



LAWS OF SARAWAK

ONLINE VERSION

BINTULU DEVELOPMENT AUTHORITY ORDINANCE, 1978

[Ord. No. 1/78]

Incorporating all amendments up to 30th November, 2009

Prepared and Compiled by

STATE ATTORNEY-GENERAL'S CHAMBERS
SARAWAK

**BINTULU DEVELOPMENT AUTHORITY
ORDINANCE, 1978**

[Ord. No. 1/78]

Date Passed by Dewan Undangan Negeri	6th July, 1978
Date of Assent	8th July, 1978
Date of Publication in <i>Gazette</i> ...	12th July, 1978

SARAWAK LAWYER

**BINTULU DEVELOPMENT AUTHORITY
ORDINANCE, 1978**

[Ord. No. 1/78]

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

Section

1. Short title
2. Interpretation

PART II
THE AUTHORITY

3. Establishment of the Authority
4. The Authority to exercise duties and functions of local authority
5. Powers of the Authority under other legislation
6. Functions of the Authority
7. Powers of the Authority
8. Designated area
9. Power to vest
10. Powers to establish corporation
11. Compulsory acquisition
12. Application by persons who require land for industrial purposes
13. Sublease
14. Heads of department to assist in survey and examination of any development

Section

15. Powers of Chief Minister to give directions
16. Returns, reports, accounts and information

PART III

COMMITTEES, OFFICERS AND SERVANTS

17. Chairman to be principal managing officer
18. General Manager to be the chief executive officer
19. Appointment of committees and delegation of powers
20. Appointment of officers, servants or agents, *etc.*
21. Standing orders
22. Personal immunity
23. Public Authorities Protection
24. Public servants

PART IV

FINANCIAL PROVISIONS

25. Revenue of the Authority
26. Bintulu Development Authority Fund
27. Expenditure and preparation of estimates
28. Accounts and audit
29. Reserve fund
30. Investment
31. Borrowing powers
32. Power to make advances
- 32A. Power to guarantee

PART V

GENERAL

33. Obligation of secrecy

Section

34. Power to make regulations
35. Powers of entry
36. Things done in anticipation of the Ordinance
37. Transfer to the Authority of assets and liabilities of the former Bintulu District Council
38. Licence and permit to continue to have effect in designated area

SCHEDULES

FIRST SCHEDULE—Regulations of the Authority

SECOND SCHEDULE—Excepted Powers [*Omitted*]

THIRD SCHEDULE—Regulations of a Corporation

SARAWAK LAWNET

SARAWAK LAWNET

**BINTULU DEVELOPMENT AUTHORITY
ORDINANCE, 1978**

[Ord. No. 1/78]

An Ordinance to provide for the establishment of the Bintulu Development Authority, to make provisions for the promotion and development of trade and industrial projects, for making funds available for these projects; and to extend to the Authority the powers of the local authority under the Local Authorities Ordinance, 1996 [Cap. 20], and other written laws, and to provide for connected and incidental matters.

*[15th August, 1978]
(Swk. L.N. 43/78)*

Enacted by the Legislature of Sarawak—

PART I
PRELIMINARY

Short title

1. This Ordinance may be cited as the Bintulu Development Authority Ordinance, 1978.

Interpretation

2.—(1) In this Ordinance—

“Authority” means the Bintulu Development Authority established under section 3;

“Bintulu District” means the Bintulu District area as described in the Schedule to the Administrative Areas Order, 1987 [Swk. L.N. 19/78];

“Bintulu District Council” means the Bintulu District Council constituted under the former Local Authority (Bintulu District Council) Order [Vol. X, p. 451] by virtue of section 3 of the former Local Authority Ordinance [Cap. 117 (1958 Ed.)];

“Chairman” means the Chairman of the Authority appointed under section 3(3);

“corporation” means a corporation established under section 10;

“designated area” means the area of land designated under section 8 to be a development area for the purposes of this Ordinance;

“Executive Officer” means an Executive Officer appointed under section 20(1);

“Fund” means the fund established under section 26;

“General Manager” means the General Manager appointed under section 18.

(2) In this Ordinance a reference to the Yang di-Pertua Negeri shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a member of it acting under the general authority of the Majlis.

PART II

THE AUTHORITY

Establishment of the Authority

3.—(1) There is established a body corporate by the name of Bintulu Development Authority or in Bahasa Malaysia “Lembaga Kemajuan Bintulu”, with perpetual succession and a common seal and may sue and be sued in its corporate name and, subject to and for the purposes of this Ordinance, may enter into contracts and may purchase, take, hold and enjoy movable or immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest vested in the Authority upon such terms as it deems fit.

(2) The Authority shall for the purposes of the Land Code [*Cap. 81 (1958 Ed.)*] be deemed to be a Native of Sarawak.

