



LAWS OF SARAWAK

REPRINT

Chapter 28

SARAWAK INFORMATION TECHNOLOGY AND RESOURCES COUNCIL ORDINANCE, 1999

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**SARAWAK INFORMATION TECHNOLOGY AND
RESOURCES COUNCIL ORDINANCE, 1999**

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**SARAWAK INFORMATION TECHNOLOGY AND
RESOURCES COUNCIL ORDINANCE, 1999**

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LAWS OF SARAWAK

Chapter 28

**SARAWAK INFORMATION TECHNOLOGY AND
RESOURCES COUNCIL ORDINANCE, 1999**

*An Ordinance to establish the Sarawak Information Technology
and Resources Council and for matters connected therewith.*

[1st October, 1999]

*(Swk. L.N. 65/99)

Enacted by the Legislature of Sarawak—

PART I

PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the Sarawak Information Technology and Resources Council Ordinance, 1999, and shall come into force on such date as the Chief Minister may, by notification in the **Gazette*, appoint.

Interpretation

2.—(1) In this Ordinance—

“Chairman” means the Chairman of the Council;

“Council” means the Sarawak Information Technology and Resources Council established under section 3;

“Government” means the Government of the State of Sarawak;

“Intellectual Property Legislation” means the legislation listed in the First Schedule to the Intellectual Property Corporation of Malaysia Act 2002 [*Act 617*];

“member” means a member of the Council, and includes the Chairman and Deputy Chairman, and an alternate member nominated pursuant to section 4(4);

“right”, in relation to any patent application or patent, includes an interest in any application or patent and, without prejudice to the foregoing, any reference to a right in a patent, includes a reference to a share in the patent;

“Secretary” means the Secretary of the Council appointed under section 5(1), and includes any person appointed by the Council to temporarily discharge the duties of the Secretary.

[Am. Cap. A121.]

(2) The Chief Minister may authorize generally or specially any other Minister or Assistant Minister to exercise or perform any of the functions or duties conferred upon him by this Ordinance.

PART II

ESTABLISHMENT OF THE COUNCIL

Establishment of Sarawak Information Technology and Resources Council

3.—(1) There shall be established a body to be known as the “Sarawak Information Technology and Resources Council” which shall be a body corporate with perpetual succession and a common seal and shall, by that name, be capable of—

(a) suing and be sued;

(b) acquiring, owning, holding, leasing or disposing of property, both movable and immovable; and

(c) doing and suffering such other acts or things as bodies corporate may lawfully do and suffer.

(2) The Council shall for all purposes of the Land Code *[Cap. 81 (1958 Ed.)]* be deemed a native.

Membership of the Council

4.—(1) The Council shall consist of—

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) not less than three and not more than six other members; and
- (d) two *ex officio* members, namely:
 - (i) the State Secretary or his representative; and
 - (ii) the State Attorney-General or his representative.

(2) The Chairman, Deputy Chairman and the members referred to in section 4(1)(c) shall be appointed by the Majlis Mesyuarat Kerajaan Negeri.

(3) Subject to this Ordinance, the members of the Council, other than *ex officio* members, shall hold office for such term and subject to such conditions as the Majlis Mesyuarat Kerajaan Negeri may determine.

(4) A member of the Council, other than the Chairman or Deputy Chairman or an *ex officio* member may, with the approval of the Chief Minister, nominate an alternate member who, in the absence or incapacity of that member, may attend any meeting of the Council and shall have all the powers and duties conferred by this Ordinance, on a member.

(5) The Majlis Mesyuarat Kerajaan Negeri may, at any time, revoke or terminate, the appointment of any member of the Council other than an *ex officio* member.

(6) Any member of the Council may resign his position by notice in writing addressed to the Chief Minister.

(7) The Council may act notwithstanding any vacancy in its membership.

(8) All meetings of the Council shall be presided over by the Chairman or in his absence, by the Deputy Chairman.

(9) No meeting of the Council shall be held or conducted unless a quorum, comprising not less than three members, including the Chairman or Deputy Chairman, is present.

(10) Members of the Council may be paid such allowances, remuneration and honorarium as may be determined by the Chief Minister from time to time.

Appointment of Secretary and other employees

5.—(1) The Council shall, with the approval of the Chief Minister, appoint a Secretary on such terms and conditions as it may determine.

