

マレーシア 道路、排水、建築物法 1974
STREET, DRAINAGE AND BUILDING ACT 1974
ACT 133

Preamble

PART I - PRELIMINARY

1. Short title, application and commencement.
2. Savings.
3. Interpretation

PART II - STREETS

4. Maintenance and repair of public streets.
5. Power to make and improve streets.
6. Power to take land adjoining new streets for building purposes.
7. Power to acquire to be in accordance with law relating to compulsory acquisition.
8. Local authority may recover cost of new street or of widening, opening, etc., of public street.
9. Private persons making new streets.
10. Approval of plans to expire.
11. Paving, etc. of private streets.
12. Declaration of public street.
13. Private streets may be declared public street.
14. Widening of private streets.
15. Repair of private streets.
16. Notice on person causing private street to be in a dangerous or defective condition.
17. Payments to be made before erection of buildings in respect of street works.
18. Determination of the amount to be deposited and the date of completion.
19. Local authority may execute and cause to be properly carried out street works.
20. Refund of deposit when street works have been completed.
21. Refund of deposit when building operations are not commenced.
22. Preparation of scheme for building.
23. Regular line of street may be prescribed.
24. Local authority in certain cases may take possession of land within the regular line of street.
25. Provision of footways, etc.
26. Local authority may put up lamp-posts and lamps.
27. Situation of water-pipes, etc., to be altered at the expense of the local authority.
28. Where road is injured by excavation local authority may repair and recover expenses.
29. Names of streets.
30. Designation of fire-hydrants.
31. Numbers on houses.
32. Doors not to open outwards.
33. Projections from houses not to be allowed.
34. Projecting verandahs, etc., may be made in streets not less than 40 feet wide.
35. Sky-signs.
36. Hedges and trees bordering streets to be trimmed.
37. Prevention of grass fires.
38. Trees not to be planted within twelve feet of street.
39. Taking up pavement.
40. Prohibition of laying rails, mains, pipes, etc., along streets.
41. Precautions against accident. Bars to be erected across streets during repairs and lights placed at night.
42. Materials not to be deposited without permission.
43. Dangerous places to be repaired or enclosed.
44. Duty of owner or occupier to keep street clean.
45. Watering streets.
46. Obstruction.
47. Depositing dirt on streets, etc.
48. Interpretation, sections 46 and 47.

PART III - DRAINS

49. (Deleted).
50. Local authority to construct and maintain drains and water-courses.
51. Local authority may recover cost of improving and making drains etc.
52. Prohibition against building unless provision made for drains, etc. and compliance with any notice or order.
53. Local authority to repair and alter and may discontinue surface and storm water drains, etc.
54. Cleansing and emptying surface and storm water drains, etc.
55. Penalty for making unauthorised drains into public canal or stream.
56. Rain-water pipes not to be used as soil-pipes.
57. Water pipes, etc., not to be used as ventilating shafts.
58. Interpretation.
59. Local authority may require removal or alteration of urinals.
60. (Deleted).
61. Ventilating pipes to sewers.
62. (Deleted).
63. (Deleted).
64. (Deleted).

PART IV

BACK-LANES

65. Local authority may acquire land for part of back-lane.
66. State Authority may order back-lanes to be laid out.
67. Local authority may recover cost of acquisition for and laying out or construction of back-lane.
68. Declaration of back-lane as public street.
69. General provisions as to back-lanes.

PART V - BUILDINGS

70. Notice of new buildings.
- 70A. Earthworks.
- 70B. Order to review safety and stability in the course of erection of building.
- 70C. Revocation of approval of any plan, specification and permission.
- 70D. Inspection of erection of building at any stage and taking of sample for analysis.
71. Penalty for failure of building or earthworks.
72. Demolition or removal of unauthorised building.
73. Penalty for letting out and sale of unauthorised building.
74. Modification or waiver of by-laws.
75. Land to be set apart for back-lane.
76. Prohibition of building on insanitary ground.
77. Buildings over public sewers, etc., not to be erected without consent of local authority.
78. Removal of roofs and walls made of combustible materials.
79. Erection of compartments, galleries, lofts, etc., in buildings.
80. Movable shed not to be erected without permission.
81. Local authority may cause drains to be made for premises which are not properly drained.
82. Hoardings to be set up during building operations.
83. Powers as regards buildings in ruinous and dangerous state.
84. Power to shut up and secure deserted buildings.
85. Building to which public has access.
- 85A. Periodical inspection of buildings.
86. Nuisances liable to be dealt with summarily under this Act.
87. Notice requiring abatement of nuisance.
88. On non-compliance with notice, nuisance order to be made.
89. Order for demolition of house unfit for habitation.
90. Execution of order for demolition.

PART VI - MISCELLANEOUS

91. Mandatory order.
92. Provision as to appeal against order.
93. Proceedings where owner is unknown.
94. In case of urgency order may be made ex parte.
95. Protection of the State Authority and officers from personal liability.

96. Indemnity by local authority.
97. Power to enter upon lands for the purposes of this Act.
98. Power of any authority to enter on lands adjacent to works.
99. Any local authority in executing works to provide alternative roads, etc., where existing ones are interrupted, etc.
100. Penalty for obstructing any authority in its duty.
101. Compensation damages and costs to be determined by court.
102. Where occupier defaults owner may execute work.
103. Exemption of agent who has no funds in hand.
104. Recovery of expenses and costs payable by owners.
105. Recovery of expenses and costs by instalments.
106. Proceedings for recovery of arrears.
107. Attachment.
108. Application of proceeds.
109. Title conferred by purchase at sale under section 106.
110. Cost of proceedings for recovery of arrears.
111. Power to stop sale.
112. Application to court.
113. Security to be given.
114. Liability of transferor.
115. Proceedings if an occupier opposes the execution of works.
116. Disposal of matters and things removed by local authority.
117. Licences to be discretionary.
118. Notices, etc.
119. Receipts and notices may be given by officer authorised thereunto.
120. Service of notices.
121. Default in compliance with notice. General penalty.
122. Court for trial of offences.
123. Prosecution.
124. Employee of authority may demand names and addresses in certain cases.
125. Power of arrest.
126. Saving of prosecutions.
127. General penalties.
128. Damage to property of local authority to be made good in addition to penalty.
129. Inaccuracies in documents.
130. Evidence.
131. Evidential provisions.
132. Improvement Service Fund.

PART VII - BY-LAWS

133. By-laws.

PART VIII - REPEALS, TRANSITIONAL PROVISIONS, ETC.

134. Repeals, transitional provisions, etc.
135. Power of State Authority to make transitional provisions, etc.

An Act to amend and consolidate the laws relating to street, drainage and building in local authority areas in West Malaysia, and for purposes connected therewith.

[1 January 1977]

WHEREAS it is desired to introduce in the form of an Act of Parliament a uniform system with respect to street, drainage and building in local authority areas in West Malaysia;

AND WHEREAS it is now expedient for the purpose only of ensuring uniformity of law and policy to make a law with regard to local government matters relating to street, drainage and building;

NOW, THEREFORE, pursuant to the provisions of Clause (4) of Article 76 of the Constitution BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I PRELIMINARY

Short title, application and commencement.

1. (1) This Act may be cited as the Street, Drainage and Building Act 1974.

(2) This Act shall apply only to West Malaysia.

(3) This Act shall come into force on such date as the Minister may, after consultation with the State Authority, appoint in relation to that State by a notification in the Gazette and the Minister may, after consultation with the State Authority, appoint different dates for the coming into force of different provisions of this Act and may bring all or any provisions thereof into force either in all the local authority areas of a State to which the notification applies or in such local authority area of the State as may be specified in the notification.

(4) Notwithstanding subsection (3) the State Authority may by notification in the Gazette exempt any area of any local authority from any or all the provisions of this Act or any by-laws made thereunder.

(5) Notwithstanding the provisions of subsection (3), in relation to the Federal Territory this Act shall come into force on such date as the Minister may appoint by a notification in the Gazette.

(6) Notwithstanding the provisions of subsection (3) the State Authority may by notification in the Gazette extend any or all the provisions of this Act to apply to the whole or any part of any area within the State which is not under any local authority; and may make such modifications, amendments or variations to the provisions as may be necessary for the purpose of application to such area.

Savings.

2. Nothing in this Act shall affect the past operation of, or anything done under the provisions of, any law relating to street, drainage and building in local authority areas passed before the commencement of this Act:

Provided that any right, liberty, privilege, obligation or liability existing at the commencement of this Act by virtue of any such law shall, except as hereinafter expressly provided, be subject to the provisions of this Act.

Interpretation.

3. In this Act unless the context otherwise requires –

"arcade" includes verandah;

"building" includes any house, hut, shed or roofed enclosure, whether used for the purpose of a human habitation or otherwise, and also any wall, fence, platform, staging, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, landing-stage or bridge, or any structure support or foundation connected to the foregoing;

"building plans" means plans that include site plans, key plans, floor plans, sections and elevations as set out specifically in any by-laws made under this Act;

"certificate of completion and compliance" means the certificate given or granted under any by-laws made under this Act;

"developer" means any person, body of persons, company, firm or society who or which engages in or carries on or undertakes the business of developing or providing monies for development or purchasing or partly developing and providing monies for purchasing buildings;

"dwelling-house" includes a building or tenement wholly or principally used, constructed or adapted for use for

human habitation;"footway" includes footpaths and verandah-ways at the sides of streets;

"frontager" means the owner of premises fronting on, adjoining, abutting on, or (though not actually so fronting, adjoining or abutting) adjacent or accessible to a street or back-lane or where –

(a) the owner of the premises by himself or his tenant has the right to use or commonly does use the street or back-lane as a means of access to or drainage from the premises; and

(b) in the opinion of the local authority, the use or the right to use is for the advantage or behalf of the land;

"house" includes dwelling-house, warehouse, office, counting-house, shop, school, and any other building in which persons are employed;

"Improvement Service Fund" means the Improvement Service Fund established under section 132;

"local authority" means any city council, municipal council, town council, town board, local council, rural board or similar local authority established by written law and in relation to the Federal Territory means the Commissioner of the City of Kuala Lumpur appointed under section 3 of the Federal Capital Act 1960;

"nuisance" means any act, omission or thing occasioning or likely to occasion injury, annoyance, offence, harm, danger or damage to the sense of sight, smell or hearing, or which is or is likely to be injurious or dangerous to health or property;

"occupier" means the person in actual occupation of the land or building in respect of which the word is used, or having the charge, management or control thereof either on his own account or as agent of another person, but does not include a lodger;

"owner" means –

(a) the registered proprietor of the land;

(b) the lessee of a lease including a sub-lessee of the land whether registered or not;

(c) the agent or trustee of any of the owners described in paragraphs (a) and (b) of this DEFINITION if in the opinion of a local authority any of those persons cannot be traced or, if any of those persons has died, his legal personal representative;

(d) the person for the time being receiving the rent of the premises in connection with which the word is used whether on his own account or as agent or trustee for any other person or as receiver or who would receive the same if such premises were let to a tenant;

"partial certificate of completion and compliance " means the certificate given or granted under any by-laws made under this Act;

"person" includes a company, a partnership, a body of persons and a corporation sole;

"a place of public resort" means a building, or a defined or enclosed place used or constructed or adapted to be used either ordinarily or occasionally as a church, chapel, mosque, temple or other place where public worship is or religious ceremonies are performed, not being merely a dwelling-house so used, or as a cinema, theatre, public hall, public concert room, public ballroom, public lecture room, or public exhibition room, restaurant, night club, terminus, or shopping arcade, or as a public place of assembly for persons admitted thereto by ticket or otherwise, or used or constructed or adapted to be used either ordinarily or occasionally for any other public purpose;

"premises" includes messuages, houses, buildings, lands, tenements, easements and hereditaments of any tenure, whether open or enclosed, whether built on or not, whether public or private, and whether maintained or not under statutory authority;

"principal submitting person " means a qualified person who submits building plans to the local authority for approval in accordance with this Act or any by-laws made thereunder and includes any other qualified person who takes over the duties and responsibilities of or acts for the first mentioned qualified person;

