



LAWS OF SARAWAK

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Chapter 23

LAND USE (CONTROL OF PRESCRIBED TRADING ACTIVITIES) ORDINANCE, 1997

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**LAND USE (CONTROL OF PRESCRIBED
TRADING ACTIVITIES) ORDINANCE, 1997**

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LAWS OF SARAWAK
Chapter 23
**LAND USE (CONTROL OF PRESCRIBED
TRADING ACTIVITIES) ORDINANCE, 1997**

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LAWS OF SARAWAK

Chapter 23

LAND USE (CONTROL OF PRESCRIBED TRADING ACTIVITIES) ORDINANCE, 1997

An Ordinance to regulate the use of land and premises for certain trading or business activities and for the location thereof, and for other matters connected therewith or incidental thereto.

[15th March, 2005]

*(Swk. L.N. 16/2005)

Enacted by the Legislature of Sarawak—

Short title and commencement

1. This Ordinance may be cited as the Land Use (Control of Prescribed Trading Activities) Ordinance, 1997, and shall come into force on such date as the Minister may, by notification in the **Gazette*, appoint.

Interpretation

2. In this Ordinance—

“building” includes any house, structure, hut, shed, stall or roofed enclosure, whether used for the purpose of a human habitation or otherwise, and also any platform, stage, pier, jetty, landing stage or bridge;

“carpenter shop” means any premises where timber is fashioned by hand or by the use of light portable machinery or where wood carving, cutting or assembling is carried out;

“designated area” means any area, place or zone designated by the State Planning Authority by a notification published in the *Gazette* whereon any or all of the prescribed trading activities may be sited or carried out;

[Sub. Cap. A131.]

“Director” means the Director of Lands and Surveys;

“fertilizer and chemical manufacturing premises” includes any premises used for the mixing, preparation, manufacture, storage of fertilizer, feed meal, chemical products including fibre glass paints, pesticides, insecticides, soap and other chemical detergents;

“foundry” means any premises used for melting, welding, moulding, cutting, storing, collecting or keeping any metal, metallic objects, materials or substances including scraps or their by-products or the conversion or assembly of metals, metallic objects, materials or substances or scraps or by-products into other goods, products or materials of whatsoever nature;

[Sub. Cap. A131.]

“garage” includes any premises or any space or area—

(a) used for the repairing, painting, cleaning, washing, servicing, housing, storage, parking or sale of motor vehicles; or

(b) used for the repair and sale of parts and accessories of vehicles; or

(c) where a pump is maintained or installed from which petrol or oil is supplied to motor vehicles,

but excluding—

(i) a garage used in connection with a private dwelling house for storage of or parking of motor vehicles kept for private use only; or

(ii) an open space car park owned or used by a temple, church, mosque or any other religious institution, hospital, school, factory or private club for parking of motor vehicles belonging to the members, employees, visitors and customers of such religious institution, hospital, school, factory or club, as the case may be;

“glass works” means any premises used for the manufacture and cutting of glass or the manufacture of any objects or materials from glass;

[Ins. Cap. A131.]

“godown” means any building or land used for the storage of goods, and includes a warehouse or a storage yard in an unenclosed area;

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

“metal” includes any material, object or product derived or manufactured from iron, steel, copper, zinc, aluminum or a combination thereof;

[Ins. Cap. A131.]

“Minister” means the Minister charged with the responsibility for land;

“motor vehicle” includes a vehicle of every description which may be or is capable of being propelled or drawn by mechanical power, and includes a trailer and also any vehicle which is not in a serviceable condition;

“premises” includes the whole or any part of a building or house, hut, shed, enclosure roofed or otherwise whether used for human occupation or otherwise, lands, tenements, easements and hereditaments of any tenure, whether open or enclosed, whether public or private and whether maintained or not under statutory authority;

“prescribed trading activities” means those trading or business activities prescribed in the Schedule;

“printing press” means any establishment licensed under the Printing Presses and Publications Act 1984 [*Act 301*], for printing, copying and reproduction of documents by means of machine or other equipment, and includes any establishment involved in the production or printing of newspapers, periodicals, stationery, books of any form, or advertisements or posters of any nature;

