



LAWS OF SARAWAK

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Chapter 63

SEWERAGE SYSTEMS AND SERVICES ORDINANCE, 2005

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**SEWERAGE SYSTEMS AND SERVICES
ORDINANCE, 2005**

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LAWS OF SARAWAK

Chapter 63

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ORDINANCE, 2005**

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LAWS OF SARAWAK

Chapter 63

**SEWERAGE SYSTEMS AND SERVICES
ORDINANCE, 2005**

An Ordinance to regulate the sewerage systems and services in urban areas and to provide for connected and incidental matters.

[1st October, 2007]

*(Swk. L.N. 145/2007)

Enacted by the Legislature of Sarawak—

**PART I
PRELIMINARY**

Short title, application and commencement

1.—(1) This Ordinance may be cited as the Sewerage Systems and Services Ordinance, 2005, and shall come into force on such date as the Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette**, appoint.

(2) This Ordinance shall apply only to areas within the jurisdiction of any City Administration and Municipal Councils constituted under the Local Authorities Ordinance, 1996 [*Cap. 20*], and such other areas as may be designated as urban areas by the Majlis Mesyuarat Kerajaan Negeri, for the purposes of this Ordinance.

Interpretation

2. In this Ordinance—

“Authority” means the Urban Sewerage Systems Authority appointed under section 3;

“authorized officer” means any person authorized generally or specifically by the Authority or a management agency to discharge any of the functions or powers conferred on that person by Parts IV and V;

“City Administration” shall have the same meaning assigned to that expression in the Local Authorities Ordinance, 1996 [*Cap. 20*];

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

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

“management agency” means the agency appointed under section 4(b) to manage, operate and maintain a public sewerage system or to provide sewerage services;

“Minister”—

(a) in relation to the planning, design and establishment of public sewerage systems in urban areas, refers to the Minister having responsibilities for urban development in the Government; and

(b) in relation to the management, operation and maintenance of public sewerage system or provision of sewerage services, refers to the Minister having responsibilities for environment in the Government;

“Municipal Council” means a Municipal Council constituted under the Local Authorities Ordinance, 1996 [*Cap. 20*];

“occupier” means any person in occupation or control of premises and, in relation to premises different parts of which are occupied by different persons, means the respective persons in occupation or control of each part;

“owner” means—

(a) a registered owner of land or premises;

(b) a lessee or sublessee of land or premises, whether registered or not; or

(c) agent or trustee of any of the persons listed in paragraph (a) or (b),

and includes his personal representative, administrator, receiver or manager;

“premises” includes any house, building, structure, land, whether open or enclosed, public or private or maintained by or under any statutory authority;

“private sewerage system” means any sewerage system built or provided within any premises or land and not part of a public sewerage system;

“public sewerage system” means any system under the control of the Authority for the conveyance, treatment and disposal of the sewerage;

“septic tank” means a settlement tank with one or more compartments forming a system or part of a system to treat, either partially or fully, sewerage from any one premises;

“sewer” means any pipe, with its appurtenances, designed to convey sewage in any sewerage system;

“sewerage” means any liquid waste or wastewater or effluent containing human, animal, vegetable or other matter in suspension or solution, and includes liquid containing chemicals in solution, but does not include solid or industrial wastes;

“sewerage services” means the collection, conveyance, treatment and disposal of sewage, and includes the operation and maintenance of a sewerage system and the clearing, cleansing and emptying of septic tank;

“sewerage sludge” means the residual mixture of solid and liquid produced during the partial or full treatment of sewage, but does not include treated sewage effluent discharged by any disposal pipe or facility;

“sewerage system” means a system incorporating sewers, disposal pipes, pumping stations or treatment facilities or any combination of them and all other structures, equipment and appurtenances used or intended or designed to be used for the collection, conveyance, pumping, treatment or processing of sewage or the disposal of treated sewage effluent or sludge;

“State Planning Authority” means the Authority constituted under section 228 of the Land Code [*Cap. 81 (1958 Ed.)*];

“treatment facility” means any facility designed or built to receive and process sewage or its by-products before disposal of them, but excludes a septic tank;

“urban areas” means any area under the jurisdiction of a City Administration or Municipal Council constituted under the Local Authorities Ordinance, 1996 [*Cap. 20*], and any other areas as the Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette*, designate as urban areas for the purpose of this Ordinance.

PART II

RESPONSIBILITY FOR SEWERAGE SYSTEMS AND SERVICES

Appointment of the Authority

3. The Majlis Mesyuarat Kerajaan Negeri shall, by notification in the *Gazette*, appoint—

(a) a public officer in the State public service or any officer in any body corporate established by State law; or

(b) a corporation established under any written law,

to be the Urban Sewerage Systems Authority which shall have the powers, functions, and duties conferred by this Ordinance.

