

STATE OF SABAH

LOCAL GOVERNMENT ORDINANCE 1961 (Sabah No. 11 of 1961)

LIST OF AMENDMENTS

<i>Ordinance/ Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
2/1962	6(2)(g), 10, 11(1), (2), (3), 12(1), (2)	2-7-1962
13/1962	89	22-9-1962
16/1962	49(1) paragraph 16	1-1-1963
21/1963	6(2), 11(2), 13(4), (7), 16, 21(3), 21A, 24, 27(3), (4), Part V, 38(3), (4), 39(1), (2), (3), 49(1)(16), (46)(iv), (64A), 57(1)(c), 61(1), 63, 67, 68A, 69(1), (2), 73(1)(e), 83(f), (h), 85, 100(1), 103(2)	24-8-1963
G.N.S. 154/1963	4(1), 5(1), 44, 50(1), 51(3), (4), (5), (6), (7), 56(1), 57(1)(b), 70, 71, 73(1)(f), 99, 100(1), (2)	16-9-1963
6/1964	12(2), 72, 72A, 74(2), 76	29-4-1964

G.N.S. 43/1964	50	1-4-1964
G.N.S. 122/1964	56(2), 58(2)(4), 68A(4), (6), 69(4)	1-10-1964
4/1965	74(1)	1-1-1965
G.N.S. 87/1965	Long title, 2, 11(3), 38(5), 49(1)(29), 55(g), 57(1)(a)	16-9-1963
19/1966	107(5)	23-12-1966
21/1966	89(1)(d)	1-8-1967
3/1968	22(2)	23-8-1968
12/1971	49(1), (30), (31), (32), (33)	9-8-1971
15/1972	50(4), 52A	28-12-1972
6/1973	68(1), (2)	27-9-1973
Act 160	Throughout the Ordinance, the words “ringgit” and “sen” substituted for the words “dollars” and “cent” respectively.	29-8-1975
16/1977	10, 10A	29-12-1977
20/1978	107(1), (2), (4), (5), 110(3)	1-1-1979
25/1978	2 (definitions of “Authority”,	28-12-1975

	“Chairman”, “Municipal Council” and “urban area”), 3, 6(l)(cc), (2)(ii), 13, 49(1)(46)(vii). 53, 54, 67(2). 68A(2), 71	
4/1979	23	3-5-1979
8/1979	2, 13	1-1-1979
4/1980	89(2A)	1-1-1980
9/1981	2 (definition of “divisional committee”), 39(2), 49(1)(30), 52(1), (3), 104, 106A	1-7-1981
32/1981	47A	22-12-1981
35/1981	10(A)(1)(ii)	1-1-1982
7/1982	15(1)(2), 47(1)(2), 47A, 49(i), 46(viii), 89(1)	26-8-1982
7/1983	64A, 89A	7-7-1983
10/1983	2, 13(1)	1-1-1984
5/1984	49(1)(70), 70, 104A	15-3-1984
2/1987	23(a)	16-4-1987
2/1991	69A	25-4-1991
Act A885	81(1) (“Chief Judge of the	24-6-1994

High Court in Sabah and Sarawak" substituted for "Chief Justice of the High Court in Borneo".)

13/1994	49(1)(46)(ix)	5-12-1994
18/1995	11A, 12, 27(3), 29(1), (3), 50A, 50B, 50C, 52(1), 52A(1), 74(2), 85, 102A, 102B, 102C, 102D, 102E	2-5-1996

An Ordinance to make further provision for Local Government in Sabah and for purposes connected therewith.

[1st January 1962]

ENACTED by the Legislature of North Borneo as follows:

PART I
PRELIMINARY

Short title.

1. This Ordinance may be cited as the Local Government Ordinance, 1961 and shall come into operation on such date as the Governor may, by notification in the *Gazette*, appoint*.

Interpretation.

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

* See G.N.S. 134 of 1961.

“area” when used in relation to an Authority, means the area under the jurisdiction of the Authority;

“Authority” means any District Council, Town Board or Municipal Council established under the provisions of section 3;

“building” includes any structure of whatsoever material constructed;

“Chairman” means the President or Deputy President of a Municipal Council, the Commissioner of a Town Board and the Chairman of a District Council elected or appointed under the Instrument or the provisions of section 13, and includes a person presiding at a meeting of an Authority in the absence of the Chairman by virtue of the provisions of section 17;

“committee” means any committee of an Authority appointed under this Ordinance;

“District Council” means a District Council established under the provisions of section 3;

“divisional committee” means a divisional committee established by an Authority under the provisions of section 28;

“earthworks” includes any work 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;

“food establishment” means any place or any premises or part thereof used for the sale, or for the preparation or manufacture for sale, or for the storage or packing for sale, of food, whether cooked or uncooked, intended for human consumption;

“function” includes powers and duties;

“Instrument” means an Instrument issued by the Yang di-Pertua Negeri* under the provisions of section 3 and where used in relation to an Authority means the

* Throughout this Ordinance, except in section 1, “Yang di-Pertua Negeri” has been substituted for “Governor” or “Governor in Council” by virtue of G.N.S. 87 of 1965 and Enactment No. 17 of 1976.

Instrument, including any amendments thereof, for the time being in force relating to such authority;

“market” means any place ordinarily used for sale of animals, meat, fish, fruits, vegetables, poultry or other articles of food, whether cooked or uncooked, for human consumption or for sale of any clothing or other merchandise, and shall include all land and premises in any way used in conjunction or in connection therewith or appurtenant thereto;

“Minister” means the Minister for the time being charged with responsibility for matters relating to local government;

“Municipal Council” means a Municipal Council established under the provisions of section 3;

“municipality” means the area of jurisdiction of a Municipal Council established under the provisions of section 3;

“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 likely to be injurious or dangerous to health or property or which affects the safety or the rights of the inhabitants at large;

“occupier” includes any person in actual occupation of property without regard to the title under which he occupies and, in the case of property subdivided and let to various tenants or lodgers, the person receiving rent payable by the tenants or lodgers whether on his own account or as an agent for any person entitled thereto or interested therein;

“owner” means owner as defined in section 4 of the Land Ordinance [Cap. 68.] and any person occupying land by virtue of any licence granted under the provisions of any written law relating to land tenure;

“premises” includes any house, shop, store, room, cubicle, shed, conveyance or any building or structure or any place whether open or enclosed and whether permanent or temporary;

“public place” has the same meaning assigned thereto in the Interpretation and General Clauses Enactment 1963 [*En. No. 34 of 1963.*] and shall further include parking place, recreational and pleasure ground and any place whether privately owned or not to which the public has access;

“rating area” means any urban area and any other area declared in an Instrument to be a rating area;

“seizable offence” has the meaning assigned thereto in the Criminal Procedure Code [*F.M.S. Cap. 6.*];

“State land” means State land as defined in section 4 of the Land Ordinance [*Cap. 68.*];

“street” has the meaning assigned thereto in the Interpretation Ordinance[†] [*Cap. 63.*] and shall further include a catwalk;

“town” means the area of jurisdiction of a Town Board established under the provisions of section 3;

“Town Board” means a Town Board established under the provisions of section 3;

“township” means any part of the area of a District Council declared in the Instrument to be a township;

“urban area” means any municipality, town or township but, where any town has been divided into wards or divisions, does not include any ward or division in respect of which an Instrument provides that such ward or division shall not be part of the urban area;

“work-place” means any premises or place used for any industrial, trading, commercial or manufacturing purposes and shall include all construction sites, work-sites and farms.

[†] Cap. 63 was repealed by Enactment No. 34 of 1963.

PART II
ESTABLISHMENT OF LOCAL GOVERNMENT AUTHORITIES

Establishment of Authorities.

3. Subject to the provisions of this Ordinance the Yang di-Pertua Negeri may by Instrument published in the *Gazette* establish such District Councils, Town Boards, or Municipal Councils in any part of Sabah as he may think necessary or expedient for the purposes of local government.

Certificate of establishment.

4. (1) As soon as practicable after an Instrument providing for the establishment of an Authority has been published in the *Gazette* the Clerk to the Cabinet shall furnish the Authority thereby established with a certificate under his hand that, the Yang di-Pertua Negeri having duly approved the establishment of such Authority and the Instrument making provision therefor and that such Instrument having come into operation, the Authority is accordingly incorporated in the name specified in the Instrument.

(2) The certificate provided for in subsection (1) shall be displayed in a prominent position in the principal office or ordinary meeting place of the Authority.

Construction of Instrument.

5. (1) Every Instrument shall be signed by the Clerk to the Cabinet. One signed copy shall be retained by the Minister* and one signed copy by the Authority concerned.

(2) Every Instrument shall be read and construed as one with this Ordinance and shall be of the same force and effect as if it were enacted in this Ordinance:

Provided that in the event of any conflict between the provisions of any Instrument and the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

* Throughout this Ordinance, "Minister" has been substituted for "Secretary" by virtue of G.N.S. 154 of 1963.

(3) Subject to the provisions of this Ordinance the provisions of the Interpretation Ordinance[†] [Cap. 63.] applicable to subsidiary legislation shall apply to Instruments made under this Ordinance.

Contents of Instrument.

6. (1) In addition to any other matter which is authorised or required by this Ordinance to be inserted in an Instrument every Instrument establishing an Authority shall-

- (a) specify the name of the Authority and the date on which it shall be established;
- (b) where such Authority is a District Council define the limits of the area under the jurisdiction of the Authority and, if considered desirable, declare any part of such area to be a township and assign a name thereto;
- (c) where such Authority is a Town Board define the limits of the area under the jurisdiction of the Authority, declare such area to be a town and assign a name thereto;
- (cc) where such Authority is a Municipal Council define the limits of the area under the jurisdiction of the Authority, declare such area to be a municipality and assign a name thereto;
- (d) prescribe the seal of the Authority;
- (e) provide for the composition of the Authority and the number of its members and whether the members are to be appointed or elected and, where some of its members are to be appointed and some to be elected, for the proportion of appointed and elected members;
- (f) prescribe where the office of an Authority shall be situated and where meetings of an Authority shall be held;
- (g) define the functions of the Authority.

[†] Cap. 63 was repealed by Enactment No. 34 of 1963.

(2) Any Instrument may-

- (a) provide that any function of an Authority shall not be exercisable in any specified part or parts of the area;
- (b) exclude or limit the application of any provision of this Ordinance in respect of any Authority or the area or part of the area thereof to any extent therein specified;
- (c) provide for the use of a rubber stamp in lieu of a seal until such time as a seal can be procured;
- (d) provide for the division of the area of the Authority into wards or divisions and for the representation of such wards or divisions in the Authority;
- (e) provide for the exclusion of any ward or division from the urban area of any town;
- (f) declare any area other than an urban area to be a rating area;
- (g) provide for the method of appointment of members;
- (h) provide for the co-opting of additional members of the Authority or of any committee appointed under the provisions of section 27 on such terms and conditions as may be specified therein;
- (i) provide for the payment of expenses and any allowances to the Chairman or any member of the Authority;
- (j) provide that the Chairman or Vice-Chairman constituted under the provisions of section 13 may hold office for such period being longer than one year as may be specified therein;
- (k) provide that such Chairman or Vice-Chairman shall be elected by all the members of an Authority, or by a specified class or description of members;

- (l) provide that such Chairman or Vice-Chairman of an Authority shall be the holder of such office as may be specified therein;
- (ll) provide that such Chairman or Vice-Chairman shall be appointed in such a manner as may be specified therein;
- (m) subject to the provision of any other written law prescribe what persons shall be eligible and what persons shall not be eligible to be members of an Authority;
- (n) prescribe conditions for the tenure of office of members of an Authority;
- (o) prescribe the term of office of members of an Authority;
- (p) prescribe the minimum number of meetings to be held by an Authority;
- (q) provide for calling of special meetings of an Authority;
- (r) generally make such other provisions not inconsistent with this Ordinance as the Yang di-Pertua Negeri may deem necessary or expedient for the establishment and conduct of the Authority and the proper performance of its functions.

Incorporation of Authorities.

7. Every Authority established under the provisions of this Ordinance shall be a body corporate having perpetual succession and a common seal and shall be capable in law of suing and being sued in its corporate title and of purchasing, holding and selling movable and immovable property.

Amendment of Instrument.

8. The Yang di-Pertua Negeri may subject to the provisions of this Ordinance at any time amend any Instrument by making an amending Instrument and the provisions of this Ordinance relating to Instruments shall *mutatis mutandis* apply to such amending Instrument.

PART III
COMPOSITION OF AUTHORITIES

Composition of Authorities.

9. An Authority shall be composed as specified in the Instrument.

Qualification of appointed members.

10. Subject to the provisions of section 10A of this Ordinance every person, not being a company, association or body of persons corporate or unincorporate, and not being under the age of twenty-one years, who –

- (a) is a Malaysian Citizen;
- (b) has been ordinarily resident in Sabah for the ten years immediately preceding the date of his appointment;
- (c) is at such date resident or has his normal place of employment in a local Authority area; and
- (d) has, for the twelve months immediately preceding such date, been ordinarily resident, or had his normal place of employment, within such local Authority area;

shall be eligible to be appointed as a member for such local Authority.

Qualifications.

10A. (1) Notwithstanding the provisions of section 10 of this Ordinance, a person shall be disqualified for appointment as a member who –

- (a) is, by his own act, under any acknowledgement of allegiance, obedience of adherence to a foreign power or State;
- (b) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;

- (c) holds or is acting in any office or place of profit in the gift or disposal of the Authority to which he is appointed;
- (d) is a party to, or a partner in a firm, or a director or manager of any company, which is a party to, any subsisting contract with such Authority for or on account of the public service, and has not, within one month before the date of his appointment, published, in the English language in a newspaper circulating in the area of such Authority, a notice setting out the nature of such contract and his interest, or the interest of such firm or company, therein;
- (e) being a person possessed of professional qualifications, is disqualified, otherwise than at his own request, in any part of the Commonwealth from practising his profession by the order of any competent authority made in respect of him personally:

Provided that disqualification for appointment under this paragraph shall not exceed a period of ten years from the date of such order;

- (f) is a person adjudged to be of unsound mind or detained as a criminal lunatic under any enactment for the time being in force in Sabah;
- (g) has, in any part of the Commonwealth, been sentenced to death or to imprisonment (by whatever name called) for a term of or exceeding twelve months, or has been convicted of any offence involving dishonesty, and has not been granted a free pardon:

Provided that, if ten years or more have elapsed since the termination of the imprisonment or, in the case of an offence involving dishonesty in respect of which no sentence of imprisonment has been passed, since the date of conviction, the person convicted shall not be disqualified for appointment by reason only of such conviction;

- (h) is serving in the Armed Forces of or the police Force of the Federation;
- (i) other than District Chiefs, Native Chiefs and Headmen, is in the employment of the Federal or any State Government unless he has

obtained the prior approval of the Federal or State Government, as the case may be, for such appointment;

(j) is disqualified for membership of an Authority by any enactment for the time being in force in Sabah;

(k) is a member of an Authority other than that to which he is appointed.

(2) For the purposes of this section—

(a) a person serving or appointed to serve a committee of an Authority; and

(b) a person serving or appointed to serve two or more Authorities,

shall be deemed to be a person holding, or acting in, or appointed to hold or act in, an office or place of profit in the gift or disposal of the Authority concerned, or of each of such Authorities, as the case may be.

Resignation and absence of members.

11. (1) It shall be competent for any appointed member of an Authority to resign his seat on such Authority by giving notice in writing of his intention to resign to the Chairman.

(2) Any appointed member of an Authority who without leave of absence or the written permission of the Chairman first had and obtained absents himself from three consecutive ordinary meetings of the Authority shall *ipso facto* become disqualified from continuing to be a member:

Provided that attendance as a member at a meeting of any committee of the Authority shall be deemed for the purposes of this section to be attendance at a meeting of the Authority.

(3) An Authority may grant leave of absence from meetings of the Authority for a period not exceeding nine months to an appointed member of the Authority who desires to proceed out of the State of Sabah. During the period of his absence the Authority may, with the consent of the Minister, co-opt a person to discharge the duties of such member:

Provided that if any member is absent from the State of Sabah for a period exceeding nine months his place in the Authority shall be deemed to be vacant.

