the court by which the person causing such damage is convicted.

PART VII

PRIVATE SEWERAGE SYSTEMS AND SEPTIC TANKS

Power to construct or install private sewerage system or septic tank

32. (1) The Director may direct the owner or management corporation of any premises, or if the owner or management corporation cannot be traced, the occupier of the premises, to construct or install a private sewerage system or septic tank for the premises as the Director deems necessary.

(2) The cost of the construction or installation of the private sewerage system or septic tank shall be borne by the owner or management corporation of the premises, or if the owner or management corporation cannot be traced, the occupier.

Power to cause private septic tanks to be desludged

33. The Director shall cause private septic tanks in areas prescribed by the Minister to be properly desludged from time to time.

Power to require private sewerage system, etc., to be put in proper order

34. (1) If the Director is satisfied that-

- (a) a private sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping on any premises or which serves any premises; or
- (b) a private connection pipe connecting any premises to a public sewerage system,

is defective or is not properly maintained or is in need of repair, the Director may issue a direction to the owner, management corporation or occupier of such premises or the owner of or the management corporation responsible for the private sewerage system, septic tank, private connection pipe, individual internal sewerage piping or common internal sewerage piping to have such private sewerage system, septic tank, private connection pipe, individual internal sewerage piping or common internal sewerage piping repaired or put in proper order within the period specified in the direction.

(2) If the Director is satisfied that, due to any obstruction, any premises on which a septic tank is situated does not have adequate access for the purpose of desludging the septic tank, the Director may issue a direction to the owner, management corporation or occupier of such premises to remove such obstruction within the period specified in the direction.

(3) If the person to whom a direction issued under subsection (1) or (2) fails to comply with the direction within the period specified in the direction, the Director or any person authorized by the Director may, at the expiration of such period, do the work required in the direction and may recover the expenses incurred in doing so from the owner, management corporation or occupier.

Duty to operate and maintain private sewerage system, etc.

35. (1) The owner, management corporation or occupier of any premises having a private sewerage system or septic tank shall-

- (a) grant adequate access to the septic tank for the purpose of enabling the septic tank to be serviced and desludged;
- (b) cause the private sewerage system, septic tank, private connection pipe, individual internal sewerage piping, common internal sewerage piping and all accessories thereto to be so maintained and kept as not to be a nuisance or harmful to health; and
- (c) cause the septic tank to be desludged by a sewerage services contractor.

(2) The owner, management corporation or occupier of any premises, as the case may be, shall be solely responsible for the maintenance, refurbishment or replacement of the individual internal sewerage piping or the common internal sewerage piping.

(3) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit.

Penalty in respect of nuisance, etc., caused by private sewerage system or septic tanks

36. (1) The owner of or management corporation responsible for-

- (a) any private sewerage system or septic tank which is so foul or in such a state or so situate as to be a nuisance or a danger to health; or
- (b) any premises which is not ventilated in such manner as to render harmless as far as practicable any gas, vapour, dust or other impurity that is harmful to health generated from that private sewerage system or septic tank,

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) The Director may direct the owner or the management corporation or, if the owner or management corporation cannot be traced, the occupier of the premises where the private sewerage system or septic tank is located or situated on, to abate such nuisance, harm or danger.

(3) If the owner, management corporation or occupier fails to comply with the direction of the Director under subsection (2), the Director or any person authorized by the Director may abate such nuisance, harm or danger and the expenses incurred by the Director or the authorized person shall be borne by the owner, management corporation or occupier.

PART VIII CHARGES

Power to impose charges

37. The Minister may make regulations to prescribe the rates to be charged for the sewerage services.

Power to exempt from rates or charges

38. The Minister may exempt any person or organization from the payment of any rates or charges in relation to sewerage services on such terms and conditions as he thinks fit.

Recovery of money due

39. (1) Any monies due under this Enactment shall be deemed to be a debt owed to the Government and shall carry interests at the prevailing statutory rate.

(2) A written statement by the Director or any person authorized by him specifying the amount due shall be *prima facie* evidence of the payment that has to be made by the consumer under subsection (1).

PART IX GENERAL OFFENCES AND PENALTIES

Wrongful acts

40. (1) A person who-

- (a) willfully, negligently or recklessly damages or causes to be damaged any pipe, channel, conduit or structure, sewer, manhole, chamber, fixture, equipment, reservoir, pump, valve or any part of any public sewerage system;
- or

- (b) trespasses on any area of a sewage pumping station or sewage treatment works of a public sewerage system,

commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) A person who is convicted for an offence under paragraph (1)(a) shall be liable to pay compensation for such damage and such compensation shall be recoverable in the manner provided under section 39.

