

## STATE OF SABAH

### Town and Country Planning Ordinance (Sabah Cap. 141)

#### LIST OF AMENDMENTS

<i>Ordinance/ Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
22/52	21 (4)	10-12-1952
40/1953	2, 3, 10, 11, 15, 17, 18A, 18B, 20 (1), (2), 21 (1) (2)	31-8-1953
8/1958	1 (2), 2, 3 (1) (a), 1st Sch.	24-5-1958
1/1959	6, 12	4-6-1959
9/1960	12 (1) (b), (2), (1)	7-4-1960
5/1965	3 (1) (a), 12	11-8-1965
G.N.S. 56/1964	3 (1) (b), 12	15-4-1964
G.N.S. 75/1966	1st Sch.	18-8-1966
G.N.S. 85/1966	1st Sch.	15-9-1966
G.N.S. 92/1966	1st Sch.	1-10-1966

FOR REFERENCE ONLY (JANUARY 2020)

G.N.S. 96/1966	Corrigendum to G.N.S. 75/66	18-8-1966
G.N.S. 118/1966	1st Sch.	2-12-1966
G.N.S. 119/1966	1st Sch.	2-12-1966
G.N.S. 120/1966	1st Sch.	2-12-1966
G.N.S. 117/1967	1st Sch.	26-10-1967
G.N.S. 118/1967	1st Sch.	26-10-1967
G.N.S. 119/1967	1st Sch.	26-10-1967
G.N.S. 18/1971	1st Sch.	3-6-1971
6/1972	3rd Sch.	27-7-1972
Act 160	Throughout the Ordinance “ringgit” substituted for “dollar”	29-8-1975
G.N. 720/1975	1st Sch.	18-12-1975
5/1981	Throughout the Ordinance “Yang di-Pertua Negeri” substituted for “Yang di-Pertua Negara”, 2, 3	30-4-1981
7/2002	Sections 2, 3, 4, New Sections 4A and 4B, New Part IA. Sections 11, 12, 13, 14, 15, 16, 19, 22, 23, 25,28. New Parts VA and VB. Sections 33, New Sections 34A, 34B, 34C, 34D.	01-09-2003 (G.N. 988/03) <small>Except for Part VB (Section 28L - 28P)</small>

*FOR REFERENCE ONLY (JANUARY 2020)*

2<sup>nd</sup> and 3<sup>rd</sup> Schedule

7/2019

General amendment, Sections 2, 12-12-2019  
3, 4, 18A

**Town and Country Planning Ordinance  
(Sabah Cap. 141)**

To make provision for the orderly and progressive development of land, towns and other areas whether urban or rural, to preserve and improve the amenities thereof, and for other matters connected therewith.

[28th June, 1950.]

**Short title and application.**

1. (1) This Ordinance may be cited as the Town and Country Planning Ordinance, and shall apply to the areas specified in the First Schedule.

(2) The Yang di-Pertua Negeri may by order –

(a) add to, vary or revoke the whole or any part of the First Schedule;

(b) declare that in respect of any area to which this Ordinance is applied and which is not included within any area within which an urban authority or a Township Council constituted under the Rural Government Ordinance\* [Cap. 132.] exercises jurisdiction (in this section referred to as the “extended area”) the by-laws, rules and regulations of such authority or Council as may be specified in such Order relating to development (including building operations), or any other such by-laws, rules and regulations as may be specified, shall apply throughout such extended area as if the extended area were part of such urban area as defined in the Municipal and Urban Authorities Ordinance+ [Cap. 162.]; or part of such Township as defined in the Rural Government Ordinance\* [Cap. 132.]; and, for the purposes of such by-laws, rules and regulations, that the powers of such authority or Council or of any officer of such authority or Council shall be exercised in the extended area by the urban authority or Township Council or officer; and from the date of publication of any such order the provisions of this Ordinance and such by-laws, rules and regulations shall have effect in the extended area.

\* Sections 2 to 34, 48 to 52 and 56 to 59 of Cap. 132 were repealed by Ordinance No.11 of 1961

+ Cap. 162 was repealed by Ordinance No. 11 of 1961.

PART 1  
PRELIMINARY

**Interpretation.**

**2.** In this Ordinance –

“Appeal Board” means the Appeal Board constituted under the provisions of section 28L;

“approved scheme” means a scheme which has been approved by the Yang di-Pertua Negeri, under paragraph (a) of subsection (2) of section 10;

“building” means any building, erection, structure or any other building erected on or made on any lands and where the context so permits, includes the land on which the building is situate;

“building operations” includes any works, preliminary or incidental to the erection of buildings;

“Council” means the State Planning Council established under section 3;

“Director” means the Director of State Town and Regional Planning Department;

“development” means the carrying out of any building, engineering, mining, industrial or other similar operation, on, over, or under land, the making of any material change in the case of any land or building or any part thereof or the subdivision or amalgamation of lands;

“draft scheme” means a scheme which has been prepared or adopted by a local authority but which has not been approved by the Yang di-Pertua Negeri;

“engineering operation” includes the formation or levelling of land, the formation or laying out of means of access to a road, and the laying out of cables, mains or means of water supply or drainage;

“fence” includes any boarding or paling used as such, and also banks and walls;

“hard roof” shall have the meaning assigned in any written law applicable to the building to which it relates and if there be no written law so applicable or if the building was erected before the coming into force of this Ordinance shall include a roof of belian shingles;

“hedge” includes any tree or shrub forming a part of a hedge;

“land” includes land covered with water and also includes incorporeal as well as corporeal hereditaments of every tenure or description, and any interest therein, and also an undivided share of land;

“Local Authority” means local authority as defined in section 2 of the Interpretation Ordinance<sup>†</sup> [Cap. 63].

“material date” means the date on which the resolution to prepare a draft plan under section 8 of the Town Planning Ordinance, 1927 [No. 6 of 1927], was notified or the date on which the resolution to prepare or adopt a draft scheme under section 6 was notified:

Provided that where any provision of a scheme is revoked by a subsequent scheme which contains the same provision or a provision substantially to the same effect, the material date in relation to that later provision shall be the date which, if the earlier provision had continued in operation, would have been the material date in relation thereto;

“Minister” means the Minister in charge of Town and Country Planning;

“owner” in relation to any land, means the registered owner of the title under which such land is held and in relation to any building includes any person entitled to the rents or profits of the building under a sub-lease registered in accordance with the provisions of the Land Ordinance [Cap. 68.];

“permanent building” means –

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<sup>\*</sup>The definition of “local authority” was substituted by section 109 (1) (a) of the Local Government Ordinance, 1961 and subsequently repealed by the Interpretation and General Clauses Enactment, 1963 (No. 34 of 1963). See definition of “local authority” under section 3 (1) of the Enactment.

<sup>†</sup> Cap. 63 in so far as it applied to State laws was repealed by Enactment No.34 of 1963

- (a) any building which was erected, or constructed, before the 31st day of December, 1941, and which did not contravene any written law relating to development or building operations in force in respect of such building at the time such building was erected, or constructed;
- (b) any building the erection of which was contemplated by an endorsement on the land title of the owner, which was built before the material date and which did not contravene any written law relating to development or building operations in force in respect of such building at the time such building was erected or constructed; and
- (c) any building with a hard roof and with walls wholly or partly of brick, stone, concrete, wood or iron or a combination of any such materials:

Provided that any such building which was erected or constructed on land the subject of a temporary occupation licence and any such building which was erected or constructed with the approval of the Chairman of any Local Authority as a temporary building under the building by-laws of such Authority shall not be a permanent building;

“road” means any road whether public or private and includes any street, square, court, alley, lane, bridge, footway, bridle path, passage, or highway whether a thoroughfare or not;

“scheme” in relation to a district, means a district plan; and, in relation to an area within a district, means a local plan;

“site” in relation to a building includes the area of any offices, out-buildings, yard, court or garden occupied or intended to be occupied therewith.

### **State Planning Council**

- 3. (1) There shall be established a State Planning Council consisting of -
  - (a) a Chairman, being the Minister

- (b) a Deputy Chairman, being the State Secretary;
- (c) the Permanent Secretary of the Ministry of Local Government and Housing;
- (d) the Permanent Secretary of the Ministry of Finance;
- (e) the Permanent Secretary of the Ministry of Rural Development;
- (f) the Permanent Secretary of the Ministry of Industrial Development;
- (g) the Permanent Secretary of the Ministry of Tourism, Culture and Environment;
- (h) the State Attorney-General;
- (i) the Director of Lands and Surveys;
- (j) the Director of Public Works Department;
- (k) the Director of Agriculture;
- (l) the Director of the State Economic Planning Unit;
- (m) the Director of the Department of Mineral and Geoscience Malaysia (Sabah);
- (n) the Director of Irrigation and Drainage;
- (o) The Director of Ports and Harbours; and
- (p) not more than three other persons, who are not members of the Federal or State Public Service, to be appointed by the Yang di-Pertua Negeri.

(2) The Director shall be the Secretary of the Council.

(3) A member of the Council appointed under paragraph (1)(p) -

- (a) shall, unless he sooner resigns his office or his appointment is sooner revoked by the Yang di-Pertua Negeri, hold office for a period of not

exceeding three years as may be specified in the instrument of appointment and shall be eligible for re-appointment; and

- (b) Shall cease to be a member if he is absent for three consecutive meetings of the Council without the leave of the Chairman.

(4) The duties of the Council shall be to consider all schemes submitted to it by Local Authorities, to make recommendations thereon to the Yang di-Pertua Negeri, to advise the Yang di-Pertua Negeri generally on the development of land and to supervise and control Local Authorities in the exercise of the powers and duties conferred and imposed upon them by this Ordinance.

(5) Eleven members of the Council shall form a quorum.

(6) The Chairman shall preside at a meeting of the Council, or in the absence of the Chairman, the Deputy Chairman shall preside, and if the Deputy Chairman is also absent, such other member as may be elected by the members present shall preside.

(7) At any meeting of the Council, the decision of a majority of members present shall be the decision of the Council and the Chairman shall have an original vote, and, in the case of an equality of votes, shall also have a casting vote.

(8) Members of the Council may be paid such allowances as the Minister may determine.

#### **Town and Country Planner.**

4. (1) The Director shall be the Town and Country Planner.

(2) The Town and Country Planner shall be the technical adviser of the Council and shall –

- (a) carry out such duties as may be delegated to him by the Council;
- (b) convey to Local Authorities the decisions, instructions and recommendations of the Council;
- (c) advise Local Authorities on the preparation of draft schemes.