(4) A person co-opted to discharge the duties of a member shall during the period for which he is co-opted have the same rights and powers in all respects as the members whose duties he is discharging has when present.

Revocation of appointment.

11A. The appointment of an appointed member may be revoked by the appointing authority at any time without assigning any reason therefor and without having to give the appointed member an opportunity of being heard.

Casual vacancies.

12. (1) The place of any appointed member of an Authority who dies or resigns or whose appointment has been revoked or who by the terms of or under any written law is disqualified from or is declared to be incapable of becoming or continuing to be a member of an Authority or whose place under this Ordinance is deemed to be vacant shall be declared by the Chairman to be vacant and such vacancy shall forthwith be reported to the Minister.

(2) Any vacancy declared by the Chairman under the provisions of subsection (1) of this section shall be filled within sixty days of such declaration, or such further period as the Minister may in any particular case allow, by appointment and the member filling such vacancy shall hold office for the unexpired portion of the term of the office of the member whose place has become vacant:

Provided that where a casual vacancy occurs within three months before the ordinary date of the retirement of the member in respect of whom the vacancy occurs, an appointment under this section shall not be made to fill the vacancy, but the vacancy shall be filled at the next ordinary appointment.

Chairman of Authorities.

13. (1) Every Authority shall have a Chairman to be styled "President" in the case of a Municipal Council and "Commissioner" in the case of a Town Board and Vice-Chairman to be styled "Deputy President" in the case of a Municipal Council.

(2) Subject to the provisions of the Instrument the Chairman and Vice-Chairman of every Authority shall be elected by the Authority from among the members at the first meeting of the Authority and annually thereafter subject to the provisions of subsection (8).

(3) A Chairman and Vice-Chairman of an Authority elected under the provisions of this Ordinance shall, unless they resign or are removed or become disqualified from being or incapable for any reason of continuing to be members, remain in office until their successors in the office of Chairman and Vice-Chairman are elected.

(4) In the event of an equality of votes for two or more candidates at an election of a Chairman or Vice-Chairman, the result of such election shall be determined by lot in such manner as the person presiding at the meeting shall determine.

(5) A Chairman and Vice-Chairman, if not disqualified, shall be eligible for re-election to the office of Chairman or Vice-Chairman.

(6) No person shall be elected as Chairman or Vice-Chairman without his consent to being so elected.

(7) A Chairman or Vice-Chairman of an Authority, elected under the provisions of subsection (2) may, at anytime during his term of office be removed by resolution notice of which has been given to all members and passed by three-fourths of the members present and voting at a meeting of the Authority.

(8) In the event of the office of Chairman or Vice-Chairman of an Authority becoming vacant for any cause whatsoever during the term of office of the holder thereof a successor shall be elected at the next meeting of the Authority held after the date on which the vacancy occurs and shall serve for the remainder of the period of office for which his predecessor had been elected and shall then retire but shall be eligible for re-election.

(9) On the death, resignation, disqualification, removal, absence, illness or incapacity of the Chairman the Vice-Chairman of an Authority shall be deemed during such absence or vacancy to have the rights and the authority to exercise all the powers and discharge all the duties vested in and imposed upon the Chairman under and by virtue of this Ordinance.

Decision of question as to membership.

14. (1) Subject to the provisions of any other written law all questions which may arise as to the right of any person to be or remain a member of an Authority shall be referred to and determined by the Minister whose decision shall be final.

(2) Where any provision of this Ordinance or of any other written law or of any Instrument regulate the right of any person to be or remain a member of an Authority the Minister shall in making his decision give effect to such provision, other written law or Instrument.

PART IV

MEETINGS AND PROCEEDINGS OF AUTHORITIES

MEETINGS

Number of meetings.

15. (1) An Authority shall hold ordinary meetings for the despatch of business on such days and at such hours as it may from time to time appoint but not less often than may be prescribed in the Instrument.

(2) Notwithstanding the provision of subsection (1) of this section the Minister may direct an Authority to call special meetings at any time and may chair or appoint a person in writing to chair any such meetings.

Questions to be decided by majority of votes Chairman to have casting vote.

16. All questions that may come before an Authority at any meeting shall be decided by the votes of the majority of the members present at the meeting and, subject to subsection

(4) of section 13, in the event of an equality of votes the Chairman shall, in addition to his vote as a member, have a casting vote.

Chairman to preside at meetings.

17. At every meeting of an Authority the Chairman or in his absence the Vice-Chairman shall preside. If no Chairman or Vice-Chairman has been appointed or elected, or in the absence of the Chairman and Vice-Chairman from any meeting, the members present shall elect one of their number to be Chairman at the meeting, and such election shall in the event of an equality of votes for two or more candidates be determined between them by lot.

Meetings to be public.

18. Every meeting of an Authority and of a divisional committee established by an Authority under this Ordinance shall be open to the public and the press:

Provided that nothing in this section shall apply to any committee appointed by an Authority or to a committee of the whole Authority or to any sub-committee of an Authority.

Minutes.

19. (1) Minutes of the proceedings of every meeting of an Authority shall be regularly entered in books kept for that purpose and shall be read and confirmed or amended, as the case may require, and signed by the person presiding at the same or next ensuing meeting of the Authority, and any minutes purporting to be so signed shall, in the absence of proof of error, be deemed to be a correct record of the meeting of which they purport to be the minutes and shall be received in evidence without further proof.

(2) The names of members of an Authority present or absent at a meeting of the Authority shall be recorded in the minutes.

(3) Until the contrary be proved, a meeting of an Authority, in respect of the proceedings whereof a minute has been made and signed as provided in subsection (1), shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been qualified.

Minutes to be open to inspection.

20. The minutes of the proceedings of any meeting of an Authority or a divisional committee shall at all reasonable times be open to inspection by any member of the Authority, elector, ratepayer or person normally resident within its area who may obtain a copy thereof or an extract therefrom upon payment of such fee as may be specified by the Authority.

Effect of vacancy.

21. (1) When a vacancy occurs in any Authority for any cause whatsoever such Authority may continue to act notwithstanding such vacancy until such vacancy has been filled by nomination, election or otherwise.

(2) The proceedings of an Authority shall not be invalidated by any vacancy among its members, or by the want of or any defect in the qualification of any member thereof.

(3) The provisions of this section shall not be construed as rendering unnecessary at any meeting of an Authority the quorum provided for in section 21A.

Quorum.

21A. The quorum of every Authority established under this Ordinance shall be one more than one half of the number of members (irrespective of any casual vacancies).

Standing Orders.

22. (1) Subject to the provisions of this Ordinance and any Instrument an Authority may, with the prior approval of the Minister, make standing orders for the regulation of its proceedings and business and respecting the matters to be referred and the functions to be delegated to any committee thereof and may, subject to such approval, vary or revoke such orders.

(2) Such standing orders may make provision for the payment of transport and attendance allowances to members of the Authority and members of a committee or divisional committee who are not members of the Authority.

Interest of members of Authority in contracts.

23. (1) No member of an Authority shall be disqualified by his office from entering into any contract with the Authority, nor shall any such contract entered into by or on behalf of an Authority in which any member shall be in any way directly or indirectly interested be liable, on account of such interest, to be avoided or set aside, nor shall any member so contracting or being so interested be liable to account to the Authority for any profit realized by any such contract or arrangement by reason only of being a member.

(2) For the purposes of this section a person shall be deemed to be indirectly interested in a contract or other matter if-

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration; or
- (b) he is a partner or is in the employment of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration:

Provided that –

- (i) this subsection shall not apply to membership of or employment under any other Authority or any association of persons who as a public body and not for their own profit provide any public utility;
- (ii) a member of a company or other body shall not by reason only of his membership be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body.

(3) Notwithstanding the provisions of subsection (1) it shall be the duty of every member to disclose to such Authority the nature and extent of any interest whatsoever, whether direct or indirect, he, his spouse, any member of his family, any partner or any nominee of his, may have in any contract, proposed contract or matter due to be considered or as soon as possible after the acquisition of his interest.

(4) No member of an Authority shall vote upon or take part in or be present at the discussion of any contract, proposed contract or other matter in any meeting of such Authority in which he himself, his spouse, any member of his family, any partner or any nominee of his, either directly or indirectly, has any interest.

(5) Nothing in subsection (3) or (4) shall have application to an interest in a contract or other matters which a member of an Authority or other person may have as a ratepayer or an inhabitant of the area.

(6) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by this section in any case in which the number of members of the Authority so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to him that it is in the interests of the inhabitants of the area that the disability should be removed.

(7) No member of an Authority shall, under cover of his office, exact or accept any promise, fee or reward whatsoever, other than his lawful remuneration, in respect of any contract or matter affecting the Authority.

(8) Every Authority shall cause to be maintained a record, in a book kept for the purpose, of all disclosures made under the provisions of this section.

(9) Any member of an Authority contravening any of the provisions of subsections (3), (4) and (7) shall be guilty of an offence and shall be liable on conviction to a fine of one thousand ringgit and to imprisonment for a term not exceeding six months and shall be disqualified from continuing to be a member of such Authority, and shall be liable to account to the Authority for any profit which may accrue to him from any such contract or matter:

Provided that a prosecution for an offence under this section shall not be instituted without the consent in writing of the State Attorney-General.

Validity of act of Authority.

24. All acts or proceedings of an Authority or of any person acting as Chairman, Vice-Chairman, or other member or officer of an Authority shall, notwithstanding that it be discovered that there was some defect in the election or appointment of any such person or

that he was disqualified, be as valid and effectual as if every such person as aforesaid had been duly elected or appointed and qualified.

Rights of certain persons to attend and take part, but not to vote at meeting.

25. (1) The Chairman of an Authority may invite any person to attend, and to speak on any matter at, any meeting of an Authority but no such person shall vote upon any matter.

(2) The Minister may, by writing under his hand, empower any person to attend any meeting of an Authority or a committee thereof or a divisional committee, and any person so empowered may attend such meeting and may take part in the proceedings thereat, and, if he so requests, his advice on any matter shall be recorded in the minutes of the meeting, but he shall not vote upon any matter.

Appointment of finance committee.

26. (1) An Authority shall appoint a finance committee for regulating and controlling the finance of the Authority and may, and if the Minister so directs shall, appoint a staff committee for dealing with matters relating to the staff of the Authority and their terms and conditions of employment or may appoint one committee for regulating, controlling and dealing with all such matters.

(2) Any committee appointed under subsection (1) shall consist of members of the Authority and the number of members of such committees and their term of office shall be such as may be fixed from time to time by the Authority.

Appointment of committees other than finance committee.

27. (1) An Authority may appoint a committee for any such general or special purpose as in the opinion of the Authority would be better regulated and managed by means of a committee.

(2) The number of the members of a committee appointed under this section and their term of office shall be such as may from time to time be fixed by the Authority.

(3) A committee appointed under this section may include persons not being members of the Authority, who have been co-opted by the Authority and also additional members co-opted to the committee by the Authority:

Provided that at least two-thirds of the members of every committee, other than a divisional committee, appointed by an Authority shall be members of the Authority.

(4) A person co-opted as an additional member of a committee shall have the same rights and powers in all respects as if he were a person appointed to be a member thereof.

Divisional committees.

28. (1) Subject to the provisions of this Ordinance and the Instrument and with the prior approval of the Minister, an Authority may establish such local committees which shall be known as divisional committees to have authority over such part of its area as it may deem necessary or expedient.

(2) The number of members of a divisional committee established in accordance with this section, their term of office and method of selection and the area within which the committee is to exercise its authority shall be specified by the Authority:

Provided that at least one member of a divisional committee shall be a person who is also a member of the Authority appointing the same.

(3) A divisional committee established under this section may be authorised by the Authority establishing the same to co-opt additional members who may or may not be members of the Authority.

(4) A divisional committee may invite any person including any member of the Authority who is not a member of the divisional committee to attend meetings and take part in the deliberations of the committee, but no such person shall vote on any matter at any such meeting.

Delegation to committees.

29. (1) Subject to the provisions of subsection (3) an Authority may with or without restrictions or conditions as it thinks fit delegate to a committee Chairman, Vice-Chairman or any other officer of the Authority any function exercisable by the Authority either with respect to the whole or to any part of the area of jurisdiction of the Authority.

(2) Subject to the provisions of subsections (3) and (4) an Authority may in addition to exercising the powers conferred by subsection (1) delegate to a divisional committee any function exercisable by the Authority with respect to the area of the divisional committee.

(3) An Authority shall not delegate to any committee Chairman, Vice-Chairman or any other officer of the Authority or divisional committee the power of making by-laws, approving estimates, levying a rate or cess or borrowing money.

(4) An Authority may not delegate to a divisional committee, without first obtaining the consent of the Minister, any function –

(a) delegated to such Authority by the Government; or

(b) conferred on such Authority under any written law other than this Ordinance.

(5) A committee or divisional committee shall not incur any expenditure in excess of the amount allowed by the Authority.

Disqualification and disability for membership of committee and effect of member ceasing to be member of Authority concerned.

30. (1) A person who is disqualified from being elected or being a member of an Authority shall be disqualified from being a member of a committee or sub-committee of the Authority or of any divisional committee established by the Authority.

(2) The provisions of section 23 relating to the duty of disclosure and the disability of members of an Authority from voting on, taking part in the discussion of, certain matters, shall apply in respect of members of a committee or divisional committee with the substitution of references to the committee or divisional committee for references to the Authority.

(3) Subject to the provisions of subsection (4) every member of a committee or divisional committee appointed under this Ordinance who was, at the time of his appointment, a member of the Authority appointing such committee or establishing such divisional committee shall, upon ceasing to be a member of the Authority, also cease to be a member of such committee or divisional committee.

(4) For the purposes of subsection (3) a member of an Authority shall not be deemed by reason of retirement to have ceased to be a member of such Authority, if he has been re-elected, re-nominated or re-appointed a member thereof not later than the day of his retirement.

Standing Orders for committees.

31. (1) Subject to the provisions of this Ordinance and of any rules made thereunder an Authority appointing a committee or establishing a divisional committee may make, vary and revoke standing orders respecting the quorum, proceedings and place of meeting of the committee or the divisional committee. Subject to any such standing orders the quorum, proceedings and place of meeting shall be such as the committee or divisional committee may determine.

(2) Standing orders made under the provisions of subsection (1) shall not be inconsistent with the standing orders of the Authority made under section 22.

Proceedings of committee.

32. (1) All questions that may come before a committee shall be decided by the votes of the majority of the members thereof present at the meeting and in the event of an equality of votes the Chairman shall in addition to his vote as a member have a casting vote.

(2) Minutes or the proceedings of a meeting of a committee which shall include a record of the names of the members present and absent shall be drawn up and shall be signed at the same or a subsequent meeting of the committee by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of a committee in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified and the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

Effect of vacancies on committees.

33. (1) When a vacancy occurs in any committee for any cause whatsoever such committee may continue to act notwithstanding such vacancy until such vacancy has been filled by nomination, election or otherwise.

(2) The proceedings of a committee shall not be invalidated by any vacancy among its members, or by the want of or any defect in the qualification of any member thereof.

(3) The provisions of this section shall not be construed as rendering unnecessary at any meeting of a committee such quorum as may be provided for by or under this Ordinance or in any Standing Orders made pursuant thereto.

Committees to report.

34. Every committee appointed under the provisions of this Part shall report its proceedings to the Authority appointing such committee.

Public and press.

35. The proceedings of a committee shall not be open to nor shall the proceedings be divulged to members of the public or the press except in pursuance of a resolution of the Authority appointing such committee.

PART V

*FUNCTIONS OF AUTHORITIES

Power to accept gifts.

36. An Authority may accept, hold and administer any gift of property for any public purpose, or for the benefit of the inhabitants of the area or any part thereof, and may execute any works, including works of maintenance and improvement, incidental or consequential on the exercise of the powers conferred by this section.

Power to contract.

37. (1) An Authority may enter into any contract necessary or desirable for the discharge of any of its functions under this or any other Ordinance:

Provided that an Authority shall not without the prior approval of the Minister or the Cabinet, as the case may be enter into any contract of a value exceeding such amount as may be directed in respect of such Authority by the Cabinet.