(3) The Authority shall consist of the following members who shall be appointed by the Chief Minister:

- (a) a Chairman;
- (b) a Deputy Chairman; and
- (c) not more than ten other members:

Provided that the first Chairman immediately after the coming into force of this Ordinance shall not be appointed as such but shall instead be appointed by the Yang di-Pertua Negeri.

(4) The First Schedule shall apply to the membership and proceedings of the Authority.

The Authority to exercise duties and functions of local authority

4.—(1) Notwithstanding anything to the contrary in the Local Authorities Ordinance, 1996 [*Cap. 20*], the Authority shall be the local authority for any area which has been declared to be a designated area for the purposes of this Ordinance.

(2) All persons within the designated area shall be subject to the jurisdiction of the Authority and shall be bound to comply with the bylaws, orders and regulations made by the Authority under the powers conferred on it by subsection (3).

(3) The Authority shall in respect of the area declared to be a designated area exercise all the powers conferred on a local authority by the Local Authorities Ordinance, 1996 [*Cap. 20*] other than the powers specified in the Second Schedule; and the provisions of the that Ordinance relating to duties and responsibilities of local authorities shall apply to the Authority accordingly.

(4) All bylaws and regulations made by the Bintulu District Council under the former Local Authority Ordinance [*Cap. 117 (1958 Ed.)*] or other written laws and in force immediately before the commencement of this Ordinance shall apply to the designated area and shall have effect as if such bylaws and regulations had been made by the Authority pursuant to subsection (3).

Powers of the Authority under other legislation

5. Notwithstanding any other written law regulating the powers and duties of a local council, the powers and functions of local council under any written law relating to—

- (a) road traffic; and
- (b) public health,

shall be exercisable, within the designated area, by the Authority; and accordingly references to “local council” in these written laws shall be construed as including the Authority.

Functions of the Authority

6. The functions of the Authority shall be to plan and undertake the development of any area declared to be a designated area under section 8 and it shall be the duty of the Authority within that area—

- (a) to promote, stimulate, facilitate and undertake economic and social development;
- (b) to promote and coordinate further industrial and tertiary development;
- (c) to promote, develop and manage residential and industrial estates and sites whether or not the undertaking in question is carried on on land subleased from the Authority;

[Am. Ord. No. 6/82.]

- (d) to promote, assist and develop trade, commerce and industry;

(e) to develop and turn into account any immovable property acquired by or vested in the Authority or in which the Authority is interested;

(f) to promote the increased productivity of industry and to encourage the more efficient utilization of natural resources;

(g) to provide facilities and amenities for the advancement and well being of persons living and working within the designated area;

(h) to make such recommendations to the Chief Minister as the Authority sees fit in relation to any measures which it considers would achieve an increase in trade and development; and

(i) to undertake such other functions as the Chief Minister may from time to time direct.

Powers of the Authority

7.—(1) For the purpose of the discharge of its functions under section 6, the Authority shall have power either alone or in association with the Government of Malaysia or of Sarawak or other bodies or persons, or as managing agent or otherwise on behalf of the Government of Malaysia or of Sarawak or other bodies or persons—

(a) to investigate and formulate projects for the promotion or expansion of new or existing enterprises, and to carry out any such projects;

(b) to carry on undertakings which appear to the Authority to be needed for or in connection with the promotion or expansion of new or existing enterprises;

(c) to assist other bodies or persons, including financial assistance by way of grant, loans or otherwise to perform any functions which the Authority is empowered to perform by virtue of this Ordinance;

(d) to establish or expand, or promote the establishment or expansion of other bodies to carry on any such functions as the Authority is empowered to perform;

(e) to establish or acquire and hold, maintain and operate any public utility undertaking;

(f) to erect any buildings, messuages or tenements and effect any improvements to them;

(g) to carry on all activities particularly of commercial and industrial enterprises;

(h) to facilitate and provide land for the establishment or expansion of projects to which this section applies;

(i) to purchase, acquire or sublease any land required for the purpose of the discharge of its functions under this Ordinance;

(j) to sell or sublease land for the purposes of industrial sites, for the housing of persons living and working in industrial estates and sites, for general economic development or for social amenities;

(k) to lay out sites for the purposes mentioned in paragraph (j);

(l) to sell or put out to let flats, houses or other living accommodation;

(m) to make and guarantee loans to a person employed by the Authority for the purpose—

(i) of building a house;

(ii) of purchasing or subleasing a plot of land on which to build a house;

(iii) of purchasing or hiring for his residential use, or that of his family, any premises; or

(iv) for such other purposes as the Authority may approve;

[Ins. Ord. No. 6/82.]