“sawmill” shall have the same meaning as assigned to that expression in the Forests Ordinance [*Cap. 126 (1958 Ed.)*];

“smithy” means any premises used as a workshop by blacksmith or tinsmith;

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

“Superintendent” means a Superintendent of Lands and Surveys appointed under the Land Code [*Cap. 81 (1958 Ed.)*];

“timber” means both sawn and unsawn logs and all other forms of timber and wood deposited for purposes of trade or manufacture, and includes firewood and charcoal;

“timber yard” means any premises where timber is stored or deposited for purpose of trade, manufacture or otherwise including the storage of a builder’s timber work but excluding a contractor’s store on a building site where timber is prepared and fabricated for use in the erection of the building on that site.

Areas designated for carrying on prescribed trading activities

3.—(1) The State Planning Authority may by a notification in the *Gazette*—

(a) designate any area whereby any prescribed trading activity may be carried out; or

(b) stipulate any prescribed trading activity to be carried out in any area designated in such notification; or

(c) stipulate any prescribed trading activity that may be carried out outside a designated area only with a licence issued under this Ordinance.

(2) Any person who carries on a prescribed trading activity stipulated in the notification made under subsection (1) shall—

(a) move or relocate such activity to a designated area named or described in the notification; or

(b) cease or discontinue such prescribed trading activity at or on his present premises or location; or

(c) apply for a licence as required by the notification,

within such period as may be prescribed in the notification or as may be permitted by the Minister.

(3) Any person who—

(a) carries out or undertakes any prescribed trading activity in contravention of the provisions of a notification made under subsection (1) or (2); or

(b) uses any premises or land or causes such premises or land to be used for carrying out any prescribed activity in contravention of the provisions of this Ordinance,

shall be guilty of an offence and is punishable under section 15.

Application and renewal of licence

4.—(1) A person requiring a licence or the renewal of such licence shall make application in writing to the Superintendent and in such form as may be prescribed.

(2) Each application shall be accompanied by—

(a) a certified true copy of the title to the land on which the premises to be used for the trade, business applied for, is situated;

(b) if the applicant is not the owner of the land or premises, the consent from such owner for the premises to be used for the trade or business, applied for;

(c) a copy of the occupation permit or certificate of fitness for the premises; and

(d) such other information or documents as may be required by the Superintendent.

Licence and duplicate licence

5.—(1) A licence may be issued or renewed at the discretion of the Superintendent and upon payment of the fees prescribed in the Schedule.

(2) A licence shall be in the form as may be prescribed and shall be subject to such conditions as the Superintendent may impose, having regard to such guidelines as may be issued by the State Planning Authority.

(3) If the Superintendent is satisfied that a licence granted or transferred to any person under the provisions of this Ordinance—

(a) has been lost or destroyed, or is defaced; or

(b) requires amendment,

he may, upon payment of a fee as prescribed in the Schedule, issue to such person a duplicate of the licence or make the amendment, as the case may be.

(4) The Superintendent may require the holder of any licence issued under this Ordinance to furnish him with the appropriate security in such form as may be approved by him, equivalent to twice the amount of the licence fee prescribed in the Schedule, to ensure compliance of the conditions imposed by the Superintendent in the licence.

Period and expiration of licenses and renewals

6.—(1) Every licence shall expire on the day fixed or named in such licence, or if no day be fixed then on the day which, in the year following, corresponds to the day on which such licence was granted or renewed.

(2) Every licence may on or before its expiration be renewed for a further period not exceeding one year at a time:

Provided that where a licence is renewed one week after its expiry date, the holder thereof, if he seeks a renewal thereof shall, unless exempted by the Superintendent, pay a penalty equivalent to fifty percent of the licence fee prescribed in the Schedule, in addition to the prescribed licence fee.

Renewals

7. A licence may be renewed by the endorsement of the renewal thereof on the original licence, and each renewal shall be subject to the same fee as the fee as prescribed in the Schedule for a new licence.