Powers and functions of the Authority

4. The Authority shall have the following powers and functions:

(a) in consultation with the State Planning Authority and under the direction of the Minister, to plan, design and establish public sewerage systems in urban areas;

(b) with the approval of the Minister, to appoint a management agency to manage, operate and maintain any public sewerage system or to provide sewerage services in any urban area;

(c) to supervise, monitor and provide direction for the performance and activities of any management agency appointed under paragraph (b);

(d) in consultation with the Natural Resources and Environment Board, to issue guidelines for design standards and specifications of septic tanks, private and public sewerage systems;

(e) to regulate the process for treatment and disposal of sewage and sewage sludge and its by-products;

(f) with the approval of the Majlis Mesyuarat Kerajaan Negeri, to fix fees and other charges for sewerage services provided by a management agency and the payment or recovery of such fees or charges from owners or occupiers of premises in respect of which such sewerage services are rendered;

(g) to exercise such powers and to perform such functions and duties conferred by this Ordinance or as the Majlis Mesyuarat Kerajaan Negeri may from time to time, by Order in the *Gazette*, confer upon the Authority.

Management agency

5.—(1) A management agency appointed under section 4(b) shall manage, operate and maintain any public sewerage system or provide sewerage services in accordance with the terms and conditions to be stipulated in an agreement between the Authority and the management agency.

(2) A management agency shall collect such fees or charges as imposed by the Authority for the sewerage service rendered or provided to any land or for the owner or occupier of any premises, and to account to the Authority for the fees or charges so collected.

(3) A management agency may, with the approval of the Minister, appoint or engage any person, under such terms and conditions as may be stipulated in an agreement between the management agency and that person, to provide or render on behalf of the management agency, sewerage services to any land or other premises or to manage, operate or maintain a public sewerage system.

Fees or charges

6.—(1) The Authority may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, impose such fees or charges for the provision of sewerage services to any land or to the owner or occupier of any premises and for periodical inspection of any private sewerage system or septic tank.

(2) All fees or charges referred to in subsection (1) shall be notified by the Authority in the *Gazette*.

Mode of recovery of fees or charges

7.—(1) Where any fees or charges are payable, due or owing to a management agency which is a City Administration or Municipal Council for sewerage services provided, these fees or charges shall be deemed to be a first charge against the land or other premises to which the sewerage services are provided, and the same may be included as part of the rates levied on the land or other premises under the Local Authorities Ordinance, 1996 [*Cap. 20*], and may be recovered by the management agency in accordance with the provisions of that Ordinance.

(2) (a) Where fees or charges are payable, due or owing to the Authority for sewerage services rendered directly by the Authority, these fees or charges shall be deemed to be a first charge against the land or other premises in respect of where the sewerage services are rendered and may be recoverable as a civil debt.

(b) By reason of having a first charge against the land or other premises under paragraph (a), the Authority shall be deemed to have caveatable interest against the land or other premises and a caveat may be lodged, in accordance with any written law relating to land, against the land or other premises.

Vesting of property on the Authority or management agency

8. The Majlis Mesyuarat Kerajaan Negeri may by Order published in the *Gazette* vest upon the Authority or a management agency any land or public sewerage system upon such terms and conditions as may be stipulated in the Order.

PART III

DESIGN AND SPECIFICATIONS FOR SEWERAGE SYSTEMS AND SEPTIC TANKS

Guidelines for private sewerage systems and septic tanks

9. The Authority shall, with the approval of the Minister, issue guidelines on the design standards, specifications, sizes or capacity of septic tanks and private sewerage systems and their connection to a public sewerage system, and it shall be the responsibility of any authority in the exercise of its powers under the Buildings Ordinance, 1994 [*Cap. 8*], to ensure that all building plans shall incorporate in them where applicable, private sewerage systems or septic tanks that comply with these guidelines.

Compliance with guidelines

10.—(1) Where the Authority is satisfied that any private sewerage system or septic tank built or constructed after the commencement of this Ordinance, does not comply with or conform to any of the guidelines issued under section 9, the Authority or the management agency acting under the direction of the Authority, may issue a directive compelling the owner or occupier of the land or other premises to which the private sewerage system or septic tank belongs, to modify, re-build or rectify the system or septic tank so as to comply with or conform to the guidelines.

(2) Where any person fails or neglects to comply with a directive issued under subsection (1) within the period stipulated in it or within such extended period which the Authority may in its sole discretion grant, the Authority may issue a closure order, declaring the private sewerage system or septic tank unfit for use and the land or other premises concerned unfit for human habitation.

Existing private sewerage system or septic tank

11.—(1) Where any private sewerage system or septic tank which has been built or completed before the date of commencement of this Ordinance is found to have been damaged or unfit to be used to receive or treat sewerage or is not connected to a public sewerage system, the Authority or the management agency acting under the directive of the Authority, may issue a directive to the owner or occupier of the land or other premises to carry out the repair or other remedial works, as may be described in the directive or to connect the private sewerage system or septic tank to the public sewerage system, within such period as may be specified in that directive.