Tampering of sewerage system or part of the systems

41. Any person who tampers with any pipe, channel, conduit or structure, sewer, manhole, chamber, fixture and equipment, including any valve or any part of a sewerage system commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Penalty for obstructing

42. Any person who at any time-

- (a) hinders or obstructs any officer or person authorized by the Director, under this Enactment or any of the sewerage services contractors' or licensee's employees or agents in the performance and execution of his duty or of anything which he is respectively empowered or required to do by virtue of or in consequence of this Enactment; or
- (b) removes any mark set up for the purpose of direction necessary to the execution of works authorized by this Enactment or any subsidiary legislation made under this Enactment,

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding six month or to both.

Proceedings if occupier opposes the execution of works

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

(2) The occupier of any premises who continues, after the expiration of eight days from the date of an order made under subsection (1), to refuse to permit the owner or the management corporation of the premises to execute the works specified in the order commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit, and the owner or the management corporation shall, during the continuance of the occupier's refusal, be discharged from any penalty to which the owner or the management corporation might otherwise be liable by reason of his or its default in executing the works.

Unlawful use or supply of non-standard equipment, device, material or system

44. (1) A person who uses or supplies any non-standard equipment, device, material, or system that he knows or has reason to believe is a non-standard equipment, device, material or system to be used for any purpose of installing, working or operating the equipment, device, material or system commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) In any proceedings under this Enactment or any subsidiary legislation made under this Enactment, any document purporting to be a certificate given by an officer authorized by the Director certifying that any particular equipment, device or material is a non-

standard equipment, device or material shall be admissible as *prima facie* evidence of the facts stated in it until the contrary is proved.

Offence for giving false or misleading information

45. A person who discloses or provides information to the Director or any officer authorized by him that he knows or has reason to believe is false or misleading commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

PART X

POWERS OF ENTRY

Power to enter premises

46. (1) The Director, or any person authorized by the Director, may enter into any premises at any reasonable time for the purpose of-

- (a) making any survey or inspection;
- (b) managing, planning, designing, refurbishing, repairing, maintaining and operating any public sewerage system;
- (c) constructing or installing any public sewer or disposal pipe;
- (d) treating and disposing the contents of any public sewerage system;
- (e) closing up any part of a public sewerage system;
- (f) desludging any septic tank; or
- (g) any other purposes connected with the execution of the works authorized by this Enactment.

(2) No person shall enter any premises for any of the purposes mentioned in subsection (1) except with the consent of the owner or management corporation of the premises, where such premises are in occupation, the occupier of such premises or after giving twenty-four hours notice to the owner, management corporation or occupier.

(3) In the case of reserved land, the notice referred to in subsection (2) shall be given to the person in charge of the reserved land or, in the absence of such person, to the Collector.

(4) Notwithstanding subsection (1), the Director or any person authorized by the Director may enter into any premises at any time in the case of an emergency where a sewerage system or any part thereof, due to any cause, is or is likely to become dangerous to the public.

Compensation

47. The person exercising the powers conferred by sections 46 shall do as little damage as possible and when he has exercised those powers shall pay full compensation to the person entitled to it for any damage sustained by them by reason of the exercise of those powers.

PART XI ENFORCEMENT

Appointment of enforcement officers

48. The Director may in writing appoint any number of enforcement officers as may be necessary for the purposes of this Enactment.

Authority card

49. (1) The Director shall issue an authority card to each enforcement officer which shall be signed by the Director.

(2) Whenever an enforcement officer exercises any of the powers under this Enactment or any subsidiary legislation made under this Enactment, he shall, on demand, produce to the person against whom the power is being exercised, the authority card issued to him under subsection (1).

Power of investigation

50. (1) An enforcement officer shall have the power to investigate the commission of an offence against, and the activities of a licensee material to his compliance with, this Enactment or any subsidiary legislation made under this Enactment.

(2) An enforcement officer may, in relation to an investigation in respect of an offence committed against this Enactment or any subsidiary legislation made under this Enactment, exercise all or any of the powers in relation to police investigation, except the power to arrest without warrant, given under the Criminal Procedure Code [Act 593].

Search with warrant

51. (1) If it appears to a Magistrate, upon written information on oath and after such inquiry as he considers necessary, that there is reasonable cause to believe that-

- (a) any premises have been used or are about to be used for; or
- (b) there is in any premises evidence necessary to the conduct of an investigation into,

the commission of an offence under this Enactment or any subsidiary legislation made under this Enactment, the Magistrate may issue a warrant authorizing an enforcement officer named in the warrant, at any reasonable time by day or by night and with or without assistance, to enter the premises and if need be by force.