(2) Any contract made by an Authority shall be made in accordance with the standing orders of such Authority, or, in the case of the absence of these, in accordance with directions of the Minister and in the case of contracts for the supply of goods and materials or for the execution of works to the value of two thousand ringgit and upwards, such standing orders or directions shall—

- (a) require that notice of the intention of the Authority to enter into the contract shall be published and tenders invited; and
- (b) regulate the manner in which such notice shall be published and such tenders given:

Provided that an Authority may, with the consent of the Minister, lawfully enter into a contract without publishing notice of the intention to enter into the same.

(3) (Deleted)

* Title amended by Ord. No. 21 of 1963.

Public places, streets etc., in urban areas.

38. (1) The Authority shall have the general control and care of all public playing grounds, parks and all other open public places, other than roads and streets, and of all gardens, playing grounds, parks and other enclosed places within any urban area which have been or shall be at any time set apart and appropriated by proper authority for the use of the public or to which the inhabitants of the urban area shall at any time have or acquire a common right and the same shall be vested in such Authority in trust to keep the same open or control the use of the same for the benefit of the inhabitants subject to any terms and conditions imposed at the time of such vesting, by the Yang di-Pertua Negeri or by any donor of such land.

(2) An Authority may in any urban area, with the consent of the Minister, erect and maintain on any square or other public place, buildings for public purposes and may set apart or temporarily close or restrict the use of any such square or other public place or any portion thereof for any purpose which the Authority may from time to time think fit.

(3) An Authority may in any urban area make, construct, alter, repair and, if necessary temporarily close any road, street, bridge, ferry, culvert and tunnel which has been declared by the Yang di-Pertua Negeri to be vested in such Authority or under its control and may make roads, streets, bridges, ferries, culverts and tunnels within the urban area.

(4) In exercising the powers conferred on it by subsection (3) an Authority with the consent of the Minister and in accordance with any Approved Scheme as defined in the Town and Country Planning Ordinance [*Cap. 141.*], applicable to the area, may—

- (a) lay out and make streets;
- (b) build and construct bridges, culverts and tunnels;
- (c) turn, divert, discontinue or stop up any street;
- (d) widen, open, enlarge or otherwise improve any street; and

- (e) execute works of such general advantage to the health, convenience or comfort of the inhabitants as to the Authority with such sanction as aforesaid, seem desirable.

(5) Upon consent being given for any works under the provisions of subsection (4) there shall vest in the Authority any unalienated State land required for the purposes of such works and if any alienated land is so required the Yang di-Pertua Negeri may, if requested by a resolution of the Authority, acquire such land under the provisions of the Land Acquisition Ordinance [Cap. 69].

Provided that any compensation and expenses payable by the Government in respect of such acquisition shall be repaid by such Authority.

Recovery of cost of new streets in urban area.

39. (1) When an Authority has laid out and made any road, street, bridge, ferry, culvert or tunnel in any urban area, it may recover the cost of acquiring the land for, and of constructing, the said road, street, bridge, ferry, culvert or tunnel from the owners of the premises adjoining thereto or fronting or abutting thereon.

(2) Such cost shall be paid by the persons who are the owners when the work is completed according to the frontage of their respective premises in such proportions as are settled by agreement or in default of agreement as may be decided by the Authority whose decision shall be final:

Provided that no owner shall be called upon to pay a greater sum than half of that by which his holding has been appreciated in value by reason of the road, street, bridge, ferry, culvert or tunnel having been constructed.

(3) In order to arrive at such appreciation in value the Authority shall cause a valuation to be made of the premises fronting, adjoining or abutting upon the line of such road, street, bridge ferry, culvert or tunnel at the time the consent of the Minister is given under section 38 and a further valuation to be made as soon as the road, street, bridge, ferry, culvert or tunnel is completed.

(4) If the owner of any such premises is dissatisfied with either of such valuations, he may appeal to the High Court whose decision shall be final.

Plans for new streets in urban area.

40. (1) Every person who intends to make or lay out any new street within any urban area shall give notice in writing thereof to the Authority, accompanied by a plan in duplicate, showing the intended level and construction of such street and the level and building line of the premises built or to be built abutting upon it and the proposed manner of draining it, and by a statement whether such street is intended for a carriage road or for foot traffic only in order that the same may be considered and, if acceptable, approved by the Authority.

(2) The Authority may give written directions to the person submitting a plan for a new street with regard to any of the following particulars –

- (a) compliance with this Ordinance and the Town and Country Planning Ordinance [Cap. 141.] and any subsidiary legislation or scheme made or approved under the provisions of such Ordinances;
- (b) the line, width, level, construction and general dimensions and character of the new street;
- (c) the provisions along the length of the new street of back-lanes as the Authority directs;
- (d) the width of any back-lane required by the Authority under paragraph (c), which may be of such width not exceeding twenty feet as the Authority require;
- (e) the mode of drainage of the new street and of any back-lanes;
- (f) the provision of drains and culverts and the specification, size and gradient of such drains and culverts.

(3) The person to whom any written directions are so given shall act in accordance with such directions and submit a new plan for similar consideration.

(4) Any person who –

- (a) makes or lays out any new street otherwise than in accordance with a plan approved by the Authority under this section; or
- (b) erects any building abutting on a new street which has not been laid out in accordance with a plan so approved;

shall be liable to a fine of two thousand ringgit, and the High Court may, on the application of the Authority, make a mandatory order against the offender requiring him to alter or reconstruct such street or any ancillary works in accordance with detailed requirements specified in such order or to remove or alter any building so built.

Streets declared vested.

41. (1) If any street upon alienated land within any urban area, not being vested in the Authority under the provisions of this Ordinance, is constructed in all respects to the satisfaction of the Authority, it may, if it thinks fit, declare that at the expiration of one month from the date thereof the said street shall become so vested.

(2) A copy of such declaration shall be forthwith published in the *Gazette* and posted up in some part of the said street.

(3) At the expiration of the said period, unless the owners of the greater part in value of the premises fronting, adjoining or abutting on such street have, by notification to the Authority in writing under their hands, objected thereto, the said street shall become so vested.

(4) No street shall be vested in the Authority under the provisions of this section unless such street shall be connected with some street already vested in such Authority.

Repair of private street in urban area.

42. (1) Where any street upon alienated land or any part thereof within any urban area is in a dangerous or defective condition, the Authority may, by notice in writing, require the owners of all premises abutting on such street and having access or right of access thereto from such premises to cause such street to be properly repaired within such time as is stated in such notice.

(2) If such owners fail to comply with the requirements of such notice, the Authority may cause the work to be done and the owners shall pay the cost and expense thereof together with a surcharge of ten per centum thereon in such proportions as are settled by agreement or in default of agreement by application to a Magistrate of the First Class whose decision shall be final and may be recovered as if the sum due by each person were rates in arrears.

Rural roads.

43. In any part of the area of an Authority not within an urban area the Minister may declare that any road, track, bridge, ferry or culvert on or to be constructed therein shall be under the control of the Authority and upon such declaration being made the Authority may make, alter, divert or maintain any such road, track, bridge, ferry or culvert:

Provided that this section shall not apply to any road, track, bridge, ferry or culvert or alienated land.

Fencing of plots in urban areas.

44. Within any urban area every occupier of land (other than a Government servant occupying State land) or the owner of any land or the Government in respect of any residential area occupied by Government officers shall if so required by the Authority fence such land in such manner as the Authority shall approve and shall at all times maintain such fence in good repair to the satisfaction of the Authority. If any occupier or owner as aforesaid, on being served by the Authority with a notice in writing requiring him to make or repair a fence, shall not make and complete such fence or repairs within such time as may be specified in the notice the Authority may do the work or cause it to be done and the cost and expense thereof together with a surcharge of ten per centum thereon shall be repaid to the Authority by the adjoining occupiers or owners in such proportions as are settled by agreement or in default of agreement by application to a Magistrate of the First Class whose decision shall be final and may be recovered as if the sum due by each person were rates in arrears. In this section "Government" includes the Federal Government.

Naming and numbering of streets.

45. (1) An Authority may from time to time cause the houses, buildings or erections fronting upon any street or other public place to be marked with such numbers as it may think fit, and may cause the name by which any street or other public place is or is to be known to be put up or painted on a conspicuous part of any house, building, fence, wall or place fronting thereon, and may at its discretion change or vary any such number, whether or not such number existed before the commencement of this Ordinance.

(2) Any person who destroys, pulls down, or defaces any such number or name or, without the permission of the Authority, puts up any number not having been approved by the Authority or name not being approved under the Town and Country Planning Ordinance [Cap. 141.] shall be guilty of an offence and shall be liable on conviction to a fine of two hundred and fifty ringgit.

Designation of fire-hydrants.

46. (1) An Authority may cause to be affixed on a conspicuous part of any house or building a plate indicating the position of the nearest fire-hydrant.

(2) Any person who destroys, pulls down, defaces, covers or conceals any such plate or interferes with any hydrant shall be liable to a fine of five hundred ringgit.

Construction of footways.

47. (1) An Authority may, by written notice, require the owner of any land or premises situate within an urban area within a period specified therein to construct in such manner as the Authority may think fit a footway along the side of any road or street vested in the Authority abutting upon the land or premises of such owner, and upon default by the owner may do such work either by its own servants or through contractors and recover from such owner the whole or any portion of the expenses incurred in such work together with a surcharge of ten per centum thereon and such amount may be recovered as if it were rates in arrears.

(2) It shall be the duty of every owner of any land or premises situate within an urban area to maintain in good condition and repair the footway along the side of any road or

street vested in the Authority abutting the land or premises of such owner and upon default by the owner, the Authority may do such repair by its own servants or through contractors and to recover from such owner the whole or any portion of the expenses incurred in such repair together with a surcharge of ten per centum thereon and such amount may be recovered as if it were rates in arrears.

“footway” for the purposes of this section includes pavement and sidewalk but excludes drains.

Cultivation of crops, etc.

47A. An Authority may, make by laws to require any person to cultivate such crops to such extent as will secure an adequate supply of food for the support of such person and of those dependent upon him or such trees, shrubs, flowers, fleuret or ornamental plants within his living premises or compound.

Canalisation of streams in urban areas.

48. (1) Subject to the consent of the Yang di-Pertua Negeri and to the provisions of any law relating to water rights, an Authority may divert, straighten, define and canalise the course of any canal, drain stream or water-course in any urban area after giving public notice of such scheme and may make payment of compensation to any owner or occupier of land, and to any person entitled to any rights or easements attaching to land, abutting on such stream or watercourse:

Provided that in arriving at the amount of any compensation payable under this subsection regard shall be had to the enhanced or improved value, immediate or prospective, which shall or may accrue to any such land by reason of the carrying out of the said purposes or any of them. The amount of such compensation shall, in default of agreement, be fixed under the provisions of the Land Acquisition Ordinance [Cap. 69.] in such a case and shall be paid by the Authority.

(2) Any application for the consent of the Yang di-Pertua Negeri under the provisions of subsection (1) shall include a schedule of any land the acquisition of which may be necessary for any scheme under the provisions of this subsection and upon granting

consent the Yang di-Pertua Negeri may acquire such land under the provisions of the Land Acquisition Ordinance [Cap. 69.]:

Provided that any compensation and expenses payable by the Government in respect of such acquisition shall be repaid by the Authority.

Functions.

49. (1) The Instrument shall provide that subject to the provisions of any written law and subject to limitations and conditions as may be specified therein, an Authority either shall perform or may perform all or any of the following functions in respect of all or any part of its area-

Advertising.

- (1) regulate, supervise, inspect, prohibit, remove or license the display of advertisements or advertising devices in, or in view of, any street or public thoroughfare, prohibit the display of advertisements, devices or pictures which are indecent or suggestive of indecency and prevent the display of advertisements, or advertising devices in such places or in such manner or by such means as would, in the opinion of the Authority, be likely to affect injuriously the amenities of or to disfigure any neighbourhood;
- (2) advertise and give publicity to the attractions and advantages of the areas;

Agriculture.

- (3) provide services for the improvement of agriculture;
- (4) control the methods of husbandry in respect of any agricultural land;
- (5) prescribe steps to be taken by the occupier of any agricultural land to maintain and improve its productivity and to preserve the fertility of the soil;
- (6) take all necessary measures for the prevention of soil erosion and the protection of crops;
- (7) purchase and operate for hire agricultural tractors and machinery;

- (8) operate and maintain crop processing or drying plants;
- (9) establish and maintain seed farms, plant nurseries, apiaries, fish-ponds and animals at stud;
- (10) establish, maintain and control irrigation works in any area not being an irrigation area or a drainage area established under the Drainage and Irrigation Ordinance, 1956 [Ord. 15/1956.];

Animals.

- (11) prohibit, restrict or regulate the movement in or through the area of any livestock;
- (12) control methods of animal husbandry;
- (13) prohibit, restrict or regulate the keeping of livestock of any description;
- (14) provide for the establishment, maintenance and control of pounds, the seizing, impounding and disposal of any stray animals and the payment of compensation for damage done by such animal;
- (15) prohibit, restrict or regulate the keeping or grazing of any livestock on any agricultural land, regulate or control the numbers and kinds of livestock which may be kept on any agricultural land, require male stock to be castrated and provide for the compulsory reduction of the numbers of livestock in any area of land;
- (16) provide for the buying, selling, distribution and management of stud animals and superior strains of poultry to be used in the improvement of livestock in the area of the Authority;
- (17) provide for the registration of brands and regulate transactions in cattle;
- (18) provide for the control and development of grazing grounds;
- (19) take measures for the care and protection of, and the prevention of cruelty to, animals;

- (19A) prohibit, restrict or regulate the disposal of dead animals;
- (20) provide for the licensing, control and destruction of dogs;
- (21) provide for the extermination and the prevention of the spread of rats and other vermin;
- (22) prohibit, restrict and regulate the keeping of wild or dangerous animals;

Buildings.

- (23) regulate and control all buildings and building operations and the repair and removal of ruinous and dangerous buildings and subject to any written law relating to town planning, prohibit the erection of a building of a particular class, design or appearance in particular districts, localities or streets or portions of streets;
- (23A) establish, erect, maintain and control abattoirs within the Authority area;
- (23B) establish, erect and maintain public lavatories, water closets and urinals, either above or below ground, in any public place;
- (24) establish, erect and maintain magazines for the storage of explosives and dangerous articles;

Burials.

- (25) require the proper conveyance, burial or cremation of deceased persons in cemeteries or otherwise and establish and maintain cemeteries, mortuaries and crematoria;
- (26) provide for the burial of paupers in accordance with the religion or custom or the deceased;

Education.

- (27) build, equip, maintain or manage schools and educational institutions;

- (28) grant sums of money towards the establishment, equipment or maintenance of schools and educational institutions;
- (29) grant and maintain scholarships or bursaries to suitable inhabitants of the area to attend schools or other educational institutions in the State of Sabah or elsewhere;
- (30) prohibit, restrict, control or regulate earthworks;
- (31 - 33) (Repealed);

Housing.

- (34) provide for the preparation, undertaking and control of schemes for improved housing layout and settlement;
- (35) erect and maintain dwelling houses, flats or residential buildings with their appurtenant outbuildings on plots or subdivisions of land the property of the Authority;
- (36) convert buildings into dwelling houses, flats or residential buildings and to alter, enlarge, repair and improve the same;
- (37) make advances of money on the security of immovable property for the purpose of enabling persons resident in the area (including officers and servants of the Authority) to acquire land and to erect dwelling houses upon such terms as to payment of principal and interest as the Authority may arrange with the person to whom the advance is made;
- (38) sell, lease or otherwise deal with any property acquired under paragraphs (36) and (37) upon such terms of payment, including interest upon any amount of purchase money from time to time outstanding, as the Authority may arrange with the person concerned and the provisions of section 71 shall not apply to such property;

Land.

- (39) keep clean the streets, bridges, squares, playing grounds and other open or closed public places in the area;
- (40) define, prevent and remove obstructions in streets and in places under the control of or vested in the Authority;
- (41) require any owner or occupier of land to keep such land in a clean condition;
- (42) restrict the use of barbed wire and the use of broken glass or the like on fences and walls;
- (43) regulate or prohibit the planting, cutting, tapping or destruction of any trees or vegetation growing along any road or path or in any public place;
- (44) require the owner of any premises to do any of the following acts-
 - (i) to remove, lower or trim to the satisfaction of the Authority any tree, shrub or hedge which is or may be a danger to the public or which is overhanging any street or interfering or likely to interfere in any way with the traffic on or the surface of any street or with any wires or works of the Authority or of any public utility service;
 - (ii) to remove any dilapidated fence or structure abutting upon any public place;
- (45) prohibit, restrict or regulate the burning of primary or secondary jungle or grass and the use of fire in any manner likely to ignite such jungle or grass;

Licensing.

