



# **LAWS OF SARAWAK**

ONLINE VERSION OF UPDATED TEXT OF REPRINT

## **Chapter 9**

### **STATE ROADS ORDINANCE, 1994**

*Incorporating all amendments up to 31st July, 2008*

PREPARED AND PUBLISHED BY  
THE COMMISSIONER OF LAW REVISION, SARAWAK  
UNDER THE AUTHORITY OF THE REVISION OF LAWS ORDINANCE, 1992  
**2008**

**STATE ROADS ORDINANCE, 1994**

Date Passed by Dewan Undangan Negeri	... ..	26th May, 1994
Date of Assent	... ..	3rd June, 1994
Date of Publication in <i>Gazette</i>	...	30th June, 1994

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# LAWS OF SARAWAK

## Chapter 9

### STATE ROADS ORDINANCE, 1994

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## LAWS OF SARAWAK

### Chapter 9

#### STATE ROADS ORDINANCE, 1994

*An Ordinance to provide for the construction, improvement and maintenance of State roads and bridges and for the imposition and collection of tolls and levies for the use of or damage caused to State roads and bridges and for purposes connected therewith and incidental thereto.*

[1st November, 1994]

\*(Swk. L.N. 53/94)

Enacted by the Legislature of Sarawak—

#### Short title and commencement

1. This Ordinance may be cited as the State Roads Ordinance, 1994, and shall come into force on such date as the Minister may, by notification in the \**Gazette*, appoint.

#### Interpretation

2.—(1) In this Ordinance—

“appropriate authority”—

(a) in relation to any road, other than a Federal road, situated within the area of any local authority, means a local authority declared for the purpose of Part III of the Road Transport Act 1987 [*Act 333; P. U. (B) 289/92*] to be an appropriate authority pursuant to section 67 of the said Act; and

(b) in relation to any road, other than a Federal road, situated in the State but not in any area described in paragraph (a), means the Director of Public Works for and on behalf of the Government of the State;

“bridge” means a bridge or viaduct which is part of a State road and includes a causeway, overhead bridge for pedestrian

crossing, any underpass or passage connecting a State road, the abutments and any other part of a bridge;

“Director” means the Director of Public Works;

“Government” means the State Government of Sarawak;

“local authority” means—

(a) any local authority constituted under the Local Authorities Ordinance, 1996 [*Cap. 20*];

(b) the Bintulu Development Authority established under the Bintulu Development Authority Ordinance, 1978 [*Ord. No. 1/1978*];

(c) the Council of the City of Kuching South constituted under the Local Authorities Ordinance, 1996 [*Cap. 20*];

(d) the Commission of the City of Kuching North established under the City of Kuching North Ordinance, 1988 [*Cap. 49*];

“Minister” means the Minister charged with the responsibility for infrastructure development in Sarawak;

“State road” means any public road within the State other than a road declared to be a Federal road under and by virtue of the Federal Roads Act 1959 [*Act 376*], and includes any lay-bys, interchanges, roundabouts, traffic islands, road dividers, side tables, median strips, overpasses, underpasses, approaches, ramps, toll plazas, sedric areas and other structures and fixtures on such road, and also includes any road used for logging or transportation of timber built on State land which the Minister shall, by notification in the *Gazette*, declare to be a State road.

(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 by a member thereof acting under the general authority of the Majlis.

### **Application of Road Transport Act 1987**

3. Unless the contrary intention applies from this Ordinance, Part III of the Road Transport Act 1987 [*Act 333*], shall apply to any State road or bridge specified in any Order made under section 6 (2) or any road used for logging or transportation of timber built on State land which is declared a State road, as if such road or bridge were a road within the meaning of that Part of the Road Transport Act 1987 [*Act 333*].

### **Power of appropriate authority to collect levies**

4.—(1) The appropriate authority, with the approval of the Minister, may, by notice published in the *Gazette*, declare that, as from such day as may be specified in the notice, the owners of vehicles of a specified class, description or weight, shall be required to pay such levies as may be specified in the notice, for the use and maintenance of any specified State road or bridge by vehicles of that class, description or weight.

(2) The appropriate authority may, after consultation with the Minister, require any owner of any vehicle to deposit an appropriate security for the payment of the levies referred to in subsection (1).

(3) All moneys collected pursuant to subsection (1) shall be accounted for and paid into the State Road Maintenance Fund established under the Financial Procedure (Contingencies and Trust Funds) Ordinance, 1963 [*Cap. 37*].