(2) Without affecting the generality of subsection (1), the warrant issued by the Magistrate may authorize the enforcement officer to-

- (a) search for any equipment, device, material, book, record, account, document or other thing as he may consider necessary;
- (b) inspect any equipment, device, material, book, record, account, document or other thing and may open any receptacle, package or conveyance as he may consider necessary;
- (c) search for any signboard, card, letter, pamphlet, leaflet or notice;

- (d) take any photograph via any means including electronic means, enquire and record any information about the inspection as he may consider necessary; or
- (e) request the production of any books, account or other documents and may make copy of or extract from thereof.

(3) An enforcement officer entering any premises under this section may take with him such other persons and equipment as may appear to him to be necessary.

(4) An enforcement officer conducting a search under subsection (1) may, for the purpose of investigating into the offence, search any person who is in or on the premises.

(5) Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(6) An enforcement officer may, in the exercise of his powers under this section, if it is necessary so to do-

- (a) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry into the premises, if necessary forcibly;
- (b) remove by force any obstruction to entry, search or removal as he is empowered to effect under this section; and
- (c) detain any person found in the premises until the search has been completed.

Search without warrant

52. If the enforcement officer has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 51 the investigation would be adversely affected or the evidence of the commission of the offence is likely to be tampered with, removed, damaged or destroyed, the enforcement officer may enter the premises and exercise in, and in respect of the premises, all the powers referred to in section 51 in as

full and ample a manner as if he was authorized to do so by a warrant issued under that section.

Power to seize equipment, device, etc.

53. (1) If an enforcement officer has reason to believe that there has been committed an offence under this Enactment or any subsidiary legislation made under this Enactment, he may seize any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance in which the equipment, device, material, book, record, account, document or other thing may have been found or which has been used in connection with the offence.

(2) Where under this section any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance has been seized in respect of such offence then the enforcement officer may retain any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance until the conclusion of such criminal proceedings.

Power to seal premises

54. (1) If by reason of its nature, size or amount, it is not practicable to remove any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance that has been seized in or on any premises, the enforcement officer shall, by any means, seal such premises from where the equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance was found.

(2) Any person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (1) or removes any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance seized under seal or attempts to do so, commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Access to computerized data

55. (1) An enforcement officer conducting a search under this Enactment shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purpose of this section, “access” includes being provided with the necessary password, encryption code, decryption code, software or hardware or any other means required to enable the comprehension of computerized data.

List of things seized

56. (1) Where any seizure is made under this Enactment, the enforcement officer making the seizure shall prepare a list of the equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance seized and of the place in which that equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance is found and shall sign the list.

(2) The list prepared in accordance with subsection (1) shall be delivered immediately to the occupier of the premises where the equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance seized is found.

(3) Where the seizure is made in or from any premises which is unoccupied, the enforcement officer shall whenever possible post a list of the things seized conspicuously at or on the premises.

Power to require attendance of person acquainted with case

57. (1) An enforcement officer making an investigation under this Enactment may, by order in writing, require the attendance before himself of any person who appears to the enforcement officer to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If the person refuses or fails to attend as so required, the enforcement officer may report such refusal or failure to a court who shall issue a summons to secure the attendance of such person as may be required by the order made under subsection (1).

Examination of person acquainted with case

58. (1) An enforcement officer making an investigation under this Enactment may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

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

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

(4) The enforcement officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

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

Admissibility of statements in evidence

59. (1) Except as provided in this section, no statement made by any person to an enforcement officer in the course of an investigation under this Enactment shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to the enforcement officer in the course of the investigation under this Enactment and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraph 32(1)(a),(i) and (j) of the Evidence Act 1950 [Act 56].

(5) When any person is charged with any offence in relation to –

(a) the making; or

(b) the contents,

of any statement made by him to the enforcement officer in the course of an investigation made under this Enactment, that statement may be used as evidence in the prosecution's case.

Forfeiture or release of equipment, device, etc., seized

60. (1) Any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance seized in exercise of any power conferred by this Enactment shall be liable to forfeiture.

(2) An order for the forfeiture of any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance shall be made if it is proved to the satisfaction of the court that an offence under this Enactment has been committed and that the equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance was the subject matter of or was used in the commission of the offence, even though no person may have been convicted of such offence.