- (46) license and control –
 - (i) lodging houses and hotels;
 - (ii) restaurants, cook shops, eating shops, coffee shops, food stalls bakeries and any food establishments;

- (iii) laundries and places for washing clothes;
 - (iv) hairdressers;
 - (v) dealers in metal scrap;
 - (vi) the manufacture and sale of alcoholic liquors customarily consumed by natives other than distilled liquors;
 - (vii) massage parlours;
 - (viii) supermarkets, confectioneries, factories and workshops;
 - (ix) the use of premises for betting, sale of public lottery, and operation of any lottery by means of mechanically or electrically operated machines or instruments;
 - (x) private car-parks;
 - (xi) spa and health centres; and
 - (xii) the use of premises for trade, business, industry or profession;
- (47) prohibit, regulate and control by licensing or otherwise any occupation, trade, business or industry which, in the opinion of the Authority, is a nuisance, or likely to be injurious or dangerous to health, or of a dangerous nature, or unsuitable to the use of the building or land;
- (48) license, regulate and control guides, porters and carriers;
- (49) prohibit, restrict or control by licensing or otherwise any pedlar, hawker and street trader and prescribe the streets or areas in which peddling, hawking or street trading shall be allowed or prohibited;

Markets.

- (50) establish, erect, maintain or control markets and buildings or portions of such buildings and stalls therein;

- (51) fix the days and hours during each day on which any market may be held and prevent the sale and purchase of goods in any market on any day or at any hours except those fixed;
- (52) regulate and control the fixing of and collection of stallages, rents and tolls in market;

Public amenities.

- (53) provide for the establishment, control and management of recreation grounds, open spaces and parks;
- (54) plant, trim or remove trees in or on any public place;
- (55) establish, erect and maintain public weigh-bridges and weighing-machines;
- (56) establish, erect, maintain and control dipping tanks;
- (57) provide lighting of streets, roads and public places and for the erection and maintenance of lamps for that purpose;
- (58) establish, maintain, assist, promote and control-
 - (i) public libraries, art galleries and museums;
 - (ii) botanical and zoological gardens;
 - (iii) social and recreational centres;
- (59) provide any apparatus for games or recreation in respect of any public playing grounds, parks, squares and recreation grounds under the control of the Authority, or permit any person, club or body to provide any such apparatus on such terms as the Authority may decide, and establish, maintain and control refreshment rooms, cafes and restaurants in any such place and let any such place or any building, structure or apparatus established or provided in connection therewith to any person or club or other body of persons;

- (60) establish, erect and maintain public monuments and to make collections of money towards the establishment or maintenance thereof;
- (61) promote arts, crafts, recreation, sports and the welfare of the inhabitants of the area;
- (62) prohibit or regulate the removal of or otherwise to protect works of art of local origin;
- (63) establish, erect, equip and maintain communal feeding centres and centres for the supply of food and drink;

Relief.

- (64) make provision for the return of destitute persons to their homes;
- (64A) make grants of money to charity or donations and gifts in kind for the relief of victims of natural catastrophes;

Vehicles.

- (65) provide for the licensing of bicycles and vehicles not required to be licensed under the provisions of the Road Traffic Ordinance* [Cap. 128.];
- (66) regulate and control stopping and parking of vehicles;
- (67) establish, provide and maintain parks for motor and other vehicles;

Miscellaneous.

- (68) prescribe the duties of any person employed by the Authority or acting as its agent in connection with any function thereof;
- (69) carry on any works or undertaking authorised by the Yang di-Pertua Negeri;

* Road Traffic Ordinance has been repealed by Modification of Laws (Road Traffic Ordinance) (Extension and Modification) Order 1984 (P.U. (A) 136/84). See also Act 333 and Act 334.

- (70) sell, lease or buy products resulting from the carrying on by or on behalf of the Authority of any works or undertaking which the Authority is authorised to carry on;
- (71) grant or refuse any licence or permit to be issued under the provisions of this Ordinance or of any by-law made hereunder or of any other law for the time being in force under which an Authority is empowered to grant licences or permits, impose conditions in licences and permits and charge fees for such licences or permits;
- (72) incur all expenditure necessary for the carrying out of any of the purposes of this Ordinance or any purpose not specifically provided for in this Ordinance which the Yang di-Pertua Negeri may determine to be a purpose incidental to the exercise by the Authority of its powers and duties under the provisions of this Ordinance;
- (73) do all things necessary for carrying out any of the purposes of this Ordinance which the Authority is authorised to carry out or for any purpose not specifically provided for in this Ordinance which purpose incidental to the exercise by the Authority of its powers and duties under the provisions of this Ordinance.

(2) An Authority may perform or shall perform any other function, whether similar to those, enumerated in this section or not, which may be specifically assigned to an Authority by the Instrument.

Nuisance to be abated.

49A. An Authority shall take steps to remove, put down and abate all nuisance of a public nature within the area of the Authority on public or private premises and may proceed at law against any person committing any such nuisance for the abatement thereof and for damages.

Nuisance liable to be dealt with summarily under this Ordinance.

49B. For the purposes of this Ordinance –

- (a) any premises or part thereof of such a construction or in such a state as to be a nuisance;
- (b) any animal, bird, poultry or carcase kept in such place or manner or in such numbers as to be a nuisance;
- (c) any dust, effluvium, accumulation or deposit which is a nuisance or is or is likely to become a breeding place for mosquitoes or flies or any vermin;
- (d) any factory, workshop or work-place which is not kept in a clean state and free from effluvia arising from any sewer, drain, privy, latrine, earth-closet, urinal or other nuisance or which is so overcrowded while work is carried on as to be a nuisance;
- (e) 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;
- (f) any pool or ditch the water from which is used or likely to be used by man for drinking or domestic purpose or for manufacturing drink for the use of man and which is so polluted or is likely to become a nuisance;
- (g) any tank, well, pool, gutter, watercourse, drain, sewer, ditch or low marshy ground which is injurious or dangerous to health or offensive to the neighbourhood or is likely to become a breeding place for mosquitoes or flies or vermin;
- (h) any fire-place, furnace, chimney or other place sending off smoke or other unconsumed combustible matter in such quantity as to be a nuisance;
- (i) any brick-field, sandpit or any other kind of excavation which is injurious or dangerous to health or offensive to the neighbourhood or used for any purpose likely to become a nuisance;

- (j) any dust or any discharge of effluent or effluvia caused by any trade, business, manufacture or process which is prejudicial to health or offensive to the neighbourhood;
- (k) any place where there exists, or likely to exist, any condition giving rise, or capable of giving rise to the breeding of mosquitoes or flies;
- (l) any machinery, plant or any method or process used in any premises which causes a nuisance or injurious or dangerous to public health or safety;
- (m) any place or premises where there occurs, or from which there emanates noise or vibration as to amount to a nuisance, injurious or dangerous to health;
- (n) any trade or occupation or the keeping of goods or merchandise by reason of its being a nuisance, injurious or dangerous to the health or physical comfort of the community;
- (o) any trade premises or food establishment not kept in a sanitary state and free from offensive smell arising from any drain, privy, water-closet, earth-closet or urinal, or in which suitable and adequate arrangements are not made to destroy or render harmless and inoffensive as far as practicable any gasses, vapour, dust or other impurities generated or which are allowed to fall into a state of disrepair, unsafe or unsightly;
- (p) any unlawful obstruction or accumulation or deposit or any material which is a nuisance in any public place; or
- (q) any other matter declared by the Minister to be a nuisance,

shall be liable to be dealt with summarily under this Ordinance.

Notice requiring abatement of nuisance.

49C. (1) On the receipt of any information respecting the existence of a nuisance liable to be dealt with summarily under this Ordinance, an Authority shall, if satisfied of the existence of a nuisance, serve a notice on the person by whose act, default or sufferance the nuisance arose or, if such person cannot be found, on the occupier or owner of the premises

on which the nuisance exists, 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 Authority thinks it desirable, specifying any works to be executed.

(2) An Authority may also by the same or another notice serve on such occupier, owner or person requiring him to do what is necessary for preventing the recurrence of the nuisance and, if it thinks it desirable, specifying any works to be executed for that purpose, and may serve that notice notwithstanding that the nuisance had for the time being been abated if the 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 the Authority may itself abate the same and may recover the expenses thereof from the owner.

(5) Where a notice has been served on a person and such person makes default in complying with any of the requirements of the notice within the time specified, he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to a term of imprisonment not exceeding six months or to both such fine and imprisonment and in addition the Magistrate's Court may issue a nuisance order.

(6) A nuisance order may be an abatement order or a closing order or a combination of both.

(7) An abatement order shall require a person to comply with all or any of the requirements of the notice, or to abate the nuisance within a time specified in the order.

(8) An abatement order shall specify the works to be executed by such person for the purpose of abating the nuisance.

(9) A closing order shall prohibit a dwelling house from being used for human habitation and shall be cancelled on the application of the Authority when it has been subsequently rendered fit for human habitation.

(10) Any person who fails to comply with the provisions of a nuisance order shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred ringgit for each day during the period of his default.

(11) Notwithstanding subsections (5) and (10), the Authority may itself abate the nuisance and recover all expenses thereof from the person in default.

(12) Where a closing order has been made with respect to any dwelling-house, the Authority shall serve a copy of the order on every occupier of the dwelling-house and if he fails to comply with such order the Authority may, with the assistance of the police, eject the occupier therefrom.

(13) A notice, an abatement order and a closing order under this section shall be in Forms A, B and C respectively of the Schedule hereto.

Order for demolition of house unfit for habitation.

49D. (1) Where a closing order has been made in respect of any dwelling-house and the Authority is of the opinion that the continued existence of such dwelling-house is dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-house it 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) Any person who fails to comply with the summary order shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred ringgit for each day during the period of his default.

(3) Where a person fails to comply with the provisions of a summary order the Authority may execute the order and may recover the cost of such work from the owner.

Power to proceed where cause of nuisance arises outside area of Authority.

49E. Where a nuisance within, or affecting any part of, an area of an Authority appears to be wholly or partly caused by some act or default committed or being committed outside the area of the Authority, the Authority may take, or cause to be taken, against any person in respect of that act or default, any proceedings in relation to nuisances by this Ordinance

authorised in the like cases, and with like incidence and consequences, as if the act or default was committed or took place wholly within the area of the Authority.

PART VI BY-LAWS

Power to make by-laws.

50. (1) Every Authority may, subject to the approval of the Minister, make by-laws for the carrying into effect and for the purposes of any function conferred on it by virtue of this or any other written law.

(2) Any by-law made by an Authority under the provisions of this section shall be read and construed subject to the provisions of any written law and to the Instrument of such Authority and nothing in this Ordinance contained shall be deemed to empower an Authority to make any by-law overriding or derogating from the provisions of any other written law for the time being in force.

(3) By-laws made under the provisions of this section may be made to apply to the whole of the area of an Authority or any part thereof and the power to make by-laws conferred by this section shall include power to make different by-laws in respect of different parts of the area of an Authority.

(4) An Authority may in making any by-laws relating to cleanliness of public places or obstructions therein prescribe the circumstances in which it shall be presumed that an offence under the provisions of any such by-laws was committed by or with the permission of the occupier of land or building or of the driver or person having charge or control of vehicle.

Power of Minister to make by-laws.

50A. Notwithstanding any provision in this Ordinance contained, the Minister may make by-laws in respect of any matter enumerated in section 49 for the purpose of promoting uniformity of by-laws of two and more Authorities and such by-laws shall have the same force and effect as if the same were duly made by the Authorities concerned:

Provided that no by-law made in pursuance of this section shall come into operation in any Authority until it has been adopted by a resolution of that Authority.

By-laws may prescribe fees and charges.

50B. Any by-laws made by an Authority may prescribe fees and charges for any matter or thing required or authorised to be done thereunder.

Power to demand monetary deposits from applicants for permit or licence.

50C. Where an Authority is empowered to make by-laws prohibiting, restricting or regulating the doing of any act and such by-laws require any person to obtain a permit or a licence from the Authority before the doing of such act, such by-laws may provide for a deposit of such sum, or the execution of a bond with sureties in such sum, as may be prescribed in such by-laws and for such sum to be refunded or such bond to be void, as the case may be, if the person to whom such permit or licence is granted complies with all the conditions of such permit or licence.

Making of by-laws.

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

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

(3) The Authority shall submit the proposed by-law, and if an objection has been lodged, with the objection and the comments of the Authority thereon, to the Minister who may approve, amend or reject the by-law, and if the Minister approves the by-law, with or without amendment thereof, the by-law shall, unless the Minister otherwise directs, be

published in the *Gazette* and thereafter have the full force of law within the area of the Authority.

(4) - (7) (Deleted).

Penalties for breaches of by-laws.

52. (1) An Authority may, by by-laws, provide a penalty by way of a fine or imprisonment for breach or contravention of any by-laws made under this Ordinance and such by-laws may also impose different fines or terms of imprisonment in case of successive or continuous breaches or contraventions, but no such penalty shall for any one offence exceed a fine of twenty thousand ringgit or a term of imprisonment of one year or both such fine and imprisonment and, in the case of a continuing offence, no such penalty shall exceed a fine of five hundred ringgit for everyday during which such offence is continued.

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

(3) Any by-law made by an Authority under this Ordinance may also provide that the Authority, its officer or servant may summarily eject any person who acts, or remove from any building or property, any equipment, vehicle, machinery article or other thing whatsoever which is used, in contravention of any by-law, or any order or direction given thereunder.

Compounding of offences.

52A. (1) By-laws made by an Authority under this Ordinance may provide for the compounding of offences by collecting from a person reasonably suspected of having committed an offence a sum not exceeding five hundred ringgit and for matters incidental thereto.

(2) On payment of such sum of money, no further proceedings shall be taken against the person in respect of the offence.

PART VII FINANCIAL PROVISIONS

Establishment of Authority Funds.

53. Every Authority shall set up a Fund to be known as the Municipal Council Fund, the Town Fund or the District Council Fund preceded by the name of the Municipality, the Town or the District as the case may be (hereinafter referred to in this Ordinance as "the Fund") into which shall be paid all revenue and other moneys accruing to the Authority and from which shall be paid all expenditure properly and lawfully incurred by such Authority.

Investment of Funds.

54. Subject to the provisions of this Ordinance an Authority may invest all or any portion of the moneys in the Municipal Council, the Town or District Council Fund, as the case may be, in such manner as may be approved by the Minister.

Revenue of Authorities.

55. The revenues of an Authority shall consist of-

- (a) all rates levied by the Authority under this Ordinance and payments in lieu thereof;
- (b) all fees, charges, dues and rents recoverable by the Authority or to which the Authority is entitled under this Ordinance or any other written law;
- (c) all fines imposed by any competent court, in respect of any contravention of the provisions of this Ordinance or of any by-laws made thereunder;
- (d) all charges or profits arising from any trade, service or undertaking, carried on by the Authority under the powers vested in it;

- (e) interest on moneys invested by the Authority except where other provision is made in regard thereto under this Ordinance or any other law;
- (f) all revenues accruing to the Authority from the Government as contributions, grants-in-aid endowment or otherwise;
- (g) such Government revenues as the Legislative Assembly may by resolution from time to time declare to be revenues for the purposes of this section.

Obligatory grants from public revenue.

56. (1) There shall be payable by the Government to the Authority annually by the 31st day of March in each year, an amount in lieu of the rates equal to the amount which, but for the provisions of this Ordinance or any law relating to rating exempting property in the occupation of the Government, would be payable in respect of such property situated within any rating area on the basis of a valuation of such property made within six months of the constitution of such Authority and agreed between the Authority on the one part and the Government on the other:

Provided that such valuation shall not be varied, save in respect of changes in ownership or value of improvements which shall be adjusted from year to year, for a period of five years from constitution or the latest valuation unless agreed by the Authority and the Government in respect of any financial year:

Provided further that in default of agreement between the parties the matter in dispute shall be decided by a Judge after hearing the representatives of both parties and such decision shall be final.