"private connection pipe" has the same meaning assigned to it under the Sewerage Services Act 1993;

street">"private street" means any street not being a public street;

street">"public street" means any street over which the public has a right of way which was usually repaired or maintained by the local authority before the coming into operation of this Act or which has been transferred to or has become vested in the local authority under this Act or in any other manner;

"qualified person " means a Professional Architect, Professional Engineer or building draughtsman registered under any written law relating to the registration thereof;

"sewer" has the same meaning assigned to it under the Sewerage Services Act 1993;

"sewerage system" has the same meaning assigned to it under the Sewerage Service Act 1993;

"sky-sign" means any erection consisting of a frame, hoarding, board, bar, pillar, post, wire or any combination of such things, or any erection of a like nature, or any visible object which floats or is kept in position by wire or other flexible attachment, displayed for the purposes of trade or professional advertisement in such a position as to be conspicuously visible against the sky above the general level of the roofs or surrounding buildings from any street or public place;

"State Authority", in relation to

(a) the States of Malaysia, means the Ruler or Governor of a State and includes in Negri Sembilan the Yang Di-pertuan Besar acting on behalf of himself and the Ruling Chiefs; and

(b) the Federal Territory, means the Minister charged with the responsibility for local government;

"street" includes any road, square, footway or passage, service road, whether a thoroughfare or not, over which the public have a right of way, and also the way over any bridge, and also includes any road, footway or passage, open court or open alley, used or intended to be used as a means of access to two or more holdings, whether the public have a right of way over it or not; and all channels, drains, ditches and reserves at the side of any street shall be deemed to be part of such street;

"street works" includes work of sewerage, levelling, paving, metalling, flagging, kerbing, channelling, draining, lighting, laying of water, gas or electricity services and otherwise the making good a street or part of a street;

"structure elements" means those parts or elements of a building which resist forces and moments and includes foundations, beams, columns, shear cores, slabs, roof trusses, staircases, load bearing walls and all other elements designed to resist forces and moments but excludes doors, windows and non-load bearing walls;

"structural plan" means a plan relating to structural elements;

"submitting person " means a qualified person who submits plans other than building plans to the local authority or relevant statutory authority in accordance with this Act or any by-laws made thereunder and includes any other qualified person who takes over the duties and responsibilities of or acts for the first mentioned qualified person;

"sullage" includes any household waste liquids discharged from any bath, shower, lavatory, basin, floor gully, laundries or sink (not being a slop sink) but excludes faecal water and urine.

PART II STREETS

PART III DRAINS

PART VI BACK-LANES

省略

PART V BUILDINGS

Notice of new buildings.

70. (1) No person shall erect any building without the prior written permission of the local authority.

(2) Any person who intends to erect any building shall cause to be submitted by a principal submitting person or submitting person-

(a) to the local authority such plans and specifications as may be required by any by-law made under this Act; and

(b) to the relevant statutory authority such plans and specifications as may be required by any other written law.

(3) No plans for the erection of a building shall be approved -

(a) if the building is to be erected on any holding abutting on or having access to any new street or proposed new street, until plans for such new street have been approved by the local authority under the provisions of this Act;

(b) before any deposit, required to be made under the provisions of section 18 has been made or unless such building or class of buildings have been exempted from the provisions of section 17 (1) by the State Authority; and

(c) before any other conditions which the local authority may deem necessary to impose have been complied with.

Local Authority may give directions.

(4) The local authority may give written directions to the principal submitting person or submitting person with regard to any of the following particulars -

(a) compliance with this or any other Act or any by-laws, orders, rules or regulations made thereunder;

(b) the site of any building and the space to be left about any building to secure free admission of light and circulation of air and to facilitate scavenging;

(c) the levels at which the foundation and lowest floor are to be laid;

(d) the raising of the level of the site to form a stable and healthy foundation and the materials to be used in raising the same;

(e) the line of frontage with neighbouring buildings, if the building abuts on or is within fifty feet of a public street;

(f) the front elevation and where the side elevation abuts on or is within fifty feet of a public street the side elevation;

(g) the setting forward or back of building to the regular line of street as defined in section 23;

(h) the class, design and appearance of the building is to be erected in a district, locality or street in which only buildings of a certain class, design or appearance may be erected;

(i) the provision of a sufficient and pure water supply within a reasonable distance of the building;

(j) the setting back of buildings to any building line;

(k) the provision and construction of an arcade or paved footway for use of foot passengers along any portion of the building lot which abuts on a street.

(5) The principal submitting person or submitting person to whom any written directions are given shall amend the plans and specifications accordingly and re-submit the amended plans and specifications within such period as the local authority may specify.

(6) Where such amended plans are not re-submitted within the specified period, or such extended period, they shall not be reconsidered and shall be deemed to have been withdrawn but he may submit fresh plans and specifications.

Buildings directed to be set forward.

(7) Where a building is directed to be set forward to a regular line of street, it shall be a sufficient compliance with such direction if a wall or fence of such materials and dimensions as may be approved by the local authority is erected at a distance from the line sufficient to provide any arcade or footway which may be required under this Act.

Compensation where building directed to be set back.

(8) If the local authority directs the principal submitting person to set such building back to a regular line of street, the local authority may take possession of the land within the regular line of street and the land so taken possession of shall be acquired by the State Authority at the request of the local authority in accordance with any law relating to the compulsory acquisition of land and shall thenceforth be deemed a part of the public street.

Notice of commencement of resumption of building operations.

(9) No person shall commence the erection of a building or resume the erection of a building in any case where the work of erection has been suspended for a continuous period exceeding three months unless -

(a) such work is commenced or resumed, as the case may be, within twelve months from the date on which the plans and specifications of such building were approved by the local authority; and

(b) he has given the local authority four days' notice in writing of his intention to commence or resume such work, as the case may be.

(9A) Notwithstanding subsection (9), no person shall commence the erection of a building unless a copy of the detailed structural plans of the building together with a legible copy of its structural calculations and any other particulars, documents or reports as may be required by the local authority have been submitted.

(10) For the purposes of paragraph (a) of subsection (9), "plans and specifications" means the plans and specifications originally approved by the local authority but does not include any amending plans or specifications subsequently approved by the local authority in connection therewith.

(11) Any person who makes any alteration to any building otherwise than is provided for in this Act or by-laws made thereunder or without the prior written permission of the local authority shall be liable on conviction to a fine not exceeding twenty-five thousand ringgit and a Magistrate's Court shall, on the application of the local authority, issue a mandatory order to alter the building in any way or to demolish it.

(12) Any person who uses any building or part of a building for a purpose other than which it was originally constructed for without the prior written permission from the local authority shall be liable on conviction to a fine not exceeding twenty-five thousand ringgit and shall also be liable to a further fine not exceeding five hundred ringgit for every day during which the offence is continued after a notice to cease using for other purpose has been served on such person.

(13) Any person who -

(a) commences or resumes the erection of a building in contravention of subsection (9);

(aa) commences the erection of a building in contravention of subsection (9A);

(b) deviates from any plan or specification approved by the local authority without the prior written permission of the local authority;

(c) erects a building in contravention of this Act or of any of the by-laws made thereunder; or

(d) fails to comply with any lawful order or written direction of the local authority or with any term or condition attached by the local authority to any modification or waiver of any of the requirements of any by-law,

shall be liable on conviction to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both and shall also be liable to a further fine of one thousand ringgit for every day during which the offence is continued after conviction.

(14) In any case where proceedings have not been instituted against any person who, by reason of failure to obtain prior permission from the local authority, has contravened subsection (13) such person shall, on the submission of plans and specifications to the local authority by the principal submitting person or submitting person in accordance with this Act, pay to the local authority a sum which shall be not less than five times but not exceeding twenty times the prescribed fees as the State Authority may prescribe, and in the event of plans and specifications being submitted without such payment, the local authority shall refuse to accept the same.

(15) A Magistrate shall, on the application of the local authority or of a public officer authorised by the local authority in writing in that behalf, make a mandatory order requiring any person convicted of an offence under the provisions of subsection (13) to alter in any way or demolish the building.

What constitutes erecting a building.

(16) For the purposes of this section and of section 75 a person shall be deemed to erect a building who -

(a) begins work on the site thereof for or in respect of a new building;

(b) adds to or alters any existing building in such a manner as to involve -

(i) new foundations; or

(ii) new or partly new or increased superstructure or roof on existing walls or existing foundations;

(c) converts into a dwelling-house any building not originally constructed for human habitation;

(d) converts into more than one dwelling-house a building originally constructed as one dwelling-house;

(e) converts to other purposes a house originally constructed as a dwelling-house;

(f) departs either before or after the completion of the building in any particular form from any plan or specification approved by the local authority at any time in respect of such building;

(g) infringes the provisions of this Act or any by-laws relating to buildings;

(h) renews or repairs any existing building in such a manner as to involve a renewal, reconstruction or erection of any portion of an outer or party wall to the extent of one storey in height whatever the material of such outer or party wall is;

(i) demolishes and reconstructs or adds to a building in such a manner as to involve more than –

(i) half the superficial area of walls and partitions; or

(ii) half the superficial area of floors (excluding ground floor) or roofs; or

(j) constructs an additional storey or storeys, or renews, reconstructs or erects an outer or party wall of the first, second or third storey counting from the ground, to the extent of one storey in height:

Provided that, for the purposes of subsection (2) and for the purposes of section 75 a person who executes or does any of the works or things specified in paragraph (b) (ii), (f), (g) or (h) of this subsection shall not be deemed to erect a building.

The expression "erection of a building" shall be construed accordingly.

Works executed on the same building on two or more occasions within ten years may be deemed to be one reconstruction and aggregated for purposes of this DEFINITION.

(17) (a) Where the erection of any building is commenced or carried out in respect of any building, it shall be presumed, until proved to the contrary, to have been commenced or carried out by the owner of the land whereon such building is erected and he shall be liable therefor.

(b) Where a building is erected on vacant land and the person who actually erected the building is not known or cannot be found in Malaysia, the building shall be deemed to have been erected by the owner of such land who shall be liable therefor.

Approval of plans.

(18) If the local authority does not, within three calendar months from the date of the submission of any plans under subsection (2) or from the date of the resubmission of such plans amended pursuant to subsection (5), as the case may be, approve, disapprove or make written requisition with regard thereto, the principal submitting person or submitting person may apply to the State Authority, and the powers vested in the local authority under this section shall then vest in the State Authority.

(19) Any plans, specifications, calculations, particulars, documents or reports required to be submitted under this section shall be prepared and certified by a principal submitting person or submitting person and signed by the owner or his authorised agent and the principal submitting person or submitting person.

(20) No certificate of completion and compliance shall be issued except by a principal submitting person in accordance with the time, manner and procedure for the issuance thereof as prescribed by this Act or any by-laws made thereunder.

(21) Before the issuance of a certificate of completion and compliance, it shall be the duties and responsibilities of the principal submitting person to-

(a) supervise the erection of the building to ensure that the erection is in conformity with the approved plans and the requirements of the provisions of this Act or any by-laws made thereunder;

(b) ensure that the building has been duly constructed and completed in conformity with the approved plans and the requirements of this Act or any by-laws made thereunder and that all technical conditions imposed by the local authority has been duly complied with;

and

(c) ensure that the building is safe and fit for occupation.

(22) Nothing contained in this Act shall affect the powers conferred on the local authority by this Act or any by-laws made thereunder pertaining to the erection and construction of a building for the purpose of ensuring that the erection and construction of such building are in conformity with the approved plans and the provisions of this Act or any by-law made thereunder.

(23) If it appears to the local authority that a noncompliance with the approved plans and provisions of this Act or any by-laws made thereunder by the principal submitting person has occurred in the erection and construction of the building, the local authority may issue to the principal submitting person-

(a) a notice in writing, requiring compliance within the period specified in the notice, as the local authority thinks fit, in order that the noncompliance be rectified; and

(b) a directive in writing to withhold the issuance of the certificate of completion and compliance until such non-compliance has been rectified.

(24) If the direction referred to in paragraph (23)(b) is not complied with by the principal submitting person, the local authority may itself cause any work to be executed or any measure to be taken if it considers such work or measure is necessary to rectify the noncompliance.

(25) The cost for executing such work or taking such measure as referred to in subsection (24) shall be borne by the owner of the building.

