



LAWS OF SARAWAK

REPRINT

Chapter 11

BROOKE DOCKYARD AND ENGINEERING WORKS CORPORATION (REPEAL AND SUCCESSOR COMPANY) ORDINANCE, 1994

Incorporating all amendments up to 30th June, 2007

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**BROOKE DOCKYARD AND
ENGINEERING WORKS CORPORATION
(REPEAL AND SUCCESSOR COMPANY)
ORDINANCE, 1994**

Date Passed by Dewan Undangan Negeri	26th May, 1994
Date of Assent	3rd June, 1994
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**BROOKE DOCKYARD AND
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(REPEAL AND SUCCESSOR COMPANY)
ORDINANCE, 1994**

An Ordinance to repeal the Brooke Dockyard and Engineering Works Corporation Ordinance [Cap. 100 (1958 Ed.)], to provide for the transfer of the property, rights and liabilities vested in the Corporation to a company, to make financial arrangements for that company and to provide for matters relating to staff and for other matters connected therewith.

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Enacted by the Legislature of Sarawak—

PART I

PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the Brooke Dockyard and Engineering Works Corporation (Repeal and Successor Company) Ordinance, 1994, and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2. In this Ordinance—

“Corporation” means the Brooke Dockyard and Engineering Works Corporation established under the Brooke Dockyard and Engineering Works Corporation Ordinance [Cap. 100 (1958 Ed.)];

“land” shall have the same meaning as assigned to that expression in the Land Code [Cap. 81 (1958 Ed.)];

“licences” includes any licence issued to the Corporation by any government authority or corporation in connection with the business of the Corporation;

“Minister” means the State Minister for the time being charged with the responsibility for the Corporation;

“property” means all property of whatever description including land, any interest or estate in land and choses-in-action of the Corporation within or outside Malaysia;

“repealed Ordinance” means the Brooke Dockyard and Engineering Works Corporation Ordinance [*Cap. 100 (1958 Ed.)*];

“rights and liabilities” refers to the rights and liabilities to which the Corporation was entitled or subject to under the laws of Malaysia or any country outside Malaysia, and shall include rights and liabilities under loans raised, licences, deeds, bonds, agreements, undertakings, instruments, Memoranda of Subleases and working arrangements favouring the Corporation or to which the Corporation is a party subsisting immediately before the commencement of this Ordinance;

“State Financial Secretary” means the State Financial Secretary incorporated by the State Financial Secretary (Incorporation) Ordinance [*Cap. 36*];

“successor company” means a company limited by shares incorporated and registered in Malaysia under the Companies Act 1965 [*Act 125*], and nominated by the Minister in an Order to be published in the *Gazette*, to which all property, rights and liabilities of or belonging to the Corporation, shall be transferred or be vested under section 3(1)(c);

“transfer date” means the date on which the property, rights and liabilities of or belonging to the Corporation are to be transferred and vested in the successor company under section 3(1)(c).

PART II

DISSOLUTION OF CORPORATION, TRANSFER AND
VESTING OF PROPERTY, *ETC.*, TO SUCCESSOR COMPANY

Dissolution of Corporation and transfer of its property, rights and liabilities

3.—(1) On the date appointed by the Minister for this Ordinance to come into force—

(a) the Corporation shall cease to exist and shall cease to carry out the duties and functions prescribed by the repealed Ordinance;

(b) the members of the Corporation shall cease to hold office; and

(c) the property, rights and liabilities to which the Corporation was entitled or subject to, shall, by virtue of this section, be transferred to and vested in the successor company without further conveyance, assignment or transfer whatsoever, to become the absolute property, rights and liabilities of the successor company.

(2) Every chose-in-action transferred by virtue of subsection (1)(c) to the successor company may, after the transfer date, be sued on, recovered or enforced by the successor company in its own name and it shall not be necessary for the successor company or the Corporation to give notice to the person bound by the chose-in-action of such transfer.

(3) Every right and liability transferred by virtue of subsection (1)(c) to the successor company may, on and after the transfer date, be sued on, recovered or enforced by or against the company in its own name and it shall not be necessary for the successor company or the Corporation to give notice to the person whose right and liability is affected by such transfer.

(4) In the case of rights and liabilities arising under any loans which vest in the successor company on the transfer date, the company may enter into such arrangements or agreements over such rights and liabilities with the Government of Malaysia or the Government of Sarawak or any third party.

Initial State Government's holding in the successor company

4.—(1) As a consequence of the transfer to or vesting in the successor company by virtue of section 3(1) of all property, rights and liabilities to which the Corporation was entitled or subject to, the successor company shall issue such shares as may be directed by the Minister—

(a) to the State Financial Secretary, to hold for the purposes of the Government of Sarawak; or

(b) to any person entitled to require the issue of the shares following the initial allotment to the State Financial Secretary.