(4) Any owner of any vehicle using a State road or bridge specified in the notice under subsection (1) without payment of the levies stipulated in that notice or who fails to deposit an appropriate security as required under subsection (2) shall be guilty of an offence: Penalty, a fine of twenty thousand ringgit and imprisonment for one year.

### **Prohibition to erect fire hydrant, poles, etc., on State road**

5.—(1) No person shall lay, place, construct, erect, or maintain any fire hydrant, water or gas mains, sewerage disposal pipes or other appurtenances used for the disposal of sewerage effluent or sludge, electricity and telephone lines, poles, pylons or other structures on any State road, without the prior approval of the appropriate authority.

(1A) An appropriate authority shall not grant any approval under subsection (1) without complying with any direction in respect of such matters issued by the State Planning Authority pursuant to section 229(1)(f) of the Land Code [*Cap. 81 (1958 Ed.)*].

[*Ins. Cap. A119.*]

(2) Any damage caused to any State road by any person carrying out any of the works stipulated in subsection (1) shall be made good by him and if he fails to do so, the appropriate authority shall be entitled to remedy such damage and all costs and expenses thereby incurred by the appropriate authority may be recovered from the person causing such damage, as a civil debt.

(3) Any person who—

(a) constructs and maintains a fire hydrant on any State road; or

(b) builds, lays or places any water or gas mains, sewerage pipes, electricity or telephone transmission lines or facilities under any State road,

shall upon request—

(i) furnish the appropriate authority, a plan and specification showing the precise location; or

(ii) designate by such signs or markings as may be approved by the appropriate authority indicating the precise level or direction,

of any act done or work executed on any State road in respect of such hydrant mains, sewer, transmission lines or facilities within fourteen (14) days from the date of receipt of such request.

(4) The appropriate authority may, for the purposes of repairing, upgrading or improving any State road or bridge, require any person at his own costs and expense to relocate, shift or remove any fire hydrant, water or gas mains, sewerage pipes, electricity or telephone transmission lines or facilities which he has installed, built, laid or placed on, beside or under that State road or bridge.



(5) Any person who—

(a) lays, places, constructs or erects any fire hydrant, water or gas mains, sewerage disposal pipes, electricity or telephone lines, poles, pylons or structure on any State road without the approval of the appropriate authority;

(b) fails to comply with the request of the appropriate authority made under subsection (3) or (4); or

(c) furnishes to the appropriate authority a plan under subsection (3) containing any information which he knows or has reason to believe is false or inaccurate,

shall be guilty of an offence: Penalty—

(i) in the case of a first offence, a fine of fifteen thousand ringgit;

(ii) in the case of a second or subsequent offence, a fine of two hundred thousand ringgit.

#### **Power to authorize concessionaire to collect toll**

6.—(1) The Director, with the approval of the Minister, may enter into an agreement (hereinafter referred to as “the concession agreement”) with any person (hereinafter referred to as the “concessionaire”) for carrying out by that person, whether as agent for the Government or otherwise, such undertaking, activities or obligations as may be specified in the agreement with respect to the design, construction, reconstruction, upgrading, repair, improvement or maintenance of any State road or bridge and in return for which the concessionaire shall be entitled to charge, collect and retain such toll in respect of the use of that State road or bridge as may be fixed and approved under subsection (2).

(2) For the purposes of subsection (1), the Director, with the approval of the Minister, may, by Order published in the *Gazette*, specify—

(a) the road or bridge in respect of which tolls may be demanded, collected and retained by the concessionaire;

(b) the speed limit for vehicles using the road or bridge;

- (c) the permitted gross weight of vehicles using the road or bridge;
- (d) the tax or levies payable for the use of the road or bridge;
- (e) the person or persons authorized to demand, collect and retain tolls;
- (f) the duration of the period during which the concessionaire may collect, demand and retain such toll;
- (g) the class or description of vehicles in respect of which tolls may be demanded, collected and retained;
- (h) the place where tolls are to be collected;
- (i) the amount of tolls for each class or description of vehicles; and
- (j) the persons or class of vehicles to be exempted from payment of tolls.

(3) Any Order made under this section may be altered, amended, revoked or suspended for such period of time as the Director with the approval of the Minister may deem fit.

**Concessionaires to maintain and repair State road, and keep accounts of tolls collected**

7. Any concessionaire who is authorized to demand, collect and retain tolls under an Order made pursuant to section 6 shall—

- (a) be responsible for maintaining the State road and bridge specified in the Order, in good repair and condition to the satisfaction of the Director and shall effect all necessary repairs and improvements to the State road or bridge as directed by the Director;
- (b) be entitled to erect any toll plaza, booth or other facilities approved by the Director, for the collection of tolls and to set up any barrier on such State road or bridge to enforce payment from any person of tolls that may be due from him; and

(c) maintain proper books of accounts and records in respect of the tolls collected and to produce such books and records for inspection and examination by the Director or any person authorized by him in writing.