(26) The amount of the costs to be so recovered by the local authority shall be certified by the local authority and the certificate of the local authority in this regard shall be conclusive proof of the matters stated therein and shall not be subject to any appeal or review in any court.

(27) Any person who-

(a) is not the principal submitting person but issues a certificate of completion and compliance;

(b) issues a certificate of completion and compliance without the relevant forms as prescribed in any by-laws made under this Act;

(c) issues a certificate of completion and compliance in contravention of a direction given by the local authority to withhold such issuance pending rectification of any noncompliance;

(d) knowingly makes or produces or causes to be made any false or fraudulent declaration, certificate, application or representation of any form prescribed in any by-laws made under this Act;

(e) uses any forged, altered or counterfeit declaration, certificate, application or representation of any form prescribed in any by-laws made under this Act knowing the declaration, certificate, application or representation have been forged, altered or counterfeited; or

(f) occupies or permits to be occupied any building or any part thereof without a certificate of completion and compliance,

shall be liable on conviction to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding ten years or to both.

Earthworks.

70A. (1) No person shall commence or carry out or permit to be commenced or carried out any earthworks without having first submitted to the local authority plans and specifications in respect of the earthworks and obtained the approval of the local authority thereto.

(2) Where the earthworks are to be commenced or carried out for the purpose of the construction of any building, street, drain, sewer, or embankment, or for the laying of any cable or pipe, or for the purpose of any other construction or work whatsoever, the plans and specifications relating to such construction or work required to be submitted under this Act or any by-laws made thereunder shall be submitted to the local authority at the same time as the plans and specifications in respect of the earthworks.

(3) In granting the approval under subsection (1) the local authority may impose such conditions as it deems fit.

(4) The local authority may, where it certifies that the safety of life or property is affected or is likely to be affected by any earthworks, order the immediate cessation of the whole or any part of the earthworks; the certificate of the local authority under this subsection shall be conclusive proof of the matters stated therein and shall not be questioned or be subject to any appeal or review in any court.

(5) Without prejudice to subsection (4), the local authority may, from time to time, give such directions as it deems fit in respect of any earthworks, and the same shall be complied with by the person to whom such directions are given, and where such directions are not complied with the local authority may order the cessation of the whole or any part of the earthworks.

(6) Notwithstanding subsections (4) and (5), the local authority may itself cause any work to be executed or any measure to be taken if it considers such work or measure necessary, and such work or measure may be in addition to or in place of anything required to be done under any direction or order given under subsection (4) or (5).

(7) Where cessation of the earthworks has been ordered under this section, the local authority may permit the resumption thereof subject to compliance with such directions or conditions as may be specified by the local authority.

(8) The local authority or any person authorised by it or on its behalf may enter upon any land, building or premises at any hour of the day or night without notice to the owner or occupier thereof for the purpose of executing any work under this section or for carrying out any inspection for the purpose of this section.

(9) Any person who contravenes any provision of this section or fails to comply with any direction or order given under this section or does any act to obstruct in any manner whatsoever the entry or the execution of any work authorised to be effected or executed under this section by or on behalf of the local authority shall upon conviction be guilty of an offence and shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding fifty thousand ringgit or to both, and in the case of a continuing offence to a fine which may extend to five hundred ringgit for every day during which the offence is continued.

(10) Where a person has been convicted of an offence under subsection (9) the local authority may revoke the approval of the plans and specifications given under subsection (1), and the person carrying out the earthworks shall upon receipt of the notice of such revocation forthwith cease the whole of the earthworks.

(11) Where cessation of the earthworks has been ordered under subsection (4) or (5) or is required to be effected under subsection (10) and the order or requirement is not complied with, the local authority may summarily eject any person or remove any equipment, vehicle, machinery or any article whatsoever from the site of the earthworks to secure the cessation of the earthworks and for this purpose may seek the assistance of the police.

(12) Where the local authority exercises its powers under subsection (6), (11) or (16), it may recover any expenses and costs incurred by it from the owner of the land on which the earthworks were carried out in the same manner as provided for the recovery of rates; the amount of the costs and expenses to be so recovered by the local authority shall be certified by the local authority and the certificate of the local authority in this regard shall be conclusive proof of the matters stated therein and shall not be subject to any appeal or review in any court.

(13) The provisions of this section shall not apply to earthworks commenced or carried out by or on behalf of the Government of Malaysia or a State Government.

(14) Where any earthworks are commenced or carried out, the owner of the land on which such earthworks are commenced or carried out shall be deemed to have permitted such earthworks to be commenced or carried out.

(15) The local authority or any person authorised by it or on its behalf shall not be subject to any action, claim, liabilities or demand whatsoever arising out of the exercise of any of the powers conferred on the local authority under this section or under any by-laws made thereunder.

(16) If any public street or any part thereof, or any building, or any structure, or any other property whatsoever belonging to the Government of Malaysia or any State Government or to the local authority is injured by or in consequence of any earthworks on any land, the local authority may repair and make good the damage done.

(17) The local authority may make by-laws -

(a) in respect of earthworks;

(b) to provide for plans and specifications in respect of earthworks;

(c) the submission of plans, specifications, particulars, documents and reports relating to earthworks, the submitting persons and their duties and responsibilities, and the form and nature or classification of such plans, specifications, particulars, documents and reports and the fees therefor;

(d) to provide for the punishment for offences under the by-laws made under this section not exceeding a fine of two thousand ringgit and, in the case of a continuing offence, not exceeding a fine of one hundred ringgit for each day the offence is continued;

(e) to provide for exemption from all or any of the provisions of this section in respect of earthworks of a minor or temporary character; and

(f) generally to give effect to the objects and purposes of this section.

(18) In this section and in any by-laws made thereunder the word "earthworks" includes any act of excavation, levelling, filling with any material, piling, the construction of foundations, or felling of trees, on any land, or any other act of dealing with or disturbing any land.

Order to review safety and stability in the course of erection of building.

70B. (1) Where there are changes to the topography, features to the land or the surrounding area brought about by the erection of building or natural causes which are not in conformity with any approved plan in relation thereto, the local authority may carry out a visual inspection.

(2) Where the local authority reasonably suspects there is a defect, deformation or deterioration in the structure of a building under erection which may likely result in the failure of the building, the local authority may issue to the owner of the building an order to review the safety and stability of -

(a) the building;

(b) the foundation of the building; and

(c) the surroundings on which the erection of building is in progress.

(3) The review shall be undertaken by a qualified person other than the submitting persons who prepared and certified the plans, calculations, particulars, documents or reports submitted to the local authority before the commencement of erection of building.

(4) The report of the review shall be submitted to the local authority within the period specified by the local authority.

(5) The local authority may, after evaluating the report of the review -

(a) certify that the safety of life or property is affected or is likely to be affected by the erection of building; and

(b) serve a notice in writing to the owner of the building of its intention to issue an order for cessation of the erection of building.

(6) The local authority shall inform the owner of the building of his right to object to its intention to issue an order for cessation of the erection of building, within fourteen days from the date of service of the notice in subsection (5) (b), and if no objections are received within the period the order for cessation shall be issued with immediate effect.

(7) If objections are received under subsection (6) the local authority shall, as soon as possible after the expiry of the period within which objections may be made, hear any person who has lodged an objection and thereafter decide whether -

(a) an order for cessation of the erection of building shall be issued; or

(b) directions under subsection (8) shall be given.

(8) Without prejudice to its power under subsection (5) the local authority may, after evaluating the report of the review, give to any person written directions including the submission of a fresh or an amended plan in respect of the following -

(a) the stabilisation of slope;

(b) the provision of additional drainage facilities;

(c) the strengthening of existing retaining walls and the construction of new walls;

(d) the provision of other additional features to support existing construction works; and

(e) such other matter as the local authority considers necessary,

for the purpose of remedying any defect, deformation or deterioration in the structure of the building, removing any danger to life or property and ensuring safety and stability of the building, its foundation and surroundings and such directions shall be complied with within the period specified therein.

(9) Where the directions given under subsection (8) are not complied with, the local authority may order the cessation of the whole or any part of the erection of building.

(10) Where an order for cessation of the erection of building made under -

(a) subsection (6);

(b) subsection (7) (a); or

(c) subsection (9), whether in whole or in part,

is not complied with, the local authority may summarily eject any person or remove any equipment, vehicle, machinery or article from the site where the building is being erected to secure the cessation of the erection of building and for this purpose may seek the assistance of the police.

(11) Notwithstanding subsections (8), (9) and (10) the local authority may execute any work, take any measure or demolish a building under erection -

(a) if it considers such work, measure or demolition necessary to prevent an imminent danger to life or property; or

(b) in the case of non-compliance with any directions given under subsection (8),

and such work, measure or demolition may be in addition to or in place of anything required to be done under such directions and the local authority may recover all expenses reasonably incurred by it in doing so from the owner of the building.

(12) The local authority or any person authorised by it or on its behalf may enter the site of a building under erection and the building under erection at any time without notice to the owner thereof to carry out an inspection or for any other purposes under this section.

(13) Where -

(a) the cessation of the erection of building -

(i) has been ordered under subsection (6), (7) (a) or (9), as the case may be; or

(ii) has been secured under subsection (10);

(b) the directions given under subsection (8) have been complied with; or

(c) any remedial work has been executed or measure has been taken under subsection (11),

the local authority may allow the resumption of the erection of building subject to compliance with such directions and conditions as it may specify.

(14) The local authority may, without prejudice to its right to recover the expenses under section 104, refuse to allow the resumption of the erection of building under subsection (13) until all expenses reasonably incurred by it in securing the cessation of the erection of building, executing the work or taking the measure have been reimbursed by the owner of the building.

(15) Any person who -

(a) fails to comply with any order, direction or condition given under this section; or

(b) does any act to obstruct in any manner whatsoever the local authority or any person authorised by it or on its behalf in the execution of its or his powers under this section,

shall be liable on conviction to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both, and shall also be liable to a further fine not exceeding five hundred ringgit for every day during which the offence is continued after conviction.

Revocation of approval of any plan, specification and permission.

70C. Where a person has been convicted for an offence under section 70B (15), the local authority may revoke the approval of any plan and specification and permission given under this Act and he shall, upon receipt of the notice of such revocation, forthwith cease the whole of the erection building.

Inspection of erection of building at any stage and taking of sample for analysis.

70D. (1) Nothing contained in this Act shall prevent the local authority or any person authorised by it or on its behalf from -

(a) inspecting any erection of building at any stage;

(b) giving a notice in writing of any deviation from the approved plan or specification or non-compliance with any provision of this Act which it or he may observe; and

(c) ordering such deviation or non-compliance to be rectified.

(2) The local authority or any person authorised by it or on its behalf may, if its or his duties so require, take reasonable samples of any building material for analysis as it or he considers necessary, and such sample may be disposed off in such manner as it or he may direct.

(3) No payment shall be made for any sample taken under subsection (2) but a receipt for any such sample shall be given.

Penalty for failure of building or earthworks.

71. Where any building or part of a building fails, whether in the course of construction or after completion, or where there is any failure in relation to any earthworks or part of any earthworks, whether in the course of the carrying out of the earthworks or after completion thereof, and the cause of such failure is due to any one or more of the following factors -

(a) misconstruction or lack of proper supervision during construction;

(b) misdesign or miscalculation; or

(c) misuse,

of such building or part of such building, or of such earthworks or part of such earthworks, the person responsible for -

(aa) such misconstruction or such lack of proper supervision;

(bb) such misdesign or miscalculation; or

(cc) such misuse,

shall be liable on conviction to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both.

Demolition or removal of unauthorised building.

72. (1) Where the local authority is satisfied that a building has been erected or is in the course of erection or is about to be erected in contravention of section 70 or, if such building has been erected prior to the coming into force of this Act, in contravention of any law then in force relating to buildings and in respect of which building approval under any law was not given subsequently, the local authority may by notice served on the owner of the land require him to do any one or more of the following acts -

(a) to abstain from commencing or proceeding with the erection of such building;

(b) to demolish such building within such time as the local authority may specify; and

(c) to take steps as may be ordered by the local authority.

(2) Where the owner is unable to demolish such building within the time specified in the notice, the owner may request the local authority to carry out the requirements of the notice.