Refusal to grant or renew a licence and revocation

8.—(1) The Superintendent may refuse to grant or renew a licence, or may revoke a licence, granted—

(a) to a person under the age of eighteen years or any person who may be considered unsuitable to hold such licence;

(b) in respect of any premises which are being conducted in contravention of the provisions of this Ordinance or any of the conditions of the licence;

(c) in respect of any premises which are unfit, unsuitable or unsafe for the prescribed trading activity for which the licence is required or held, or which have been destroyed or rendered unfit for such purpose;

(d) to any person who has ceased to carry on the prescribed trading activity on the premises; or

(e) in respect of any premises which is not or has not been kept in a condition that would prevent emission of—

(i) smells or effluvia which are offensive or which may cause nuisance, discomfort or annoyance to the public, or which are injurious or dangerous to health; or

(ii) excessive or offensive noise.

(2) The Superintendent shall, before revoking any licence under subsection (1), give the holder of the licence a notice in writing of his intention to do so and calling upon the person concerned to show cause to him why such licence should not be revoked.

(3) Any person aggrieved by the decision of the Superintendent made under subsection (1) may, within fourteen days after being notified of such decision, appeal in writing to the Minister whose decision shall be final and conclusive, and shall not be challenged, appealed against, reviewed, quashed or called in question in any court or before any other authority, judicial or otherwise, whatsoever.

Power to require structural alterations to premises

9. The Superintendent may, prior to the grant of a licence, require such structural or other alterations to the premises—

(a) for the prevention of nuisance, discomfort or annoyance, to the neighbourhood;

(b) to ensure compliance with fire protection, health or environmental regulations;

(c) to ensure adequate parking and other facilities are available; and

(d) generally, to ensure the safety, convenience and well being of the public.

Superintendent has no authority to grant licence in contravention of conditions of land title

10.—(1) Nothing in this Ordinance shall be deemed to have authorized the Superintendent to grant a licence to any person to use a premises for a trade or business the carrying out of which on such premises will constitute a breach of the special condition of title for the land on which the premises is situated.

(2) Where the premises is situated on land in respect of which no condition is imposed on the document of title thereof, the Superintendent shall, before the issuance of any licence and with the concurrence of the Director, seek the approval of the State Planning Authority.

Additional licence conditions

11. No licence shall be issued—

(a) for the operation of any premises which manufactures or stores fertilizers, pesticides or insecticides, next to any food shop;

(b) for the operation of a garage or a foundry or smithy in a building for residential purpose;

(c) for the operation of a garage or timber yard in any shophouse built on land not permitted for industrial use; and

(d) for the operation of a foundry, smithy or garage in area adjoining a school, hospital, mosque, temple, church or any other place of religious worship,

without the express permission of the State Planning Authority.

Transfer

12.—(1) The holder of a licence shall not transfer or assign his licence without the prior written approval of the Superintendent.

(2) The Superintendent may, on sufficient cause being shown to his satisfaction and subject to such conditions as he may think fit to impose, permit—

(a) the transfer of a licence to another person; or

(b) the transfer of premises in respect of which it is granted to a different premises,

and such transfer shall be endorsed on the licence.

(3) No part of the licensed premises shall be assigned or sub-let.

Licence to be exhibited at all times

13. The licence shall be exhibited at all times in some prominent and accessible place on the licensed premises and it shall be produced on demand for inspection to the Superintendent or any person duly authorized by him to demand such inspection.

Licensed premises not to be changed or used for other trades

14.—(1) The holder of any licence shall not use the licensed premises for any other trades or businesses, other than that stipulated in the licence.

(2) When a licence has been granted to any person to carry on any prescribed trading activity at any premises, such person shall not carry on such activity at any other premises without the appropriate licence for such other premises.

Offences and penalties

15. Any person who—

(a) contravenes the provisions of sections 3, 12(1), 13 and 14;

(b) fails to comply with any condition in a licence issued under this Ordinance;

(c) in furnishing any particulars which he is required by this Ordinance to furnish, furnishes any information which he knows or has reason to believe to be false in any material particulars or by reason of the omission of any material particulars or furnishes any information without any belief in the truth or accuracy of the information supplied,

shall be guilty of an offence: Penalty—

(i) in the case of an offence under paragraph (a), a fine of five thousand ringgit or imprisonment for one year or both such fine and imprisonment;

(ii) in the case of an offence under paragraph (b) or (c), a fine of three thousand ringgit or imprisonment for six months or both such fine and imprisonment; and

(iii) in the case of a continuing offence, a further fine of one hundred ringgit for every day during which such offence is continued after conviction.