(3) The Director shall provide such technical assistance to the Local Authorities as

he may deem necessary to assist them in carrying out their functions and duties under this Ordinance.

**Local planning authorities.**

**4A.** Every Local Authority shall be the local planning authority for the area of the Local Authority.

**Functions of Local Authorities.**

- 4B.** (1) The functions of the Local Authority as a local planning authority shall be –
- (a) to regulate, control, and plan the development of all lands and buildings within its area;
  - (b) to undertake, assist in, and encourage the collection, maintenance, and publication of statistics, bulletins, and monographs, and other publications relating to town and country planning and its methodology; and
  - (c) to perform such other functions as the Council may from time to time assign.
- (2) A Local Authority may perform any other functions that are supplemental, incidental, or consequential to any of the functions specified in subsection (1) and do all such things as may be necessary or expedient for carrying out its functions under this Ordinance.

PART IA  
STRUCTURE PLAN

**Preparation of draft structure plan.**

- 4C.** (1) The Director shall, upon the direction of the Council, prepare a draft structure plan for the whole State of Sabah for the Minister to submit to the State Cabinet.
- (2) The draft structure plan shall be a written statement –
- (a) formulating the strategic policy for the purpose of determining the general directions and trends of the physical development of the State;
  - (b) formulating the policy and general proposals in respect of the

development and use of land in the State, including the territorial waters of the State; and

- (c) containing such other matters as the Council may in any particular case deem necessary.

(3) A draft structure plan shall contain or be accompanied by such diagrams, illustrations, and descriptive matter as the Director thinks appropriate for the purpose of explaining or illustrating the policies and proposals in the plan and the diagrams, illustrations, and descriptive matter shall be treated as forming part of the plan.

(4) In the preparation of the draft structure plan, the Director shall seek the views of the Local Authorities and such other authorities or persons whose assistance or advice he considers necessary.

(5) The Director may engage such person or persons as he may deem fit to assist him in the preparation of the draft structure plan.

**Publicity in connection with preparation of draft structure plan.**

**4D.** (1) Before preparing a draft Structure Plan to be submitted by the Minister to the State Cabinet, the Director shall ensure that there are sufficient publicity given to the draft structure plan and shall allow any person or persons or other bodies affected by the draft structure plan to make representation and objection in respect thereof. The Director shall consider the representations and objections and bring them to the attention of the Council. Such representations and objections shall be made to the Director within five weeks of such publications in the press.

(2) The draft Structure Plan referred to in section 4D(1) shall be published in three issues of at least two local newspapers, one of which being the national language disclosing where the copies of the plan can be made available for inspection.

(3) Copies of the plan or any relevant informations in whatever form maybe made available to the public upon payment of fees to be determined by the Director.

**Approval or rejection of draft structure plan by State Cabinet.**

**4E.** (1) The State Cabinet may, after considering a draft structure plan submitted or

resubmitted to it, either approve it, in whole or in part and with or without modifications or reservations, or reject it.

(2) If there is any amendments to be made to the draft Structure Plan, the State Cabinet shall return the plan to the Council.

(3) Upon receipt of such proposal to amend the draft Structure Plan, the Council shall:

- (a) take such further action as the State Cabinet directs; and
- (b) after doing so, to resubmit the draft Structure Plan with modifications to the State Cabinet for approval.

(4) Upon approving a draft structure plan by the State Cabinet, the Council shall submit it to the Yang di-Pertua Negeri for the assent of the Yang di-Pertua Negeri to the Structure Plan, and upon the assent being given, the Structure Plan shall come into effect upon publication in the *Gazette*.

**Alteration of structure plan.**

**4F.** (1) At any time after the structure plan comes into effect, a Local Authority may make proposal to the Director for any alterations to the Structure Plan. The Director may also direct the Local Authority to make proposal for alterations to the Structure Plan.

(2) Any proposal to amend the Structure Plan shall be referred to the Council for approval of the State Cabinet. All the procedures as required under section 4D & 4E shall apply.

PART II

PREPARATION AND APPROVAL OF SCHEMES

**Regulations as to procedure and in relation to matters in the Second Schedule.**

5. (1) The Council may with the approval of the Yang di-Pertua Negeri make

regulations† for regulating generally the procedure to be followed in connection with the preparation of draft schemes and the several matters and things mentioned in the Second Schedule.

(2) Any such regulations may provide that the breach or contravention of any regulation is an offence against such regulations and may provide as a penalty for any such offence a fine not exceeding five thousand ringgit.

**Preparation of draft scheme by a Local Authority.**

6. (1) A Local Authority may by resolution –
- (a) decide to prepare a draft scheme with respect to any land within the area specified in the resolution and within the jurisdiction of such Authority; or
  - (b) adopt, with or without modifications, a draft scheme proposed by all or any of the owners of any such land; or
  - (c) where any person makes any application to develop any land within the jurisdiction of such Local Authority, require such person to prepare a draft scheme for such land and all land contiguous to such land in respect of which such person is the owner or has any interest whatsoever.

(2) Notice of any resolution under the provisions of paragraph (a) of subsection (1) shall be published as soon as may be in the *Gazette* and in such other manner as to the Local Authority may seem fit.

(3) Where a Local Authority decides under subsection (1) to prepare a draft scheme, it shall proceed with the preparation of such scheme with all practicable speed.

(4) The Local Authority may delegate to a committee the duty of preparing such draft scheme. Such committee may co-opt any person or persons whose assistance or advice it may desire for such period or for such purpose as it may determine. Every person so co-opted shall for such period or for such purpose be a member of such committee.

(5) Where a draft scheme has been prepared under paragraph (c) of subsection (1)

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† See Town and Country Planning Regulations.

or subsection (4), the Local Authority may adopt with or without variations such draft scheme.

**Notification of preparation of draft scheme and objections.**

7. (1) Where a draft scheme has been prepared by a Local Authority under the provisions of subsection (3) of section 6 or adopted by a Local Authority under the provisions of paragraph (b) of subsection (1) or subsection (5) of section 6 such Local Authority shall forthwith notify such preparation or adoption, as the case may be, by publication in the *Gazette* and thereupon cause such draft scheme to be made available for public inspection for such period as may be prescribed and at such times and places as may be specified in such notification.

(2) Any person or public body affected by the draft scheme may within such period send to the Chairman of the Local Authority a written statement of objections to anything in the draft scheme.

(3) Such written statement shall set out –

- (a) the nature of and reasons for the objection;
- (b) if the objection would be removed by an alteration of the draft scheme, any alteration proposed;
- (c) if the objection can be satisfied by pecuniary compensation without alteration of the draft scheme, the amount of such compensation.

(4) Any such written statement shall be considered at a meeting of the Local Authority of which the objector shall be advised, and the objector may attend and be heard in person or by advocate or by a duly authorised agent or officer.

(5) The Local Authority may reject any objection in whole or in part or frame amendments of the draft scheme to meet such objection. Notice of any amendment shall be served upon the owner of any land affected thereby.

(6) Any written objection to an amendment received within the prescribed period after service of such notice upon the objector shall be considered at a meeting of the Local Authority of which such objector and the objector (if any) upon whose objection such

amendment was made shall be advised, and all the objectors may attend and be heard in person or by advocate or by a duly authorised agent or officer.

**Submission of draft scheme to Council.**

8. After consideration of all objections the Local Authority shall submit the draft scheme with or without amendments to the Council together with –

- (a) a schedule of the objections (if any) made under section 7 and not withdrawn;
- (b) a schedule of the amendments (if any) framed by the Local Authority with a view to meeting such objections;
- (c) a schedule of the claims to compensation (if any) made under section 7 and the recommendations of the Local Authority thereon.

**Powers of Council.**

9. The Council may adopt, with or without variations a draft scheme submitted to it by a Local Authority under the provisions of section 8 or may refer it back to such Local Authority for further information or consideration.

**Approval of schemes.**

10. (1) When the Council has adopted a draft scheme it shall with all convenient speed submit the same to the Yang di-Pertua Negeri.

- (2) The Yang di-Pertua Negeri may either –
  - (a) approve of such scheme with or without modification; or
  - (b) require such scheme to be modified; or
  - (c) require a new scheme to be submitted to him.

(3) When the Yang di-Pertua Negeri requires under this section a scheme submitted to him to be modified, it shall be the duty of the Local Authority concerned to modify such scheme accordingly and to re-submit such scheme as so modified to the Central

Board within such time as the Yang di-Pertua Negeri may stipulate and thereupon subsections (1) and (2) shall apply as if such scheme were then being submitted for the first time.

(4) When the Yang di-Pertua Negeri requires under this section a new scheme to be made and submitted to him it shall be the duty of the Local Authority concerned to make a new scheme accordingly and to submit such scheme to the Council within such time as the Yang di-Pertua Negeri may stipulate, and thereupon subsections (1) and (2) shall apply as if such submission were the first submission of an original scheme.

(5) When the Yang di-Pertua Negeri approves a draft scheme under this section such approval shall be signified on such scheme by the Clerk to the Cabinet\* who shall sign it and forthwith deposit it in the office of the Director. Notice of such approval shall be published in the next issue of the *Gazette* and the approved scheme shall have full force and take effect as from the date of such notification.

(6) The Local Authority concerned shall thereupon cause copies of such approved scheme certified by the Director to be made available for public inspection at the prescribed times and places.

**Deposit of copies of approved scheme.**

11. (1) A copy of every approved scheme certified by the Director shall be deposited at the office of the Director of Lands and Surveys<sup>†</sup> and at the District Land Office and thereupon the Director of Lands and Surveys or the Assistant Collector of Land Revenue, as the case may be, shall make on the documents of title to the lands affected by any such scheme or in the registers of title an endorsement to the effect that such land is subject to the conditions of such approved scheme.

(2) The Director of Lands and Surveys<sup>†</sup> or the Assistant Collector of Land Revenue may, if he shall think fit, by notice, require any person in possession of any document of title

\* "Clerk to the Cabinet" substituted for "Clerk of Council" by virtue of Article 48(1) of the State Constitution.

<sup>†</sup> "Director of Lands and Surveys" substituted for "Commissioner of Lands" and "Deputy Director of Lands and Surveys" substituted for "Surveyor-General" by G.N.S. 144 of 1954

<sup>†</sup> "Director of Lands and Surveys" substituted for "Commissioner of Lands" and "Deputy Director of Lands and Surveys" substituted for "Surveyor-General" by G.N.S. 144 of 1954

or copy thereof to deliver the same to him for similar endorsement, and such person shall be legally bound to deliver the same within twenty-eight days from the date of service of such notice.