(mm) to give, subject to section 32A, a guarantee in writing to a loan raised by any corporation established under section 10 or by other bodies or persons approved by the Authority from a bank or other financial source;

(n) to consult with, coordinate and assist the activities of persons or organizations engaged in the study, development or dissemination of programmes, methods or techniques designed to increase productivity in industry;

(o) to invest any property belonging to the Authority in such manner as it thinks fit (and whether alone or in association with others) in the acquisition, development or management of land in the Bintulu District and used or to be used for residential, commercial or industrial purposes;

(p) to require departments, and governmental and non-governmental agencies engaged in carrying out or intending to carry out development in the designated area to submit report regarding their activities or proposed activities containing such particulars and information as may be specified by the Authority;

(q) to appoint agents or establish such other bodies as it may deem fit for the purpose of carrying out its functions;

(r) to exercise such powers and perform such duties as are conferred or imposed on the Authority under sections 4 and 5;

(s) to do all such other acts as are reasonably necessary for the exercise or performance of all or any of the powers or duties of the Authority under this Ordinance or any other written law and to perform any other function which is incidental or conducive to the attainment or furtherance of the purposes of the Authority in accordance with this Ordinance or any other written law.

(2) This section applies to any enterprise falling within one or more of the following classes, namely—

(a) commercial and industrial enterprises, including the manufacturing, assembling, processing, packing, grading and marketing of products, research and training;

(b) agriculture enterprises, including any enterprise concerned with the livestock industry, with horticulture or with forestry;

(c) enterprises concerned with fisheries, including any enterprise relating to the taking of marine mammals;

(d) enterprises for the working or getting of minerals, including mineral oil and natural gas;

(e) enterprises for providing, maintaining or improving the supply of water, electricity or gas;

(f) enterprises for providing, maintaining or improving telegraph or telephone services;

(g) enterprises for the provision or improvement of houses or other dwellings;

(h) enterprises for providing, maintaining or improving port services and facilities for shipping;

(i) enterprises for the carrying out of building, engineering or other operations in, on, over or under land.

(3) If it appears to the Chief Minister to be expedient to add to the classes of enterprises specified in subsection (2), the Chief Minister may by order published in the *Gazette* direct that subsection (2) shall have effect with the addition of such one or more classes of enterprises as may be specified in the order.

(4) Subject to section 15, it shall be the responsibility of the Authority in discharging its functions under this Ordinance to ensure that the functions shall be performed in such manner as shall be in furtherance of the policy of the Government for the time being in force and in particular the policy relating to the restructuring of society.

Designated area

8.—(1) The Yang di-Pertua Negeri may by notification in the *Gazette* declare any area of land in the Bintulu District to be a designated area within which the Authority may perform its functions and exercise its powers under this Ordinance.

(2) The Yang di-Pertua Negeri may at any time by notification in the *Gazette* alter, replace or extend any designated area.

Power to vest

9. The Yang di-Pertua Negeri may by order published in the *Gazette* vest in the Authority, for purposes of carrying out any of its functions, the management and control of any property, movable or immovable which is vested in the Government. Any such property vested in the Authority which ceases to be used for the purposes stated in the vesting order shall revert to the Government without payment of compensation.

Powers to establish corporation

10.—(1) The Authority may from time to time by order published in the *Gazette* establish a corporation by such name as the Authority may think fit to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Authority in the execution of its duties or discharge of its functions.

(2) The Third Schedule shall apply to the corporation established by the Authority under this section.

Compulsory acquisition

11.—(1) Land, not being State land, required for the purposes of carrying out any of the functions of the Authority under this Ordinance may be acquired by the Government in accordance with Part IV of the Land Code [*Cap. 81 (1958 Ed.)*].

(2) Where land over which native customary rights are exercised is required for the purposes of this Ordinance, such rights may be extinguished in accordance with section 5 of the Land Code [*Cap. 81 (1958 Ed.)*].

(3) The purpose for which land is acquired pursuant to this section shall be deemed to be a public purpose under the Land Code [*Cap. 81 (1958 Ed.)*].

(4) The expenses and compensation in respect of any land acquired or customary rights extinguished pursuant to this section shall be paid by the Authority.

Application by persons who require land for industrial purposes

12.—(1) Any person engaged in or about to engage in any industry or enterprise within the designated area who requires land for the establishment and carrying on of his business in such industry or enterprise may make application in writing in the prescribed form to the Authority.

(2) Provision may be made by regulations under this Ordinance with respect to the procedure to be followed in connection

with the submission and the terms and conditions of approval of such application.

Sublease

13. The Authority may with the approval of the Chief Minister sublease any land owned by or vested in the Authority on such terms and conditions as it thinks fit.

Heads of department to assist in survey and examination of any development

14. For the purposes of any development under this Ordinance the Authority may require any head of department to make such survey or examination as the Authority may specify, and the head of department if so required shall draw up a report of such survey or examination and forward it to the Authority.

Powers of Chief Minister to give directions

15.—(1) The Authority shall be responsible to the Chief Minister, and the Chief Minister may, from time to time, give directions not inconsistent with this Ordinance and the Authority shall, as soon as possible, give effect to all such directions.