(3) If there is no prosecution with regard to any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance shall be taken and deemed to be forfeited at the expiration period of one calendar month from the date of service of a notice to the last known address of the person from whom the equipment, device, material, book, record, account, document or other thing was seized indicating that there is no prosecution in respect of such equipment, device, material,

book, record, account, document or other thing unless before the expiration of that period a claim thereto is made in the manner set out in subsections (5), (6), (7) and (8).

(4) If no claim is made under subsection (5) within thirty days from the date of service of the notice referred to in subsection (3), the equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance seized under this Enactment shall be taken and deemed to be forfeited at the expiration of that period.

(5) Any person asserting that he is the owner of equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance referred to in subsection (3) and that it is not liable to forfeiture may personally or by his agent authorized in writing, give written notice to the enforcement officer in whose possession such equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance is held that he claims the equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance.

(6) On receipt of the notice referred to in subsection (5), the enforcement officer shall refer the claim to a Magistrate.

(7) The Magistrate to whom a matter is referred under section (6) shall issue a summons requiring-

- (a) the person asserting that he is the owner of the equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance; and
- (b) the person from whom the equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance was seized,

to appear before him, and when they appear or they fail to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter.

(8) If it is proved that an offence under this Enactment or any subsidiary legislation made under this Enactment has been committed and that equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance was the subject matter of or was used in the commission of such offence, the Magistrate shall order the equipment, device, material, book, record, account, document or other thing or receptacle, package or conveyance to be forfeited, and shall, in the absence of such proof, order its release.

(9) Any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance forfeited or deemed to be forfeited shall be delivered to the Director and shall be disposed of in such manner as the Director thinks fit.

Cost of holding equipment, device, etc., seized

61. If any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance seized under this Enactment is held in the custody of the Director pending completion of any proceedings in respect of an offence under this Enactment or any subsidiary legislation made under this Enactment, the cost of holding it in custody shall, irrespective of whether any prosecution is instituted or otherwise against any person, be a debt due to the Government by such person and shall be recoverable accordingly.

No cost or damages arising from seizure to be recoverable

62. No person shall, in any proceedings before any court in respect of any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance seized in the exercise or the purported exercise of any power conferred under this Enactment, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Obstructing, etc., officers

63. Any person who-

- (a) in any way assaults, hinders or obstructs the enforcement officer in the performance of his duties under this Enactment or any subsidiary legislation made under this Enactment; or
- (b) fails to give reasonable facilities or assistance to any enforcement officer in the performance of his duties under this Enactment or any subsidiary legislation made under this Enactment,

commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Enforcement officer may seek assistance to examine things relating to offence

64. An enforcement officer may seek the assistance from any person who has the necessary qualifications to examine the equipment, device, material, book, record, account, document or other thing seized or retained under this Enactment for the purposes of an investigation under this Enactment.

PART XII

MISCELLANEOUS

Offences by body corporate and by employee or agent

65. (1) If any offence under this Enactment or any subsidiary legislation made under this Enactment has been committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, or was in any manner responsible for the management of any of the affairs of the body corporate, or was assisting in such management, shall be deemed to be guilty of the offence unless he proves that the offence was committed without his knowledge, consent or connivance and he had exercised due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Enactment or any subsidiary legislation made under this Enactment to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his or of the employee of such agent, if such act, omission, neglect or default was committed by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

(3) Nothing under subsection (2) shall absolve an agent, officer or employee from any liability for an offence.

General penalty

66. (1) Any person who commits an offence under this Enactment or any subsidiary legislation made under this Enactment for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Any body corporate which commits an offence under this Enactment or any subsidiary legislation made under this Enactment for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit.

Compounding of offences

67. (1) The Director may compound any offence committed by any person under this Enactment or any subsidiary legislation made under this Enactment and prescribed to be a compoundable offence by making a written offer to such person to compound the offence on payment to the Director of such amount not exceeding fifty per cent of the amount of the maximum fine for that offence within such time as may be specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer made under subsection (1) is not paid within the time specified in the offer or within such extended period as the Director may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall after that be instituted in respect of the offence against the person to whom the offer to compound was made, and any equipment, device, material, book, record, account, document or other thing or any receptacle, package or conveyance seized in connection with the offence may be released by the Director, subject to such terms as the Director thinks fit.

Prosecution

68. No prosecution for an offence under this Enactment shall be instituted except by or with the consent in writing of the Public Prosecutor.

Protection against suit and legal proceedings

69. No action shall lie or prosecution shall be brought, instituted or maintained in any court against –

- (a) the Director, officer or enforcement officer; and
- (b) any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the director, officer or enforcement officer,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying into effect the provision of this Enactment.