(3) No request by the owner made under subsection (2) shall absolve the owner from his liability under this section unless he makes the request within the time specified for him to demolish such building and unless within the same period of time he -

(a) deposits with the local authority such sum which the local authority thinks is sufficient to cover the costs and expenses of -

(i) demolishing such building;

(ii) removal of any movable property found in such building;

(iii) storage of such movable property; and

(iv) any other activities incidental to or arising out of subparagraphs (i), (ii) and (iii);

(b) indemnifies and keeps indemnified the local authority against any claim, damage, loss, action or proceedings that may be brought against the local authority arising out of and incidental to subparagraphs (i), (ii), (iii) and (iv); and

(c) notwithstanding any sum paid under paragraph (a), pays the local authority a further sum which may be prescribed by the State Authority, for relocation purposes.

(4) Any person who fails to comply with the requirements of the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty ringgit for every day that the offence is continued after expiry of the period specified in the notice.

(5) Where the owner fails to comply with the requirements of the notice, the local authority may do any or all of the acts required by the notice and notwithstanding the owner's liability to pay any fine under subsection (4), the owner shall pay such sums to the local authority as may be required under subsection (3) and shall

be deemed to have indemnified the local authority in carrying out the terms of the notice as if he had requested the local authority to do so.

Notice before demolition.

(6) Where the building is to be demolished by the local authority, it shall give at least thirty days notice to the occupants of the building requiring them to vacate the building and the local authority may after the lapse of the period enter the building and remove any person or movable property found therein.

(7) Any movable property removed pursuant to subsection (6) may be taken to a suitable place and there to remain at the risk of the owner and may within a period of one month from the date of the removal be claimed by any person who furnishes evidence to the satisfaction of the local authority that he is the owner and if there be no claim shall be disposed of in the manner specified in section 116.

(8) A certificate by the local authority stating the sum required to be paid by the owner under subsection (2) and (5) shall be conclusive proof of the sums due and shall not be subject to any appeal or review in any court.

Penalty for letting out and sale of unauthorised building.

73. (1) Any person who is not the owner of the premises and who sells or enters into an agreement to sell a building which has been erected or is in the course of erection in contravention of section 70 shall be guilty of an offence under this Act and shall on conviction be liable to imprisonment for a term which shall not exceed two years or to a fine not exceeding ten thousand ringgit or to both such imprisonment and fine.

(2) Any person who erects or causes to be erected any building in contravention of section 70 shall, if such building is subsequently sold or agreed to be sold, be guilty of an offence under this Act and shall on conviction be liable to imprisonment for a term which shall not exceed two years and shall also be liable to a fine not exceeding ten thousand ringgit.

(3) Any person who lets or enters into an agreement to let an unauthorised building for rent or any other consideration shall be guilty of an offence under this Act and shall be liable on conviction to a fine which shall not exceed one thousand ringgit.

(4) The court before which a person is convicted for an offence under subsection (1) or (2) may also order such person to refund the purchase money for the building to the purchaser together with such compensation as the court deems fit.

Modification or waiver of by-laws.

74. (1) The local authority may on receipt of an application in relation to any particular building or structure, and provided it is satisfied that such waiver or modification as hereinafter mentioned will not render the building or structure unsafe, modify or waive, upon and subject to such terms and conditions as it thinks fit, any of the requirements of any by-laws relating to the construction of buildings.

(2) Any such application shall be made in writing to the local authority by or on behalf of the owner of the particular building or structure or of the particular part of such building or structure to which such application relates and shall state the nature and extent of and reasons for the proposed modification or waiver of such requirement and shall be accompanied by such plans, sections, elevations and particulars as may be required.

Rights of owners of adjoining premises.

(3) If it appears to the local authority on receipt of any such application that the owner of any adjoining premises should be consulted the local authority shall serve upon such owner notice of the application informing him to make representations to the local authority within a specified period.

(4) The local authority shall take into consideration the representation of any owners of adjoining premises and where the local authority decides to allow modification or waiver against the representations of any such owner, it shall submit its decision to the State Authority.

(5) Unless the decision of the local authority is reversed or modified by the State Authority within thirty days of its submission, the decision of the local authority shall be deemed to be confirmed.

Land to be set apart for back-lane.

75. (1) The local authority shall not approve any plan submitted pursuant to section 70 relating to a building unless –

(a) a back-lane if required by the local authority of such width not exceeding forty feet as may at the discretion of the local authority be required, is shown on the plan, or vacant land is shown on the plan to be set apart or acquired for a back-lane of such width as aforesaid, and owner reimburses the local authority for any moneys at any time paid for the acquisition by any means for the portion of such back-lane or such vacant land to the centre thereof which abuts on the holding in respect of which the plan is submitted to the extent to which it so abuts; or

(b) the owner sets apart a vacant strip of his land sufficient, with or without other land previously so set apart or acquired, to form a backlane or part of a back-lane of such width not exceeding forty feet as is required by the local authority:

Provided that where the owner sets apart a vacant strip of his land sufficient to form not less than one-half the width of that part of the back-lane which abuts on his land, the local authority may in its discretion in a particular case approve such plan.

Situation of Back-Lane

(2) The back-lane shall, where the local authority so requires, be situated so as to conform with such line as is laid down therefor by the local authority and so as to communicate at each end thereof with the land set apart or to be set apart for a back-lane by, or acquired or to be acquired from, the owners of the properties on each side thereof, and when completed the same shall, wherever possible, open upon public streets at both ends, and shall in all cases be free from obstruction throughout.

Non-approval of plan where building site does not abut on land available for a back-lane.

(3) Where upon the submission of a plan relating to a building for the approval of the local authority it appears that the site thereof does not abut upon any land so situate as to be capable of being set apart for a back-lane in conformity with the line laid down therefor by the local authority, the local authority may refuse to approve the plan until the land situate between the site of the building and the line of the back-lane or intended back-lane immediately opposite such site has been added to the holding in respect whereof the plan has been submitted and the portion of the intended back-lane which abuts on such site so added to has been set apart or acquired for a back-lane and the owner has reimbursed the local authority in the manner and to the extent provided in subsection (1) (a) and the other provisions of that subsection have been complied with.

Acquisition of land between building site and line of back-lane.

(4) Where in any such case as is referred to in subsection (3) the owner requests the local authority in writing to have the land situate between the site of the building and the line of the back-lane or intended back-lane immediately opposite such site and, if requisite, that portion of the intended back-lane which abuts on such site when added to in the manner described in subsection (3) acquired, the local authority shall request the State Authority to acquire such land and such portion of the intended back-lane for the purpose of the same respectively being added to the holding in respect whereof the plan has been submitted and forming part of the back-lane and shall notify the owner accordingly.

(5) For the purpose of subsection (4), in relation to the Federal Territory reference to the State Authority shall be construed as reference to the Government of the Federation.

Prohibition of building on insanitary ground.

76. (1) No new building shall be erected on any ground which has been filled up with any matter impregnated with faecal, animal or vegetable matter or upon which any such matter has been deposited unless and until such matter has been properly removed by excavation or otherwise or has been rendered or become innocuous.

Penalty.

(2) Any person who does, causes or wilfully permits any act in contravention of this section shall be liable on conviction to a fine not exceeding five hundred ringgit and shall also be liable to a further fine not exceeding one hundred ringgit for every day during which the offence is continued after conviction.

Buildings over public sewers, etc., not to be erected without consent of local authority.

77. No building shall be erected over any public sewer, private connection pipe, public surface or storm water drain, culvert, water-course, river or stream or any water main, electric cable or wire without the prior written permission of the local authority or the controlling statutory authority concerned as the case may be.

Removal of roofs and walls made of combustible materials.

78. (1) Any person who, being the owner of any building which external roof is or walls are made of grass, leaves, mats, attaps or other combustible materials and which is less than twenty-five feet from any other building separately occupied or from any street, does not remove such roof or walls, as the case may be, within ninety days after a notice to do so has been served on him, shall be liable on conviction to a fine not exceeding one hundred ringgit for every day during which such default continues after service of notice.

Renewal or repairing with combustible materials.

(2) Any person who after service of such notice issued under subsection (1) makes, renews or repairs any building with any combustible materials as are mentioned in subsection (1) or causes any such building to be so made, renewed or repaired shall be liable on conviction to a fine not exceeding five hundred ringgit and shall also be liable to a further fine not exceeding one hundred ringgit for every day he suffers or allows the same to remain after conviction, and a Magistrate's Court shall, on the application of the local authority, make a mandatory order requiring the building to be pulled down.

Erection of compartments, galleries, lofts, etc., in buildings.

79. (1) No person shall erect or cause or permit to be erected in any building any partition, compartment, gallery, loft, roof, ceiling or other structure without having the prior written permission of the local authority.

(2) In every such case the owner shall be presumed until proved to the contrary to have commenced or carried out such erection.

Local authority may remove.

(3) The local authority, its agents or servants may enter any such building and remove any partition, compartment, gallery, loft, ceiling or other structure which has been erected without the prior written permission of the local authority in which event the person in default or if the person in default is unknown or untraceable or even if traceable is unable to pay the expenses incurred, the owner shall pay to the local authority the costs and expenses of -

- (i) demolishing such structure;
- (ii) removal of the movable property found in the building at a rate which may be prescribed by the local authority for every trip made by wagon or transporting vehicle for the purpose of the removal and storage;
- (iii) storing the movable property at a rate which may be prescribed by the local authority if it is not claimed on the day the movable property is removed;
- (iv) any other activities incidental to or arising out of paragraphs (i), (ii) and (iii);

and shall be deemed to have indemnified the local authority against any claim, damage, loss, action or proceeding that may be brought against the local authority including any cost and expenses arising out of and incidental to paragraphs (i), (ii), (iii) and (iv).

(4) Without prejudice to subsection (3) any person who contravenes subsection (1) shall be liable on conviction to a fine not exceeding five hundred ringgit and shall also be liable to a further fine not exceeding one hundred ringgit for every day during which the offence is continued after conviction.

Movable shed not to be erected without permission.

80. Any person who erects or causes or permits to be erected, keeps or permits to be kept on his land or the land which he occupies any movable shed or movable structure intended to act as a roof without the prior written permission of the local authority shall be guilty of an offence and shall on conviction be liable to a fine of one thousand ringgit and the Magistrate's Court shall on application of the local authority, make a mandatory order requiring such person to remove such movable shed or structure.

Local authority may cause drains to be made for premises which are not properly drained.

81. (1) If any premises is at any time not drained of waters other than sewage to the satisfaction of the local authority by a sufficient drain or pipe communicating with some drain or some other place at which the local authority is empowered to drain waters other than sewage, and if there are such means of drainage within one hundred feet of the boundary of such premises, the local authority may give a notice in writing requiring the owner thereof to construct or lay for such premises a drain or pipe of such materials, of such size, at such level and with such fall as it may specify for the draining of such premises.

(2) If the owner fails to comply with such notice within thirty days from the date thereof, a Magistrate's Court shall, on the application of the local authority, make a mandatory order requiring the owner to construct or lay such drain or pipe, or the local authority may carry out such works and the expenses incurred by the local authority in respect thereof if not forthwith paid by the owner, shall be recoverable in the manner hereinafter provided.

Hoardings to be set up during building operations.

82. (1) No person intending to build or take down any building or to alter or repair the outward part of any building, shall do so without the prior written permission of the local authority and without causing sufficient hoardings or fences to be put up in order to separate the building where such works are being carried on from any street or footway.

(2) Where permission has been granted to any person to do any of the works stated in subsection (1), such person shall -

- (a) maintain such hoardings or fences as are required in subsection (1) in good condition and to the satisfaction of the local authority;
- (b) cause such hoardings or fences to be well lighted at night; and
- (c) remove such hoardings or fences or any scaffolding used in such works within such time as may be specified by the local authority.

Penalty.

(3) Any such person who contravenes subsections (1) and (2) shall be liable on conviction to a fine not exceeding two thousand ringgit and shall also be liable to a further fine not exceeding one hundred ringgit for every day during which the offence is continued after a notice requiring him to comply with any of the provisions in subsection (1) or (2) has been served on him.

Proviso.