(2) Whenever rates are levied by an Authority under the provisions of section 82, a copy of the resolution of the Authority in that behalf certified by the executive officer of the Authority, shall be forwarded to the Minister of Finance together with a statement of the amount payable under the provisions of subsection (1).

Discretionary grants from public revenue.

57. (1) Where any public road has been vested in an Authority under the provisions of subsection (3) of section 38 or subsection (3) of section 41 there may be paid annually to the Authority by the Government the following amounts, that is to say-

- (a) such proportion of the cost to the Authority of the construction, reconstruction or maintenance of roads vested in the Authority, as the Legislative Assembly by resolution may from time to time approve;
- (b) the reimbursement of all or any part of the cost of construction, reconstruction or maintenance of any road for which the Authority is not responsible but which the Authority shall with the prior approval of the Minister construct, reconstruct or maintain;
- (c) (Deleted)

(2) Where expenditure is incurred by an Authority with the approval of the Minister for the purpose of promoting and maintaining public health services such proportion of the cost thereof as the Legislative Assembly by resolution may determine shall be paid to the Authority from the general revenue of the State of Sabah.

Power to raise loans.

58. (1) An Authority may from time to time, when authorised by resolution in that behalf passed by a two-thirds majority of the members present and voting at a meeting of which due notice, including the wording of such resolution, shall have been given, raise loans in such amounts and on such conditions as the Minister shall have approved.

(2) Subject to the provision of this Ordinance and any other law for the time being in force, the Minister of Finance may out of such public revenues or other moneys as may from time to time be set aside or appropriated for the purpose, grant loan to any Authority, and may impose such terms and conditions to be observed by the Authority obtaining such loan, in addition to those prescribed by law, as he shall think fit.

(3) Any financial liability to the Government lawfully assumed by an Authority for the purpose of acquiring land or of acquiring from the Government any works, schemes,

undertakings or assets shall until discharged be deemed to be a loan granted by the Government.

(4) In considering the propriety of applying for or granting a loan the Authority and the Minister of Finance shall have regard to –

- (a) the amount of any debt then due by the Authority and the sufficiency of the security for its repayment;
- (b) whether the work for which the loan is intended would be of such benefit to the public as to justify a loan from Government funds;
- (c) the probable period of durability and continuing utility of the work proposed to be undertaken.

(5) Every loan granted by the Government under this Ordinance shall, subject to any prior loans obtained from or advances made by the Government under the provisions of this Ordinance or any prior charge or hypothecation, be a first charge upon the revenues and assets of the Authority obtaining such loan.

Advances to and by Authorities.

59. (1) It shall be lawful for an Authority from time to time to obtain from the Government advances of moneys required for the proper carrying out of the provisions of this Ordinance. The moneys so advanced and the interest thereon, if any, shall constitute a liability of the Authority and shall be a charge on the property and revenues of the Authority present and future.

(2) An Authority may make advances and operate deposit and suspense accounts within such limits and upon such conditions as shall be approved in writing by the Minister.

Renewals funds.

60. (1) Any Authority may, and if required by the Minister shall, frame regulations providing for the annual setting aside by the Authority of amounts to create adequate renewals funds to provide for the entire or partial replacement of assets of the Authority which owing to depreciation or other cause will require at some future date to be replaced,

and providing for the investment of such funds. Such regulations shall be submitted for the approval of the Minister who may approve them with or without modification, and, when approved, they shall be published in the *Gazette*:

Provided that if the Authority shall fail to frame such regulations and to submit them for approval as aforesaid within a period of twelve months from the date on which the Minister shall require the Authority so to do, such regulations may be made by the Minister.

(2) The Authority shall pay annually out of its revenues into the renewals funds so created such contributions as are required by regulations made under this section, and no such moneys or any part thereof shall, without the sanction of the Minister, be used either permanently or temporarily for any purpose other than the purpose for which such fund has been created. All interest or other revenues derived from such renewals funds shall be paid into and become part of such funds.

Fees.

61. (1) An Authority may charge such fees or charges for any service or facility provided by the Authority as are determined by resolution of the Authority, or for any licence or permit, issued by the Authority under the provisions of any written law and for which no other fee or charge is otherwise specified, as may be prescribed in by-laws made by the Authority under the provisions of this Ordinance.

(2) Subject to the prior approval of the Minister an Authority may for good cause authorise the remission of any fees or other charges imposed under the provisions of this Ordinance or any by-laws made thereunder.

Estimates of Authority.

62. (1) Every Authority shall, not less than three months before the expiry of each financial year, pass detailed estimates of the revenue and expenditure of the Authority for the next financial year.

(2) Such Estimates shall be passed at a meeting of the Authority specially convened for the purpose.

(3) Every Authority shall, before the commencement of each financial year, submit a copy of the annual estimates as passed by the Authority to the Minister for approval and when so approved notice of such approval shall be published in the *Gazette* and the estimates shall be published or made available for inspection in such manner as the Minister shall direct. Where additional financial provision is required during the course of any financial year supplementary estimates thereof shall be submitted in the same manner for approval of the Minister.

(4) No Authority shall incur expenditure which has not been included in such approved estimates except with the sanction of the Minister and any member, officer or servant of an Authority who has applied or connived at or concurred in the application of moneys for purposes for which it was not lawfully applicable shall be liable to surcharge and to account for such moneys:

Provided that re-allocations of expenditure within the limits of the approved estimates may be made by the Authority without such approval or sanction if such reallocations shall not increase or decrease any one item of recurrent expenditure by more than such amount as the Minister shall have approved in the case of each Authority.

(5) The annual and supplementary estimates shall be prepared in such form and shall contain such detailed information as the Minister may require.

(6) The approval of the annual and supplementary estimates by the Minister shall be recorded in the minutes of the Authority.

Writing off irrecoverable arrears of revenue.

63. An Authority may, from time to time, by resolution authorise the writing off as an irrecoverable debt in regard to which no further proceedings need be taken, of any part of the revenues of the Authority due or payable to the Authority from or by any person, on the ground of the poverty of such person or for other sufficient cause:

Provided that no such sum shall be written off as an irrecoverable debt without the prior approval of the Minister if it exceeds in any one case such amount as may be directed by the Minister in respect of that Authority or if, by so writing it off, the total sum written off by that

Authority in that financial year would exceed such amount as may be directed by the Minister in respect of that Authority.

Writing off deficiencies of cash and stores.

64. An Authority may, from time to time, by resolution authorise the writing off of deficiencies of cash or stores:

Provided that no such deficiency shall be written off without the prior approval of the Minister if it exceeds in value such amount as may be directed by the Minister for that Authority or if, by so writing it off, the total value of such deficiencies written off by that Authority in that financial year would exceed such amount as may be directed by the Minister in respect of such Authority.

Grants of money, donations or gifts.

64A. An Authority may make grants of money, donations or gifts in kind to any institution, Government department, Statutory Authority or body corporate which undertakes or conducts research in any field directly connected with the functions of the Authority:

Provided that no grants of money, donations or gifts in kind shall be made without the written approval of the Minister.

Accounts to be kept.

65. (1) An Authority shall cause proper books of account to be kept and true and regular records to be made therein of all transaction of the Authority and shall as soon as possible after the close of each financial year forward to the Minister a statement of account in such form as the Minister may require and signed by the Chairman and certified by the auditor or auditors to be correct subject where necessary to an audit report.

(2) The Minister shall cause such statement of accounts to be published in the *Gazette* or in such manner as he shall direct.

Financial instructions.

66. The Minister may issue instructions providing for the control and administration of the Fund or the property of any Authority and generally with respect to accounting procedures and such Authority shall conform to such instructions.

Audit of accounts.

67. (1) The Minister shall nominate, and may from time to time vary the nomination of, one or more persons to be the auditor or auditors of the accounts of every Authority who shall from time to time inspect and audit such accounts. Such audit shall be conducted in such manner as the Minister may direct.

(2) The audit or auditors may receive from the District Council, Town or Municipal Council Fund such remuneration as the Minister may from time to time determine.

(3) For the purposes of any audit or examination of accounts under this Ordinance the auditor or auditors may by notice in writing require the production before him or them of all books, deeds, contracts, accounts, vouchers and other documents and papers which he or they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before him or them at any such audit and examination or adjournment thereof and to make and sign a declaration with respect to the same.

(4) Any such person who neglects or refuses to produce any such books, deeds, contracts, accounts, vouchers, documents or papers or to make or sign such declaration shall be liable for every neglect or refusal to a fine of one hundred ringgit and to a further fine of fifty ringgit for each day during which the offence is continued after he has been convicted of such offence.

(5) The auditor shall have power to check cash, stores and assets of the Authority without prior notice and to inspect works under construction at any time.

Auditors to submit report or observations.

68. (1) The auditor or auditors shall submit to the Authority as soon as possible after the close of each year a report or observations arising from his or their audits of the accounts for that year and shall send a duplicate of every such report or observations to the Minister.

(2) The Minister shall cause any such audit observations on the accounts of any Authority to be laid before the Legislative Assembly and to be published in the *Gazette*.

Power of surcharge.

68A. (1) Any person whether a member, officer or servant of an Authority who makes or authorises an unlawful payment or whose negligence or misconduct causes a deficiency or loss or failure to bring to account any sum which ought to have been brought to account may be surcharged by the Minister with the unlawful payment, deficiency or loss or the sum which ought to have been brought to account.

(2) For the purposes of this section the pecuniary responsibility for the surcharge in respect of any payment not authorised shall lie upon the person making the payment except when payment has been made upon instructions (recorded in the minutes or in writing) from the Authority or from any committee of the Authority given before the irregularity has been notified; and the pecuniary responsibility for a surcharge in respect of any such payment when such payment has been made upon such instructions shall rest upon the person or persons giving or joining in giving such instructions. A member of the Authority or committee shall be deemed to have joined in giving such instructions if he does not cast his vote against the resolution in that behalf to be recorded in the minutes.

(3) The Minister shall give notice in writing to every person surcharged under the provisions of this section of the amount surcharged, upon which the surcharge is made and every such person may, not later than thirty days from the receipt of such notice, appeal to the Minister of Finance or where the surcharge relates to an amount exceeding five hundred ringgit, to the High Court and the decision on any such appeal shall be final.

(4) The High Court or the Minister of Finance, as the case may be, shall have power on any such appeal to confirm, vary or quash such surcharge, or to remit the case to the

Authority with such directions as the High Court or the Minister of Finance may think fit for giving effect to the decision on appeal.

(5) Every sum surcharged under the provisions of this section shall be paid into the fund from which it is taken by the person surcharged within thirty days from the date upon which the notice in writing under subsection (3) is received, or the decision on appeal is given, as the case may be, and if such sum is not so paid the Authority may recover the sum from the person surcharged in any competent court and shall be entitled to be paid their reasonable costs and expenses in such proceedings.

(6) In any proceedings for the recovery of any sum surcharged under the provisions of this section, a certificate signed by the Minister, subject to such modification as may be necessary in consequence of any decision of the High Court or the Minister of Finance on appeal shall be conclusive evidence of the amount due and payable by the person concerned, and a certificate signed by the Chairman of the Authority concerned or by any officer whose duty it is to keep the accounts that the sum certified to be due has not been paid to him shall be conclusive evidence of non-payment, unless it is proved that the sum certified to be due has been paid since the date of the certificate.

(7) Unless the contrary is proved, a certificate purporting to be signed by the Minister or by the Chairman or by the Executive Officer of an Authority, shall be deemed to have been signed by such Minister, Chairman or Executive Officer, as the case may be.

PART VIII

STAFF AND EMPLOYEES

Staff for Authorities.

69. (1) Every Authority shall appoint an executive officer and a treasurer, who may be the same person. Such appointment and the salary to be paid shall be approved by the Minister and no person so appointed shall be dismissed except with the approval of the Minister. The Authority may grant leave of absence to such officer or officers and in the event of absence from duty may appoint with the prior approval of the Minister another person or persons to act in such office or offices and may remove such person from such office and appoint another in his stead. Any person so appointed to act in such office or offices shall have all the powers and perform all the duties of such office under this Ordinance and any

by-law made thereunder and any other duties as may be assigned to him by resolution of the Authority.

(2) Every Authority may employ either on a whole or part time basis such other officers, servants, labourers and other workers as may be required for the performance of its functions under this Ordinance. No appointment carrying a salary of more than such amount per month as the Minister may direct in respect of such Authority or on a scale which rises above such amount shall be made nor shall any person draw such salary without the approval of the Minister and appointments to and dismissals from such posts shall be subject to the approval of the Minister. For the purposes of this subsection "salary" shall include allowances and "appointment" shall include an acting or temporary appointment.

(3) Any Authority may subject to the approval of the Minister make a scheme or schemes for the establishment of a pension, superannuation or provident fund or scheme for the provisions of pensions or other allowances on death, superannuation, resignation, retirement or discharge to persons who have been in the employment of such Authority.

(4) In the event of an Authority employing on secondment any person who is already entitled to benefits of any nature in his substantive employment or appointment, it shall be lawful for the Authority instead of or in addition to the emoluments payable to such person to pay in respect of such person such amounts as may be agreed by the Minister of Finance to ensure the continuance of such benefits.

Power of Minister to provide for discipline etc., of officers and employees of Authority.

69A. (1) The Minister may, from time to time, make rules for the purpose of maintaining good conduct and discipline among officers and employees of the Authority and for providing the types of punishment that may be imposed upon any such officer or employee who is guilty of misconduct or breach of duty in the exercise of his official functions.

(2) An Authority may suspend from duty any officer or employee who is accused of misconduct or breach of duty in the exercise of his official functions, and if such officer or employee while so suspended is removed from office there shall be paid to him in respect to the period of his suspension such portion only of the salary of his office of not being less than one-half as the Authority may think fit.

(3) The Minister may, from time to time, make rules regulating the qualifications, tenure of office, duties and terms and conditions of service including matters relating to maternity benefits, rest days, hours of work, overtime, holidays, leave, retrenchment and retirement benefits, of the officers and employees of the Authority.

PART IX PROPERTY OF AUTHORITIES

Transfer of Government property to Authority.

70. Without prejudice to any other written law the Yang di-Pertua Negeri may from time to time vest any State land or movable property of the Government in an Authority where in the opinion of the Yang di-Pertua Negeri it appears desirable to do so to enable the Authority to carry out its duties and responsibilities and such property shall be held by the Authority in trust for the use and enjoyment of the inhabitants of the area but such Authority shall surrender the same to the Yang di-Pertua Negeri at any time when called upon to do so:

Provided that where any land has been vested in an Authority and has been used for the purposes of paragraphs (35), (36), (37) and (38) or for the purposes of any works, or undertaking which the Authority is authorised to carry on under paragraph (69) of subsection (1) of section 49 and has been sold, leased or otherwise dealt with or alienated any surrender of such land to the Yang di-Pertua Negeri shall be subject to the rights of any person deriving title or interest from the Authority.

Alienation of property.

71. Subject to the provisions of this Ordinance or any Instrument no immovable property whether acquired by an Authority by transfer from the Government under section 70 or by purchase out of the District Council, Town or Municipal Council Fund shall be sold, leased or otherwise alienated without the prior approval of the Minister.

PART X
RATING

Interpretation.