(3) Where any registers of documents of titles or copies thereof are lost and such registers have not been re-constituted the Director or Assistant Collector of Land Revenue as the case may be shall keep such records and do such acts as the Director of Lands and Surveys† shall require to ensure that the provisions of this section shall be complied with as soon as may be.

**Revocation or modification of approved scheme.**

12. (1) A local authority may, and upon the direction of the Council or the Yang di-Pertua Negeri, shall –

- (a) resolve that an approved scheme shall be revoked and the provisions of sections 7 to 11 inclusive shall thereupon apply in the same manner as if the revocation were a draft scheme as referred to in subsection (1) of section 7; or
- (b) resolve to prepare or cause to be prepared any modification of or amendment to an approved scheme in whole or in part by the alteration, or deletion of any provision or matter therein appearing or the addition of any provisions or matter thereto and the provisions of subsections (2) to (4) inclusive of section 6 and of sections 7 to 11 inclusive shall thereupon apply in the same manner as if such proposed modification or amendment were a draft scheme referred to in subsection (1) of section 6:

Provided that the Yang di-Pertua Negeri may delegate \*the exercise of his powers under section 10, generally or specially, to the Minister in respect of such modifications and amendments.

(2) Where under the provisions of section 10 the Yang di-Pertua Negeri or the

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† "Director of Lands and Surveys" substituted for "Commissioner of Lands" and "Deputy Director of Lands and Surveys" substituted for "Surveyor-General" by G.N.S. 144 of 1954.

\* See G.N.S. 104 of 1960.

Minister in the exercise of any power delegated to him under the proviso to paragraph (b) of subsection (1) approves the revocation or modification or amendment of any approved scheme proposed in accordance with the provisions of subsection (1), the Director of Lands and Surveys shall within one month of the date of such revocation, modification or amendment give notice thereof to the owner of any property affected and thereupon, if the owner has not in fact suffered any damage, any compensation already agreed upon or rewarded by a Judge shall be cancelled without prejudice to the right of a later scheme but subject nevertheless to the provisions of subsection (2) of section 25.

**Obligation to give information to Council or Local Authority.**

13. (1) The Council or a Local Authority in the area within its jurisdiction may, for any purpose arising in relation to the making of a draft scheme or the enforcement or carrying out of an approved scheme, by notice in writing require the owner or occupier of any land or building in the area to which such scheme relates or is intended to relate or any person receiving, whether for himself or for another, rent out of any such land or building to state in writing and deliver or forward by registered post to the Council or Local Authority, as the case may be, within a specified time not less than twenty-eight days after being so required, particulars of the interest or right by virtue of which he owns or occupies such land or building or receives such rent (as the case may be), and the name and address, and the interest or right (so far as known to him) of every person who to his knowledge has any interest in or right over or in respect of such land or building.

(2) Every person required to make and deliver a statement under this section who shall wilfully make any false statement, or fail or refuse to make such a statement, shall be guilty of an offence and shall be liable, on conviction, to a penalty of not exceeding ten thousand ringgit.

**Powers of entry, examination and survey for preparation of scheme.**

14. (1) A Local Authority may at any time cause the whole or any part of any land within its jurisdiction to be entered upon, examined and surveyed and the circumstances and requirements thereof to be investigated for the purpose of deciding whether or not a scheme should be made in respect of any such land or any part thereof and of making such scheme if decided upon.

(2) Any person authorised in that behalf in writing by a Local Authority may, for the purpose of any entry, examination, survey, or investigation which a Local Authority is authorised by this section to cause to be made, and on production of such written authority, enter and there do any thing which such person shall reasonably consider to be necessary for the said purpose:

Provided that no person shall enter into any building or into or upon any enclosed yard, court or garden attached to any dwelling-house, unless with the consent of the occupier thereof, without previously giving such occupier at least seven days' notice in writing of his intention so to do.

(3) Every person who wilfully obstructs or interferes with any other person in the exercise by such other person of any power vested in him by virtue of this section shall be guilty of an offence and shall be liable, on conviction, to a penalty of not exceeding twenty thousand ringgit.

### PART III INTERIM DEVELOPMENT OF LAND

#### **Interim development.**

15. (1) Subject to the succeeding provisions of this section, as from the material date no person shall, within the jurisdiction of any Local Authority, carry out any development of land or any construction, demolition, alteration, extension, repair or renewal of any building until six months after an approved scheme takes effect for the area containing such land or building.

(2) A Local Authority may with the approval of the Council during any period of prohibition under the provisions of subsection (1), do all or any of the following things, that is to say –

- (a) grant to any person applying therefor permission in writing to develop land, construct, demolish, alter, extend, repair, or renew a particular building in the area to which such scheme is proposed to relate;
- (b) prohibit the further proceeding with the development of land or

construction, demolition, alteration, extension, repair, or renewal of any particular building situate in the said area, stating in writing their reasons for such prohibition.

(3) The Council may authorise or instruct a Local Authority to attach to a permission granted under this section such conditions as it thinks proper.

(4) A prohibition made under this section may either prohibit absolutely the further proceeding with the work to which such prohibition relates or prohibit the further proceeding with such work otherwise than under and in accordance with conditions specified in such prohibition.

(5) Every person who, otherwise than in accordance with an approved scheme or by permission granted under the provisions of paragraph (a) of subsection (2), proceeds with or does any work in contravention of this section shall be guilty of an offence, and shall be liable, on conviction, to a penalty of not exceeding fifty thousand ringgit or imprisonment not exceeding two years or both together with, in the case of a continuing offence, a further penalty of five hundred ringgit for every day during which the offence is continued.

**Appeal to a Appeal Board in relation to permission or prohibition.**

16. (1) Any person aggrieved by the grant or the refusal of a permission or by the making of a prohibition under section 15 may within twenty-eight days from the date on which he received notice of the decision appeal to a Appeal Board by notice in writing in which he shall set forth the grounds of his appeal.

(2) The Appeal Board shall cause the appellant and the Local Authority to appear before it, and it shall be lawful for the Appeal Board to hear and determine the matters in dispute in a summary manner; and for the purpose to examine such parties or any of them and their witnesses.

(3) The Appeal Board may dismiss or allow the appeal either unconditionally, or subject to such conditions as it thinks proper to impose and allow such costs as he may think fit.

(4) Where on an appeal under this section from the making of a prohibition, such prohibition is revoked by the Appeal Board, or is confirmed by the Appeal Board with new

conditions inserted therein or with amendments of the conditions contained therein, the Appeal Board may, if it thinks proper, as part of its determination of the matter the subject of such appeal, direct the Local Authority to pay to the person by whom such appeal was brought such sum as the Appeal Board shall think proper to specify by way of compensation for loss suffered by such person by reason of such prohibition during the period between the making of such prohibition and the determination of such appeal.

(5) The determination by the Appeal Board of an appeal under this section shall be final.

**Yang di-Pertua Negeri may suspend the operation of certain enactments.**

17. (1) The Yang di-Pertua Negeri may after consulting the State Cabinet\* at any time after the material date and before an approved scheme takes effect, by order published in the *Gazette*, suspend the operation of any written law relating to development (including building operations), where in order to promote the development permitted in the area to which the scheme relates it is expedient so to do.

PART IV

CONTENTS AND EFFECTS OF APPROVED SCHEMES

**Contents of approved schemes.**

18. (1) Every approved scheme shall specify and define clearly the area to which it relates.

(2) Every approved scheme shall contain such provisions as are necessary or expedient for prohibiting or regulating the development of land in the area to which such scheme applies, and generally for carrying out any of the objects for which such scheme is made, and in particular for dealing with any of the matters mentioned in the Third Schedule.

(3) An approved scheme may provide for the pooling and re-distribution of lands, or for re-adjustment of the boundaries and areas of such lands:

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\* "State Cabinet" substituted for "Executive Council" by virtue of Article 48(1) of the State Constitution.

Provided that –

- (a) there are no permanent buildings on such lands, or if there are, the inclusion of such lands is expedient to the scheme; and
- (b) in the event of any owner not agreeing to the pooling and re-distribution of his land, or to the re-adjustment of the boundaries and areas of his land, the Yang di-Pertua Negeri on behalf of the State of Sabah may acquire such land or any part thereof as is necessary for carrying out such scheme.

(4) Any written law relating to development or building operations inconsistent with the provisions of an approved scheme or the application of which would tend to hinder the carrying out of an approved scheme shall not apply to the area to which an approved scheme relates.

**Implementation of approved scheme in certain areas.**

**18A.** (1) Where at any time after an approved scheme has taken effect the Local Authority considers that the lots in any part of the area to which such approved scheme applies (in this section referred to as the “old lots”) so differ in size, shape or layout from the lots for which the approved scheme provides in respect of such part (in this section referred to as the “new lots”) that the approved scheme can in such part be economically, conveniently and expeditiously implemented only if the ownership of lands in such part ceases to be determined by reference to the old lots and becomes vested by reference to the new lots held under such titles as will by their terms and conditions facilitate the implementation of the approved scheme, the Local Authority may define such part by posting up in some conspicuous place in any part of its offices to which the public has access a map or maps on which such part shall be clearly demarcated and proceed in the following manner –

- (a) where the total area of the land comprised within the new lots is equal to or greater than the total area of the land comprised within the old lots, the Local Authority shall in consultation with the owners of such old lots devise a scheme for the pooling and re-distribution of the lands within such part whereunder –

- (i) all the land comprised within the new lots shall be assumed to constitute a pool available to Government for disposal in accordance with the provisions of such scheme; and
  - (ii) any such owner who surrenders his old lot or lots to Government shall become entitled to receive in exchange therefor from Government a new lot or lots equal in area to such old lot or lots,
- (b) where the total area of the land comprised within the new lots is less than the total area of the land comprised within the old lots so that it would not be practicable to proceed under paragraph (a) but the Local Authority is of opinion that a scheme under which each owner of an old lot or lots would receive in exchange therefor a lesser area of land comprised within a new lot or lots is nevertheless desired by a majority of such owners having regard to the value which such new lots are likely to have upon the completion of the approved scheme, the Local Authority shall in consultation with such owners devise and exchange scheme whereunder –
  - (i) all the land comprised within the new lots shall be assumed to constitute a pool available to Government for disposal in accordance with the provisions of such scheme; and
  - (ii) any such owner who surrenders his old lot or lots to Government shall become entitled to receive in exchange therefor from Government such new lot or lots as the Local Authority and not less than three-quarters in number of the owners affected by such scheme and holding in the aggregate not less than one-half of the total area of the land comprised within the old lots may agree is fair in the circumstances, having regard to the total area of land comprised within the new lots and available for distribution amongst the owners of old lots;
- (c) where the total area of the land comprised within the new lots is less than the total area of the land comprised within the old lots so that it would not be practicable to proceed under paragraph (a) and the Local Authority is

of opinion that there is no majority of owners of old lots desiring it to proceed under paragraph (b) the Local Authority shall –

- (i) so inform the Yang di-Pertua Negeri; and
- (ii) publish the fact that it has so informed the Yang di-Pertua Negeri by posting notice thereof up in some conspicuous place in any part of the offices of the Local Authority to which the public has access, and

unless within fourteen days from the date of such publication at least one-half of the owners of old lots petition the Yang di-Pertua Negeri for an exchange scheme under paragraph (b) (in which case the Yang di-Pertua Negeri shall direct the Local Authority to proceed under that paragraph and the Local Authority shall so proceed) it shall be lawful for the Yang di-Pertua Negeri on behalf of the State of Sabah to acquire all or any land comprised within all or any old lots by compulsory acquisition and develop any land so acquired by him in conformity with the approved scheme or cause or arrange in such manner as he may think fit for any such land to be so developed.