(2) If the owner or occupier fails or neglects to comply with the directive made under subsection (1), the Authority may issue a closure order to declare the private sewerage system or septic tank unfit for use and the land or other premises unfit for human habitation.

Service of closure order

12.—(1) A closure order issued under section 10(2) or 11(2) shall be served by posting its original at a conspicuous place on the land or other premises to which it relates and by delivery a copy of the order to its owner or occupier.

(2) A closure order shall be deemed to have been served forty-eight hours after it has been duly posted on the land or other premises to which the order relates.

Non-compliance with a closure order

13. The owner or occupier or any person who remains on any land or other premises after the service of the closure order shall be guilty of an offence: Penalty, a fine not exceeding three thousand ringgit, and if the offence continues, a further fine not exceeding two hundred ringgit for each day when the offence continues.

Revocation of closure order

14.—(1) The Authority may revoke a closure order where it is satisfied that all the works or actions stipulated in it have been satisfactory executed and the private sewerage system or septic tank can be used for its intended purpose and without endangering public health or causing any public nuisance.

(2) The original copy of the revocation order shall be posted in a conspicuous place on the land or other premises to which it relates.

Management, etc., of public sewerage system

15.—(1) No person other than a management agency or a person duly authorized by a management agency shall manage, operate or maintain a public sewerage system.

(2) No private sewerage system shall be connected to a public sewerage system except in the manner or according to the requirement set out in the guidelines issued by the Authority in consultation with the Minister.

PART IV

POWERS OF ENTRY

Powers to enter land or other premises

16.—(1) Subject to subsections (2) and (3), the Authority or a management agency or any authorized officer may, for the purposes of this Ordinance, enter at all reasonable hours upon any land or other premises—

(a) to inspect or survey on private sewerage system or septic tank to ensure that it has been repaired, rectified or maintained in accordance with any guidelines issued by the Authority under this Ordinance;

(b) to lay or construct any public sewerage system;

(c) to cleanse or desludge any septic tank; or

(d) to undertake or carry out any activity or works authorized by this Ordinance.

(2) No entry into any land or other premises which are physically occupied, by any person, shall be made except with the consent of its owner or occupier or after at least forty-eight hours, notice of that entry has been given.

(3) Notwithstanding subsection (2), a notice shall not be required in the case of emergency where there is reasonable ground to believe that—

(a) the condition of a private sewerage system or septic tank is such that it is likely to endanger the health of the occupiers of the land or other premises or of the public in general, or to cause public nuisance;

(b) an offence under this Ordinance has been committed; or

(c) a closure order issued under this Ordinance has not been complied with or has been wilfully disobeyed.

Entry of land required for public sewerage system

17. The Authority shall be entitled to exercise rights conferred under section 37(a) of the Land Code [*Cap. 81 (1958 Ed.)*] on the Government to enter upon any alienated land for the purposes of laying, constructing or maintaining any public sewerage system required to be laid or constructed under or through that land.

Compensation

18.—(1) Where damage is caused to any land or other premises in consequence of the Authority exercising the rights of entry conferred by section 37(a) of the Land Code [*Cap. 81 (1958 Ed.)*] or pursuant to section 16(1), the Authority shall pay compensation to the persons affected.

(2) If any dispute shall arise as to the adequacy of the compensation, the dispute shall be referred to a Superintendent of Lands and Surveys for decision.

(3) Any person aggrieved with the decisions of the Superintendent under subsection (2) may refer the matter to the High Court for adjudication. The procedure for this reference shall be similar to a reference to the Court prescribed in section 56 of the Land Code [*Cap. 81 (1958 Ed.)*].

PART V

INVESTIGATION, ARREST AND PENALTIES

Investigation

19. For the purpose of ascertaining whether any offence against this Ordinance or any of its rules has been or is being committed, the Authority or any authorized person or any police officer may enter and examine any land or other premises in which he suspects an offence has been committed and make such investigation and inspection on any private sewerage system or septic tank or sewer and may take samples of the effluent or sewerage sludge or substance found in it for further examination and test.

Power of arrest

20.—(1) The Authority or any authorized officer, or police officer may arrest without warrant any person whom he sees or finds committing or attempting to commit or whom he reasonably suspects of being engaged in committing or attempting to commit any offence against this Ordinance or its rules, if such person refuses to furnish his name and address or furnishes an address outside Malaysia or there are reasonable grounds for believing that he has furnished a false name or address or that he is likely to abscond.

(2) Every person so arrested shall be taken to a police station and shall after that be dealt with as provided by the law relating to criminal procedure for the time being in force.