(2) Without prejudice to the generality of subsection (1) and subject to consultation with the Authority, the power of the Chief Minister to give directions shall extend to the giving to it of directions—

(a) as to the disposal of capital assets; and

(b) as to the application of proceeds of such disposals, notwithstanding that the directions may be of a specific character

Provided that no such direction shall, so long as any sum borrowed by the Authority in accordance with the provisions of this Ordinance remains outstanding, be given.

Returns, reports, accounts and information

16.—(1) The Authority shall furnish the Chief Minister and such other person, body of person or public authority as may be directed by the Chief Minister, such returns, reports, accounts and information with respect to its property and activities as the Chief Minister may from time to time require or direct.

(2) Without prejudice to the generality of subsection (1), the Authority shall, as soon as practicable, after the end of each financial year, cause to be made and transmitted to the Chief Minister and, if so directed by the Chief Minister, to any other public body, a report dealing with the activities of the Authority during the preceding financial year and in such form and containing such information relating to the proceedings and policy of the Authority as the Chief Minister may from time to time specify.

(3) The Chief Minister shall cause a copy of every such report to be laid before the Dewan Undangan Negeri.

PART III

COMMITTEES, OFFICERS AND SERVANTS

Chairman to be principal managing officer

17.—(1) The Chairman shall be the principal managing officer of the Authority and shall be responsible for the preparation of programmes, schemes or projects for the consideration of the Authority, for the issue of policy guidance or of elucidation of decisions of the Authority to the General Manager and the other officers and servants of the Authority and for the supervision and control over the implementation of such decisions.

(2) All officers and servants of the Authority shall be under the general control of the Chairman.

(3) The Chairman shall perform such other or further duties as the Chief Minister may from time to time determine.

General Manager to be the chief executive officer

18.—(1) The Authority may, with the approval of the Chief Minister, employ and appoint a General Manager and a Deputy General Manager on such terms and conditions and for such period as the Authority may determine.

(2) The General Manager shall be the chief executive officer and shall be responsible for the execution of all programmes, schemes or projects, for the carrying out of the decisions of the Authority and the direction of the Chairman and may participate without the right to vote in any meeting of the Authority.

(3) Subject to the directions of the Chairman, the General Manager shall have administrative control of the officers and servants of the Authority.

(4) The General Manager shall perform such other or further duties as the Authority or the Chief Minister may from time to time determine or as the Chairman may from time to time direct.

(5) The Deputy General Manager shall be responsible to the General Manager and shall perform such duties as the Authority may from time to time determine, or as the General Manager may from time to time direct.

(6) If the General Manager is temporarily absent from Sarawak or temporarily incapacitated through illness or for any other sufficient reason from the performance of his duties, the Deputy General Manager shall perform his duties during such temporary absence or other incapacity.

Appointment of committees and delegation of powers

19.—(1) The Authority—

(a) shall appoint a Finance Committee for regulating and controlling the finances of the Authority; and

(b) may from time to time appoint such number of other committees, either of a general or special nature for the purpose of examining and reporting upon any matter, or performing any act, which in the judgment of the Authority would be more conveniently performed by means of a committee,

from among its own members or other persons who are not members of the Authority and consisting of such number of members or other persons as the Authority may think fit.

(2) The Authority may subject to such conditions or restrictions as it thinks fit, delegate to any such committee or the Chairman or the General Manager or other officers of the Authority any of the powers, functions and duties by this Ordinance vested in the Authority, except the power to make subsidiary legislation or to borrow money or to raise loans by the issue of bonds and debentures; and any power, function or duty so delegated may be exercised or performed by such committee, or the Chairman or the General Manager or other officer in the name and on behalf of the Authority.

Appointment of officers, servants or agents, etc.

20.—(1) The Authority may from time to time, subject to the approval of the Chief Minister, appoint and employ at such remuneration and on such terms and conditions as the Authority may determine, such number of executive officers and such other officer and servants as may be necessary, in the opinion of the Authority, for the purposes of this Ordinance.

(2) The Authority may employ and pay agents and technical advisers including advocates and solicitors, bankers, stockbrokers, surveyors or valuers or other persons, to transact any business or to do any act required to be transacted or done in the execution of its duties or for the better carrying into effect of the purposes of this Ordinance.

Standing orders

21.—(1) The Authority may, with the approval of the Chief Minister, make standing orders for the following matters:

(a) the terms and conditions of service of its officers and servants;

(b) the pensions or other superannuation benefits of its officers and servants;

(c) the conduct and management of its activities.

(2) Unless otherwise provided, a reference in this Ordinance to an officer of the Authority shall include reference to the General Manager, the Deputy General Manager and any executive officer.

Personal immunity

22. No member, officer or servant of the Authority or any other person whomsoever acting under the direction of the Authority shall be personally liable for any act or default of the Authority done or omitted to be done in good faith and without negligence in the course of the operations of the Authority.