(4) Where the local authority considers the use of a hoarding unnecessary or impracticable, it may give written permission that such building, taking down, alteration or repairs may be done without the erection of a hoarding or fence.

Powers as regards buildings in ruinous and dangerous state.

83. (1) If after conducting such inquiry as it thinks fit, the local authority is satisfied that any building or anything affixed thereon is in a ruinous state, likely to fall or is in any way dangerous to any person therein or foot passengers on the streets adjoining such building, the local authority shall serve notice on the owner of such building requiring him to either repair the defects or demolish the building or anything affixed thereon within such period of time as the local authority may specify and the local authority may also require such owner to put up such hoardings or fences of such specifications and within such period of time as it may specify.

(2) Notwithstanding any notice under subsection (1), if the local authority is satisfied that it is dangerous for any person to remain or reside inside such building, it may by notice require every occupier of and every lodger in such building to vacate the building within such period of time as it may specify.

(3) If upon service of the notice the owner desires to repair, he shall not proceed to do so unless he has obtained planning approval to do so from the relevant authority in charge of town and country planning in the area where his building is situate.

(4) Where planning approval has been granted, the owner shall not proceed to repair unless he has submitted such plans and specifications showing the intended repairs and until such plans and specifications have been approved by the local authority.

(5) Where the owner fails to put up hoardings or fences within the period of time specified in the notice or fails to put up hoardings or fences in accordance with the specifications of the local authority, the local authority may enter upon such premises where the building is situate and put up such hoardings or fences.

(6) Where the owner is unable to demolish such building within the time specified in the notice, the owner may request the local authority to carry out the requirement of the notice.

(7) No request by the owner made under subsection (6) shall absolve the owner from his liability under this section unless he makes the request within the time specified for him to demolish such building and unless within the same period of time he -

(a) deposits with the local authority such sum which the local authority thinks is sufficient to cover the costs and expenses of -

(i) demolishing such building;

(ii) removal of any movable property found in such building;

(iii) storage of such movable property; and

(iv) any other activities incidental to or arising out of subparagraphs (i), (ii) and (iii);

(b) indemnifies and keeps indemnified the local authority against any claim, damage, loss, action or proceedings that may be brought against the local authority arising out of and incidental to subparagraphs (i), (ii), (iii) and (iv); and

(c) notwithstanding any sum paid under paragraph (a), pays the local authority a further sum which may be prescribed by the State Authority for relocation purposes.

(8) Any person who fails to comply with any of the requirements of the notice under subsection (1) or (2) shall be liable on conviction to a fine not exceeding two hundred and fifty ringgit for every day that the offence is continued after the expiry of the period specified in the notice.

(9) Where the owner fails to comply with the requirements of the notice, the local authority may do any or all of the acts required by the notice and notwithstanding the owner's liability to pay any fine under subsection (8), the owner shall pay such sums to the local authority as may be required under subsection (7) and shall be deemed to have indemnified the local authority in carrying out the terms of the notice as if he had requested the local authority to do so.

(10) A certificate by the local authority stating the sum required to be paid by the owner under subsections (5) and (9) shall be conclusive proof of the sums due and shall not be subject to any appeal or review in any court.

Power to shut up and secure deserted buildings.

84. (1) If any building or land, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes liable to be a resort of idle and disorderly persons or otherwise becomes a public nuisance and is complained of by any two or more of the neighbours or by a police officer not below the rank of Assistant Superintendent or by the Health Officer, the local authority, after due inquiry may cause notice in writing to be given to the owner or the person claiming to be the owner, if he is known and resident in Malaysia, or, if he is not known or so resident, may cause such notice to be put on the door of the building or some conspicuous part of the premises, requiring the persons concerned therewith, wherever they may be, to secure and enclose the same or to abate the nuisance within such period of time as it may specify.

(2) Any person who fails to comply with the requirements of the notice shall be liable on conviction to a fine not exceeding two hundred and fifty ringgit for every day that the offence is continued after the expiry of the period specified in the notice.

(3) Where the owner fails to comply with the requirements of the notice the local authority may do any or all of the acts required by the notice and the cost and expense of doing such work shall be recoverable by the local authority from the owner.

Building to which public has access.

85. (1) The owner or the occupier of any building or any part thereof to which the public has access shall -

(a) regularly clean and keep clean and in good repair such building or part thereof; and

(b) keep such building or part thereof free of any condition which may endanger the life or health of his employees, members of the public and other users thereof.

(2) Where, in the opinion of the local authority, the owner or the occupier of any such building or part thereof fails to comply with subsection (1) (a) or (b), the local authority may, by notice in writing, require such owner or occupier within such period as may be specified therein to take such steps as the local authority deems fit.

(3) Any person who contravenes subsection (1) or refuses, neglects or fails to comply within such period as may be specified in any notice issued by the local authority under subsection (2), shall be liable on conviction to a fine not exceeding two thousand ringgit and shall also be liable to a further fine not exceeding two hundred ringgit for every day during which the offence is continued after expiry of the period specified in the notice.

(4) Where any person who has been served with a notice under subsection (2) fails to comply therewith, the local authority may in its discretion, and without prejudice to any proceedings under subsection (3) and whether before or after the commencement or conclusion of such proceedings, carry out all or any of the requirements set out in such notice and recover from such person the cost and expenses thereof.

(5) The local authority may certify such cost and expenses incurred and the certificate of the local authority shall be conclusive proof of the sum due and shall not be subject to any appeal or review in any court.

Periodical inspection of buildings.

85A. (1) In this section -

"engineer" means a Professional Engineer registered under the Registration of Engineers Act 1967;

"owner" means owner of a building and in relation to a subdivided building includes owners of parcels of the building.

(2) This section shall apply only to a building exceeding five storeys and any storey of a building which is or at a level lower than the ground storey shall be deemed to be a storey.

(3) The local authority may, without prejudice to its powers under section 83, by a notice in writing served on the owner of a building, require the building to be inspected -

(a) after the tenth year commencing from the date the certificate of completion and compliance in respect of the building was issued; and

(b) thereafter at intervals of not more than ten years from the date of the completion of the last inspection of the building under this section.

(4) The owner of a building shall, upon receipt of a notice under subsection (3), cause the building to be inspected within the time specified in the notice by an engineer to be appointed by him.

(5) If the notice under subsection (3) is not complied with the local authority may inspect the building or cause the building to be inspected by an engineer appointed by it and recover all expenses reasonably incurred by it in doing so from the owner of the building.

(6) An engineer carrying out an inspection under this section shall inspect the building in the manner prescribed in the by-laws which shall take into consideration the following -

(a) a visual inspection of the building, including a visual survey of the condition of the building and its structural elements and any addition or alteration to the building and its structural elements;

(b) the preparation and submission to the local authority of a report of the result of the visual inspection;

(c) if, after having considered the results of the visual inspection, the engineer reasonably suspects or is of the opinion that there is a defect, deformation or deterioration in the building or its structural elements as will or will likely endanger or reduce the structural stability or integrity of any part of the building he shall request for permission from the local authority to carry out a full structural investigation on the building including investigation in respect of its structural elements;

(d) if the local authority allows the request made under paragraph (c) the engineer shall carry out a full structural investigation which shall include the following -

(i) taking all reasonable steps in obtaining information relating to the design, erection, maintenance and history of the building;

(ii) checking with reasonable diligence the structural plans of the building together with its structural calculations, or if the plans or calculations are not available to reconstruct such plans and calculations where

the local authority so requires, with a view to determine any inadequacy in the structural elements of the building;

(iii) carrying out tests on the structural elements of the building without damaging any part thereof,

(iv) carrying out tests on the building materials; and

(v) carrying out load testing of such parts of the building as the engineer considers necessary; and

(e) the engineer shall thereafter prepare and submit to the local authority a report of the full structural investigation and his recommendations.

(7) An engineer carrying out an inspection or a full structural investigation on a building shall be entitled at all reasonable times to full and free access to the building and any part thereof he is required to inspect or investigate and any person who hinders, obstructs or delays him in the performance of his duty shall be guilty of an offence.

(8) Without prejudice to the right of the local authority to exercise its powers and recover expenses under this section, any owner of a building who contravenes or fails to comply with a notice under subsection (3) shall be guilty of an offence.

(9) The State Authority may by order, in the Gazette, provide for the application of this section with such adaptations or modifications as may be specified therein to buildings in respect of which no certificate of completion and compliance has been issued.

(10) The local authority may, if it is satisfied after evaluating the visual inspection report submitted under subsection (6) (b) or the full structural investigation report and recommendations of the engineer submitted under subsection (6) (e), as the case may be -

(a) accept it in full;

(b) reject it;

(c) accept part of it; or

(d) obtain a second opinion on it.

(11) The local authority may thereafter -

(a) issue an order to the owner of the building to take the necessary measures to rectify or remedy any defect, deformation or deterioration as recommended by the engineer within such period as the local authority may specify; or

(b) in place of an inquiry under section 83, issue an order to the owner of the building for closure and demolition of the building

(12) Before exercising its powers under subsection (11), the local authority shall, if it is reasonably practicable to do so, serve a copy of the order made thereunder to every occupier of the building.

(13) Any person who fails to comply with an order given under subsection (11) shall be liable on conviction to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both and shall also be liable to a further fine not exceeding five hundred ringgit for every day during which the offence is continued after conviction.

(14) Notwithstanding subsection (13), where the owner of a building fails to comply with an order issued under subsection (11), the local authority may take any measure as specified in the said order or secure the closure and demolition of the building and recover from the owner expenses reasonably incurred by it in relation thereto.

Nuisances liable to be dealt with summarily under this Act.

86. For the purposes of sections 87, 88, 89 and 90 -

(a) any premises or part thereof of such a construction or in such a state as to be a nuisance or injurious or dangerous to health;

(b) any pool, gutter, water-course, cistern, water closet, water sealed latrine, privy, urinal, septic tank, sewer or drain so foul or in such a state or so situate as to be a nuisance or injurious or dangerous to health;

(c) any building which -

(i) is not kept in a clean state and free from effluvia arising from any sewer, drain, privy, water sealed latrine, septic tank, urinal or other nuisance; or

(ii) is not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust or other impurities generated in the course of the work carried on therein that are a nuisance or injurious or dangerous to health;(d) any huts or sheds, whether used as dwellings or as stables or for any other purpose, which are by reason of the manner in which the huts or sheds are crowded together or the want of drainage or the impracticability of scavenging or for any other reason a nuisance or injurious or dangerous to health;

(e) any brick-field, sandpit or any other kind of excavation which is injurious to health or offensive to the neighbourhood or used for any purpose likely to be injurious to health;

shall be a nuisance liable to be dealt with summarily in accordance with sections 87, 88, 89 and 90.

Notice requiring abatement of nuisance.

87. (1) On receipt of any information respecting the existence of a nuisance liable to be dealt with summarily under this Act, the local authority shall, if satisfied of the existence of a nuisance, serve a notice on the person by whose act, default or sufferance the nuisance arises or continues or, if such person cannot be found, on the occupier or owner of the premises on which the nuisance arises, requiring him to abate the same within the time specified in the notice and to execute such works and do such things as are necessary for that purpose and, if the local authority thinks it desirable, specifying any works to be executed.

Power to require works to be executed.

(2) The local authority may also by the same or another notice served on such occupier, owner or person require him to do what is necessary for preventing the recurrence of the nuisance and, if the local authority thinks it desirable, specify any works to be executed for that purpose, and may serve that notice notwithstanding that the nuisance had for the time being abated if the local authority considers that it is likely to recur on the same premises.

(3) Where the nuisance arises from any want or defect of a structural character or where the premises are unoccupied, the notice shall be served on the owner.

(4) Where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default or sufferance of the occupier or owner of the premises, the local authority may cause the same to be abated and may do what is necessary to prevent the recurrence thereof.

(5) Where a notice has been served on a person under this section and either -

(a) the nuisance arose from the wilful act or default of the said person; or

(b) such person makes default in complying with any of the requirements of the notice within the time specified;

he shall be liable on conviction to a fine not exceeding five hundred ringgit for each offence whether any such nuisance order as in this Act mentioned is or is not made upon him.

On non-compliance with notice, nuisance order to be made.