(2) In the course of preparation of any scheme under subsection (1) the Local Authority shall publish by posting up in some conspicuous place in any part of its offices to which the public has access a summary of the principal terms and conditions of the titles that will be granted to owners acquiring new lots thereunder.

- (3) (a) Where a pooling and re-distribution scheme has been devised under paragraph (a) of subsection (1), the Local Authority shall –
  - (i) reduce it to writing; and
  - (ii) publish it by posting a true copy thereof up in some conspicuous place in any part of the offices of the Local Authority to which the public has access; and
  - (iii) submit a further such copy thereof to the Council;
- (b) any owner affected may within fourteen days from the publication of a

pooling and re-distribution scheme appeal to the Council against the provisions of the scheme in so far as they affect him and the Council shall hear such owner and, if the Local Authority so desires, a representative of the Local Authority and either reject such appeal or make such alteration in the scheme as it may consider will meet the justice of the case:

Provided that no such alteration which affects any other owner shall be made until such other owner has had an opportunity of making his views in regard to the proposed alteration known to the Council and the Council has ruled thereon;

- (c) on the termination of the period of fourteen days mentioned in paragraph (b) or, if any appeal made thereunder is then outstanding, on the determination of such appeal, the pooling, and re-distribution scheme with the alterations (if any) made by the Council shall become binding on all owners of the land comprised within the old lots.
- (4) (a) Where an exchange scheme has been devised under paragraph (b) of subsection (1) and has been accepted in writing by not less than three-quarters in number of the owners affected by such scheme and holding in the aggregate not less than one-half of the total area of the land comprised within the old lots, the Local Authority shall –
  - (i) publish it by posting a true copy thereof up in some conspicuous place in any part of the offices of the Local Authority to which the public has access; and
  - (ii) submit a further such copy thereof to the Council;
- (b) any owner affected who has not accepted the exchange scheme in writing may within fourteen days from the publication of the scheme appeal to the Council against the provisions of the scheme in so far as they affect him and the Council shall hear such owner and, if the Local Authority so desires, a representative of the Local Authority and either reject such appeal or make such alteration in the scheme as it may consider will meet

the justice of the case:

Provided that no such alteration which affects any other owner shall be made until such other owner has had an opportunity of making his views in regard to the proposed alteration known to the Council and the Council has ruled thereon;

- (c) on the termination of the period of fourteen days mentioned in paragraph (b) or, if any appeal made thereunder is then outstanding, on the determination of such appeal, the exchange scheme with the alterations (if any) made by the Council shall become binding on all owners of the land comprised within the old lots.

(5) It shall be the duty of the Local Authority to plan, organise and supervise the implementation of any scheme devised under subsection (1) as soon as may be convenient after it shall have become binding and for the purposes of such implementation, without prejudice to such other action as may be proper, it shall be lawful for the Local Authority-

- (a) to call upon any owner to surrender his old lot or lots to Government; and
  - (b) to call upon the Director of Lands and Surveys upon completion of such surrenders to grant titles (subject to the terms and conditions published under subsection (2)) in respect of new lots to owners entitled thereto.
- (6) (a) in any case in which an owner fails to surrender his old lot or lots upon being called upon to do so by the Local Authority under paragraph (a) of subsection (5) the Local Authority shall report the matter to the Yang di-Pertua Negeri who may on behalf of the State of Sabah acquire by compulsory acquisition such owner's old lot or lots;
- (b) notwithstanding anything contained in the Land Ordinance [Cap. 68.] any old lot acquired by the Yang di-Pertua Negeri by compulsory acquisition under paragraph (a) shall be made available by him for the purposes of the scheme in connection with which such lot was so acquired, in consideration whereof the Yang di-Pertua Negeri shall be entitled to participate in such scheme in the place of the owner of such lot and shall have all the rights which the owner would have had under the scheme

had he surrendered his lot to Government and in particular the Yang di-Pertua Negeri shall have the rights to possession as owner on behalf of the State of Sabah of any new lot or other consideration which such owner would have received had he participated in such scheme.

(7) If at any time after a Local Authority has started to devise an exchange scheme it is satisfied that there will not be the agreement thereto of not less than three-quarters in number of the owners affected and holding in the aggregate not less than one-half of the land comprised within the old lots, the Local Authority shall not proceed further with such scheme but shall report the matter to the Yang di-Pertua Negeri and thereafter it shall be lawful for the Yang di-Pertua Negeri on behalf of the State of Sabah to acquire all or any land comprised within all or any of such old lots by compulsory acquisition and develop any land so acquired by him in conformity with the approved scheme or cause or arrange in such manner as he may think fit for any such land to be so developed.

(8) Notwithstanding anything contained in section 33 no development rate shall be payable thereunder in respect of any land acquired by any person under a scheme devised under paragraph (b) of subsection (1) or in respect of any house or building erected in accordance with the terms and conditions of a title granted under such scheme.

(9) Notwithstanding anything contained in this section and for the avoidance of doubt it is hereby declared –

(a) that for the purpose of computing the number of owners required by this section to accept an exchange scheme before such scheme may be submitted by a Local Authority to the Council –

(i) no account shall be taken of any owner who is not in the State of Sabah and who, after enquiry, the Local Authority is satisfied has not left in the State of Sabah a representative with full powers to act on his behalf in respect of such owner's holdings affected by such scheme; and

(ii) any owner who has expressed his willingness to surrender his old lot or lots to the Government for the purposes of the scheme as soon as he is called upon to do so by the Local Authority for any

agreed consideration other than a new lot or lots shall be deemed to be an owner who has accepted the scheme; and

- (b) that no exchange scheme shall be invalidated or considered not binding on any owner because he has not appealed against the provisions of such scheme in so far as they affect him by reason of the fact that he was not himself in the State of Sabah and had left no representative in the State of Sabah with full powers to act on his behalf; and
- (c) that it shall not be necessary for the Yang di-Pertua Negeri before acquiring any land by compulsory acquisition for the purposes of any scheme devised under this section to enter into any prior negotiation for the purchase of such land; and
- (d) that it shall be lawful for the Local Authority to indicate on the map or maps referred to in subsection (1) any old lot or new lot that shall not be included in any scheme devised under that subsection where special considerations apply to such old lot or new lot, whereupon the land comprised within any such lot shall not be taken into account as a new lot or as an old lot as the case may be for the purposes of this section.

(10) For the purposes of this section any act required or permitted to be done by the Council shall be deemed to be validly done if done by a committee consisting of such members of the Council as the Council may by resolution authorise either generally or specifically to do such act.

**Validation of previous exchange scheme.**

**18B.** Where the Local Authority certifies to the Council that –

- (a) prior to the 31st day of August, 1953 an exchange scheme has been devised in respect of the area or any part of the area of an approved scheme; and
- (b) in its opinion such scheme substantially complies with the provisions of section 18A; and
- (c) such exchange has been accepted either in writing or by any act of affirmation

by at least seventy-five per centum of the owners of land affected thereby and the aggregate holdings of such owners represented not less than fifty per centum by superficial area of the total alienated land affected by the exchange scheme; and

- (d) such exchange scheme cannot be carried out by reason of the failure of any of the landowners in the area of the approved scheme to implement it,

such scheme shall be considered by the Council and upon a declaration that, in the opinion of the Council, such scheme substantially complies with the provisions of section 18A and has been accepted by the requisite percentages set out in that section such scheme shall be deemed for all purposes to be a binding exchange scheme under the provisions of paragraph (c) of subsection (4) of section 18A.

**Power to enforce and carry into effect approved schemes.**

19. (1) Subject to the provisions of this section, the Local Authority may at any time –
- (a) remove, pull down or alter, so as to bring into conformity with the provisions of an approved scheme, any building or other work which does not conform to those provisions, or the removal, demolition or alteration of which is necessary for carrying an approved scheme into effect, or in the erection or carrying out of which any provision of an approved scheme has not been complied with; or
  - (b) where any building or land is being used in such manner as to contravene any provision of an approved scheme, prohibit it from being so used; or
  - (c) where any land has since the material date been put to any use which contravenes any provision of an approved scheme, reinstate the land; or
  - (d) execute any work which it is the duty of any person to execute under an approved scheme in any case where delay in the execution of the work has occurred and the efficient operation of an approved scheme has been or will be thereby prejudiced and recover the cost of the execution of such works as may be provided in the scheme or, in default of any such provision, from such persons to such extent and in such manner as may

be ordered by a Judge on the application of the Local Authority either before or after the execution of such works and any such order shall be filed in the High Court\* and such order shall thereupon for all purposes (including appeals and executions) be deemed to be a final judgement or order of the High Court\*.

(2) Before taking any action under this section the Local Authority shall serve a notice on the owner and on the occupier of the building or land in respect of which the action is proposed to be taken and on any other person who, in its opinion, may be affected thereby, specifying the nature of and the grounds upon which it proposes to take that action.

(3) The date stated in a notice served under this section as the date on or after which the intended exercise of the power therein mentioned is intended to be begun shall be not less than three months when any permanent building is affected and in any other event not less than one month after the service of such notice, and the Local Authority shall not do any act or thing in exercise of such power in relation to the building or land mentioned in the notice before the said date.