72. In this Part and in Parts XI and XII unless the context otherwise requires-

“building” means any structure erected on land and includes but is not limited to any house, hut, shed or roofed enclosure, whether used for human habitation or otherwise, and also any wall, fence, platform, underground or above ground tank, staging, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, fixed or floating landing-stage, swimming pool, bridge, railway lines, transmission lines, lines for telecommunications, cables, redifussion lines, overhead and underground pipelines and ducts, or any other structure, support or foundation, chimney, elevator, lift, escalator, hoist, fixed gantry, mast or tower for radar, television, telephone or wireless, weighbridge, well casing and liner, bin, bunker, hopper, silo, vat; including any plant or machinery, together with the appliances and structures accessory hereto, which is used or intended to be used mainly or exclusively in connection with the heating, cooling, ventilating, lighting, draining, supplying of water, generation and distribution of electricity, storage and distribution of gas, security or protection from fire for such building above defined;

“holding” means the area of land under a separate document of title and, in the case of subdivided buildings, the common property and any parcel thereof and includes messuages, buildings, 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:

Provided that, in the case of any utilities undertaking, “holding” shall include all property assets including those without separate document or title;

“property” means any holding or any land with or without buildings thereon, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth;

“rateable value” means the estimated gross annual rent at which any property might reasonably be expected to let from year to year if the landlord undertook to pay any State rent, the cost of repair and maintenance, insurance, all public rates and taxes and any other expenses necessary to maintain such property in a state to command such rent:

Provided that –

(a) in estimating the rateable value of any property, except in any case where valuation is on the profits bases, in or upon which there is any machinery used for any of the following purposes:

- (i) the making of any article or part of an article;
- (ii) the altering, repairing, ornamenting or finishing of any article;
- (iii) the adapting for sale of any article,

the enhanced value given to the property from the presence of such machinery shall not be taken into consideration, and for the purpose of this definition, “machinery” includes the steam engine, boilers and other motive power belonging to that machinery and “article” does not include electricity;

(b) in the case of any land-

- (i) which is partially occupied or partially built upon;
- (ii) which is vacant, unoccupied or not built upon;
- (iii) with an incomplete building; or
- (iv) with building which has been certified by the Authority to be abandoned or dilapidated or unfit for human habitation,

the rateable value shall be, in the case of subparagraph (i), either the rateable value as hereinbefore defined or ten per centum of the open market value thereof at the absolute discretion of the Authority, and in the

case of subparagraphs (ii), (iii) and (iv) the rateable value shall be ten per centum of the open market value thereof as if, in relation to subparagraphs (iii) and (iv), it were vacant land with no buildings thereon and in all cases the Authority may, with the approval of the Minister, reduce such percentages to a minimum of five per centum;

- (c) where in respect of any particular property, in the opinion of the Authority, there is insufficient evidence to base a valuation of rateable value upon, the Authority may apply such methods of valuation as in its opinion appears appropriate to arrive at the rateable value and, in any case where the rateable value is assessed by reference to the open market value or cost of the property, the rateable value shall be deemed to be the sum which is equivalent to the annual interest at ten per centum, although in all cases the Authority may, with the approval of the Minister, reduce such percentage to a minimum of five per centum;
- (d) where any holding is owned in undivided shares and it is evident from inspection that the different owners enjoy beneficial use of defined separate parts of the holding, the Authority may in its absolute discretion separately assess each such part for the convenience of the owners provided that all the co-owners shall together remain liable for the payment of the rates charged in respect of such part;
- (e) in assessing rateable value the state of repair of any building is to be ignored so that each building is assumed for assessment purposes to be in good and tenantable repair;

“rent” includes any premium or other consideration and, in the case of sub-tenancies, the rent payable by the principal tenant together with rent payable by sub-tenants less the rent assessed to be payable by the principal tenant in respect of any part of the property reserved wholly or partly for his use, and in the case of property including piers, wharves, and public utility undertakings which are not normally rented the rateable value shall be deemed to be the gross receipts from which are deducted the working expenses, cost of maintenance and the tenant’s share of profits:

Provided that where the whole or any part of the benefit of occupation is received other than in money, it shall be expressed in terms of money and deemed to be, or included in, the gross receipts as the case may be.

72A. (Deleted)

Rateable property.

73. (1) All property within any rating area shall be rateable property within the meaning of this Ordinance save as herein excepted, that is to say-

- (a) property used exclusively for religious worship;
- (b) property duly licensed under the provisions of the Burials Ordinance [Cap. 19.] for use exclusively as a public burial or cremation ground, and maintained in such condition as may be required under by-laws made under this Ordinance;
- (c) property used exclusively for educational purposes not conducted for pecuniary profit;
- (d) property used for charitable purposes or for the purposes of science, literature or the fine arts and not for pecuniary profit;
- (e) land laid out and used for sporting purposes (other than racing or golf) which is not used and maintained for profit or for private use of the owner or occupier;
- (f) property belonging to the Federal Government or the Government of the State of Sabah;
- (g) property in the ownership of the Authority or used for local authority purposes;
- (h) property the rateable value of which is less than one hundred and twenty ringgit, or such greater amount as any Authority with the approval of the Minister may fix in respect of its area, if such property be the sole rateable

property of the owner or, if not the sole rateable property, the combined value of such property does not exceed such amount;

- (i) such other property as the Yang di-Pertua Negeri may by notification in the *Gazette* generally or in any particular case direct to be excepted from the payment of all or any rates.

(2) Nothing in this section shall affect the liability of any person to pay any other charge or tax to which he may be liable.

Valuation of rateable property.

74. (1) Every Authority may, no later than the first day of December in each year or such later date as the Minister may allow, cause to be made a valuation of the rateable value of all rateable property:

Provided that an Authority may for not more than four consecutive years or such longer period as the Minister may in any particular case allow, resolve that it shall not be necessary to cause a valuation to be made in such year and in such case the valuation of the previous year shall be adopted as the valuation for the forthcoming year.

(2) Where the Minister so requires, an Authority shall authorise a Government valuer to carry out the valuation under this section and shall pay to the Government for the service of the valuer such sum as the Minister may determine:

Provided that where the Minister so requires, an Authority shall appoint a qualified valuer to carry out the valuation under this section and shall pay a fee for such service as the Minister may determine.

(3) Having regard to the time needed to collect valuation data and to undertake revaluation of all rateable property within the rating area, the Authority may by resolution fix the date by reference to which the valuation of rateable value is to be made.

Power of entry.

75. Every person authorised by an Authority under section 74 to carry out a valuation shall for the purpose of making the valuation as aforesaid, have power to enter at any reasonable

hour into and upon any rateable property without being liable to any action or other proceedings on account thereof.

Power to question owners and occupiers.

76. It shall be lawful for any person authorised by an Authority under section 74 to carry out a valuation to put to any person for the time being on, or in occupation or charge, or being the owner, of any rateable property, or part thereof, which such person shall have been authorised under the provisions of this Ordinance to value, question upon all such matters as may be necessary to enable him correctly to value such property, and to determine the names of the owner and occupier thereof, and such other information as he may require for the purpose of such valuation. And if after being informed by such person of his purpose in putting such questions, and of his authority under this Ordinance to put the same, any person in occupation or charge, or any owner, shall refuse or wilfully omit to answer the same to the best of his knowledge and belief, or shall wilfully make any false answer or statement in reply to such questions, such person shall be guilty of an offence and shall be liable on conviction to a fine of five thousand ringgit.

Valuation list.

77. (1) On completion of the valuation prescribed by section 74 the Authority shall prepare a valuation list of all rateable property.

(2) The valuation list shall on completion be kept in the office of the Authority, and any member of the public may, during office hours, inspect the same and take extracts therefrom; and the Authority shall cause notice to be given in the *Gazette* and in such manner as the Authority considers adequate notice to the inhabitants of the rateable area of the time and place fixed for hearing and determining objections to the valuations contained in such list, and every such notice shall be published in the *Gazette* at least twenty-one days before the date fixed for such hearing.

Notice of objection.

78. (1) Any person wishing to object to any valuation as aforesaid shall give written notice thereof which shall be lodged at the office of the Authority at least six days before the date fixed for the commencement of the hearing of objections. Every such notice shall specify

the amount of the valuation which the person objecting considers should be substituted for the amount stated in the valuation list and the nature and grounds of such person's objection and particulars thereof, and shall be accompanied by a prescribed fee which shall be refunded in every case in which such objection is upheld.

(2) In addition to any objection which may be made in regard to the amount of any valuation, the person objecting may make all or any of the following allegations, that is to say-

- (a) that he is not liable to be assessed in respect of any property which has been included in the valuation list;
- (b) that such property is not assessable or ought not to be included in the list;
- (c) that a proper assessment has not been made.

(3) When any objection is made in regard to any property not owned or occupied by the person objecting, he shall at least six days before the date fixed for the hearing thereof cause a copy of the notice of objection to be served on every person interested in the result of such objection, and such person may be heard thereon.

Rating Appeals Tribunal.

79. (1) Every Authority shall appoint a Rating Appeals Tribunal consisting of a President and not more than four members, at least two of whom shall be members of the Authority and may from time to time fill any vacancy or appoint any additional members up to the permitted number.

(2) Each member of the Tribunal shall hold office for such period not exceeding three years as the Authority may direct:

Provided that when any member of the Authority appointed to be a member of the of the Tribunal ceases to hold office as a member of the Authority he shall thereupon cease to be a member of the Tribunal.

(3) Three members of the Tribunal shall form a quorum.

(4) The President shall, in addition to his deliberative vote as a member of the Tribunal, have a casting vote.

(5) The procedure of a Tribunal shall be as determined by the Tribunal.

(6) At the time and place specified in the notice given by the Authority under section 77 the Tribunal shall hear all objections which may be urged against any valuation by or on behalf of any person by whom due notice thereof has been given under section 78 and shall inquire into the merits of such objections, and shall confirm, alter, increase or reduce any valuation objected to, and shall make such additions and alterations to the valuation list as are necessary to give effect to its decision, and the President shall sign and certify such additions and alterations:

Provided that the Tribunal may be adjourned from time to time for the purpose of obtaining further evidence in regard to any case which shall have been partly heard or upon the application of any person objecting who shall show reasonable grounds for not being ready with proofs.

(7) The Authority, by any person appointed by it, and the person objecting either personally or by agent, may appear and be heard before the Tribunal.

(8) The Tribunal shall have the powers of a Court of a Magistrate of the First Class in regard to compelling attendance of and swearing of witnesses and production of documents and maintaining order at the hearing. Any person interested shall be entitled to a copy of the record and report of the Tribunal on paying the appropriate fees chargeable for copies of records in a Court of a Magistrate.

Decision of Tribunal to be recorded on objection notice.

80. The decision of the Tribunal shall be noted in writing upon the notice given as provided in section 78 and shall be signed by the President, and such notice shall be kept on record in the office of the Authority and shall during office hours be open to inspection by any person affected by such decision.

Appeal from the Tribunal.

81. (1) The Authority, or any person aggrieved by any decision of the Tribunal, may appeal to such Judge or Magistrate as the Chief Judge of the High Court in Sabah and Sarawak may nominate for the hearing of such appeals and such appeal shall be conducted,

as nearly as may be in conformity with the law and practice for the time being in force relating to appeals in civil cases from a subordinate court to the High Court.

(2) The President of the Tribunal may, of his own volition or on the application of any party, state a case for the opinion of such Judge or Magistrate on any question of law arising out of any objection to the valuation list or any entry therein which may be brought before him.

Levy of rates.

82. Every owner of rateable property, within the meaning of this Ordinance, which is not excepted under section 73 shall pay –

- (a) such annual rates thereon; and
- (b) such separate rate on any specified class of rateable property or on rateable property in any specified area,

as the Authority may, with the approval of the Minister, prescribe by order published in the *Gazette*:

Provided nevertheless that the total of such payments shall not exceed thirty per centum of the rateable value appearing in the valuation list or such greater percentage as the Yang di-Pertua Negeri may approve either generally or in respect of any area or areas.

Objects for which rates may be levied.

83. The objects for which rates may be prescribed are –

- (a) the lighting and cleaning of the public roads and of places and buildings vested in or belonging to or under the control of the Authority and in the case of any streets or roads vested in an Authority, the construction, maintenance and repair of such streets or roads;
- (b) the provision and maintenance of a system of removal of sewerage or of night-soil or of both;
- (c) the provision of housing authorised by the Instrument;

- (d) the acquisition or improvement of any area which is insanitary or dangerous to health;
- (e) the provision of open spaces;
- (f) the supply of water to the Authority and the cost of drinking fountains and pumping and the supply of water through public standpipes;
- (g) the implementation of any written law to the extent to which such written law confers powers or duties on the Authority;
- (h) any function authorised by the Instrument and for the general purposes of this Ordinance and any other Ordinance placing duties and responsibilities on the Authority;
- (i) any other purposes approved by the Yang di-Pertua Negeri.

Special rate.

84. (1) Where it appears to the Authority that any work, improvement or undertaking which the Authority is authorised to do or execute is for the special benefit of any particular part of the rating area a special rate not exceeding ten per centum of the rateable value appearing in the valuation list may be levied subject to the provisions of this Ordinance and in addition to the rates payable under section 82 for defraying the expenses incurred in doing or executing such work, improvement or undertaking.

(2) A special rate when made shall be levied upon all the rateable property situated within the part or parts of the rating area to be specially benefited.

- (3) (a) Before any special rate is made the Authority shall cause plans of any works intended to be executed under this section and a detailed estimate of the probable cost thereof to be made and shall give notice of its intention to make such special rate as provided in paragraph (b) of this subsection and such plans and estimate shall be deposited in the office of the Authority and shall be open at all reasonable hours for inspection by

all persons interested therein during the time specified in the notice of intention to make the special rate.

- (b) Every notice of intention to make a special rate shall be published once in the *Gazette* and in such manner as the Authority considers adequate notice to the inhabitants of that part of the rating area affected and such notice shall state the intention of the Authority to make the special rate, the purposes for which the rate is required, the exact boundaries of the part or parts of the rating area upon which the rate is to be levied, a list of the titles to land comprised or partly comprised within the said boundaries or a reference to a map deposited for inspection at the office of the Authority on which such titles are depicted, the percentage of the annual value to be levied on the property intended to be rated, the place at and the period (to commence not less than twenty-one days before the last day for lodging objections and ending on that day) during which the plans and estimate of the said works may be inspected, the day (not being earlier than the twenty-first day after the publication of the notice in the *Gazette*) on or before which any person may lodge objections to the levying of such special rate, the place at which such objections are to be lodged and the date and place appointed for the hearing of objections.
- (c) Objections to a special rate shall be in writing signed by the person making the same and shall be lodged at the office of the Authority and a copy thereof shall be sent forthwith by the Authority to the Rating Appeals Tribunal. The President of the Tribunal shall upon the day appointed by him for the hearing of objections, if there be no objections received within the time limited for the lodging thereof, report the fact to the Minister or, if any objection shall have been so lodged, the Tribunal shall hear and inquire into all such objections and shall also hear the reply (if any) of the Authority to the objections and shall forward all the objections together with a record of the hearing and inquiry and a report thereon to the Minister. The Authority may be represented at such hearing by any person appointed by it and any objector may appear at such hearing in person or by agent.

- (d) At the hearing of objections under this section, the Tribunal shall follow the same procedure and shall have the same powers as when hearing objections under section 79. *[Corr. 1963 vol. p.Lxxxi]*
- (e) The report of the Tribunal and documents forwarded therewith shall be submitted to the Minister who, before deciding whether to consent to such special rate may –
 - (i) cause such modifications to be made in the proposals of the Authority contained in the notice published under the provisions of paragraph (b) of this subsection as he may think fit and the matter shall then be referred back to the Tribunal for further inquiry and report; or
 - (ii) require any question on which he may wish to have the opinion of the Judge or Magistrate nominated under the provision of subsection (1) of section 81 to be referred accordingly and every such reference shall include particulars of the parties believed to be interested in the matter referred. After hearing all parties named in the reference who wish to be heard the Judge or Magistrate, as the case may be, shall determine the question referred for his opinion, and shall cause such determination to be forwarded to the Minister.
- (f) Upon the consent of the Minister having been given to the levy of a special rate the same may be levied annually (during such period as the Minister shall determine) by resolution of the Authority and the date for payment thereof shall be fixed by such resolution, and such rate shall become due and payable as provided by section 86.

Power to remit rates and to vary the valuation list.