[Am. Cap. A131.]

Powers of entry and investigation

16. The Superintendent, any police officer or any other officer authorized in writing in that behalf by the Superintendent may without warrant enter any premises upon which any prescribed trading activity is being carried out with a view to ascertaining whether the provisions of this Ordinance or the conditions of any licence granted under this Ordinance are being complied with, and may make such investigation and inspection of the premises and call any person to produce such articles, books, accounts or other documents or things and to furnish any information as the Superintendent or such officer may consider necessary for the purpose:

Provided that any person not in uniform purporting to exercise any powers under this section shall on demand produce his written authority to the owner or occupier of premises demanding the same.

Powers of search

17. The Superintendent, any police officer or any other officer authorized to exercise the powers of entry or investigation under section 16 may, without warrant and with or without assistance, enter any premises if he considers it to be necessary if he has reason to believe that an offence under this Ordinance has been committed and may search any place and any person whom he reasonably believes to be concerned in the operation or management of any prescribed trading activity or to be an employee, servant or agent of the owner or occupier of the premises:

Provided that no woman shall be searched under this section except by a woman.

Powers of seizure

18.—(1) The Superintendent, any police officer or any other officer authorized to exercise the powers of entry or investigation under section 16 may seize, remove and detain any goods, tool, equipment, document, material or any other thing which is or employed in the conduct of the prescribed trading activity in respect of which he reasonably believes to be or has been used in the commission of an offence or to contain evidence relating to such an offence under this Ordinance.

(2) No claim or action shall lie against the Superintendent or any officer authorized in writing by him in that behalf in respect of the seizure, removal or detention of any such goods, tool, equipment, document, material or other thing under subsection (1).

(3) Any goods, tool, equipment, document, material or other thing seized, removed or detained under subsection (1) may be sold by the Superintendent by public auction or otherwise dispose of as the court may order, and the proceeds thereof shall, after being applied to cover the costs of such seizure, removal or detention and sale, be returned to the rightful owner.

Prohibition order

19.—(1) Notwithstanding the provisions of section 15, if the Superintendent is satisfied that any premises is used for any prescribed trading activity in contravention of section 3 or 14, the Superintendent, with the concurrence of the Director, may issue an order against the owner or occupier of the premises prohibiting him from using the premises for such prescribed trading activity.

(2) Any person who fails to comply with a prohibition order shall be guilty of an offence: Penalty, a fine of five thousand ringgit or imprisonment for one year or both such fine and imprisonment and, in the case of a continuing offence, a further fine of five hundred ringgit for every day during which the offence is continued after the prohibition order issued under subsection (1) requiring him to cease the prescribed trading activity specified therein has been served upon him.

(3) Upon the issue of a prohibition order, the Superintendent or any officer authorized in writing by him in that behalf may forthwith take such steps as he may consider necessary to close or seal off the premises.

Liability of director, etc.

20. Where an offence under this Ordinance has been committed by a body of persons, corporate or unincorporate, any person who at the time of the commission of such offence was a director, manager, secretary or other similar officer of the body of persons or who was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised such diligence to prevent the commission of the offence as

he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Obstruction

21. Any person who obstructs the Superintendent, any police officer or any other authorized officer lawfully exercising any powers conferred on him by or under this Ordinance shall be guilty of an offence: Penalty, a fine of five thousand ringgit or imprisonment for one year or both such fine and imprisonment.

Conduct of Prosecution

22. Prosecution of an offence under this Ordinance or its rules may be conducted by the Public Prosecutor or any person authorized by him under section 377(b) of the Criminal Procedure Code [*Act 593*]

[Sub. Cap A131.]