(4) If any person served with such a notice as aforesaid considers the period fixed by such notice to be insufficient or desires to dispute any allegation or matter contained therein, he may within twenty-eight days from the date on which he received such notice appeal to a Judge by notice in writing in which he shall set forth the grounds of his appeal.

(5) The Judge shall cause the appellant and the Local Authority to appear before him, and it shall be lawful for him to hear and determine the matters in dispute in a summary manner; and for that purpose to examine such parties or any of them and their witnesses.

(6) If on any such appeal the Judge is satisfied that the Local Authority is entitled to take the proposed action on the grounds specified in the notice, he shall dismiss the appeal and shall by his order empower the Local Authority, after the expiration of such period as he may decide, to remove, pull down, or alter the building or work, or reinstate the land or execute required work, or, as the case may be, shall by his order prohibit the building or land from being used in contravention of the approved scheme after the period aforesaid, but, if he

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\* See G.N.S. 87 of 1965

is not so satisfied, he shall allow the appeal.

(7) The Judge shall allow such costs as he may think fit.

(8) Every person who uses any building or land in a manner prohibited under this section or obstructs or interferes with the exercise by the Local Authority of any power vested in it shall in addition to any civil liability be guilty of an offence and shall be liable, on conviction, to a penalty of not exceeding fifty thousand ringgit or imprisonment not exceeding two years or both together with, in the case of a continuing offence, a further penalty of five hundred ringgit for every day during which the offence is continued.

**Acquisition of land to which approved scheme applies.**

**20.** (1) The Yang di-Pertua Negeri on behalf of the State of Sabah may purchase by agreement any land to which an approved scheme applies, which is required for the purposes of the scheme, and in particular, he may purchase any such land –

- (a) which is required for carrying out the improvement or controlling the development or controlling the development of frontages to, or of lands abutting on or adjacent to, any road, or any proposed road which is to be constructed wholly or partly at the public expense; or
- (b) which is required for securing the satisfactory development of any land in accordance with the provisions of the scheme in any case where, by reason of the land being held in plots which are of inconvenient size or shape, or of which the agreement or alignment is inconvenient, or by reason of the multiplicity of interests in the land, or by reason of the fact that the land is being used in a manner or for purposes inconsistent with the provisions of the approved scheme, it does not appear to be reasonably practicable to secure such development otherwise than by purchase of the land; or
- (c) which forms the site of a road which has been stopped up under any provision contained in an approved scheme; or
- (d) which is required for the purpose of providing accommodation for a person whose premises have been purchased for the purposes of an

approved scheme.

(2) Where the Yang di-Pertua Negeri is unable to purchase by agreement any land which he is authorised, under subsection (1), to purchase on behalf of the State of Sabah, he may acquire such land by compulsory acquisition.

**Manner and consequences of acquisition.**

21. (1) Where the Yang di-Pertua Negeri, on behalf of the State of Sabah, desires to acquire land under this Ordinance by compulsory acquisition he shall, by order published in the *Gazette*, declare that the land described in the order shall be compulsorily acquired as aforesaid, and cause to be deposited in the office of the Director of Lands and Surveys\* a copy of the order together with a plan, prepared by or on behalf of the Deputy Director of Lands and Surveys\* of the land to be acquired by compulsory acquisition.

(2) Upon publication of such order as required by subsection (1) the land and the buildings and erections thereon shall, without any conveyance, vest in the Yang di-Pertua Negeri free of all incumbrances and the Director of Lands and Surveys\* shall take or cause to be taken all such steps as are necessary either by way of registering memoranda against the titles to the land affected or otherwise to give effect to such order.

(3) In respect of such compulsory acquisition compensation shall be assessed in the manner provided by the Land Acquisition Ordinance [*Cap. 69.*], and the provisions of that Ordinance relating to the assessment of compensation shall, save where modified by this Ordinance, apply to such compulsory acquisition:

Provided that for the purpose of such provisions, the value of the land shall be taken to be the amount which the land, in its condition at the time of acquisition, if sold in the open market by a willing seller, might have been expected to have been realised either at the material date or, if an order under subsection (1) is published after a period of five years from the material date has elapsed, at the date of the publication of such order.

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\* See foot-note at p.16.

**Powers of entry, etc., for carrying out approved scheme.**

**22.** (1) Any person authorised in that behalf in writing by the Local Authority may, on production of such written authority, enter on any land in the area to which an approved scheme relates and there make such inspection, survey, examination and investigation as may be necessary for the purposes of the enforcement or carrying out of such scheme:

Provided that no person shall enter into any building or into or upon any enclosed yard, court or garden attached to any dwelling-house, unless with the consent of the occupier thereof, without previously giving such occupier at least seven days' notice in writing of his intention so to do.

(2) Every person who wilfully obstructs or interferes with any person in the lawful exercise of any power conferred by this section shall be guilty of an offence and shall be liable, on conviction, to a penalty of not exceeding twenty thousand ringgit.

**Penalty for contravention of approved scheme.**

**23.** Any person who wilfully does any act (whether of commission or omission) which is a contravention of a provision contained in an approved scheme shall be guilty of an offence and shall be liable, on conviction, to a penalty of not exceeding fifty thousand ringgit and, in the case of a continuing offence, to a further penalty of one thousand ringgit for every day during which the offence continues.

PART V  
COMPENSATION

**Provisions as to compensation for injurious affection.**

**24.** Subject to the provisions of this Ordinance, any person-

- (a) whose property is injuriously affected by the coming into operation of any provision contained in an approved scheme, or by the execution of any work under an approved scheme; or
- (b) who for the purpose of complying with any provision contained in an approved scheme, or in making a claim under the provisions of this Ordinance relating to

compensation, has incurred expenditure which is rendered abortive by a subsequent revocation or variation of the scheme,

shall, if he makes a claim to the Local Authority within the time limited for the purpose by this Ordinance, be entitled to recover as compensation from the Government the amount by which his property is decreased in value, or, so far as it was reasonably incurred, the amount of the abortive expenditure, as the case may be.

**No compensation in certain classes of cases.**

25. (1) No compensation shall be payable in respect of any building –
- (a) the erection of which was begun after the material date unless such erection was begun under and in accordance with permission from the Local Authority; or
  - (b) which at the material date was in a dangerous, ruinous, dilapidated, unsafe, unsightly or insanitary condition.
- (2) No compensation shall be payable in respect of any of the following provisions in an approved scheme, namely, any provision which –
- (a) prescribes the location of buildings, the extent of the yards, gardens, and curtilage of buildings; or
  - (b) imposes any sanitary conditions in connection with buildings; or
  - (c) limits the number of buildings or the number of buildings of a specified class which may be constructed, erected on, or made in or under any area; or
  - (d) prohibits or regulates the subdivision of land; or
  - (e) regulates or empowers the Local Authority to regulate the size, height, spacing, design, colour and materials of buildings; or
  - (f) controls, restricts or prohibits the objects which may be affixed to buildings; or

- (g) prohibits or restricts building operations only pending the coming into operation of an approved scheme; or
- (h) prohibits or restricts building operations permanently, on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health, excessive expenditure of public money in the provision of roads, sewers, water supply, or other public services; or
- (i) prohibits (otherwise than by way of prohibition of building operations) the use of land for a purpose likely to involve danger or injury to health, or detriment to the neighbourhood, or restricts (otherwise than by way of restriction of building operations) the use of land so far as may be necessary for preventing such danger, injury or detriment; or
- (j) restricts the purposes for and the manner in which buildings may be used or occupied; or reserves or allocates any particular land or all land in any particular area for buildings of a specified class or classes; or
- (k) in the interests of safety, regulates or empowers the Local Authority to regulate the height and position of proposed walls, fences or hedges near the corners or bends of roads; or
- (l) limits the number or prescribes the sites of new roads entering a road or the site of a proposed road; or
- (m) in the case of land which at no time within the period of two years, immediately preceding the material date, was, or formed part of the site of a building, fixes in relation to any road a line beyond which no building in that road or proposed road may project; or
- (n) in the case of the erection of any building intended to be used for purposes of business or industry, requires the provision of accommodation for parking, loading, unloading, or fuelling vehicles, with a view to preventing obstruction of traffic on any road; or

- (o) prohibits, restricts or controls, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, or any vehicle, boat, or other movable object (whether on land or on or in water or in the air), of all or any particular forms of advertisements or other public notices; or
  - (p) prevents, remedies or removes injury to amenities arising from the ruinous or neglected condition of any building or by the objectionable or neglected condition of any land attached to a building or abutting on a road or situate in a residential area; or
  - (q) prescribes, in the case of land exceeding one acre in extent reserved for the purpose of being developed as a building area, that a proportion of the land (not less than ten per centum thereof) be set aside for open spaces in addition to the area required for roads.
- (3) Nothing contained in subsection (2) shall preclude an owner from claiming compensation for loss or injury arising from –
- (a) being prevented by the operation of this Ordinance from maintaining a permanent building which was in existence on the material date, or from continuing to use any such building for the purpose for which it was used on the material date; or
  - (b) where a permanent building which was in existence at any time within two years immediately before the material date has been demolished or been destroyed by fire or otherwise, being prevented by the operation of this Ordinance from erecting, within two years after such demolition or destruction on the site of such demolished or destroyed building a new building which substantially replaces such demolished or destroyed building or from using such new building for the purpose for which such demolished or destroyed building was last used.

**Exclusion or limitation of compensation in certain other cases.**

26. (1) No compensation shall be payable under this Ordinance in respect of any

property on the ground that it has been injuriously affected by any provision contained in an approved scheme, if and in so far as the same provision or a provision substantially to the same effect, was, at the date when such scheme came into operation, already in force by virtue of any other written law.

(2) A person shall not be entitled to recover compensation under this Ordinance in respect of any action taken under section 19 except in a case where a building which the Local Authority has removed, pulled down or altered, was an existing permanent building at the material date.

(3) Where any provision of an approved scheme is revoked or varied by a subsequent scheme, no compensation shall be payable in respect of any property on the ground that it has been injuriously affected by any provision contained in the subsequent scheme if and in so far as that later provision is the same, or substantially the same, as the earlier provision so revoked or varied; but if at the date when the revocation or variation of that earlier provision becomes operative –

- (a) there is still outstanding any claim for compensation duly made thereunder; or
- (b) the time originally limited for making such a claim has not expired,

any such outstanding claim and any such claim made within the time so limited shall be entertained and determined, and may be enforced, in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation.