(2) (a) The Secretary shall be the principal administrative officer of the Council, and shall be responsible for the proper administration and management of the functions and affairs of the Council in accordance with its direction, policy and decision.

(b) The Secretary shall keep all minutes and records of meetings of the Council and any of its committees.

(3) The Secretary may attend meetings of the Council, but shall have no right of voting on any issue, matter or resolution before, or under consideration, by the Council.

(4) If the Secretary is temporarily absent from Sarawak, or is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Council to act in the place of the Secretary during any such period of absence from duty.

(5) The Council may from time to time appoint such other officers, employees and agents as it thinks fit for the effective discharge of its functions and powers, on such terms and conditions as it may determine.

Functions of the Council

6. The functions of the Council are to—

(a) formulate, monitor, review and determine policies, objectives, strategies and standards for the development of information resources and systems for the collection, storage, transmission and dissemination thereof;

(b) monitor, review, approve, co-ordinate and determine priorities and strategies for the implementation of information technology development plans by or amongst departments, agencies and institutions of the Government to achieve the objectives and plans of the Government in the efficient and beneficial utilisation of information technology in the administration of the State;

(c) advise the Government on the policies, strategies and investments on, or pertaining to the usage of information technology and resources and development thereof;

(d) liaise with the Federal Government or its agencies and institutions on issues relating to national information technology plans, policies and strategies;

(e) develop for the Government, the framework for information technology and information resources management and process, and the utilization of such technology towards improvement of the administration of the State and realization of the policy objectives of the Government and the implementation thereof;

(f) plan and develop policies and guidelines on the dissemination and transmission of information resources;

(g) establish, manage, co-ordinate the establishment, management of libraries and resource centres connected with the collection maintenance, dissemination and transmission of information resources;

(h) encourage and promote the collection, preservation, conservation and dissemination of information, knowledge, data and records on the State, and to promote literary and artistic skills, techniques and appreciation as measures to facilitate the discharge of such functions;

(i) undertake programmes and provide funds to promote and facilitate research and improvement in electronic network systems and processes, and technologies associated therewith;

(j) assess manpower needs in the fields of information technology and communication systems, and engage in programmes for training and developing such human resources;

(k) undertake exchanges and joint programmes with other national and international organizations or institutions connected with information resources and systems for the development, dissemination and transmission thereof;

(l) promote and encourage research on information technology and communication system, application and development;

(m) promote activities to increase public awareness of the importance of information technology and the system for the transmission thereof;

(n) plan, determine priority and provide direction in regard to implementation of systems, processes and network for enhancing or improving the techniques or technology for information communication and the acquisition, management, storage, dissemination and transmission of information resources, and to hold, acquire and be owners or trustee for the Government of all copyrights, intellectual property rights or patents in relation thereto;

(o) provide guidelines relating to, and where necessary, to fix fees and charges for the use of or research or studies carried out on information or electronic systems or network, or information resources belonging to the Council or over which the Council holds or has copyright, patent or intellectual property rights;

(p) lend, lease or otherwise permit the use of any of the systems, process or product, literary works or information resources devised, developed or invented by or belonging to the Council upon such terms and conditions as the Council may impose, including the payment of such fees, charges, levies, royalties or other dues as may be prescribed by the Council; and

(q) to hold for and on behalf of the Government all rights and properties in respect of any works described in section 6A or which accrued to or have been acquired by the Government or upon its direction and to act as a trustee for the Government in relation thereto.

[Am. Cap. A121.]

Additional function of Council

6A.—(1) All rights and properties in every work which by virtue of any of the Intellectual Property Legislation subsists in favour of or belongs or accrued to or vested in the Government shall as from the date of commencement of this Ordinance be vested, without any further transfer or conveyance, in the Council who shall hold the same as a trustee for the Government.

(2) The Council shall, at such interval as may be determined by the direction from the Minister, publish in the *Gazette* a list of all rights and properties in works which by virtue of subsection (1) have been vested in the Council or held by the Council as a trustee for the Government:

Provided that the first of these publications shall be made not later than the 31st day of March, 2006.

(3) For the purpose of this section, the rights vested shall in relation to works include rights to any works and rights in respect of any application for the registration of any patents under any written law, whether future or contingent and rights in revision or remainder.

[Ins. Cap. A121.]