85. Notwithstanding anything in this Ordinance contained, it shall be lawful for the Authority from time to time and at any time-

- (a) to remit any rate imposed on any rateable property in any case in which any part of such rateable property has been demolished since the date of the making of the valuation list, and in such other cases as may be approved by the Minister;
- (b) to cause any rateable property omitted from the valuation list or new rateable property to be valued in the manner hereinbefore provided, and to cause the current rate to be collected in respect thereof;
- (c) to cause a valuation to be made of any rateable property which is subdivided after the date when the valuation in respect of such property has become final, and to cause the valuation to be apportioned according to the subdivision of the said property, and to cause any rate due in respect thereof to be assessed and collected according to such subdivision;
- (d) to cause a fresh valuation to be made of any rateable property which, from any cause particular to such property arising since the last valuation thereof, has materially increased or decreased in value and to cause the current rate to be collected in respect thereof;
- (e) to cause any error appearing in the valuation list from time to time in force to be corrected in any case where any change of ownership or occupation of the rateable property has occurred since the making of such list or where some clerical error or some error as to the nature of the interest valued or the name of the owner has been made in such list, and to cause any rate due in respect thereof to be collected according to the corrected list;
- (f) where a part only of any rateable property not separately valued in any valuation list is or may be subject to a special rate under section 84 to cause an apportionment of the value of such property appearing in such list to be made as between the part thereof which is or may be subject to any special rate as aforesaid and the remaining part which is not subject to such special rate:

Provided that-

- (i) upon the making of any valuation, revaluation, correction and apportionment under paragraphs (b), (c), (d), (e) and (f) the same forms shall be observed and the same proceedings taken as nearly as can be, *mutatis mutandis*, as are

hereinbefore set forth with regard to valuations, except that in the case of any valuation under paragraphs (c), (d), (e) and (f) the prescribed notices may in the discretion of the Authority be served in writing upon the person interested instead of being published as aforesaid;

- (ii) in the case of any property which is added to the list under paragraph (b) of this section or the value of which is increased under paragraph (d) of this section if as the result of any objection thereto the value of the said property be fixed at a sum less than that on which the last preceding rate has been levied, the owner shall be entitled to a refund of any rate paid by him in excess of that which would have been paid if the rate had been levied on the value as fixed by the Tribunal;
- (iii) where property is added to, or removed from the valuation list during the course of the years, rates will be charged in the proportion that the number of completed months during which the property was on the list bears to the whole year;
- (iv) any amendment made under this section may, at the discretion of the Authority, have regard to the level of annual values prevailing as at or about the time current Valuation List was prepared.

When rates become due.

86. (1) Every rate assessed by the Authority shall become due and payable upon a day or days to be fixed by the Authority, of which day or days, and the amount of such rate, the Authority shall give at least thirty days' notice in such manner as the Authority considers adequate notice to the inhabitants of the rating area:

Provided that an Authority may by resolution direct that such rates shall be payable quarterly in advance by the owners of rateable property at the office of the Authority or other prescribed place, and shall become due and payable on the first day of each quarter without further notice.

(2) It shall be lawful for the Authority in its by-laws to allow such discount on any rates paid on or before the date on which the same become due and payable as may be approved by the Minister.

Interest on unpaid rates.

87. Where any rate remains unpaid after the date on which the same becomes due and payable, interest may be charged and recovered thereon with effect from such date and at such rate not exceeding eight per centum per annum as the Authority may determine and for the purposes of Part XII the word “rate” shall include any interest so due.

Rates payable pending appeal.

88. Notwithstanding that an appeal from the decision of the Tribunal is pending, every rate as assessed by the Authority shall become due and payable as provided in section 86 and where, subsequent to the payment thereof, such appeal results in alteration of the valuation, either by way of increase or decrease, the Authority shall collect or refund the difference, as the case may be.

PART XI
CESSES

Power of District Council to levy cess.

89. (1) An Authority may with the approval of the Yang di-Pertua Negeri, from time to time by order levy a cess-

- (a) on any specified class or classes of persons;
- (b) on any specified agricultural produce or domestic animals;
- (c) on any sale or transfer of any specified agricultural produce or domestic animals or on the removal of any such produce or animal from the area of the Authority to any other part of the State of Sabah;
- (d) on the owners or occupiers of any specified property other than property which, if it is or had been situate within a rating area, is not, or as the case may be, would not have been rateable property by virtue of paragraphs (a) to (g) inclusive or paragraph (i) of section 73.

(2) Any cess levied under this section –

- (a) may apply to the whole or any part of the area of the Authority;
- (b) may vary as between different localities within such area or as between different classes or descriptions of persons or property;
- (c) may be so levied either in lieu of or in addition to the exercise of the powers conferred by sections 82 and 84;
- (d) may be so levied for all or any of the purposes for which a rate could be prescribed under the provisions of section 83;
- (e) shall become due and payable on such date or in such manner as may be specified in the order concerned.

(2A) An order made under the provisions of this section may-

- (a) prescribe the manner in which a cess may be collected;
- (b) prescribe the method and procedure to be followed to enable the Authority to collect a cess;
- (c) prescribe the form to be used for the purpose of the order;
- (d) provide for the submission of returns by persons liable to pay cess in such forms as may be prescribed and the furnishing of information or explanation in respect of such returns;
- (e) prescribe a penalty by way of a fine for any contravention or failure to comply with any provisions of the order but no such penalty shall for any one offence exceed five hundred ringgit; and
- (f) make provisions generally for the better carrying out of the objects and purposes of the order.

(3) Any person wishing to object to any cess imposed upon himself or his property under paragraphs (a), (b) or (d) of subsection (1) may appeal to the Rating Appeals Tribunal established under section 79 for the area of the Authority concerned, and any such appeal

shall be pursued and disposed of *mutatis mutandis* in accordance with the provisions of Part X as though the objection were an objection to a valuation for rating purpose.

(4) Where any cess levied under paragraph (d) of subsection (1) is related to the acreage of land, the amount payable by the owner of any land affected thereby shall be calculated to the nearest five sen.

Grant of money levied as cess.

89A. Where any cess has been levied under section 89-

- (a) on any specified agricultural produce or domestic animals;
- (b) on any sale or transfer of such produce or animals; or
- (c) on the removal of such produce or animal from the area of the Authority,

the Minister may direct the Authority to make a grant of money or gift in kind, not exceeding in value of seventy per centum of the revenue which the Authority has received from such cess, to any institution, department of Government, statutory authority or body corporate as the Minister may specify, and the Authority shall comply with such direction.

PART XII

RECOVERY OF RATES AND OTHER AMOUNT DUE

Summary proceedings for enforcing payment.

90. (1) If after the time fixed for payment as aforesaid any person fails to pay any rate or cess due by him to the office of the Authority and the Authority has caused a printed or written demand to be made upon such person requiring him to pay the amount stated in such demand, together with such fee for the issue of such notice as the Authority may fix by resolution, within a period of not less than fourteen days after service thereof and such period has expired without payment having been made, the Authority may apply to a Court of a Magistrate of the First Class for a summary warrant to recover such rates, cess and fee from the person liable to pay the same.

(2) The Court shall grant such warrant on production of a list of names and addresses of the persons so in default, and the amounts due by them together with a certificate by the executive officer or Chairman of the Authority that such persons have been severally required to make payment of the said rates or cess by notice issued under subsection (1) and that such rates, cess and fee are due by them and do not exceed the rates, cess and fee fixed by or under the provisions of this Ordinance; and every such warrant shall contain every authority and be executed in all respects as though it were an order for execution issued by the said Court. *[Corr. 1962 Vol. p. Lxxiv]*

Recovery by suit.

91. Notwithstanding the provisions of section 90 the Authority may at its discretion, after the time fixed for the payment of any such rates or cesses as aforesaid, recover from the person in default (without further notice or demand) the amount of the rates or cess due by such person, irrespective of the amount thereof, by suit in the Court of a Magistrate of the First Class, whether the person liable for the same shall be resident within the jurisdiction of such Court or not.

Recovery of rate from occupier.

92. Where the rate imposed on any rateable property remains unpaid for a period of three months after the same becomes due and payable, the Authority may demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property to the extent of any rent or other amount due by the tenant or occupier at the date of the demand or which may thereafter become due, and on non-payment thereof may, after one month from the date of such demand, recover the same from such tenant or occupier in the same manner as though he was the owner; and every such tenant or occupier shall be liable for the amount of such demand to the extent as aforesaid until the same has been wholly recovered, and shall be entitled to deduct from any rent or other amount payable by him to, or to recover by suit from, such owner or his successor in title, so much as was so paid by or recovered from him.

Payment of rates by occupier to be good discharge.

93. Except to the extent that the terms of the lease or tenancy provide that the occupier shall pay all or any part of the rates due or to become due, the payment of rates by a tenant or occupier under the provisions of section 92 shall, to that extent and for all purposes, be deemed to be a payment in respect of any rent then lawfully due, or which may thereafter become due, and shall be a good and sufficient discharge therefor.

Power to charge property with rate.

94. (1) Where the rate imposed or levied on any property remains unpaid for a period of three months after the same becomes due and payable, the Authority may apply to a Court of a Magistrate of the First Class for a summons to the owner to show cause why the amount thereof should not be charged upon such property, and upon the hearing of such summons and upon proof being given to the satisfaction of the Court that the said rate is due and payable and has not been paid, the Court may order that such amount be charged upon such property:

Provided that no rate shall be charged which is more than six years overdue or which was due by any previous owner of the property.

(2) Every such order when registered at the Land Officer shall be deemed to be a charge created by the owner of such land under the Land Ordinance [Cap. 68.] in favour of the Authority and the provisions of that Ordinance shall apply accordingly.

(3) The money secured by every such charge shall include any costs incurred by the Authority in obtaining the order creating the same and registering the same together with interest at the rate of eight per centum per annum from the date of such order down to date of satisfaction of such order.

Liability of joint owners.

95. Joint owners of property shall be jointly and severally liable for the rates due thereon.

Contents of valuation lists and rate books *prima facie* evidence.

96. In any proceeding to levy or recover rates or cesses or consequent on the levying or recovering of any rates or cesses under the provisions of this Ordinance, the valuation lists and rate or cess books of the Authority, and all entries purporting to be made therein in manner by this Ordinance required, extracts or certified copies thereof purporting to be signed by the Chairman or executive officer of an Authority or to be sealed with the seal of the Authority, shall, upon production thereof, be *prima facie* evidence of such rate and the contents thereof, without any evidence that the notice required by or other requirements of this Ordinance have been complied with.

Recovery of charges for municipal services.

97. (1) All charges, other than rates or cesses, due for sewerage, sanitary, refuse removal and other services shall be recoverable from the owner and occupier, jointly and severally, of the premises in respect of which the services were rendered:

Provided that the owner shall, in the absence of any agreement to the contrary, be entitled to recover from the occupier of the said property at the time the services were rendered any such charges paid by him respect of the occupation of such occupier.

(2) When any such charges shall remain unpaid for six weeks after the date on which written notice shall have been given by the Authority to the owner or occupier of the property of his indebtedness, the Authority may, at any time within twelve months after such date, proceed jointly and severally against such owner and occupier for the amount of such charges or any part thereof, and may recover the same from such owner or occupier as if the amounts due were rates in arrears.

(3) Every such occupier shall be entitled to deduct from any rent or other amount payable by him to, or to recover by suit from, the owner of the premises any portion of such charges paid by or recovered from him under this section which the owner could not otherwise lawfully have required him to pay and the production of the receipts for such portion of such charges so paid by or recovered from such occupier shall be a good and sufficient discharge to the extent of the amount so paid or recovered as payment of rent or other amount due to the owner.

(4) Where such charges are being recovered by the Authority from the occupier of any premises, the Authority shall give written notice to the owner of such premises if such charges shall at any time remain outstanding for a period exceeding six weeks.

Rateable property not to be transferred while rates and other charges unpaid.

98. (1) Notwithstanding anything contained in the Land Ordinance [Cap. 68.] or any rules made thereunder, the Director of Lands and Surveys or the Collector, as defined in the Land Ordinance [Cap. 68.], in respect of any titles shall not register any documents evidencing a transaction affecting any rateable property the registration of which is required to be or may be registered under that Ordinance unless the application for such registration is accompanied by a certificate dated not more than twenty-eight days prior to such application and signed by the executive officer or Chairman of the Authority having jurisdiction in respect of such land to the effect that-

- (a) all amounts (if any) due to the Authority by the owner or occupier of such property during the period of three years immediately preceding such application in respect of rates made or assessed on the value of such property and charges for sewerage, sanitary, refuse removal or other services rendered in relation to such property have been paid; and
- (b) all amounts (if any) due by the owner or occupier of such property on account of expenses incurred or advances made by the Authority in relation to such property under the provisions of this Ordinance have been paid.

(2) A certificate stating whether or not any rates or charges are due shall be delivered to the applicant for such registration or to his attorney or agent on demand.

PART XIII
SUPERVISION AND CONTROL

Inspection.

99. The Minister may require any Authority to forward to him, or to such officer or officers as he may direct, copies of any minutes of such Authority and may appoint any person or

persons to make an inspection of the whole or any part of the affairs of such Authority and any person so appointed shall have the powers of commissioners under the Inquiry Commissions Enactment, 1981 [En. 13/1981].*

Power of Yang di-Pertua Negeri in certain cases.

100. (1) If in the opinion of the Yang di-Pertua Negeri any Authority has ceased adequately to perform the functions imposed upon or vested in it by this Ordinance or any other written law, or is acting in such a manner as might render it unable to discharge all or any of such functions, the Yang di-Pertua Negeri may declare some or all seats on the Authority to be vacant and thereupon the Minister shall-

- (i) appoint new members to fill any vacancies so created from among persons qualified to be members, or a new Authority from among persons qualified to be members including persons whose seats are vacated; or
- (ii) nominate a Commission to perform some or all of the duties of the Authority.

(2) The term of office for members of any Authority appointed under the provisions of subsection (1) shall be as the Minister may then, or at any later period, direct.

(3) The duration of any Commission nominated under the provision of subsection (1) shall be until the Yang di-Pertua Negeri shall otherwise order.

(4) Any Commission nominated under the provisions of this section shall have all the rights, powers and duties vested in the Authority or any officer thereof by this Ordinance or by any other written law.

*"Inquiry Commissions Enactment, 1981" substituted for "Inquiry Commissions Ordinance" by virtue of Enactment No. 13 of 1981.

PART XIV
MISCELLANEOUS

False answers.

101. Any person knowingly making any false statement in any written statement required to be made under the provisions of this Ordinance shall be guilty of an offence and shall on conviction be liable, unless any other punishment is provided in this Ordinance, to a fine of five hundred ringgit and to imprisonment for a term of three months.

Onus of proof.

102. In any prosecution under any by-law for an offence relating to licensing, it shall be sufficient for the prosecution to prove that the person accused was at the material time carrying on the trade, business, or undertaking, or in possession of the property, in respect of which a licence was required and the onus shall be on such accused person to prove that at the material time the licence required had been granted and was in force and related to the acts alleged to constitute the offence.

Notices, etc.

102A. (1) Notices, orders, warrants, licences receipts and other similar documents may be in print or partly in writing and partly in print.

(2) Service of documents on any person shall be effected-

- (a) by delivering the same to such person or by delivering the same at the last known place of residence of such person to an adult member of his family;
- (b) by leaving the same at the usual or last known place of residence or business of such person in a cover addressed to such person: or
- (c) by forwarding the same by post in a prepaid letter addressed to such person at his usual or last known place of residence or business.

(3) A document required 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 and may be served by delivering the same 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 same on some conspicuous part of the premises.

Default in compliance with notice or order.

102B. Where any notice or order requires any act to be done or work to be executed within a period specified therein by the owner or occupier of any premises and default is made in complying with the requirement of such notice or order, the person in default shall be guilty of an offence and shall, where no fine is specially provided for such default, on conviction, be liable to a fine not exceeding five thousand ringgit or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

Recovery of expenses.

102C. Whenever default is made by the owner of any premises in the execution of any work required to be executed by him, the occupier of such premises may, with the approval of the 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.

Expenses and costs payable by owners.

102D. (1) Any sums payable by or recoverable from the owner in respect of expenses or costs incurred by the Authority in the execution of any work shall, subject and without prejudice to the rights of the State, 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 Ordinance, any such sum may be recovered by the same means and in like manner as an arrear of rates.

(3) The charge shall attach and the powers and remedies 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 any movable property or crops for the time being found thereon, notwithstanding any change in the ownership or occupation of the premises subsequent to the said date.

Recovery of expenses or costs from persons in default.

102E. Where the Authority has incurred expenses or costs in the execution of any work, it may recover such expenses or costs from the person in default and if such person is not the owner of the premises, from the owner thereof in the manner provided under section 102D.

Recovery by instalments.

102F. (1) Where any sum is payable by any person to an Authority for any purpose under this Ordinance the Authority may permit such persons to pay the said sum in instalments with interest thereon at such rate as the Authority may determine.

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

Books of an Authority to be *prima facie* evidence of sum due.