88. (1) If either -

(a) the person on whom notice to abate a nuisance has been served as aforesaid makes default in complying with any of the requisitions thereof within the time specified; or

(b) the nuisance, although abated since the service of the notice, is in the opinion of the local authority likely to recur on the same premises;

on complaint by the local authority a Magistrate's Court hearing the complaint may make on such person a summary order, in this Act referred to as a "nuisance order".

Nuisance order.

(2) A nuisance order may be an abatement order or a prohibition order or a closing order or a combination of such orders.

Abatement order.

(3) An abatement order may require a person to comply with all or any of the requisitions of the notice, or otherwise to abate the nuisance within a time specified in the order.

Prohibition order.(4) A prohibition order may prohibit the recurrence of a nuisance.

When to specify works to be executed.

(5) An abatement order or prohibition order shall, if the person on whom the order is made so requires or the court considers it desirable, specify the works to be executed by such person for the purpose of abating or preventing the recurrence of the nuisance.

Closing order.

(6) A closing order may prohibit a dwelling-house from being used for human habitation.

When to be made.

(7) A closing order shall only be made where it is proved to the satisfaction of the court that by reason of a nuisance a dwellinghouse is unfit for human habitation, and, if such proof is given, the court shall make a closing order and may impose a fine not exceeding one thousand ringgit.

Provided that a closing order shall not be made unless a notice of the hearing of the complaint on which it is to be made has been posted on the premises in a conspicuous position with an intimation in such notice that any occupant of the premises may show cause against the making of such order.

Cancelling closing order.

(8) A court, when satisfied that the dwelling-house has been rendered fit for human habitation, may declare that it is so satisfied and cancel the closing order.

Penalty for not complying with order.

(9) Any person who fails to comply with provisions of a nuisance order with respect to the abatement of a nuisance shall, unless he satisfies the court that he has used all due diligence to carry out such order, be liable on conviction to a fine not exceeding one hundred ringgit a day during his default.

(10) Any person who knowingly and wilfully acts contrary to a prohibition order or closing order shall be liable on conviction to a fine not exceeding one hundred ringgit a day during such contrary action.

(11) In either of the cases mentioned in subsections (9) and (10), the local authority or any person authorised by the local authority in writing in that behalf may enter the premises to which a nuisance order relates and abate or remove the nuisance and do whatever is necessary in the execution of such order and the expenses thereby incurred shall be paid by the person in default.

(12) In case of nuisances caused by the act or default of the owner of premises, such expenses together with any costs and expenses which the court orders such owner to pay shall be deemed to be expenses to which section 104 applies and shall be recoverable under the provisions of that section.

(13) A court making any order under this section may require any person on whom any order is made to pay all costs and expenses incurred in obtaining the order.

Ejection after closing order.

(14) Where a closing order has been made with respect to any dwellinghouse, the local authority shall serve notice of the order on every occupier of the dwelling-house and within such period as is specified in the notice not being less than seven days (except in case of immediate danger) after the service of the notice the order shall be obeyed by him and he and his family shall cease to inhabit the dwelling-house, and in default he shall be liable on conviction to a fine not exceeding one hundred ringgit a day during his disobedience to the order, and the court shall, upon application by the local authority, make a summary order for his ejection and the same may be carried into effect by any police officer or officer or employees of the local authority authorised in writing by the local authority:

Expenses of removal.

Provided that the owner shall make to every tenant whose tenancy has not been lawfully determined such reasonable allowance, if any, on account of his expenses in removing as a court may allow or order, and such allowance shall be recoverable in a summary way before a Magistrate's Court.

Order for demolition of house unfit for habitation.

89. (1) Where a closing order has been made in respect of any dwellinghouse and has not been cancelled by a subsequent order, the local authority, if of the opinion that –

(a) the dwelling-house has not been rendered fit for human habitation;

(b) the necessary steps are not being taken with all due diligence to render it so fit; or

(c) the continuance of any building being or being part of the dwelling-house is dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-houses,

may make a complaint to a Magistrate's Court, and such court after hearing the complaint may make on the owner a summary order for the demolition of such dwelling-house within a time specified in such order.

(2) The order may also contain a direction that the materials of the building or any part of such materials shall be destroyed.

Execution of order for demolition.

90. (1) Where an order for the demolition of a building has been made, the owner thereof shall, within the time mentioned in such order, take down and remove the building and, if the order for demolition so directs and to the extent therein mentioned, destroy the materials thereof.

(2) If the owner fails to comply with the order, the local authority or any person authorised by the local authority in writing in that behalf shall proceed to take down and remove the building and, if necessary, destroy the materials, and may recover the costs of such work from the owner.

(3) The provisions of section 104 shall apply to any sum recoverable from the owners under this section.

**PART VI
MISCELLANEOUS**

Mandatory order.

91. (1) Whenever any owner or occupier is required under this Act to erect or remove any building or thing or to perform any other work to which the provisions of this Act apply, and such owner or occupier after due notice fails to erect or remove such building or thing or to perform such work within the specified time, the local authority may make a complaint and the Magistrate's Court upon hearing the complaint shall make on such owner or occupier a summary order, in this Act referred to as a "mandatory order", requiring such owner or occupier to execute the required work.

Terms of mandatory order.

(2) A mandatory order shall require the person to whom it is directed to execute any work which the court is authorised to require to be executed within a time to be specified in such order and shall also require such person to pay to the local authority a sum for costs and expenses incurred in obtaining such mandatory order.

Penalty for non-compliance.

(3) (a) Any person to whom the order is addressed who fails to comply with the requirements of a mandatory order shall, unless he satisfies the court that he has used all due diligence to carry out such order, be liable on conviction to a fine not exceeding two hundred and fifty ringgit a day during his default.

(b) Where the person fails to comply with the order, the local authority may enter the premises and execute the work so required to be executed and the expenses thereby incurred by the local authority shall be recoverable from the person in default in accordance with any law relating to the recovery of fines.

Provision as to appeal against order.

92. (1) Where a person appeals to the High Court against a mandatory order, no liability to a fine shall arise nor, save as in this section mentioned, shall any proceedings be taken or work done under such order until after the determination or abandonment of such appeal.

Penalty where appeal fails.

(2) Where a mandatory order is made and a person does not comply with it and appeals against it to the High Court and such appeal is dismissed or is abandoned, the appellant shall be liable on conviction to a fine not exceeding two hundred and fifty ringgit a day during the non-compliance with the order, unless he satisfies the court before which proceedings are taken for imposing a fine that there was substantial ground for the appeal and that the appeal was not brought merely for the purpose of delay and, where the appeal is heard by the High Court, the court may, on dismissing the appeal, impose the fine as if the court were the court before which the summons was returnable.

Proceedings pending appeal.

(3) Where a mandatory order is made on any person and appealed against and the court which made the order is of opinion that the non-execution of the mandatory order will be injurious or dangerous to public health or safety and that the immediate execution thereof will not cause any injury which cannot be compensated by damages, such court may authorise the local authority immediately to execute the work.

(4) The local authority, if it does so and the appeal is successful, shall pay the cost of such execution thereof and the damages, if any, sustained by the said person by reason of such execution thereof, but, if the appeal is dismissed or abandoned, the local authority may recover the cost of such execution thereof from the said person.

Proceedings where owner is unknown.

93. (1) Where the name or address of the owner of any premises with regard to which a Magistrate's Court is empowered to make a mandatory order is unknown and cannot with reasonable diligence be discovered, such court may issue a summons addressed to the owner of the premises.

(2) Such summons may be served in the manner specified in section 120.

(3) If the owner does not appear upon the hearing of the summons, such court may make such an order upon him in his absence as it might have made in his presence except that it shall not inflict any fine upon him.

In case of urgency order may be made ex parte.

94. (1) If in any case in which a Magistrate's Court has jurisdiction to make a mandatory order, the court is of the opinion that the matter complained of will be injurious or dangerous to public health or safety and the immediate execution of the work will not cause any injury which cannot be compensated by damages, such court may, by an ex parte order, authorise the local authority immediately to execute such work.

(2) If the application for a mandatory order is subsequently refused, the local authority shall pay the damages, sustained by any person thereby, but if the mandatory order is subsequently granted the local authority may recover the cost of the work.

Protection of the State Authority and officers from personal liability.

95. (1) No matter or thing done and no contract entered into by any State Authority and no matter or thing done by any officer employed in the administration of this Act or other person whomsoever acting under the direction of any State Authority shall if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(2) The State Authority, local authority and any public officer or officer or employee of the local authority shall not be subject to any action, claim, liabilities or demand whatsoever arising out of any building or other works carried out in accordance with the provisions of this Act or any by-laws made thereunder or by reason of the fact that such building works or the plans thereof are subject to inspection and approval by the State Authority, local authority, or such public officer or officer or employee of the State Authority or the local authority and nothing in this Act or any by-laws made thereunder shall make it obligatory for the State Authority or the local authority to inspect any building, building works or materials or the site of any proposed building to ascertain that the provisions of this Act or any by-laws made thereunder are complied with or that plans, certificates and notices submitted to him are accurate.

Indemnity by local authority.

96. Any expense incurred by any State Authority, officer or other person acting in accordance with the provisions of section 95 shall be borne by the local authority.

Power to enter upon lands for the purposes of this Act.

97. Any local authority may, for the purposes of this Act, by its officers, employees, agents or contractors, enter at all reasonable hours in the daytime into and upon any building or land as well for the purpose of making any survey or inspection as for the purpose of executing any work authorised by this Act to be executed by it without being liable to any legal proceedings or molestation whatsoever on account of such entry or of anything done in any part of such building or land in pursuance of this Act:

Power of any authority to enter on lands adjacent to works.

98. (1) Any local authority may, by its officers, employees, agents or contractors, enter upon any land adjoining to or being within the distance of one hundred yards of any works by this Act authorised to be made, for the purpose of depositing upon such land any soil, gravel, sand, lime, brick, stone or other materials or for any other purposes connected with the formation of the said works without making any previous payment, tender or deposit, doing as little damage as may be in the exercise of the several powers hereby granted and making compensation for such temporary occupation or temporary damage of the said land to the owner and occupier thereof from time to time and as often as any such temporary occupation is taken or any such temporary damage done and making compensation to the owner also for the permanent injury, if any, to such land.

(2) If any dispute arises touching on the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided.

(3) Before any local authority makes any such temporary use as aforesaid of the land adjoining or lying near to the said works, it shall give seven days' notice of its intention to the owners or occupiers of such land and shall set apart by sufficient fences so much of the land as is required to be used as aforesaid from the other land adjoining thereto.

Any local authority in executing works to provide alternative roads, etc., where existing ones are interrupted, etc.

99. (1) Any local authority in executing any works directed or authorised to be made shall provide and make a sufficient number of convenient ways, water-courses, drains and channels in the place of such as are interrupted, injured or rendered useless by reason of the execution of such works.

(2) The local authority shall make reasonable compensation to any person who suffers damage by reason of the same, the amount of such compensation in case of dispute to be ascertained and determined in the manner hereinafter provided.

Penalty for obstructing any authority in its duty.

100. Any person who at any time hinders, obstructs or molests any local authority or any of its officers, employees, agents or contractors in the performance and execution of its duty or of anything which it is respectively empowered or required to do by virtue or in consequence of this Act, or removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act, shall be liable on conviction to a fine not exceeding one thousand ringgit or to imprisonment for a term which may extend to six months.

Compensation damages and costs to be determined by court.

101. (1) Except as herein otherwise provided in all cases when compensation, damages, fees, costs or expenses are by this Act directed to be paid by the local authority to any person or by any person to any other person the amount and, if necessary, the apportionment of the same and any question or liability shall, in case of dispute or failure to pay, be summarily ascertained and determined by a Magistrate's Court.

(2) If the amount of compensation, damages, fees, costs or expenses is not paid by the party liable to pay the same within seven days after demand, such default may be reported to a Magistrate's Court and such amount recovered in the same way as if it were a fine imposed by a Magistrate's Court.

(3) An appeal shall lie to the High Court from any decision of a Magistrate's Court under this section, and the provisions of the Criminal Procedure Code shall mutatis mutandis apply to all such appeals.