Inaccuracies in documents

70. (1) No misnomer or inaccurate description of any person, premises, holding, street or place named or described in any document prepared, issued or place named or described in any document prepared, issued or served under, by virtue of or for the purposes of this Enactment or any subsidiary legislation made under this Enactment shall in any way affect the operation of this Enactment or any subsidiary legislation made

under this Enactment with respect to that person or place if that person or place is so designated in the document as to be identifiable.

(2) No proceedings taken under or by virtue of this Enactment or any subsidiary legislation made under this Enactment shall be invalid for want of form.

Liability of transferors

71. (1) Every person who sells or transfers any property in respect of which expenses have been incurred by the Director, a sewerage services contractor or a connection contractor, as the case may be, in or about the execution of any work which are, under this Enactment or any subsidiary legislation made under this Enactment, recoverable from the owner of the property shall continue to be liable for the payment of all expenses payable in respect of the property and for the performance of all other obligations imposed by this Enactment upon the owner of the property which become payable or are to be performed at any time before the transfer becomes effective.

(2) Nothing in this Enactment shall affect the liability of the purchaser or transferee to pay expenses in respect of the property referred to in subsection (1) or affect the right of the Director, a sewerage services contractor or a connection contractor, as the case may be, to recover those expenses from or to enforce any obligation under this Enactment or any subsidiary legislation made under this Enactment against, the purchaser or transferee.

Power to make regulations

72. (1) The Minister may make regulations which are necessary or expedient for carrying out, or giving effect to, the purposes of this Enactment.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations in respect of all or any of the following matters:

(a) to prescribe the minimum standards and specifications which shall be used in the design, construction, installation, protection, operation and maintenance of any sewerage system;

(b) to prescribe all matters relating to the issuance of licences granted under this

Enactment, including the eligibility of persons applying for licences, licence fees for different types of licences and licensed activities, the duration of the licences, the forms of licences, the standard conditions of the licences, renewal fees and other processing charges;

- (c) to regulate the supply and use of equipment by a sewerage services contractor or a connection contractor in providing sewerage services or executing or carrying out a connection;
- (d) to prescribe the areas in which septic tanks shall be desludged;
- (e) to prescribe the means to be adopted, whether by prohibition or otherwise, to prevent or abate any nuisance likely to arise or arising from the construction of any private sewerage system or septic tank;
- (f) to regulate the services provided by a sewerage services contractor including provisions for recovery of charges and fees for sewerage services, connection, entry into any premises by a sewerage services contractor or any person authorized by him for purposes related to the sewerage services;
- (g) to prescribe the manner in which plans and specifications in respect of any proposed sewerage system are to be submitted and approved under this Enactment;
- (h) to prescribe fee and charges which may be prescribed under this Enactment;
- (i) to prescribe the offences which may be compounded and the forms to be used and the method and procedure for compounding offences;
- (j) to prescribe any matter for which this Enactment makes express provision to be made by regulations; and
- (k) to prescribe all other matters as are necessary or expedient to be prescribed for giving to this Enactment.

Savings and transitional

73. (1) Nothing shall affect the past operation of, or anything done under the provisions of, any law relating to sewerage systems and services passed before the date of coming into operation of this Enactment.

(2) Any plans or specifications in respect of any sewerage system or septic tank approved under any other written law before the date of coming into operation of this Enactment shall be deemed to have been approved under section 18.

(3) The provisions of subsections 10(1) and (2) shall not apply to any person who, on the date of coming into operation of this Enactment, was carrying on any of the acts described in subsection 10(1) until the expiration of six months from that date or the final determination of his application for a licence under this Enactment, whichever is the later.

(4) Notwithstanding subsection (1), any right, liberty, privilege or obligation existing immediately before the date of coming into operation of this Enactment by virtue of any law relating to sewerage systems or sewerage services in force before that date shall, except as may be expressly provided in this Enactment, be subject to the provisions of this Enactment.

(5) All regulations, rules, by-laws, exemptions, directions and orders made, all registers kept and all permits and certificates granted or having effect under any written law and in force or having effect at the commencement of this Enactment, shall (without prejudice to the power of the Minister to amend the regulations and rules and to amend, revoke or withdraw the exemptions, directions, permits or certificates by order or direction made under the appropriate provision of this Enactment) continue to be in force and have effect as if they had been made, kept or granted under this Enactment, until otherwise provided for under this Enactment.

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Thursday, the 23rd day of November, 2017.

DATUK SERI PANGLIMA HAJI SYED ABAS SYED ALI,
Speaker,
State Legislative Assembly.

Sabah LawNet