Public Authorities Protection

23. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Authority or against any member, officer, servant or agent of the Authority in respect of any act, neglect or default done or committed by him in such capacity.

Public servants

24. All members, officers and servants of the Authority while discharging their duties as such, shall be deemed to be public servants within the meaning of the Penal Code [*Act 593*].

PART IV
FINANCIAL PROVISIONS

Revenue of the Authority

25. The revenue of the Authority shall consist of—

(a) such rates, cesses, fees and other revenues as may be levied and collected by it in the exercise of its powers and functions as a local authority under the Local Authorities Ordinance, 1996 [*Cap. 20*] or other written law by virtue of sections 4 and 5;

(b) such proportion of any rates, taxes and fees, collected by it on behalf of the Government, as the Yang di-Pertua Negeri may approve;

(c) such grants in aid as may be paid to it by the Government of Malaysia or of Sarawak;

(d) such projects and rents as may be received from the sale, or letting out on lease or hire, of property belonging to the Authority;

(e) such sums as may be appropriated from time to time for the purposes of the Authority by the Dewan Undangan Negeri;

(f) such sums as may from time to time be borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions;

(g) all moneys earned by the operation of any project, scheme or enterprise financed from the Fund;

(h) all moneys earned or arising from any property, investment, mortgage, charges or debentures acquired by or vested in the Authority;

(i) all other sums or property which may in any manner become payable to, or vested in, the Authority in respect of any matter incidental to its powers and duties.

Bintulu Development Authority Fund

26.—(1) All moneys received by the Authority on its own behalf by virtue of this Ordinance or any other written law shall constitute a fund which shall be called the Bintulu Development Authority Fund (“the Fund”) and shall, together with all property which becomes vested in the Authority, be administered under the direction and control of the Authority subject to this Ordinance.

(2) All moneys received by the Authority in respect of the Fund shall be lodged on current or deposit account with one or more banks or with one or more finance companies licensed under the Banking and Financial Institutions Act 1989 [*Act 372*], as the Chief Minister may direct.

[Am. Ord. No. 5/87.]

(3) All orders or cheques against the Fund shall be signed by two officers authorized in writing by the Authority.

Expenditure and preparation of estimates

27.—(1) The expenses of the Authority up to such amount as may be authorized by the Chief Minister for any one year shall be defrayed out of the Fund.

(2) The Authority shall in every year cause to be prepared in a form to be approved by the State Financial Secretary a budget to be forwarded to the Chief Minister not later than the 31st day of August containing estimates of income and expenditure of the Authority for the ensuing year and such other particulars as the State Financial Secretary may require.

(3) The estimates of income and expenditure of the Authority for each development project or enterprise shall be prepared separately and apart.

(4) The Chief Minister may approve or disallow any item or portion of any item shown in the budget, and shall return the budget as amended by him to the Authority.

(5) The Authority may at any time submit to the Chief Minister a supplementary estimate for any one year and the Chief Minister may allow the whole or any part of the additional expenditure included therein.

Accounts and audit

28.—(1) The Authority shall keep proper accounts and other records in respect of its operation and shall prepare a statement of accounts in respect of each financial year of the Authority.

(2) The form of the accounts and of the statement shall be such as to cause the provision of separate information as respect each of the main activities or functions of the Authority. Accounts of moneys for each enterprise shall be kept separate and apart.

(3) The accounting records of the Authority shall distinguish between capital and revenue transactions.

(4) Moneys received by way of loans shall be shown separately in the books and accounts and in the balance sheet of the Authority.

(5) The accounts of the Authority shall be audited annually by the Auditor General or other auditor appointed by the Authority with the approval of the Chief Minister.

(6) After the end of such financial year, and as soon as the accounts of the Authority have been audited, the Authority shall cause a copy of the statement of accounts to be transmitted to the Chief Minister together with a copy of any observations made by the Auditor General or other auditor appointed under subsection (5) on any statement or on the accounts of the Authority.

(7) The Chief Minister shall cause a copy of every such statement and observation to be laid before the Dewan Undangan Negeri.

Reserve fund

29. The Authority shall establish and manage a reserve fund within the Fund.

Investment

30. The assets of the Authority shall, in so far as they are not required to be expended by the Authority under this Ordinance, be invested in such manner as the Yang di-Pertua Negeri may approve.

Borrowing powers

31. The Authority may, from time to time, for the purposes of this Ordinance raise loans from the Government or, with the approval of the Yang di-Pertua Negeri, borrow money by—

- (a) mortgage or charge;
- (b) a temporary loan or overdraft from a bank or other financial source;
- (c) the creation and issue of bonds, debentures or debenture stock, or raise capital by the issue of shares or stock; or
- (d) some other method as the Yang di-Pertua Negeri may direct.

[Am. Ord. No. 6/82.]