Protection against legal proceeding

21. No action, suit, prosecution or other proceedings shall be brought or instituted personally against the Authority or any management agency or any authorized officer in respect of any act done or statement made *bona fide* in pursuance of the execution or intended execution of their duties and functions under this Ordinance or its rules.

Obstruction

22. Any person who obstructs or impedes or assists in obstructing or impeding the Authority or any management agency or an authorized officer or police officer in the exercise of its or his powers and performance of its or his duty under this Ordinance or any of its rules or order shall be guilty of an offence: Penalty, a fine not exceeding two thousand ringgit or imprisonment not exceeding six months or both.

Offence relating to denial of entry to land or other premises

23. Any person who, without reasonable cause, prevents or denies entry to the Authority or a management agency or any authorized officer, to any land or other premises for the purposes mentioned in section 16(1), shall be guilty of an offence: Penalty, a fine not exceeding two thousand ringgit or imprisonment not exceeding six months or both.

Wilful damage to public sewerage system

24. Any person who wilfully damages or causes any damage to a public sewerage system shall be guilty of an offence: Penalty, a fine not exceeding five thousand ringgit or imprisonment not exceeding nine months or both.

General penalty and offence by body corporate

25.—(1) Any person, other than a body corporate, but including a director or officer of a body corporate, who commits an offence under, or who fails to comply with, any of the provisions of this Ordinance or of any of its rules or order in respect of which no penalty is expressly provided for, shall be liable, on conviction, to a fine not exceeding three thousand ringgit or to imprisonment not exceeding six months or to both.

(2) A body corporate which commits an offence under, or fails to comply with, any of the provisions of this Ordinance or of any of its rules or order in respect of which no penalty is expressly provided shall be liable, on conviction, to a fine not exceeding five thousand ringgit.

(3) Where a person charged with an offence under any of the provisions of this Ordinance or of any of its rules or order is a body corporate, every person who, at the time of the commission of the offence is a director or officer of that body corporate, may be charged jointly in the same proceedings with that body corporate, and where that body corporate is convicted of the offence charged, every such director or officer shall be deemed to be guilty of the offence unless he proves that the offence was committed without his knowledge or that he took reasonable precautions to prevent its commission.

(4) Any person who would have been liable under any of the provisions of this Ordinance or of any of its rules or order to any penalty for anything done or omitted if that thing has been done or omitted by him personally, shall be liable to the same penalty, if that thing has been done or omitted by his partner, agent or servant, unless he proves that he took reasonable precautions to prevent the doing or omission of that thing.

Conduct of prosecution

26. Any prosecution in respect of an offence against this Ordinance or its subsidiary legislation may be conducted by the Public Prosecutor or any person duly authorized in writing by him under section 377(b) of the Criminal Procedure Code [*Act 593*].

Legal representation

27. Where any action, suit, claim or proceedings is instituted, brought or proceeded with in any court against the Authority or any management agency or any authorized officer in connection with anything done or duties executed by it or him under this Ordinance, it or he may be represented by—

(a) the State Attorney-General or any State Legal Officer authorized by him; or

(b) any advocate appointed by the Authority or management agency; or

(c) any public officer duly authorized by the Authority in writing.

Power to compound an offence

28. The Authority or any person authorized by it, by notification published in the *Gazette*, may compound any offence under this Ordinance or any of its rules by accepting from the person reasonably suspected of having committed that offence, a sum of money not exceeding half of the maximum fine provided for the offence.

Power to make rules

29.—(1) The Majlis Mesyuarat Kerajaan Negeri may make rules which are necessary or expedient for carrying out or giving effect to, the purposes of this Ordinance.

(2) Without prejudice to the generality of subsection (1), the Majlis Mesyuarat Kerajaan Negeri may make rules in respect of all or any of the following matters:

(a) the exercise or execution of the powers, duties and functions of the Authority or any management agent or an authorized officer;

(b) the minimum standards and specifications or design which shall be adhered to in the construction, operation or maintenance of any sewerage system;

(c) the frequency for the cleansing or desludging of septic tanks or any categories of septic tanks;

(d) the provision of sewerage services by any management agency;

(e) the repair, refurbishment or alteration to septic tanks and private sewerage systems which are in existence or use at the date of coming into force of this Ordinance in order to comply with its provisions;

(f) offences which may be compounded and the forms to be used in and the method and procedure for compounding of offences;

(g) fees or other charges or levies which may be imposed under this Ordinance and the procedure for the recovery of them by the Authority or management agency or any other person appointed under section 3 to provide sewerage services; and

(h) any other matter which is authorized or required or permitted by this Ordinance to be prescribed or which is necessary or expedient to be prescribed for carrying out the provisions of this Ordinance into effect.

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Chapter 63
SEWERAGE SYSTEMS AND SERVICES
ORDINANCE, 2005

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
Swk. L.N. 145/2007	Date of Commencement of the Ordinance	1.10.2007