(2) Shares issued in pursuance of this section—

(a) shall be issued at such time and on such terms, as to allotment, as the Minister may direct;

(b) shall be of such nominal value as the Minister may direct; and

(c) shall be issued as fully paid up and treated for the purposes of the Companies Act 1965 [*Act 125*] as if such shares had been paid up by virtue of the payment to the successor company of their nominal value.

(3) The State Financial Secretary may, after consultation with the Minister, dispose of any shares issued or of any rights to shares initially allocated to it in pursuance of this section.

(4) The State Financial Secretary may, at any time, acquire—

(a) shares or securities of the successor company or of any subsidiary of the successor company; or

(b) rights to subscribe for any such shares or securities.

(5) The State Financial Secretary may dispose of any shares, securities or rights acquired under this section or issued to him under section 6(2).

Stocks in Corporation held by State Financial Secretary

5. Any stocks held by the State Financial Secretary for purposes of the State Government of Sarawak issued under the repealed Ordinance shall as from the transfer date be held by the State Financial Secretary in the successor company and the successor company shall issue shares to the State Financial Secretary of a value not less than the value of the stocks held by the State Financial Secretary in the Corporation immediately before the transfer date.

Financial arrangements of the successor company

6.—(1) The Minister may, at any time before the successor company ceases to be wholly owned by the State Government, direct that such sum not exceeding the accumulated realized profits, revaluation reserve, capital development reserve and general reserve of the Corporation, be transferred by the successor company to a reserve, in this section referred to as “the statutory reserve”.

(2) The statutory reserve may only be applied by the successor company in paying up unissued shares of the company to be allotted to the State Financial Secretary or such person as the Minister shall direct as fully-paid bonus shares.

(3) For the purposes of any statutory accounts of the successor company—

(a) the transfer and vesting effected by virtue of section 3(1)(c) shall be taken to have been a transfer and vesting of property, rights and liabilities to which the Corporation was entitled or subject to immediately before the end of the last complete accounting year of the Corporation ending before the transfer date and to have been effected immediately after the end of that year;

(b) the value or amount of any asset or liability of the Corporation vested in the successor company shall be the value or amount assigned to that asset or liability for the purposes of the corresponding statement of accounts prepared by the Corporation, in respect of that year;

(c) the amount to be included in respect of any item shall be determined as if anything done by the Corporation, whether by way of acquiring, revaluing or disposing of any asset or liability, or by carrying any amount to any provision or reserve, or otherwise had been done by the successor company;

(d) the amount to be included from time to time in any reserves of the successor company as representing its accumulated realized profits shall be determined as if any profit realized and retained by the Corporation had been realized and retained by the successor company;

(e) references in this section to the statutory accounts of the successor company are references to any accounts prepared by the successor company for the purposes of any provision of the Companies Act 1965 [Act 125]; and

(f) “complete accounting year” means an accounting year ending with 31st December or a period to be determined by the Minister.

Pending proceedings

7.—(1) Any suit, proceeding or cause of action pending or existing or subsisting immediately before the transfer date by or against the Corporation may be continued and enforced by or against the successor company.

(2) Any debt or sums owing or due to the Corporation at or prior to the transfer date shall be recovered by or paid to the successor company as if it were a debt or sum owing or due to the successor company.

Existing licences and contracts, etc.

8.—(1) All licences held by or issued in the name of the Corporation, prior to the transfer date, under which the Corporation is operating or conducts its business, shall, subject to the approval of the authorities which issue or grant, such licences, be transferred to or become vested in the successor company.

(2) All deeds, bonds, instructions, agreements, undertakings and working arrangements subsisting immediately before the transfer date shall be of full force and effect against or in favour of the successor company, and enforceable as fully and effectively as if, instead of the Corporation, the successor company has been named therein or a party thereto.

PART III MISCELLANEOUS

Staff

9.—(1) The successor company shall accept into its employment every person who immediately before the transfer date is a member of the staff of the Corporation and who has been given an option by the Corporation to join the service of the successor company and has opted to serve as an employee of such company.

(2) Every such person who opts under subsection (1) to serve as an employee of the successor company shall be employed by such company on terms and conditions of service not less favourable than those to which he was entitled to in the Corporation immediately before the transfer date.

Repeal

10. The Brooke Dockyard and Engineering Works Corporation Ordinance [*Cap. 100 (1958 Ed.)*] is repealed.

[List of Amendments]

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CAP. 11

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ORDINANCE, 1994

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
	NIL	