Whenever default is made by an owner of any premises in the execution of any work required under this Act to be executed by him, an occupier of such premises may, with the approval of the local authority, cause such work to be executed and the expense thereof shall be paid to him by the owner or the amount may be deducted out of the rent from time to time becoming due from him to such owner and such occupier may, in the absence of any special agreement to the contrary, retain possession until such expense has been fully reimbursed to him.

(1) No person receiving the rent of premises as receiver or agent for another person shall be liable to do anything by this Act required to be done by the owner of such premises if, after he or the actual owner has been required to do any work, such person gives notice to the local authority, within seven days after such

requisition has been made, that he has not sufficient funds of the person on whose behalf he is receiving the rents to pay for such work.

(2) In such case the local authority may itself execute the work and the expenses incurred thereby shall be charged and recoverable in the manner hereinafter provided.

Recovery of expenses and costs payable by owners.

104. (1) All and any sums payable by or recoverable from the owner or owners in respect of expenses and costs incurred by the local authority in or about the execution of any work which are, under this Act, recoverable from the owner or owners of any premises shall, subject and without prejudice to any other rights of the local authority, be a first charge on the premises in respect of which such expenses or costs have been incurred.

(2) In addition to any other remedies conferred by this Act any such sum may be recovered in the manner hereinafter provided, and the person or persons liable to pay the same shall be the owner or owners at the time when the work was completed.

(3) Any occupier who when requested by or on behalf of the local authority to state the name of the owner of the premises refuses or wilfully omits to disclose or wilfully mis-states the same shall, unless he shows cause to the satisfaction of the court for his refusal or mis-statement, be liable on conviction to a fine not exceeding five hundred ringgit.

Proceedings in default.

(4) If any such sum remains unpaid at the expiration of the prescribed time, a notice shall be served upon the person or any one of the persons, if more than one, liable to pay the same, calling on him to pay the same together with a fee of such amount as may be prescribed for the cost of the notice, within fifteen days of the service of such notice.

(5) If no person liable to pay the same can be found, such notice shall be deemed to have been duly served by the posting thereof at the office of the local authority and by fixing a copy thereof on some conspicuous part of the premises in respect of which such expenses or costs have been incurred.

(6) At the expiration of the said period of fifteen days or such further period as may be allowed by the local authority, if any such sum or any part thereof remains due and unpaid, it shall be deemed to be in arrears and may be recovered in the manner hereinafter provided.

(7) The charge hereinbefore mentioned shall attach, and the powers and remedies hereinbefore conferred shall become exercisable as from the date of completion of the work, and thereafter such powers and remedies may be exercised against the premises or against or against any movable property or crops for the time being found thereon, notwithstanding any change or changes in the ownership or occupation of the premises subsequent to the said date. Proceedings in default.

Recovery of expenses and costs by instalments.

105. (1) When any local authority has incurred expenses and costs in or about the execution of any work, which are, under this Act, payable by or recoverable from the owner or owners, the local authority may either recover such expenses and costs in manner hereinbefore provided or, if it thinks fit, may take an engagement or engagements from such owner or owners for the payment of such instalments as will be sufficient to defray the whole amount of such expenses and costs with interest thereon at a rate not exceeding six per centum per annum, within a period not exceeding ten years.

(2) Upon default in payment of any instalment or interest upon the date appointed for payment thereof by any such engagement, the whole of the balance then outstanding of such amount, together with any interest in arrears, shall immediately become due and payable and, notwithstanding any change in the ownership or occupation of the premises since the date of the engagement, may be recovered by the same means and in like manner as provided in section 104.

Proceedings for recovery of arrears.

106. (1) For the recovery of arrears the local authority shall have and may exercise, either successively or concurrently, in addition to any other remedies conferred by this Act, either or both of the powers following, that is to say –

(a) the local authority may issue a warrant of attachment and may seize by virtue thereof any movable property and crops of any person liable to pay the arrears and may also seize any movable property or any crops to

whomsoever belonging which are found on the premises in respect of which the arrears are due and may, after service of the prescribed notice, sell the same by public auction in the prescribed manner;

(b) the local authority may, by notice of sale to be served or published in the prescribed manner, declare its intention of selling, at the expiration of three months from the date of such notice of sale, the premises in respect of which the arrears are due and, if, at the expiration of such period, such arrears have not been paid or satisfied, the local authority may sell by public auction, in lots or otherwise, the whole of such premises or such portion thereof or such interest therein as it deems sufficient for recovery of such arrears and costs:

Provided that the local authority shall not proceed under paragraph (b) to sell the premises in respect of which the arrears are due, or any portion thereof or interest therein, where there is or are upon the premises and liable to be seized and sold under paragraph (a) movable property or crops belonging to the owner of a value estimated by the local authority to be sufficient to realize the sum required to satisfy the arrears and costs.

(2) Any tenant, sub-tenant, or occupier, who, in order to avoid the seizure or sale of his property for non-payment of arrears payable by the owner of the premises, pays such arrears and costs may thereafter, in the absence of any written agreement to the contrary, deduct the amount so paid by him from the rent due or to become due by him to his immediate landlord on account of the premises or such part thereof as is held or occupied by him, and may retain possession until such amount has been fully reimbursed to him whether by deduction from the rent or otherwise. Any tenant or sub-tenant who has reimbursed, whether by allowing a deduction from his rent or otherwise, any sub-tenant or occupier holding or occupying under him the amount so paid by such sub-tenant or occupier shall have a similar right to deduct the amount from the rent due or to become due to his immediate landlord and to retain possession until similarly reimbursed.

(3) The receipt of any duly authorised public officer for any amount so paid by any such tenant, sub-tenant or occupier shall be deemed an acquittance in full for the like amount of rent

(4) If any premises in respect of which arrears are due, or any such movable property or crops as are mentioned in subsection (1) or the proceeds of sale thereof are already in the custody of the law under any process of execution whereby the local authority is unable to exercise the remedies hereinbefore conferred, the local authority may notify the sheriff or the bailiff of the court concerned of the amount of the arrears, and shall be entitled without obtaining a judgment to be paid such amount out of the proceeds of sale of such premises or property in priority to the judgment debtor and to the judgment creditor and to any other creditor.

(5) A certificate from the local authority shall, unless the same be disputed by the judgment debtor be prima facie evidence of the amount of such arrears, and, in case of dispute, the amount shall be summarily determined by a Magistrate's Court.

Attachment.

107. (1) The attachment mentioned in paragraph (a) of subsection (1) of section 106 may be made by a person appointed for the purpose by the local authority who shall publicly notify the attachment and shall take in inventory of the property attached.

(2) Such person shall be deemed to be a public servant within the meaning of the Penal Code

(3) Such person may break open in daytime any house or building for the purpose of effecting such attachment.

Application of proceeds.

108. (1) The proceeds of a sale under subsection (1) of section 106 shall be applied in the first place in satisfaction of the arrears together with interest thereon at the rate of six per centum per annum and costs.

(2) In the event of there being any surplus remaining the local authority shall, if satisfied as to the right of any person claiming such surplus, pay the amount thereof to such person or, if not so satisfied, shall hold the amount in trust for the person who may ultimately succeed in due course of law in establishing his title thereto.

(3) If no title is established to such surplus within a period of two years from the date of the sale, it shall be paid into the Improvement Service Fund of the local authority.

Title conferred by purchase at sale under section 106.

109. (1) The purchaser at a sale held under paragraph (b) of subsection (1) of section 106 shall be deemed to have acquired the right offered for sale free from all subordinate interests derived from it except such as are expressly reserved by the local authority at the time of sale.

(2) The local authority shall notify in such manner as it deems fit the result of the sale and the conveyance to the purchaser of the property or right offered for sale.

Cost of proceedings for recovery of arrears.

110. All costs of any proceedings for the recovery of arrears may be recovered as if they formed part of such arrears.

Power to stop sale.

111. If any person having any interest in any property liable to be sold at any time previous to such sale tenders to the local authority the arrears with interest and costs, the local authority shall thereupon desist from all further proceedings in respect thereof.

Application to court.

112. (1) If any person whose movable property, crop or land has been attached or advertised for sale disputes the propriety of the attachment or sale, he may apply for an order to stay the proceedings.

(2) The court, after hearing the local authority and making such further inquiry as is necessary, shall make such order as is just.

Security to be given.

113. No application shall be entertained by the court under section 112 unless the applicant has deposited in court the amount of the arrears and costs or given security for the same to the satisfaction of the court.

Liability of transferor.

114. (1) Every person who sells or transfers any property in respect of which costs and expenses have been incurred by the local authority in or about the execution of any work which are, under this Act, recoverable from the owner thereof shall continue to be liable for the payment of all such costs and expenses payable in respect of such property and for the performance of all other obligations imposed by this Act upon the owner of such property which become payable or are to be performed at any time before such notice of transfer has been given.

(2) Nothing herein shall affect the liability of the purchaser or transferee to pay such expenses or costs in respect of such property or affect the right of the local authority to recover such costs and expenses from or to enforce any obligation under this Act against the purchaser or transferee.

Proceedings if an occupier opposes the execution of works.

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

(2) If after the expiration of eight days from the date of the order such occupier continues to refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable on conviction to a fine not exceeding one hundred ringgit, and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Disposal of matters and things removed by local authority

116. (1) Any matter or thing removed by any local authority in executing any work which it is entitled to execute under this Act shall except as otherwise provided be the property of the local authority and may be sold by public auction or, if the local authority thinks the circumstances of the case require, may be sold otherwise or

be disposed of without sale.

(2) The moneys arising from the sale may be retained by the local authority and applied in or towards the expenses incurred and the surplus, if any, shall be paid on demand to the owner of such matter or thing.

(3) If such surplus is not claimed within two years it shall be paid into the Improvement Service Fund of the local authority.

(4) If any matters or things belonging to several persons are removed by the local authority in executing any such work, it shall cause such matters or things, if sold, to be sold separately.

Licences to be discretionary.

117. (1) The grant or renewal of any licence in pursuance of this Act or any by-laws made thereunder shall be in the discretion of the local authority or person authorised to grant or renew the same and a licence may be granted, renewed or refused without assigning any reason therefor and may be granted or renewed or refused without assigning any reason therefor and may be granted or renewed subject to such restrictions and conditions as the local authority or person granting or renewing the same may think fit and such licence shall be subject to suspension or revocation at any time without compensation and without notice by the local authority upon breach of any restriction or condition subject to which it was issued.

(2) The local authority or person authorised to grant or renew such licence may require any applicant therefor to furnish such information as the local authority or that person may reasonably require for a full and proper consideration of the application and in the event of a refusal to furnish such information shall refuse to grant or renew such licence.

(3) Save as otherwise provided any licence granted or renewed in pursuance of this Act or any by-laws made thereunder may be for such period not exceeding twelve months as the local authority thinks fit.

(4) There shall be charged for the grant or renewal of any licence such fee, if any, as may be prescribed.

(5) No such licence shall be transferable without the consent of the local authority.

(6) Save as otherwise provided any person aggrieved by the refusal by any local authority to grant or renew a licence or by the suspension or revocation by such local authority of any licence may within the month of such refusal, suspension or revocation appeal to the State Authority whose decision thereon shall be final.

(7) In this section "licence" includes any approval, consent, permit, permission, authorization or licence which may be granted in pursuance of this Act or any by-laws made thereunder.

Notices, etc.

118. The State Authority may prescribe the form of notices and other documents issued under this Act.

Receipts and notices may be given by officer authorised thereunto.

119. (1) All notices, orders, receipts, warrants and other documents of whatsoever nature which a local authority is empowered to give by this Act or any by-laws made thereunder may be given by any officer or employee authorised thereunto by the local authority.

(2) Where any such notice, order, receipt, warrant or document requires authentication, the signature or a facsimile thereof of the local authority or any officer or employee authorised thereunto by the local authority affixed thereto shall be sufficient authentication.

Service of notices.

120. (1) Every notice, order, summons or document required or authorised by this Act or any by-laws made thereunder to be served on any person may be served –

(a) by delivering the same to such person or by delivering the same at the last known place of abode of such person to some adult member or servant of his family;

(b) by leaving the same at the usual or last known place of abode or business of such person in a cover addressed to such person; or

(c) by forwarding the same by post in a prepaid cover addressed to such person at his usual or last known place of abode or business.