Delegation of powers

24. The State Planning Authority may delegate all or any of the powers conferred upon the Superintendent by this Ordinance to any public officer or any local authority subject to such conditions or restrictions as may be imposed:

Provided that no such delegation shall in any way preclude the right of the Superintendent to exercise such powers.

Service of notice

25. Every notice or order required or authorized by this Ordinance to be served on any person may be served—

(a) by delivering the same to such person or by delivering the same to the last known place of residence of such person to an adult member or servant of his family;

(b) by leaving the same at the usual or last known place of residence or business of such person in a cover addressed to such person; or

(c) by forwarding the same by post in a prepaid letter addressed to such person at this usual or last known place of residence or business.

Savings

26.—(1) The provisions of this Ordinance shall be in addition to and not in derogation of the provisions of any other written law relating to land use or conditions of titles relating to land, and shall be also in addition to any other written law governing the licensing of any of the prescribed trading activities

[Am. Cap. A131.]

(2) In the event of any conflict with the provisions of this Ordinance and that of any other written law pertaining to the use of land or buildings for or the licensing of the prescribed trading activities, the provisions of this Ordinance shall prevail.

[Am. Cap. A131.]

Amendment of Schedule

27. The Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette*, amend the Schedule.

Rules

28. The State Planning Authority may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, make rules generally for the carrying out of the provisions of this Ordinance and such rules may—

(a) prescribe the form for application of licence under section 4;

(b) prescribe the form of licence to be issued under section 5;

(c) prescribe the procedures for compounding of offences; and

(d) classify prescribed trading activities into various categories, and provide application of this Ordinance to any or all of the categories of prescribed activities; and

[Am. Cap. A131.]

(e) provide generally for the purposes of giving effect to the provisions of this Ordinance.

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SCHEDULE

(Sections 5, 6(2), 7 and 27)

PRESCRIBED TRADING ACTIVITIES

The following trade or business activities shall not be carried on in any premises within a designated area except under and in accordance with a licence issued by the Superintendent under this Ordinance:

First Column	Second Column
<i>Types of Prescribed Trading Activities</i>	<i>Licence Fees Per Year</i>
(1) Carpenter Shop	RM 600
(2) Foundry:	
(a) floor area not exceeding 1000 square metres	300
(b) floor area exceeding 1000 square metres	1,000
(3) Smithy	300
(4) Garage/Workshop:	
(a) floor area not exceeding 1000 square metres	300
(b) floor area exceeding 1000 square metres	1,000
(5) Timber Yard:	
(a) floor area not exceeding 1000 square metres	300
(b) floor area exceeding 1000 square metres	1,000
(6) Sawmill	1,000
(7) Printing Press	600
(8) Fertilizer and Chemical Manufacturing Premises	1,000
(9) Rubber or Scrap Rubber Processing Factory	1,000
(10) Tyre Processing Factory	1,000

First Column	Second Column
<i>Types of Prescribed Trading Activities</i>	<i>Licence Fees Per Year</i>
(11) Godown	RM 750
(12) Brick/Pottery Factory	1,000
(13) Making of Advertisements, Sign Boards and Signcrafts	600
(14) Any other Trade or Business which can be a source of nuisance or annoyance to the public or a class of the public	1,000

2. The fee for the renewal of a licence shall be subject to the same fee as the fee prescribed above for a new licence. (Sections 4, 5(1) and 7).

3. The fee for a duplicate, amendment or transfer of a licence shall be half the fee as prescribed above for a new licence. (Sections 5(3) and 12(2)).

4. The penalty for late renewal of a licence shall be 50% of the fee prescribed above for a new licence plus the renewal fee. (Section 6(2)).

[List of Amendments]

LAND USE (CONTROL OF
PRESCRIBED TRADING ACTIVITIES)

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LAWS OF SARAWAK

Chapter 23

**LAND USE (CONTROL OF PRESCRIBED
TRADING ACTIVITIES) ORDINANCE, 1997**

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
Swk. L.N. 16/2005	Date of Commencement of the Ordinance	15.3.2005
Cap. A131	Land Use (Control of Prescribed Trading Activities) (Amendment) Ordinance, 2007	1.6.2007