Powers of the Council

7.—(1) The Council shall have power to do all things that are necessary or convenient to be done for or in connection with the performance or discharge of its functions and, in particular, may—

(a) appoint committees consisting of persons who may or may not be members of the Council, and assign to any such committees such powers and functions as it may determine;

(b) appoint any person with the requisite knowledge, expertise and experience in information technology and communications as adviser or consultant for the Council and may form a panel of advisers or consultants to advise or assist the Council in the discharge of its functions;

(c) form or participate in the incorporation of a company or enter into any joint venture for the purposes of this Ordinance;

(d) provide scholarships, training or research, grants, loans or other incentives for the development of manpower in the fields of information technology and the management of information resources;

(e) grant loans or advances to, or subscribe to stocks, shares, bonds or debentures of companies or corporations whose principal business is the development of information technology and network for dissemination and transmission of information resources;

(f) publish or sponsor the publication of periodicals, books and other written materials and hold copyrights in relation thereto;

(g) secure, hold and be registered as owner or proprietor of any copyrights, patents or intellectual property rights over any invention, discovery, process or system developed or any literary works or information resources produced, prepared or written by the Government or any Department of Government or any body corporate incorporated under any State law or the Council or any committee or board established by the Council, or any of its officers, employees or agents;

(h) receive donations and contributions from any source and raise funds by all lawful means;

(i) enter into contracts, establish trusts and generally, regulate transaction of all business involving or connected with the Council; and

(j) do anything incidental to or necessary for the discharge of its functions.

[Am. Cap. A121.]

(2) The Council may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, make rules to regulate the proceedings of the Council and generally to carry out the purposes of this Ordinance.

(3) The Council may, in addition to the powers vested in it by subsection (1), exercise such other powers as the Majlis Mesyuarat Kerajaan Negeri may authorize the Council in writing to exercise.

Directions by Chief Minister

8. The Chief Minister may give to the Council such directions, not inconsistent with the provisions of this Ordinance, on the discharge and exercise by the Council of its functions and power under this Ordinance, and the Council shall give effect to such directions.

Protection from personal liability

9. No suit or other legal proceedings shall lie personally against any member, officer, or employee of the Council or other person acting under the direction of the Council for anything done in good faith or intended to be done in the execution or purported execution of the provisions of this Ordinance.

Public servants

10. All members, officers and employees of the Council shall be deemed to be public servants for the purposes of the Penal Code [Act 574].

Execution of documents

11. Any deed, document or other instrument requiring the seal of the Council shall be sealed with the common seal of the Council in the presence of the Chairman or the Deputy Chairman and the Secretary, who shall sign every such deed, document or other instrument to which the common seal is affixed and their signing shall be sufficient evidence that the seal is duly and properly affixed and that it is the lawful seal of the Council.

PART III
FINANCE AND ACCOUNTING PROCEDURE

Grants to the Council

12. For the purpose of enabling the Council to carry out its functions under this Ordinance, the Government may, from time to time, make grants to the Council of such sums of money as it may determine.

Establishment of the Fund

13.—(1) All money received, raised or earned by the Council shall forthwith be paid into such banks or other financial institutions as may from time to time be decided by the Council to the credit of a fund to be called the Information Technology and Resources Development Fund (referred to in this Ordinance as “the Fund”) which shall be controlled and administered by the Council, subject to the directions of the Chief Minister.

(2) The Council shall open and maintain an account or accounts with such bank or other financial institutions in Malaysia as the Council thinks fit, and any such account shall be operated upon as far as practicable by cheques signed by such person or persons as may from time to time be authorized in that behalf by the Council.

Purposes of the Fund

14. The money standing to the credit of the Fund shall be devoted solely to the following purposes:

- (a) the payment of the expenses of, or connected with, the administration and management of the Council;
- (b) the administration, management and operation of any library, resource centre or facility established or managed by the Council for the purpose of the performance or discharge of its functions;

(c) the advancement, research and development of the information technology systems and processes of the State and towards implementation, operation and maintenance of the State's information technology programmes and objectives;

(d) the payment of all fees and other expenses and costs relating to the registration of any patent, copyrights or any other intellectual property right belonging to the Government or the Council in Malaysia or overseas;

(e) the payment of all expenses necessary for carrying out the functions of the Council and for the purposes of this Ordinance.