**Making of claims for compensation.**

27. (1) A claim under this Ordinance for compensation shall be made by serving upon the Local Authority a notice in writing stating the grounds of the claim and the amount claimed.

(2) Subject to the provisions of this Ordinance or of any regulations made thereunder a claim under this Ordinance for compensation may be made within twelve months after the date on which the provision giving rise to the claim came into operation or within such longer period as may be specified in the approved scheme, or in respect of expenditure rendered abortive by the revocation or variation of an approved scheme, within

twelve months after the date on which the action was completed, or the order came into operation, or the revocation of the scheme became operative or in other cases within the prescribed period.

**Determination of claims to and recovery of amounts due.**

**28.** (1) Any question arising under this Ordinance as to –

- (a) the right of a claimant to recover compensation; or
- (b) the amount and manner of payment of any such recoverable compensation as aforesaid;

shall unless the parties concerned otherwise agree, be referred to and determined by a Judge:

Provided that in every case in which the amount of compensation claimed shall exceed two hundred and fifty thousand ringgit the Judge in hearing any claim made under paragraph (b) shall sit with two assessors who shall be appointed by the Court for the purpose of aiding the Judge (neither of whom shall be a public officer) who shall advise the Judge of their opinions but in the case of any difference of opinion the opinion of the Judge shall prevail.

(2) The Judge shall cause the respective parties to appear before him and it shall be lawful for him to hear and determine the claim in a summary manner, and for that purpose to examine the parties or any of them and their witnesses. The determination by a Judge of a claim under this section shall be final and he shall allow such costs (including the certified expenses of the assessors, if any) as he may think fit.

PART VA  
DEVELOPMENT CONTROL

**Use of land and buildings.**

**28A.** (1) No person shall use or permit to be used any land or building, other than in conformity with a district or local plan.

(2) Subsection (1) shall not apply to the use of any land or building for the purposes

described in paragraph (d) of subsection (2) of section 28B.

(3) Subsection (1) shall not affect the continuance of the use of any land or building for the purposes for which and to the extent to which it was lawfully being used prior to the date of coming into operation of this Part.

**Prohibition of development without planning permission.**

**28B.** (1) Without prejudice to subsection (3) of section 28A, no person shall commence, undertake or carry out any development, irrespective of whether or not the development is in conformity with a district or local plan, unless a planning permission in respect of such development has been granted to the applicant in accordance with the provisions of this Part.

(2) Notwithstanding subsection (1), no planning permission shall be necessary –

(a) for carrying out such works as are necessary for the maintenance, improvement, or other alteration of a building, being works that affect only the interior of the building and do not –

(i) involve any change in the use of the building or the land to which it is attached;

(ii) materially affect the external appearance of the building;

(iii) involve in any increase in the height or floor area of the building;

(iv) involve any addition to or alteration of the building that affects or is likely to affect its drainage, sanitary arrangements or its soundness;  
or

(v) contravene, involve or result in any inconsistency with any provision in an approved scheme;

(b) for carrying out by any authority or other body corporate whose duty it is to provide utilities or any works for the purpose of laying, inspecting, repairing, or renewing any drains, sewers, mains, pipes, cables or other apparatus, or for the purpose of maintaining and repairing roads including the breaking open of any road or ground for those purposes;

- (c) for any excavation including excavation of or for wells made in the ordinary course of agricultural operations in areas zoned for agriculture;
- (d) for the use of any land or building for a period not exceeding one month or such further period as the relevant Local Authority may, by permit, allow for the purposes of –
  - (i) a temporary mobile cinema, theatre or show;
  - (ii) a temporary amusement park, fair or exhibition; or
  - (iii) a temporary ceremony or festivity of a religious, social, cultural or other character;and for any development necessary to give effect to such use;
- (e) for the construction or erection on any land of temporary buildings for the accommodation of workers involved in the construction or erection of a building on land for which planning permission has been granted;
- (f) for the use of any land or building within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such; or
- (g) for the making of such material change as to the use of land or building as the Minister may prescribe to be material change for which no planning permission is necessary.

**Application for planning permission.**

**28C.** (1) An application for planning permission in respect of any development shall be made to the Local Authority and shall be in such form, contain such particulars and be accompanied by such documents, plans and fees as may be prescribed.

(2) In addition to the documents and plans required to be submitted under subsection (1), the applicant shall also submit together with the application layout plans, the details of which are specified in section 28D.

(3) If the applicant is not the owner of the land on which the development is to be carried out, the written consent of the owner thereof to the proposed development shall be obtained and endorsed on the application.

(4) The applicant may apply for planning permission for the land as a whole and request that development be carried out in stages.

(5) The Local Authority may approve or reject any application for planning permission or may grant conditional approval subject to such alterations or conditions as the Local Authority may deem fit to impose.

(6) Where, in making any determination on an application made under this section, the granting of planning permission shall be made in conformity with the provisions of the relevant approved scheme.

(7) All plans, particulars, layout plans and other documents required to be submitted for planning permission under this section shall be prepared by a person whose qualifications are prescribed under subsection (2) (a) of section 34C.

**Layout plans.**

**28D.** (1) The layout plans under subsection (2) of section 28C shall show the proposed development and in particular –

- (a) where the development is in respect of any land –
  - (i) measures for the protection and improvement of its and its immediate adjoining land's physical environment;
  - (ii) measures for the preservation of its natural topography;
  - (iii) measures for the improvement of its landscape;
  - (iv) measures for the preservation and planting of trees thereon;
  - (v) the location and species of trees with girth exceeding 0.8 metre and other vegetation thereon;

- (vi) the making up of open spaces;
  - (vii) the proposed earthworks, if any; and
  - (viii) a description of the works to be carried out; and
- (b) where the development is in respect of a building with special architecture or historical interest, particulars to identify the building including its use and condition, and its special character, appearance, make and feature and measures for its protection, preservation and enhancement; and
- (c) where the development involves a building operation, particulars of the character and appearance of buildings located in the surrounding area.

(2) The Local Authority may give directions to an applicant for planning permission in respect of matters concerning his layout plans as the Local Authority considers necessary.

(3) The applicant to whom directions are given under subsection (2) shall amend the layout plans accordingly, and resubmit the layout plans within such period or extended period as the Local Authority may specify.

(4) If the layout plans are not resubmitted within the specified period or extended period, the application for planning permission shall be deemed to have been withdrawn but the applicant may submit a fresh application.

**Granting of planning permission.**

**28E.** (1) The Local Authority may grant planning permission subject to such terms and conditions in respect of the development for the whole of the area where planning permission has been approved.

(2) The Local Authority may grant planning permission subject to such terms and conditions in respect of the development for any part of the area where planning permission has been approved, based on the request of the applicant.

(3) The Local Authority may grant a conditional approval in respect of the development subject to such conditions as it deem fit.

- (4) The Local Authority may impose any or all of the following conditions:
- (a) that the planning permission granted in respect of any change of use of land or building is only for a limited period and that, after the expiry of that period, the use of the land or building as authorised by the planning permission shall cease and the land or building shall be reverted to its original use; and
  - (b) that –
    - (i) the development and use of any other land under the control of the applicant that adjoins the land in respect of which the planning permission is granted; and
    - (ii) as may appear to the Local Authority to be expedient for the development for which planning permission is granted, the works that may be carried out on such other land and the manner in which and the extent to which such works may be carried out,shall be regulated.

(5) The Local Authority shall convey the grant of planning permission in the prescribed form and at the same time a notice of the grant thereof shall be given to any person who has made objection.

(6) As soon as possible after the planning permission has been granted, whether with or without conditions, the applicant shall submit to the Local Authority building and engineering plans for its approval.

**Lapse of planning permission.**

**28F.** (1) A planning permission shall lapse two years after the date of the grant thereof if, within that time, the development had not commenced in the manner specified therein.

(2) An application for a new planning permission shall be required before any development can be undertaken and sections 28C, 28D and 28E shall apply to such application accordingly.

**Revocation or modification of planning permission.**

**28G.** (1) If it appears to the Local Authority that any planning permission granted under this Ordinance should be revoked or modified, the Local Authority may, with the approval of the Council, order such planning permission to be revoked or modified to such extent as appears to it to be necessary.

(2) An order revoking a planning permission shall state the period within which the person to whom the planning permission was granted is required to demolish any building erected.

(3) If within the period stated in the revocation order or such longer period as the Local Authority may allow, demolition has not been carried out or completed, the Local Authority may itself and at its own expense carry out or complete the demolition.

(4) If demolition has been completed by the person to whom the planning permission was granted, the Local Authority shall reimburse the person costs actually and reasonably incurred by him in carrying out the demolition.

(5) If demolition has been partially carried out by the person to whom planning permission was granted but completed by the Local Authority, the Local Authority shall assess the amount that the demolition would have cost had it been carried out entirely by the Local Authority, and determine the amount of the costs actually and reasonably incurred by it in completing the demolition, and shall pay the person by way of reimbursement of his part of the costs the difference between the two amounts or the costs actually and reasonably incurred by the person in carrying out his part of the demolition, whichever is the lesser amount.

(6) If planning permission is revoked under subsection (1) and the person to whom the planning permission was granted claims from the Local Authority, within thirty days from the date of revocation, compensation for any expenditure incurred by him in carrying out works to implement the planning permission prior to its revocation, the Local Authority shall, after giving the person a reasonable opportunity to be heard, offer such compensation to him as the Local Authority thinks adequate.

(7) Where a planning permission is modified under subsection (1), the Local

Authority shall reimburse the person to whom the planning permission was granted the costs actually and reasonably incurred by him in the implementing the modification, being costs that he would not have incurred had the modification not been ordered, and shall compensate him for any loss suffered as a result of the modification.

(8) If any person is aggrieved by the amount of any compensation or reimbursement offered or paid to him under this section, he may, within thirty days from the date of the receipt of the offer of compensation or reimbursement, appeal to the Appeal Board which shall assess the amount of compensation or reimbursement to be paid and whose decision thereon shall be final.