102G. The books, registers, receipts and any document of an Authority and any extracts therefrom certified by any officer authorised thereto by such Authority shall, in any legal proceedings for the recovery of any fee, charge or other payment payable under this Ordinance or under any by-laws, be *prima facie* evidence of the amount due.

Power of entry.

103. (1) The Chairman and all officers of an Authority and, if generally or specially authorised by the Chairman so to do, any employee or contractor or contractor's employee of the Authority, shall for the purposes of this Ordinance have power to enter at all reasonable

hours between sunrise and sunset into and upon any building or property in the area as well for the purpose of making any survey or inspection as for the purpose of executing any work authorised by this Ordinance to be executed without being liable to any legal proceedings or molestation whatsoever on account of such entry or of anything done upon such buildings or property in pursuance of this Ordinance.

(2) Notwithstanding the provisions of subsection (1) the Chairman or any officer generally or specially authorised in writing by the Chairman may at any time of the day or night and without notice enter into and inspect any premises within the urban area:

Provided that no entry shall be made at night into any dwelling house in actual occupation unless with the consent of the occupier thereof or, if such consent is withheld, by the Chairman or such officer of the Authority as shall be expressly authorised in writing by the Chairman so to do:

And provided further that where the consent of the occupier to the entry by night into a dwelling house is withheld, any such officer shall produce his written authority on request.

(3) (a) Subject to the provisions of this Ordinance, any public officer duly authorised by the Minister or any officer of an Authority, on producing, if so required, a document showing his authority, shall have the right to enter any premises at all reasonable hours for the purpose of ascertaining whether there is or has been on, or in connection with, the premises any contravention of the provisions of this Ordinance or of any by-laws made thereunder or generally for the purpose of ascertaining whether the provisions of this Ordinance or any by-laws made thereunder have been complied with:

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

(b) If a Magistrate, on sworn information in writing-

(i) is satisfied that there is reasonable ground for entry into any premises for any purpose mentioned in paragraph (a); and

- (ii) is also satisfied that admission to the premises has been refused or that a refusal is apprehended and notice of the intention to apply for a warrant has been given to the occupier, or that an application for admission would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent, the Magistrate may by warrant under his hand authorise such public officer or officer of an Authority to enter such premises, if need be by force.

Closure or demolition of premises.

103A. Whenever it appears to any Magistrate that certain premises was constructed or used in the commission of an offence under this Ordinance or of any by-laws made thereunder or under any written law under which an Authority is empowered to enforce, he shall, upon written application made by the Authority to close or demolish such premises, order the closure or demolition of such premises forthwith.

Obstructing officers or servants of authority in execution of their duties.

104. Any person who obstructs any officer or servant of an Authority or any public officer authorised by the Minister in the execution of any provision of any written law in respect of which powers or duties are vested in the Authority shall be guilty of an offence and shall on conviction be liable to a fine of five thousand ringgit and to imprisonment for a term of three years or to both, and the Court before which the offender is tried may order him to pay to the Authority, such sum by way of damages occasioned by the obstruction as to the Court shall seem just.

Power of arrest.

104A. (1) Any officer of the Authority authorised by the Authority or any police officer may arrest without warrant any person who commits in his presence or whom he reasonably believes to have committed any offence under this Ordinance or any by-law, rule or regulation-

(a) if the name or address of the person is unknown to him and the person declines to give his name and address; or

(b) if there is reason to doubt the accuracy of his name or address.

(2) A person arrested under this section shall be detained and shall be brought before a Magistrate's Court within twenty-four hours unless his name and address are sooner ascertained.

Power of seizure and forfeiture.

104B. (1) Any officer of an Authority or any police officer may require the production by any person of any licence under this Ordinance or under any by-laws made under this Ordinance for any act done or committed by such person or his servants or agents for which such licence is required by or under this Ordinance or under any by-laws made under this Ordinance.

(2) If any officer of the Authority or any police officer has reason to believe that any person has committed an offence under this Ordinance or under any by-laws made under this Ordinance, such officer may seize and detain any produce, item, tool, instrument, machinery, equipment or other thing whatsoever used or reasonably suspected of having been used in or about the commission of an offence.

(3) All produce, items, tools, instruments, machinery, equipment or other thing whatsoever liable to seizure under this Ordinance shall be liable to forfeiture:

Provided that the Chairman or any officer of the Authority duly authorised by the Chairman may, in his discretion, temporarily release such produce, item, tool, instrument, machinery, equipment or other thing to the owner of the same on security being furnished to his satisfaction that such produce, item, tool, instrument, machinery, equipment or other thing shall be surrendered to him on demand or to produce it before a Court of competent jurisdiction:

Provided further that if there be no prosecution with regard to anything seized under this Ordinance, such produce, item, tool, instrument, machinery, equipment or other thing shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure unless claim thereto is made before that date.

(4) Any person asserting that he is the owner of any goods or thing liable to forfeiture under the provisions of subsection (3) and that it is not liable to forfeiture may personally or by his agent authorised in writing give written notice to the Authority that he claims the same:

Provided that any such application shall be made before the expiration of one calendar month from the date of seizure.

(5) Notwithstanding anything in this section if anything seized under this Ordinance is subject to speedy and natural decay or deterioration, the President, Chairman or any duly authorised officer of the Authority may sell the thing and shall thereafter deal with the proceeds of such sale as he would have dealt with such thing had it not been sold.

(6) All things forfeited shall be delivered to the President, Chairman or any duly authorised officer of the Authority and shall be sold in accordance with the provision of the Ordinance or under any other law for the time being in force.

Certain persons to be deemed to be in the public service.

105. For the purposes of any written law, any person in the employment of any Authority or any Chairman or member of an Authority in respect of his duties as such shall be a person employed in the public service.

Appearance in legal proceedings etc.

106. (1) Notwithstanding anything contained in any written law any Authority may institute proceedings, in and appear before any Court or may appear in any legal proceedings by the executive officer, or by any officer authorised generally or in respect of any special case or proceedings by resolution of the Authority or by any legal officer of the Ministry of Local Government and Housing or of the State Attorney General-Chambers or by any advocate or solicitor authorised by an Authority, and service of any summons or order or other instrument upon the Chairman, executive officer or other person in charge of the office of an Authority shall be deemed effectual service on such Authority.

(2) Any public officer duly authorised in writing by the Public Prosecutor may conduct any prosecution in respect of any offence under this Ordinance or any by-laws made thereunder.

Non-liability.

106A. An Authority shall not be subject to any action, claim, liabilities or demand whatsoever arising out of any building or any works carried out in accordance with the provisions of this Ordinance or under any by-laws made thereunder, or by reason of the fact that such buildings, works or the plans thereof are subject to the inspection and approval of the Authority and nothing in this Ordinance or any by-laws made thereunder shall make it obligatory for the Authority to inspect any building, works or materials or the site of any proposed building to ascertain that the provisions of this Ordinance or any by-laws made thereunder are complied with or that plans, certificates and notices submitted to the Authority are correct.

General penalty.

106B. Every person who is guilty of any offence against this Ordinance or any by-laws, for which no penalty is expressly provided, shall on conviction be liable to a fine not exceeding ten thousand ringgit or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Powers of District Officers.

107. (1) The Minister may delegate to a District Officer the several powers and duties vested in him in respect of any District Council within the area of the jurisdiction of such District Officer but so that he shall not delegate –

- (a) his powers and duties under Part VI or Part X;
- (b) any powers and duties in respect of any District Council of which such District Officer is Chairman, member or an officer.

(2) Where in any part of the State of Sabah, other than the territorial waters or the continental shelf, no Authority has been established under section 3 the District Officer shall be the Authority within the area of his jurisdiction and may in any such area-

- (a) perform all or any of the functions set out in subsection (1) of section 49 other than those to which reference is made in subsection (2) of section 108;
- (b) perform all or any functions vested in local authorities under any other written law;
- (c) with the approval of the Yang di-Pertua Negeri impose rates, *mutatis mutandis*, in accordance with Part X as though the whole or any part of such area were a rating area;
- (d) with the approval of the Yang di-Pertua Negeri impose cesses, *mutatis mutandis*, in accordance with Part XI.

(3) For the purposes of subsection (2) of this section the function of the Tribunal under the provision of Parts X and XI shall be performed by the Minister.

(4) The District Officer may delegate to any Native Chief the exercise within the area of his jurisdiction of the several powers and duties vested in the District Officer under subsection (2) or such of them as he may deem expedient but so that he shall not delegate the power to make by-laws or impose rates or cesses.

(5) (Deleted).

PART XV REPEALS AND TRANSITION

Repeals.

108. (1) The Municipal and Urban Authorities Ordinance [Cap. 162.] is repealed.

(2) Upon the vesting of an Authority, in respect of all or any part of the area thereof, with –

- (a) all the functions contained in paragraph (4) of subsection (1) of section 49, the Native Rice Cultivation Ordinance [Cap. 87.] shall cease to have effect in such area;
- (b) all the functions contained in paragraphs (14) to (18) inclusive of subsection (1) of section 49, the Cattle Grazing and Pounds Ordinance [Cap. 21.] shall cease to have effect in such area;
- (c) all the functions contained in paragraph (20) of subsection (1) of section 49, the Dogs Ordinance, 1960 [Ord. No. 24 of 1960.], shall cease to have effect in such area; and
- (d) The function to prohibit or regulate the firing of crackers and fireworks contained in paragraph (30) of subsection (1) of section 49, section 4 of the Minor offences Ordinance [Cap. 80.] shall cease to have effect in such area.

Amendments.

- 109.** (1) (Subsection (1) omitted)*.
- (2) The Rural Government Ordinance [Cap. 132.] is amended –
- (a) by deleting the long title and substituting therefor the following:
"to make provisions for the administration of rural areas and the powers, duties and responsibilities of Native Chiefs and Headmen.";
 - (b) by deleting the word "Government" wherever it appears in capital letters or otherwise therein and substituting therefor the word "Administration";
 - (c) by repealing sections 2 to 34 inclusive; 48 to 52 inclusive and 56 to 59 inclusive.

* See Enactment No. 34 of 1963.

(3) The Public Health Ordinance, 1960 [*Ord. No. 7 of 1960.*], is amended by deleting from section 2 thereof the definitions of “local authority” and “urban area”.

(4) The following definitions of “local authority” are repealed –

- (a) in section 2 of the Paupers Ordinance [*Cap. 93.*];
- (b) in section 2 of the Fire Prevention Ordinance [*Cap. 47.*];
- (c) in section 2 of the Electricity Ordinance [*Cap. 40.*].

Transitional Provisions.

110. (1) In this section, references to “any written law replaced by this Ordinance” include-

- (a) The Sanitary Boards Ordinance, 1931 [*Ord. No. 5 of 1931.*] in respect only of the matters specified in paragraph (22) of subsection (1) of section 49;
- (b) The Rural Administration Ordinance [*Cap. 132.*];
- (c) The Municipal and Urban Authorities Ordinance [*Cap. 162.*];
- (d) The Local Authorities (Special Provisions) Ordinance, 1959 [*Ord. No. 21 of 1959.*],

and includes any subsidiary legislation in force thereunder at the commencement of this Ordinance.

(2) Where an Authority has been established under the provisions of this Ordinance in any area the boundaries of which are substantially the same as the boundaries of any Town Board or District Council formerly declared under the provisions of any written law replaced by this Ordinance-

- (a) all subsidiary legislation formerly applicable to such area under the provisions of any written law replaced by this Ordinance shall remain in force until revoked or replaced by subsidiary legislation made under the provisions of this Ordinance and while so remaining in force may from

time to time be amended by the Authority as if such subsidiary legislation had been made under the provisions of this Ordinance;

- (b) any licences or building permits granted, or building plans approved, or notice to comply with the provisions of any written law issued, by a local authority under the provisions of any written law replaced by this Ordinance shall in all respects continue valid and in force as if granted, approved or issued under the provisions of this Ordinance;
- (c) any valuation list prepared under the provisions of any written law replaced by this Ordinance in respect of any such area may by resolution of an Authority be accepted as a valuation list prepared under the provisions of this Ordinance for so long as such valuation list remained in force under the provisions of such written law and the valuations appearing therein shall be deemed to be the valuations duly made under this Ordinance;
- (d) any rate or cess levied under the provisions of any written law replaced by this Ordinance and unpaid at the date on which any Authority is constituted shall become due and payable to the Authority for such area and payment thereof may be enforced under the provisions of this Ordinance as if such rate or cess had been levied under the provisions of this Ordinance;
- (e) all sums of money, roads, open places, lands buildings, bridges, piers, ferries, vehicles, goods and all other property whatsoever vested in, belonging to, held by, or purporting to belong to or be held by any local authority established under the provisions of any written law replaced by this Ordinance within the area shall be transferred to and vest in a like interest in the Authority for such area;
- (f) all rights, interests, obligations and liabilities of any local authority established under the provisions of any written law replaced by this Ordinance under any contract or instrument whatsoever, including contracts of service, subsisting immediately before the date of the establishment of the Authority shall be deemed to be, and by virtue of this provision shall be,

assigned to such Authority as from such date; and any such contract or instrument shall be of full force and effect against or in favour of such Authority and shall be enforceable as fully and effectually, as if instead of the local authority concerned, the Authority had been named therein or had been a party thereto; and

- (g) any proceeding or cause of action, pending or existing immediately before the date of establishment of an Authority, by or against any local authority established under the provisions of any written law replaced by this Ordinance in respect of any right, interest, obligation or liability under any such contract or instrument as is referred to in paragraph (f) of this subsection may be continued or enforced by or against the Authority as it might have been by or against the local authority concerned if this Ordinance had not been enacted.

(3) Where any township formerly declared under the provisions of any written law replaced by this Ordinance is not included within the boundaries of any Authority established under this Ordinance-

- (a) all subsidiary legislation formerly applicable to such township under the provisions of any written law replaced by this Ordinance shall remain in force until revoked or replaced by subsidiary legislation made under the provisions of this Ordinance and while so remaining in force may from time to time be amended by the District Officer as if such subsidiary legislation had been made under the provisions of this Ordinance;
- (b) any valuation list prepared under the provision of any written law replaced by this Ordinance in respect of any such township may be accepted by the District Officer as a valuation list prepared under the provisions of this Ordinance for so long as such valuation list might have remained in force under the provisions of such written law and the valuations appearing therein shall be deemed to be the valuations duly made under this Ordinance; and
- (c) any rate levied under this provisions of any written law replaced by this Ordinance and unpaid shall become due and payable to the District

Officer and payment thereof may be enforced under the provisions of this Ordinance as if such rate had been levied under the provisions of section 107.

SCHEDULE

LOCAL GOVERNMENT ORDINANCE 1961
Form A
NOTICE REQUIRING ABATEMENT OF NUISANCE
(Section 49C)

To of
.....

Take notice that under section 49C of the Local Government Ordinance 1961, the Council of being satisfied of the existence at of a nuisance being

..... (*describe the nuisance*) hereby requires you within (*specify the time*) from the service of this notice to abate the same and to execute such works and do such things as may be necessary for that purpose, i.e.
..... (*specify any works to be executed*).

Take notice that if you make default in complying with any of the requirement of this notice within the time specified, you will be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand ringgit or to a term of imprisonment not exceeding six months or to both such fine and imprisonment under subsection (5) of section 49C of the Local Government Ordinance 1961.

Dated this day of

.....
for (state the name of Authority)

LOCAL GOVERNMENT ORDINANCE 1961

Form B

ABATEMENT ORDER

(Section 49C)

To of
.....

Whereas you have on the day of , appeared before me for failing to comply with the requirements of the Notice in Form A in the Schedule to the Local Government Ordinance 1961 dated the day of , and whereas you have been convicted of the offence the Court hereby requires you to comply with all the requirements of the said Notice or to abate the nuisance within (*specify the time*).

Given under my hand and seal of the Court, this day of ,

.....

Magistrate

LOCAL GOVERNMENT ORDINANCE 1961

Form C

CLOSING ORDER

(Section 49C)

To of
.....

Whereas you have on the day of , appeared before me for failing to comply with the requirements of the Notice in Form A in the Schedule to the Local Government Ordinance 1961 dated the day of , and whereas you have been convicted of the offence the Court hereby prohibits you from using the (*describe the dwelling-house*) for human habitation.

Given under my hand and seal of the Court, this day of ,

.....
Magistrate