(2) A notice, order, summons or document required or authorised by this Act or any by-laws made thereunder to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of such premises without further name or description.

(3) A notice, order, summons or document required or authorised by this Act or any by-laws made thereunder to be served on the owner or occupier of any premises may be served by delivering the same or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom the same can with reasonable diligence be delivered, by affixing the notice, order, summons, or document to some conspicuous part of the premises.

Default in compliance with notice. General penalty.

121. (1) When any notice under this Act or any by-laws made thereunder requires any act to be done or work to be executed by the owner or occupier of any premises and default is made in complying with the requirement of such notice, the person in default shall, where no fine is specially provided for such default, be liable on conviction to a fine not exceeding ten thousand ringgit or if any work is required to be done, not exceeding one thousand ringgit a day.

(2) When any such notice requires any act to be done or work to be executed for which no time is fixed by this Act or any by-laws made thereunder, it shall fix a reasonable time for complying with the requirement.

Court for trial of offences.

122. Any offence under this Act or any by-laws made thereunder may be tried by a Magistrate's Court.

Prosecution.

123. No prosecution for an offence under this Act or any by-laws made thereunder shall be instituted except by or with the written consent of the Public Prosecutor.

Employee of authority may demand names and addresses in certain cases.

124. (1) Any person who is charged by any officer or employee of the local authority or any police officer with any offence under this Act or any by-laws made thereunder shall give his name and address to such officer, employee or police officer, if so required.

(2) The occupier of any premises shall, if required by any officer or employee of the local authority or any police officer, give the name and address of the owner of the premises, if known.

Penalty.

(3) Any person who offends under this section or wilfully mis-states his name and address or the name and address of the owner of any premises shall be liable on conviction to a fine not exceeding two hundred and fifty ringgit.

Power of arrest.

125. (1) Any police officer or any officer or employee of the local authority duly authorised in writing by the local authority generally or in any particular case may arrest any person committing any offence in his view or who he has reason to believe has committed any offence punishable under this Act or any by-laws made thereunder –

(a) if the name and address of the person are unknown to him;

(b) if the person declines to give his name and address; or

(c) if there is reason to doubt the accuracy of the name and address, if given.

(2) A person arrested under this section may be detained until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a court unless the order of a court for his detention is obtained.

Saving of prosecutions.

126. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act or any by-laws made thereunder or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or any by-laws made thereunder:

Provided that no person shall be punished more than once for the same offence.

General penalties.

127. Any person guilty of an offence under this Act or any by-laws made thereunder for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding ten thousand ringgit and shall also be liable to a further fine not exceeding five hundred ringgit for every day that the offence is continued after conviction.

Damage to property of local authority to be made good in addition to penalty.

128. (1) If through any act, neglect or default any person has committed an offence under this Act or any by-laws made thereunder and by such act, neglect or default such person has caused damage to any property belonging to the local authority, such person shall in addition to any penalty that may be imposed for that offence, be liable to make good the damage.

(2) The amount of such damage shall, in case of dispute be determined by the court by which the party incurring such penalty is convicted.

(3) The amount of such damage shall be recovered as if it were a fine imposed by the court.

Inaccuracies in documents.

129. No misnomer or inaccurate description of any person, premises, building, holding, street or place named or described in any document prepared, issued or served under, by virtue of or for the purposes of this Act or any by-laws made thereunder shall in any way affect the operation of this Act or any such by-laws as respects that person or place if that person or place is so designated in the document as to be identifiable, and no proceedings taken under or by virtue of this Act or any such bylaws shall be invalid for want of form.

Evidence.

130. (1) The contents of any document prepared, issued or served under, by virtue of or the purpose of this Act shall until the contrary be proved be presumed to be correct and the production of any book purporting to contain any apportionment made under or by virtue of this Act or any by-laws made thereunder shall without any other evidence whatever, be received as prima facie proof of the making and validity of the apportionment mentioned therein.

(2) All records, registers and other documents required by this Act or any by-laws made thereunder to be kept by the local authority or by any public officer shall be deemed to be public documents and copies thereof or extracts therefrom certified by the officer responsible for the custody thereof to be true copies, or extracts, as the case may be, subscribed by such officer with his name and his official title shall be admissible in evidence as proof of the contents of such document or extract thereof.

Evidential provisions.

131. Notwithstanding the provisions of any written law, in any proceedings under this Act or any by-laws made thereunder, a certificate for the purpose of establishing –

(a) the registered proprietor of any land;

(b) the registered owner of a motor vehicle;

which purports to be signed by the Collector of Land Revenue or the Registrar and Inspector of Motor Vehicles as the case may be shall unless the contrary is proved, be evidence of any fact stated therein.

Improvement Service Fund.

132. (1) There shall be established for the purpose of this Act in each local authority a fund to be known as the

"Improvement Service Fund" into which shall be paid all monies that may from time to time be paid to a local authority for the purposes of carrying out the provisions of this Act, all monies recoverable by the local authority from any person under this Act or any by-laws made thereunder and any contributions from any person towards the beautification, construction or laying out of any street, sewer, drain, culvert, gutter or water-course.

(2) The Improvement Service Fund shall be administered by the local authority at its absolute discretion.

(3) Without prejudice to the generality of paragraph (2) the local authority may pay out from the Improvement Service Fund any expenses which may be incurred in carrying out the provisions of this Act.

PART VII BY-LAWS

By-laws.

133. The State Authority shall have the power to make by-laws for or in respect of every purpose which is deemed by him necessary for carrying out the provisions of this Act, and for prescribing any matter which is authorised or required under this Act to be prescribed, and in particular and without prejudice to the generality of the foregoing for in respect of all or any of the matters specified hereunder –

(i) the laying or carrying of any line of rails, mains, pipes, conduits or electric lines (other than sewers) along, through, across, over or under any street or any place laid out or intended for a street;

(ii) the granting of licences for the carrying and maintenance of telegraphic wires or cables or wires for the conveyance of electricity along or across or under public streets and the fixing and levying of annual or other fees therefor;

(iii) the level, width and construction of streets and the repairing, cleaning, watering and lighting of streets, roads, canals and bridges and the planting and preservation of trees;

(iv) the supervision and control of back-lanes under the control of the local authority, of public streets and of streets laid out or constructed by the local authority, the licensing of persons to use such streets and backlanes for any purpose or in any particular manner other than in the exercise of any right of way thereover;

(v) the construction, paving, width and level of arcades and footways;

(vi) the construction, maintenance and repair in any building or on any premises of a water supply, sanitary accommodation, sink accommodation, bathing and washing accommodation;

(vii) (Deleted);

(viii) the maintenance and repair of ash pits, dust-bins and like receptacles;

(ix) the provision, construction, maintenance and repair of wells, tanks and cisterns;

(x) the prevention, removal and suppression of obstructions or encroachments in or on back-lanes, public streets, private streets and arcades abutting thereon and the provision, construction, dimensions and paving along any portion of any land alongside such streets;

(xi) the closing, fencing, lighting and repair of any works, hole or place likely to be a danger to the public;

(xii) the construction, alteration and demolition of buildings and the methods and materials to be used in connection therewith;

(xii a) the submission of plans, specification, calculations, particulars, documents and reports relating to erection of building, principal submitting persons and submitting persons and their duties and responsibilities, and the form and the nature or qualification of such plans, calculations, particulars, documents and reports;

(xii b) the manner and procedure for making an application for the approval for plans and specification for the erection of building;

(xii c) the planning, design and erection of building including –

(a) the structural strength of the building;

(b) the stability of the building;

(c) precautions against overloading;

(d) measures to safeguard the adjacent buildings; and

(e) underpinning;

(xii d) the provision of embankments and retaining walls;

(xii e) the submission of particular of qualified persons, contractors, skilled construction workers and constructions site supervisors engaged or employed for the purpose of or in the erection of building;

(xii f) the prescribing of documents, books or records to be kept and reports or certificates to be made or issued under this Act;

(xii g) the time, manner and procedure for the issuance of the certificate of completion and compliance and partial certificate of completion and compliance;

(xii h) the manner and procedure for the sampling of building materials;

(xii i) the manner for carrying out periodical inspection of buildings and the form in which the reports required in relation thereto shall be submitted;

(xiii) the frontage of, air space about, lighting, airconditioning, ventilation, height of and approaches and entrances to, the provision of parking places for vehicles in or for and exits from buildings;

(xiv) the minimum timber or other building material content in any building;

(xv) the dimensions of rooms, cubicles, staircases and other parts of buildings and the provision of light and air thereto;

(xvi) the provision for the paving, width and level of arcades and footways;

(xvii) the provision in any building or on any premises of a water supply, sanitary accommodation, sink accommodation, bathing and washing accommodation;

(xviii) the provision, construction, maintenance and repair of drains;

(xix) the provision of ash pits, dustbins and like receptacles;

(xx) the prescribing of forms for licences and other purposes for use in connection with this Act;

(xxi) securing the prevention and the prevention of the spread and extinguishment of fire;

Such by-laws may include –

(a) provisions for building materials to be fire resisting and for the fire resistance grading of such materials;

(b) provisions regarding methods of construction and design of any building to secure its safety from fire;

(c) provisions for means of escape from any premises in the event of fire and for the maintenance of such means of escape;

(d) provisions for fire stops and fire breaks;

(e) provisions with regard to access to premises for the fire brigade in the event of fire, and include means of access within a building for fire-fighting purposes;

(f) provisions for the ventilation of buildings for the purpose of removing gases and smoke that may be caused by a fire;

(g) provisions for fire-fighting equipment both manual and automatic and of fire detectors and fire alarms and their maintenance;

(h) provisions for an adequate supply of water for fire-fighting purposes;

(i) any other measures for the safety of fires and the prevention and spread of fire;

(xxii) to require the owner or occupier of premises, or any other person having a duty under this Act or any by-law made, thereunder, to execute any work or perform any act necessary in the opinion of the local authority to secure compliance with such Act or by-laws and in default of compliance with such requirement on the part of such owner or occupier or other person, to authorise the local authority to execute such work or perform such act itself and to recover the expenses and costs incurred by it in or about the execution of such work or the performance of any such act, from such owner, occupier or other person, as the case may be;

(xxiii) in case of emergency or where the owner cannot after due enquiry be found, to authorise the local authority to execute such work or perform such act itself without first requiring the owner, occupier or other person as aforesaid to do so, and to recover the expenses and costs incurred by it in or about the execution of such work or the performance of such act from such owner, occupier or other person;

(xxiv) to apportion responsibility for failure to any building or parts of a building and to require any person or class of persons to report such failures and to explain the causes of such failure;

(xxv) the payments to be made for, and other incidents of, licences and permits issued under this Act;

(xxvi) the fees, costs and other sums charged for any matter or thing required or authorised to be done under this Act;

(xxvii) the collection, remission, rebate or deferment of payment of any sum required to be paid under this Act;

(xxviii) the offences under this Act and any by-laws made thereunder which may be compounded by the local authority, the persons who may compound, the limit of the sum of money to be collected by such local authority for compounding such offences and the procedure and forms to be complied with in compounding; and

(xxix) in so far they do not fall within any of the preceding paragraphs, all procedural and other matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

PART VIII
REPEALS, TRANSITIONAL PROVISIONS, ETC.

Repeals, transitional provisions, etc.

134. (1) The laws specified in the Schedule are hereby repealed as from the commencement of this Act.

(2) The Yang di-Pertuan Agong may, at any time within the period of five years beginning with the commencement of this Act, by order under this section –

(a) repeal any other written law in force immediately before that commencement and rendered obsolete or unnecessary by any provision thereof;

(b) make such repeals or amendments in any such law as he may consider necessary for the purpose of bringing the provisions thereof into accord with the provisions of this Act, or of supplementing the last-mentioned provisions in any respect:

Provided that the power conferred by this subsection shall not be exercised in respect of a State Law otherwise than with the concurrence of the State Authority.

Power of State Authority to make transitional provisions, etc.

135. The State Authority may, by regulations, make such provision as it may consider necessary or expedient for the purpose of removing any difficulties occasioned by the coming into force of this Act, and any such regulations may be so made so as to have effect as from the commencement of this Act.