**Offences relating to unauthorised development.**

**28H.** (1) Any person who, whether at his own instance or at the instance of any other person –

- (a) commences, undertakes or carries out development in contravention of subsection (1) of section 28A or uses or permits to be used any land in contravention of that subsection;
- (b) commences, undertakes or carries out development in contravention of subsection (1) of section 28B;
- (c) commences, undertakes or carries out development in contravention of any condition specified in granting planning permission in respect of such development;
- (d) commences, undertakes or carries out development where approval in respect of such development has lapsed under subsection (1) of section 28F;
- (e) commences, undertakes or carries out any development where the planning permission in respect of such development has been revoked pursuant to subsection (1) of section 28G; or
- (f) commences, undertakes or carries out any development where planning permission in respect of such development has been modified pursuant to

subsection (1) of section 28G as a result of which development so commenced, undertaken or carried out by such person is inconsistent with such modified planning permission,

shall be guilty of an offence and shall be liable, on conviction, to a penalty of not less than five thousand ringgit but not exceeding one hundred thousand ringgit and in the case of a continuing offence to a further penalty of one thousand ringgit for every day during which the offence is continued.

(2) Unless the contrary is proved, the owner of the land in respect of which any act that constitutes an offence under subsection (1) is done shall be deemed to have permitted the doing of that act and shall be liable for the like offence and to the like penalty.

(3) Where the use of land or building is allowed to be continued by the Local Authority pursuant to paragraph (d) of subsection (2) of section 28B, any person who continues such use on or after the expiry of the period specified in the permit allowing such use or who continues such use in contravention of any term or condition under which such use is allowed, shall be guilty of an offence and shall be liable, on conviction, to a penalty of not exceeding fifty thousand ringgit and in the case of a continuing offence to a further penalty of one thousand ringgit for every day during which the offence is continued.

**Service of enforcement notice.**

**28I.** Where it appears to the Local Authority that any development or use of land or building has been undertaken or carried out or being carried out in contravention of section 28H, the Local Authority may at any time serve on the owner of the land or the occupier connected therewith or both of them an enforcement notice requiring any or both of them within such period as may be specified therein to comply with the requirement of the enforcement notice, provided that nothing in this section shall be construed to preclude the prosecution of any person for an offence under that section.

**Application for planning permission after service of enforcement notice.**

**28J.** (1) Any person on whom an enforcement notice is served pursuant to section 28I and who is aggrieved by such notice may, within thirty days from the date of the service of such notice, apply for planning permission in respect of the development or for the retention

on the land of any buildings or works or for the continuance of any use of the land, to which the enforcement notice relates.

(2) If an application for planning permission is made under subsection (1), the Minister shall have power exercisable at his discretion to determine whether to suspend the enforcement notice or proceed to take action in terms of the notice.

(3) The provisions of section 28C shall apply to any application for planning permission under this section, provided however that, in addition to any fees required to be paid under section 28C, a further fee as may be prescribed shall be payable for an application made under this section.

(4) If planning permission is granted with respect to an application under this section, the enforcement notice shall not take effect or if planning permission is granted for the retention only of some buildings or works or for the continuance of use only a part of the land, the enforcement notice shall not take effect regarding such buildings or works or such part of the land, but shall have full effect regarding other buildings, works or other parts of the land.

**Non-compliance with enforcement notice.**

**28K.** (1) Any breach of the provisions of section 28I, the Local Authority may enter upon the land and take such steps as may be necessary to execute the enforcement notice including the demolition or alteration of any buildings or works or the removal of any goods, vehicles or things from any building or land and any cost incurred shall be recovered from the owner or the occupier.

(2) The Local Authority may request the officer in charge of the police district to provide protection in carrying out the demolition work under section 28K(1).

(3) Any person who is in breach of the provision of section 28I, upon conviction, be liable to a fine not exceeding fifty thousand ringgit and in the case of a continuing offence to a further penalty of one thousand ringgit for each day during which the offence is continued.

PART VB  
THE APPEAL BOARD

**The Appeal Board.**

- 28L.** (1) For the purposes of this Ordinance, there shall be constituted an Appeal Board.
- (2) The Yang di-Pertua Negeri shall by notification in the *Gazette* appoint –
- (a) the Chairman and the Deputy Chairman of the Appeal Board, shall be person who has been an ex judge of the High Court or a person who has served at least twelve years either as an officer of the State Attorney General Chambers or Judicial and Legal Service; and
  - (b) the other members of the Appeal Board and they shall consists either of the representatives from the following professions:-
    - (i) a registered qualified Town Planner with at least fifteen years experience;
    - (ii) a registered qualified Architect with at least fifteen years experience;
    - (iii) a registered qualified Engineer with at least fifteen years experience;
    - (iv) a registered qualified Surveyor with at least fifteen years experience;
    - (v) an Academician with at least fifteen years experience; and
    - (vi) an ex-Government Servant who has served with the State Service for at least fifteen years,
  - (c) the quorum of the Appeal Board shall consists of the Chairman or Deputy Chairman and two other members, one of whom shall be a registered Town Planner with at least fifteen years experience.

(3) A person appointed under subsection (2) shall, unless sooner resigns his office or his appointment is revoked, hold office for such period not exceeding three years as the Yang di-Pertua Negeri shall specify in the notification of appointment, but shall be eligible for reappointment.

(4) The Yang di-Pertua Negeri may revoke the appointment of a member of the Appeal Board without assigning reason therefor.

(5) When the Chairman is unable to exercise his functions owing to illness, absence from Sabah, or any other cause, the Deputy Chairman shall exercise the functions of the Chairman; and in exercising those functions, the Deputy Chairman shall for the purposes of this Ordinance, be deemed to be the Chairman of the Appeal Board.

(6) At every sitting of the Appeal Board, it shall be the duty of the Chairman or Deputy Chairman to call upon any two of the members appointed under subsection (2) (b) to serve with him in the Appeal Board unless he is excused by the Chairman on such grounds as the Chairman considers reasonable, from so servings.

(7) In the course of the appeal proceeding, if one member of the Appeal Board is unable to continue with the proceeding due to illness or because of incapacity, the Chairman of the Appeal Board can inco-operate one other member of the Appeal Board to continue with the proceedings. In such circumstances, the newly appointed member shall be provided with the notes of proceeding and all other related documents submitted before the Appeal Board.

(8) A member of the Appeal Board having an interest in any matter before it shall, as soon as he is aware of his interest, disclose the fact and nature thereof to the Chairman and shall take no part or further part in the proceedings of the Appeal Board. In such circumstances, the Chairman of the Appeal Board can inco-operate one other member of the Appeal Board to continue with the proceeding and the newly appointed member shall be provided with the notes of proceeding and all other related documents submitted before the Appeal Board.

(9) Every disclosure of interest under subsection (8) shall be recorded.

(10) An award made by the Appeal Board shall be final and binding on all parties to the appeal.

**Appeal against decision of local authority.**

(11) An appeal against the decision of the local authority may be made by the aggrieved party to the Appeal Board within one month from the date of the communication of such decision to him on the following grounds only:

- (i) aggrieved by the decision of the local authority to refuse planning permission; or
- (ii) aggrieved by any condition imposed by the local authority in granting planning permission, or
- (iii) aggrieved by the amount of compensation or reimbursement offered or paid under section 28G (a).

(12) For the purpose of Penal Code, the Appeal Board shall be deemed to be a court and every member thereof shall be deemed to be a public servant.

(13) The Yang di-Pertua Negeri may make rules to prescribe the procedure of appeals to the Appeal Board and the fees payable in respect thereof, and to regulate the proceedings of the Appeal Board but, until such rules are made in operation, the following shall apply:-

- (a)
  - (i) that the Local Authority shall prepare statement of fact of the case;
  - (ii) the reasons or grounds for which the decision or action of the Local Authority is in dispute;
  - (iii) to compile all the documents or correspondence relating to the decision; and
  - (iv) prepare and compile any other details or exhibits as may be directed by the Director.
- (b) the Local Authority shall prepare all the documentations within a period of two months or such extended period as the Appeal Board may allow;

- (c) the Appeal Board may also direct the aggrieved party to give written statements to substantiate his appeal and a copy thereof shall also be extended to the Local Authority by the aggrieved party;
- (d) the written statement shall be given within a period of one month or any extension allowed thereof;
- (e) the Appeal Board may allow any amendments to the statement while in the course of the proceedings;
- (f) upon compliance of the above said provisions, the Appeal Board shall fix a hearing date;
- (g) the hearing may be by way of a written statement which may contain the relevant facts and law. In the event the hearing is by way of oral testimony, the examination-in-chief shall be by way of written statement, subject to cross-examination;
- (h) after hearing the appeal, the Appeal Board shall make a reasoned award;
- (i) the decision of the Appeal Board shall be delivered within a period of three months after completion of the hearing;
- (j) in respect of an appeal before it, the Appeal Board shall have powers to:
  - (i) summons the parties to the proceedings or any other person to attend before it to give evidence or to produce any document, records or other thing in his possession or otherwise to assist the Appeal Board in its deliberations;
  - (ii) allow expert witnesses and the cost shall be borne by the party who calls the witness;
  - (iii) require any person to bind himself by an oath to state the truth;
  - (iv) allow parties to have representations;
  - (v) generally direct and do all such things as may be necessary or

expedient for the expeditious determination of the appeal; and

(vi) All summonses, notices, awards and orders issued, made, or given under the hand of the Chairman shall be deemed to be issued, made, or given by the Appeal Board.

(k) If one party having duly notified, fails to appear at the hearing without showing reasonable cause for such failure, the Appeal Board may proceed with the hearing and determine the case.

**No costs before the Appeal Board.**

**28M.** No costs shall be awarded in a hearing before the Appeal Board.

**Law of Evidence.**

**28N.** The law of evidence shall not be applicable in a hearing before the Appeal Board.

**Hearing open to Public.**

**28O.** The hearing before the Appeal Board shall be open to the Public.

**Allowance for the Appeal Board.**

**28P.** Members of the Appeal Board shall be paid such allowances from the State funds as the Minister in consultation with the Minister of Finance may determine.

PART VI  
MISCELLANEOUS

**Service of notices, etc., on Council or Local Authority and on other persons.**

**29.** (1) Any notice, summons, writ or other proceeding at law or otherwise required to be served on the Council or Local Authority for any of the purposes of this Ordinance may be served upon them by delivering it to the prescribed officer, or by sending it by post in a registered letter addressed to the Chairman of the Council or Local Authority as the case may be.