[Am. Cap. A121.]

Power to borrow

15. The Council may, from time to time for the purposes of this Ordinance, raise loans from the Government or, with the consent of the Chief Minister, from any other source.

Vesting of property

16. Without prejudice to section 6A, the Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette*, vest in the Council any property as may be considered necessary to enable the Council to carry out its functions and duties under this Ordinance.

[Am. Cap. A121.]

Annual report

17. The Council shall, as soon as possible after the close of each financial year, submit to the Majlis Mesyuarat Kerajaan Negeri an annual report on the activities of the Council during that financial year, and the Chief Minister shall present a copy of the report to the Dewan Undangan Negeri.

Accounts of the Council

18.—(1) The Council shall keep proper accounts and other records of its own and shall prepare in respect of each financial year a statement of its accounts in a form approved by the Majlis Mesyuarat Kerajaan Negeri.

(2) The accounts of the Council shall be audited by a qualified auditor appointed annually by the Council with the approval of the State Financial Authority and the auditor shall make a report on the accounts examined by him.

(3) As soon as the accounts of the Council have been audited in accordance with subsection (2), a copy of the statement of accounts together with a copy of any report made by the auditor shall be submitted to the Majlis Mesyuarat Kerajaan Negeri, for its examination and approval, and thereafter the Chief Minister shall present to the Dewan Undangan Negeri a copy of every such statement and report.

(4) The Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995 [*Cap. 15*], shall apply to the Council.

Annual estimates

19. The Council shall obtain in advance the approval of the Chief Minister for its annual estimates of expenditure and for any supplementary estimates of its expenditure.

PART IV

MISCELLANEOUS

Delegation of powers

20.—(1) The Council may, with the approval of the Chief Minister, and subject to such conditions or restrictions as it deems fit, delegate to any committee established under section 7(1)(a), or to the Secretary or any officer of the Council, or any company incorporated by the Council and which is its subsidiary all or any of the functions, duties or powers vested in the Council by this Ordinance, (other than

the power to delegate conferred by this section) and any function, power or duty so delegated may be exercised or performed by that committee or the Chairman thereof or the officer or company in the name and on behalf of the Council.

(2) The Council may continue to exercise any power conferred upon it, or perform any function or duty under this Ordinance, notwithstanding the delegation of power, function or duty under this section.

Legal representation

21. In regard to any suit, action or proceedings of a civil nature by or against the Council or any member thereof or any officer of the Council in his official capacity, the State Attorney-General or a State Legal Officer duly authorized by him, or an advocate appointed by the Council, may represent, appear and plead on behalf of the Council, its member or officer in any court or tribunal having jurisdiction over such suit, action or proceedings.

Regulations

22.—(1) The Majlis Mesyuarat Kerajaan Negeri may make regulations for or in respect of—

(a) the payment of fees, honorarium, allowances and benefits to panel of advisers or consultants, or to any person responsible for any invention, process or products developed for the Council or literary works or writings or in respect of which the Council holds copyrights, patents or intellectual property rights;

(b) the management and operation of libraries, resource centres, and facilities established or managed by the Council;

(c) the scale of fees for access to and usage of information technology systems, information or library resources and materials belonging to or under the control of the Council;

(d) the licensing or grant of any privileges over the use of any copyrights, patents and intellectual property rights held by or belonging to the Council or vested in the Council by virtue of section 6A, including measures for the protection of such rights; and

(e) such other purposes which may be considered necessary for carrying out the provisions of this Ordinance.

(2) All regulations made under this Ordinance—

(a) may prescribe that any act or omission in contravention thereof is an offence; and

(b) may provide for the imposition of a fine not exceeding twenty thousand ringgit or imprisonment not exceeding three years or both fine and imprisonment for such offence.

[Am. Cap. A121.]

[List of Amendments]

SARAWAK INFORMATION TECHNOLOGY AND
RESOURCES COUNCIL

17

LAWS OF SARAWAK

Chapter 28

**SARAWAK INFORMATION TECHNOLOGY AND
RESOURCES COUNCIL ORDINANCE, 1999**

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
Swk. L.N. 65/99	Date of Commencement of the Ordinance	1.10.1999
Cap. A121	Sarawak Information Technology And Resources Council (Amendment) Ordinance, 2005	1.1.2006

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