Power to make advances

32. The Government may, upon the recommendations of the Yang di-Pertua Negeri, make advances to the Authority, either by way of grant or by way of loan, or partly in one way and partly in the other, and upon such terms and subject to such conditions as the Government may think fit for the purpose of assisting the Authority to perform any function which it is empowered to perform by virtue of this Ordinance.

Power to guarantee

32A.—(1) The guarantee by the Authority under section 7(1)(*mm*) may be given if—

- (a) the Chief Minister approves—
 - (i) the bank or other financial source from which the loan is proposed to be raised;
 - (ii) the purpose for which the loan is raised; and
 - (iii) the terms and conditions of the loan and in particular the period of payment and the rate of interests and other charges on it; and
- (b) the loan does not exceed such limit as may be fixed by the Chief Minister.

(2) Where it is made to appear to the Authority that there is reasonable cause to believe—

- (a) that a borrower is likely to fail or be unable to discharge any of its obligations under any loan agreement entered by it with any bank or other financial source; and

(b) that the Authority is or may become liable under any guarantee given under subsection (1) in respect of such loan,

the Authority may direct the borrower from time to time as it deems necessary or desirable to ensure that satisfactory arrangements are made by the borrower to enable it duly to discharge its obligations under such loan agreement.

(3) The borrower shall, notwithstanding any provision contained in any other written law to the contrary, comply with any direction given under subsection (2).

(4) If any sum is paid by the Authority in respect of any liability incurred by the Authority arising from the guarantee given under subsection (1), the borrower concerned shall repay such sums (together with interests on it at the same rate as that payable on the loan under the loan agreement between the borrower and a bank or other financial source) to the Authority in such manner and at such time or by such instalments as the Authority may direct.

[Am. Ord. No. 6/82.]

PART V

GENERAL

Obligation of secrecy

33.—(1) Except for the purpose of this Ordinance or of any criminal proceedings under this Ordinance, no member, officer or servant of the Authority shall disclose any information which has been obtained by him in the course of his duties and which has not been published pursuant to this Ordinance.

(2) Any person contravening subsection (1) shall be guilty of an offence: Penalty, imprisonment for six months or a fine of one thousand ringgit.

Power to make regulations

34. The Authority may with the approval of the Chief Minister make such regulations as may be expedient or necessary for the better carrying out of the provisions of this Ordinance and, in particular, such regulations may provide for—

(a) regulating and controlling the conduct and administration of all forms of enterprise in the designated area;

(b) the procedure to be followed in the submission of application for the establishment or expansion of industrial projects;

(c) controlling and restricting the production, sale, distribution and marketing of goods, minerals and forest produce;

(d) controlling and regulating the activities of all commercial and industrial enterprises;

(e) regulating and controlling the development of land in the designated area;

(f) controlling the density, area and plot ratio of land and buildings;

(g) controlling the siting of land for dwelling, commercial and industrial purposes;

(h) the classes of use of land and buildings;

(i) regulating the sale and use of flats, houses or buildings owned by the Authority;

(j) the manner in which and the terms and conditions on which land vested in the Authority may be subleased;

- (k) the matters in connection with shares, stock, bonds, debentures or debenture stock issued under this Ordinance;
- (l) the amendment of the Schedules;
- (m) the prescribing of forms or the imposition or remission of rents, fees and charges;
- (n) the matters specified in the Third Schedule;
- (o) the prescribing of anything that may be, or is required to be, prescribed under this Ordinance.

Powers of entry

35.—(1) Any person authorized in that behalf in writing by the Authority may, on the production of such written authority, enter at all reasonable hours upon any land or building in the designated area and there make such inspection, examination, investigation, survey or all other acts as may be necessary for enforcing or carrying out the provisions of this Ordinance:

Provided that no person shall enter into any building, or into or upon any enclosed yard, court or garden attached to any dwelling-house, unless with the consent of the occupier of it, without previously giving such occupier at least seven days' notice in writing of his intention to do so.

(2) As soon as conveniently may be after such entry, the Authority shall assess the compensation for damage resulting from it.

(3) Such compensation shall not become payable so far as it relates to any land which is resumed pursuant to section 11 and, if paid, shall be refunded to the Authority on demand.

(4) If there is any dispute as to the amount of any compensation which has become payable, the persons to whom it is payable or the apportionment of the compensation, such dispute shall, if any person interested so requires, be referred to arbitration in accordance with the Arbitration Act 2005 [*Act 646*].

(5) Every person who wilfully obstructs or interferes with any person in the lawful exercise of any power conferred by this section shall be guilty of an offence: Penalty, a fine of five hundred ringgit.

Things done in anticipation of the Ordinance

36. All things done by any person or authority on behalf of the Authority in the preparation of and towards the proper implementation of this Ordinance and any expenditure incurred in relation to it, in anticipation of the promulgation of this Ordinance, shall be deemed to have been authorized by this Ordinance; and all rights and obligations acquired or imposed on behalf of the Authority from anything so done or any expenditure so incurred shall upon the coming into force of this Ordinance be deemed to be the rights and obligations of the Authority.