**The appropriate authority or the Government not liable to damage or loss arising from neglect or default of concessionaire**

8. The appropriate authority or any person authorized by the appropriate authority or the Government shall not be liable to any person in respect of any injury, damage or loss of any description whatsoever arising from any neglect, default or breach or failure of duty by the concessionaire or any of his agents, servants or workmen during the period of the concession agreement.

**Power of authorized officer**

9.—(1) An officer authorized by the appropriate authority may at any State road or bridge—

(a) for the purpose of regulating traffic;

(b) for the purpose of collecting the appropriate toll or levies for the vehicle;

(c) for the purpose of preventing or detecting the commission of an offence against this Ordinance or any regulations made hereunder or the Road Transport Act 1987 [*Act 333*];

(d) if he reasonably suspects that the driver of a vehicle—

(i) has committed an offence against this Ordinance or the Road Transport Act 1987 [*Act 333*]; or

(ii) has been involved in an accident on the State road or at the bridge,

exercise any of the powers specified in subsection (2).

(2) For the purposes of subsection (1), an officer authorized by the appropriate authority may—

(a) order, direct or signal the driver of a vehicle—

(i) to stop the vehicle forthwith; or

(ii) to proceed to any place so ordered, directed or signalled and to stop thereat;

(b) require any person to give his name and address and to produce any document in his possession which is or contains evidence of his name and address;

(c) require the driver of a vehicle—

(i) to produce his driving licence for examination;

(ii) to give the name and address of the registered owner of the vehicle; or

(iii) to stop and pay to the toll collector on duty at the booth or toll plaza the appropriate toll for the vehicle;

(d) control and regulate the use of the road or bridge and in particular prohibiting either absolutely or during specified hours—

(i) the driving of any specified type or class of vehicle; and

(ii) the manner in which a motor vehicle of any type or class may be used;

(e) enter, examine and search a vehicle and any thing therein or thereon;

(f) detain, if necessary by the use of reasonable force, a driver or a vehicle, or both, until they can be delivered into the custody of a police officer.

(3) Any person who fails to comply with an order, direction or signal given under subsection (2)(a), or any requirement made under subsection (2) (b), (c) or (d), shall be guilty of an offence: Penalty, a fine of five thousand ringgit and imprisonment for one year.

### **Who may prosecute**

**10.** Proceedings for any offence under this Ordinance or any regulations made hereunder shall be conducted by any person duly authorized by the appropriate authority.

**Regulations**

**11.** The Yang di-Pertua Negeri may make regulations pertaining to—

- (a) the use and maintenance of State roads and bridges;
- (b) the payment of compensation by any person for any wilful damage caused by him to any State road or bridge;
- (c) the keeping and updating of records on any mains, transmission lines, cables or other facilities constructed upon, below or beside any State road or bridge;
- (d) the closure of any State road or bridge which has become hazardous for use by vehicles of any description;
- (e) the trimming, removal or felling of any trees, vegetation or any objects overhanging or protruding onto any State road or bridge;
- (f) the erection or setting up of any structures or fixtures temporary or permanent on any State road or bridge;
- (g) prescribing offences and their penalties for any person who fails to comply with the provisions of an Order made under section 6(2) for payment of tolls in regard to the use of a State road or bridge;
- (h) providing for the offences under this Ordinance or regulations made hereunder which may be compounded by the appropriate authority, the persons who may compound, the limit of the sum of money to be collected by the appropriate authority for compounding such offences and the procedure and forms to be complied with in compounding;

(i) the exemption of vehicles or any class thereof from the operation of this Ordinance or any regulations made hereunder and the tolls payable for the use of any State road or bridge; and

(j) generally carrying into effect the provisions of this Ordinance relating to the use and maintenance of any State road or bridge.

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**Chapter 9**

**STATE ROADS ORDINANCE, 1994**

LIST OF AMENDMENTS

Amending Law		Short Title	In force from
Cap. 20	...	Local Authorities Ordinance, 1996	1.1.1998. (Swk. L.G. /76)
Cap. 49	...	City of Kuching North Ordinance, 1988	15.7.20.02.
Cap. A119	...	Land Code (Amendment) Ordinance, 2005	1.7.2005.

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