- (2) Subject to the provisions of subsection (1), any notice, order, or other documents required or authorised to be served under this Ordinance may be served –
- (a) by delivering it to the person on whom it is to be served; or
  - (b) by leaving it at the usual or last known place of abode of that person; or
  - (c) by sending it in a prepaid letter addressed to that person at his usual or last known place of abode provided that such place of abode is within a postal delivery district; or
  - (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid letter addressed to the secretary or clerk of the company or body at that office; or
  - (e) if it is not practicable after reasonable inquiry to ascertain the name or address of any person on whom it should be served, by addressing it to him by the description of “owner” or “lessee” or “occupier” (or as the case may be) of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered by affixing it, or a copy of it, to some conspicuous part of the premises.

**Public enquiry.**

30. Whenever power is conferred on the Yang di-Pertua Negeri by this Ordinance to approve any scheme, or other matter, or to take any other action, he may before exercising such power cause a public enquiry to be held into the matter.

**Expenses and costs of Council or Local Authority.**

31. All expenses and costs incurred by the Council or Local Authority in the discharge of their functions and all amounts due by them under this Ordinance, shall, unless otherwise provided for, be defrayed from the general revenues of the State of Sabah.

**Protection of Council or Local Authority and other persons acting under Ordinance.**

32. No personal liability shall attach to any member of the Council or the Local Authority in respect of anything done or suffered in good faith under the provisions of this Ordinance, and any sums of money, damages or costs which may be recovered against members of the Council or Local Authority or any of them for anything done or suffered as aforesaid shall be paid out of the revenues of the State of Sabah.

**Development rate.**

33. A Local Authority may in such manner as may be prescribed assess and levy a development rate on the annual value of all houses, buildings, and lands in the area within its jurisdiction at such rate as the Council, with the approval of the Minister of Finance, may fix:

Provided that such rate shall not exceed five per centum of the annual value of the property rated.

**Funds to be voted by Legislative Assembly.**

34. (1) Notwithstanding anything contained in this Ordinance, the Council or a Local Authority shall not take any action in pursuance of the powers conferred upon them by this Ordinance which involves any expenditure chargeable to the general revenues of the State of Sabah, unless and until the necessary financial provision has been duly authorised by a resolution of the Legislative Assembly\*,

(2) Where the Legislative Assembly\* has passed such a resolution the funds thereby made available shall be expended in such manner as the Yang di-Pertua Negeri may after consultation with the Council direct.

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\* "Legislative Assembly" for "Legislative Council" – G.N.S. 87 of 1965.

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**Power to prosecute.**

**34A.** Any public officer duly authorised by the Public Prosecutor under section 377B of the Criminal Procedure Code [Act 593.] may conduct prosecutions for offences under this Ordinance or rules and regulation made thereunder.

**Compounding of offences.**

**34B.** (1) The Local Authority may compound an offence under section 14, 15, 19, 22 & 23.

(2) For offences committed under section 14 and section 22, the compound shall be a minimum of one hundred ringgit but not exceeding one thousand ringgit.

(3) For offences committed under section 15, 19 and section 23, the compound shall be a minimum of three hundred ringgit but not exceeding three thousand ringgit.

(4) On payment of a compound, no further proceedings shall be taken against the person in respect of the offence committed except for fresh offences.

**Power to make regulations.**

**34C.** (1) The Council may, with the approval of the Yang di-Pertua Negeri make regulations to carry out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of subsection (1), regulations made under that subsection may provide for –

- (a) the qualifications of persons who may prepare or submit plans, documents, particulars and layout plans for the purposes of the Ordinance;
- (b) the form in which an application for planning permission shall be made, the particulars to be furnished in, and the plans, documents, particulars and layout plans to be submitted with the application and its form and scale;
- (c) the fees to be paid under the Ordinance;

- (d) the registration of applications and the form of, and particulars to be contained in, the register; and
- (e) prescribing anything that may be, or is required to be prescribed under this Ordinance.

**Amendment of Second and Third Schedules.**

**34D.** The Yang di-Pertua Negeri may, by order published in the *Gazette*, amend, add to or vary the Second and Third Schedules to this Ordinance.

**Saving of plans prepared under repealed law.**

**35.** Any draft plan which, at the commencement of this Ordinance is in the course of preparation under the Town Planning Ordinance, 1927, shall be deemed to be a draft scheme in course of preparation under this Ordinance and to be subject to the provisions of this Ordinance.

FIRST SCHEDULE

(Section 1(1))

The State of Sabah including territorial waters thereof.

SECOND SCHEDULE

(Section 5)

*(Matters in relation to which regulations may be made)*

1. The documents and matters (including maps and plans) which are to be made available by a Local Authority; the places in which and time at or within which such documents are to be deposited.
2. The inspection, by persons interested, of documents (including maps and plans) made available in pursuance of the regulations.

3. The times at or within which objections to or representations in respect of a draft scheme may be made to a Local Authority.
4. The notices to be given by a Local Authority and the time, place, nature and means by which such notices are to be given and published.
5. For enabling the Council or a Local Authority to obtain (without charge) information which they require for the purposes of or in connection with the preparation or making or carrying into effect of schemes by inspection of or obtaining copies from lists, books and other documents which are not in their custody.
6. For prescribing all matters which are to be or may be prescribed.

### THIRD SCHEDULE

(Section 18)

*(Matters to be dealt with by Schemes)*

#### PART I

#### ROADS

1. Providing for the reservation of land for roads, the construction of new roads, improvement of existing roads, establishment of public rights of way.
2. Providing for the closing or diversion of existing roads and public and private rights of way and traces.
3. Restricting and controlling the construction of new roads and the alteration of existing roads.
4. Regulating the line, width, level, constructing and general dimensions and character of roads whether new or existing.
5. Enabling a Local Authority to require an owner of land as a condition of his developing such land in any manner –

- (a) to reserve land for such roads as it may think necessary;
- (b) to construct such roads as it may think necessary, or improve existing roads; or
- (c) to contribute to the cost of the construction of new roads or the improvement of existing roads by a Local Authority.

6. Providing for and generally regulating the construction or execution whether by a Local Authority or by owners of works incidental to the making or improvement of any road including the erection of shelters, provision of seats, planting or protecting of grass, trees and shrubs on or adjoining such road.

## PART II BUILDINGS AND OTHER STRUCTURES

1. Regulating and controlling either generally or in particular areas, all or any of the following matters, that is to say –

- (a) the size, height, spacing and building line of buildings;
- (b) the objects which may be affixed to buildings;
- (c) the location of buildings, the extent of yards, gardens and curtilage of buildings;
- (d) the purposes for and the manner in which buildings may be used or occupied;
- (e) the prohibition of building operations on any land, or regulating such operations.

2. Regulating and controlling or enabling a Local Authority to regulate and control the design, colour and materials of buildings and fences.

3. Reserving or allocating any particular land or all land in any particular area for buildings of a specified class or classes, or prohibiting or restricting either permanently or temporarily, the making of any buildings or any particular class or classes of buildings on any specified land.

4. Limiting the number of buildings or the number of buildings of a specified class which may be constructed, erected or made on, in or under any area.

5. Providing for the removal, demolition or alteration of buildings or works which are inconsistent with, or obstruct the operation of a scheme.
6. Providing for sanitary conditions.

PART III  
COMMUNITY PLANNING

1. Regulating and controlling the layout of housing areas including the density, spacing, grouping and orientation of houses in relation to roads, open spaces and other buildings.
2. Regulating and controlling the provision and siting of community facilities, including shops, schools, places of worship, meeting halls, play centres and recreation grounds, in relation to the number and siting of houses.

PART IV  
AMENITIES

1. Providing for the zoning of land in town and country areas (whether public or private; whether built on or unbuilt on) reserving it for specific purposes. Such purposes shall include agriculture, forestry, industry, commerce, housing, and open space (including recreation, burial grounds and national parks).
2. Providing for the preservation of views and prospect and of the amenities of places and features of natural beauty or interest.
3. Providing for the preservation of buildings and objects of artistic, architectural, archaeological, or historical interest.
- 3A. Providing for off-street car parking spaces or payment in lieu.
4. Providing for the preservation or protection of forests, trees shrubs, plants and flowers.
5. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, on any building, or any temporary erection, on any vehicle,

boat or other movable object, whether on land, or on, or in water or in the air, of all or any particular forms of advertisement or other public notices.

6. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.

7. The prohibition, regulation and control of the deposit or disposal of waste material and refuse.

PART V  
PUBLIC SERVICES

Facilitating the construction of works in relation to lighting, water supply, sewerage, drainage, sewerage disposal and refuse disposal or other public services.

PART VI  
TRANSPORT AND COMMUNICATIONS

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.

2. Allocating sites for use in relation to transport and providing for the reservation of land for that purpose.

3. Providing for the establishment, extension and improvement of telegraphic or telephonic communication, allocating sites for use in relation to such communication, and providing for the reservation of land for that purpose.

PART VII  
MISCELLANEOUS

1. Declaring the persons by whom and the manner in which the cost of the execution of works (whether of construction, demolition, removal or alteration) in pursuance of the scheme

are to be borne.

2. Subject to any regulations made under the provisions of this Ordinance declaring the notices to be served for the purposes of the scheme by a Local Authority and the persons on whom, the manner in which, and the times at or within which such notices are to be served.
3. Subject to the provisions of this Ordinance and the said regulations declaring the manner in which and the times at or within which notice for the purposes of the scheme may be served on the Local Authority by other persons.
4. Providing for and regulating, the making of agreements for the purposes of the scheme by a Local Authority with owners and other persons and by such persons with one another.
5. Dealing with the use or disposal of land acquired under the provisions of this Ordinance.
6. Prohibiting the sub-division of land until a plan showing the subdivision and proposed access to the land has been approved.
7. Making any provisions necessary for –
  - (a) the pooling of lands of several owners (or any lands, roads or rights of way adjacent or near thereto);
  - (b) the re-distribution of such land among such owners;
  - (c) adjusting and altering the boundaries and areas of any such lands, roads, or rights of way;
  - (d) effecting such exchanges of land or cancellation of existing sub-divisions as may be necessary or convenient for the purposes aforesaid;
  - (e) apportionment of survey fees, cost of issuing or obtaining new titles and any other expenses in connection with the foregoing among the owners concerned.
8. Providing for and regulating the construction, alteration, removal and use of railways, pipe lines, telegraph, telephone lines, and electric current transmission lines, drainage or irrigation channels, aerial cable ways and their ancillary structures.

9. Works ancillary to or consequent on a scheme.
10. Any other matter (not hereinbefore mentioned) necessary or incidental to a scheme, or its administration.

The mention of particular matters in this Schedule should not be held to prejudice or affect the generality of any other matter.

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