Transfer to the Authority of assets and liabilities of the former Bintulu District Council

37. Upon the declaration by the Yang di-Pertua Negeri under section 8 of any area to be a designated area, all lands, buildings, projects, works and other property, movable or immovable vested in the former Bintulu District Council within that area shall be deemed to have been transferred to and vested in the Authority without further assurance.

Licence and permit to continue to have effect in designated area

38. Every licence and permit granted or issued by the former Bintulu District Council by virtue of any written law and in force immediately before the commencement of this Ordinance shall, during the currency of it and until the date of expiry, have effect in the designated area.

*FIRST SCHEDULE**(Section 3(4))*

REGULATIONS OF THE AUTHORITY

Terms and conditions of appointment

1.—(1) A member of the Authority shall hold office for such term and subject to such conditions as may be specified in the instrument appointing him.

(2) A member may at any time resign his office by letter addressed to the Chief Minister.

(3) The appointment of any member may at any time be revoked by the Chief Minister without assigning any reason for it.

(4) A member shall devote such time to the business of the Authority as may be necessary to the discharge of his duties.

Deputy Chairman

2.—(1) Until an appointment is made pursuant to regulation 3, the Deputy Chairman shall act as an alternative Chairman when the Chairman is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office.

(2) The Deputy Chairman shall, while he acts as such, be deemed for all purposes to be the Chairman of the Authority.

(3) No acts done by the Deputy Chairman as such, and no acts done by the Authority while the Deputy Chairman is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Temporary members of the Authority

3. If the Chairman or Deputy Chairman or any other member of the Authority is temporarily absent from Sarawak or temporarily incapacitated through illness or for any other sufficient reason from the performance of his duties, the Chief Minister, may appoint any person to be a temporary Chairman or temporary Deputy Chairman or temporary member of the Authority; and any person so appointed shall hold office until the appointed member in whose place he has been appointed returns or resumes office.

Office deemed vacated

- 4.—(1) The office of a member of the Authority shall be vacated—
- (a) if he dies;
 - (b) if there has been proved against him, or he has been convicted on, a charge in respect of—
 - (i) an offence under any written law relating to corruption;
 - (ii) any other offence punishable with imprisonment, in itself only or in addition to or in lieu of a fine, for more than two years;
 - (c) if he becomes a bankrupt;
 - (d) if he is of unsound mind or is otherwise incapable of performing his duties;
 - (e) if he absents himself from three consecutive meetings without leave of the Authority; or
 - (f) if his appointment is revoked.

(2) Where any member ceases to be a member by reason of any of the provisions of this regulation, a person shall be appointed in his place in accordance with the provisions applying.

Remuneration and allowance

5. There may be paid to members of the Authority and to any person appointed to any committee such salaries, remuneration, travelling expenses or allowances as the Authority, with the approval of the Chief Minister, may determine.

Meetings

- 6.—(1) The Authority shall meet at least once in every month.
- (2) The quorum of the Authority shall be a majority of the members of it.
- (3) At all meetings of the Authority the Chairman or, in his absence, the Deputy Chairman or, in his absence, such member as the members present may elect, shall preside.

(4) If on any question to be determined by the Authority there is an equality of votes, the Chairman, Deputy Chairman or the member presiding shall have a casting vote in addition to his deliberative vote.

(5) Subject to paragraphs (1), (2), (3) and (4), the Authority shall determine its own procedure.

The Authority may invite others to meetings

7. The Authority may request any person (not being a member of the Authority) to attend any meeting or deliberation of the Authority for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at that meeting or deliberation.

Effect of signed resolutions of members

8. The Authority may, if it thinks fit, transact any of its business by the circulation of papers, and a resolution in writing approved in writing by the majority of the members of it shall be as valid and effectual as if it had been passed at a meeting of the Authority by the votes of the members so approving the resolution.

Common seal

9.—(1) The Authority shall have a common seal which shall bear such device as the Authority shall approve and such seal may from time to time be broken, changed, altered or made anew, as the Authority may think fit.

(2) Until a seal is provided by the Authority a stamp bearing the description “Lembaga Kemajuan Bintulu” may be used and shall be deemed to be a common seal.

(3) The common seal or the stamp referred to in paragraph (2) shall be kept in the custody of the Chairman or such other person as may be authorized by the Authority, and shall be authenticated by either the Chairman or such authorized person or by any officer authorized by either of them in writing; and all deeds, documents and other instruments purporting to be sealed with that seal, authenticated as such, shall until the contrary is proved be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required under seal may in like manner be executed by the Authority and any such document or instrument may be executed on behalf of the Authority by any officer or servant of the Authority generally or specifically authorized by the Authority in that behalf.

- (4) The seal of the Authority shall be officially and judicially noticed.

Disclosure of interest

10. A member of the Authority having, directly or indirectly by himself or his partner, any interest in any company or undertaking with which the Authority proposes to make any contract or having any interest in any such contract or in any matter under discussion by the Authority shall disclose to the Authority the fact of his interest and the nature of it, and such disclosure shall be recorded in the minutes of the Authority, and unless specifically authorized to it by the Chairman, such member shall take no part in any deliberation or decision of the Authority relating to the contract.

Minutes

11.—(1) The Authority shall cause minutes of all meetings of the Authority to be maintained and kept in a proper form.

(2) Any minutes made of meetings of the Authority shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every meeting of the Authority in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members at it to have been duly qualified to act.

Validity of act and proceedings

12. No act done or proceeding taken under this Ordinance shall be questioned on the ground—

- (a) of any vacancy in the membership of, or of any defect in the constitution of, the Authority; or
- (b) of the contravention by any member of the Authority relating to the disclosure of interest by such member; or
- (c) of any omission, defect or irregularity not affecting the merits of the case.

SECOND SCHEDULE

(Section 4(3))

[Omitted.]

SARAWAK LAWNET

*THIRD SCHEDULE**(Section 10(2))*

REGULATIONS OF A CORPORATION

Power of the Authority to make regulations in respect of a corporation

1. This Authority shall, on or before the date on which any corporation is established under section 10, make regulations under section 34 in respect of such corporation defining—

- (a) the purposes and objects for which such corporation is established;
- (b) the rights, powers, duties and functions of such corporation;
- (c) the system of management of it; and
- (d) the relations between such corporation and the Authority and its rights of control over such corporation.

Saving

2. Nothing in regulation 1 shall be deemed to authorize the Authority to make regulations to establish any corporation for any purpose or object more extensive in scope than the purpose or objects for which the Authority was constituted or to confer on any corporation any right, duty, power or function which is not within the rights, duties, powers or functions of the Authority under this Ordinance.

Regulations subject to the Ordinance

3. Subject to this Ordinance and any of its regulations, any regulations made pursuant to regulation 1 shall be binding on the corporation in respect of which they were made and shall have effect for all purposes as if they had been enacted in this Ordinance.

Amendment of the regulations

4. The Authority may at any time amend, revoke, or add to, any regulations made in respect of any corporation pursuant to regulation 1, and section 13 of the Interpretation Ordinance, 2005 [*Cap. 61*] shall apply to any such amended or revoked regulations as if such regulations had been written law.

[Am. Cap. 61.]

Register of corporation

5. The Authority shall keep a register in the prescribed form of all corporations established by it under section 10, and such register together with copies of all regulations made pursuant to regulation 1 shall be open to public inspection at such place or places and at such times as it may prescribe.

Winding up

6.—(1) The Authority may by order published in the *Gazette* direct that any corporation established by it shall be wound up and dissolved.

(2) Upon the dissolution of any corporation under this regulation the assets of the corporation after payment of all liabilities shall be transferred to and vested in the Authority.

(3) The winding up of a corporation under this regulation shall be conducted in such manner as the Authority may prescribe.

Corporation to be bodies corporate

7. Every corporation established under section 10 shall be a body corporate by such name as the Authority shall give to such corporation and shall have perpetual succession and a common seal and may sue and be sued in such name, and for the purpose of carrying into effect the registered development project for which it has been established may enter into contracts and may hold and deal in or with any immovable or movable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Ordinance and subject to such restrictions or limitations as may be prescribed by the Authority in each case.

Common seal of the corporation

8.—(1) Every corporation shall have a common seal, which shall bear such device as the corporation, with the approval of the Authority may approve, and such seal may from time to time be broken, changed, altered and made anew by the corporation, with the approval of the Authority, as the corporation shall think fit.

(2) Until a seal is provided by the corporation under this regulation a stamp bearing the name of the corporation encircling the letters "LKB" may be used as a common seal.

(3) The common seal, or the stamp referred to in paragraph (2), shall be in the custody of such person as the corporation shall direct and shall be authenticated by such person; and all deeds, documents and other instruments purporting to be sealed with that seal, authenticated as such, shall until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the corporation; and any such document or instrument may be executed on behalf of the corporation by any officer or servant of the corporation generally or specially authorized by the corporation in that behalf.

(4) The seal of every corporation shall be officially and judicially noticed.

SARAWAK LAWYERS

**BINTULU DEVELOPMENT AUTHORITY
ORDINANCE, 1978***[Ord. No. 1/78]*

LIST OF AMENDMENTS

<i>Amending Law</i>	<i>Short title</i>	<i>In force from</i>
Swk. L.N. 43/78	Date of Commencement Notification	15.8.1978
Ord. No. 6/82	Bintulu Development Authority (Amendment) Ordinance, 1982	19.11.1982
Ord. No. 5/87	Bintulu Development Authority (Amendment) Ordinance, 1987	30.11.1987