



# **LAWS OF SARAWAK**

—  
ONLINE VERSION  
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**Chapter 74**

**SARAWAK RESEARCH AND DEVELOPMENT  
COUNCIL ORDINANCE, 2017**

SARAWAK RESEARCH AND DEVELOPMENT  
COUNCIL ORDINANCE, 2017

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SARAWAK RESEARCH AND DEVELOPMENT  
COUNCIL ORDINANCE, 2017

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**LAWS OF SARAWAK**

**Chapter 74**

**SARAWAK RESEARCH AND DEVELOPMENT COUNCIL  
ORDINANCE, 2017**

*An Ordinance to establish the Sarawak Research and Development Council for the initiation, promotion, co-ordination and advancement of research and development in Sarawak.*

[ 2<sup>nd</sup> January, 2018 ]  
(Swk. L.N. 15/2018)

Enacted by the Legislature of Sarawak—

**PART I  
PRELIMINARY**

**Short title and commencement**

1.—(1) This Ordinance may be cited as the Sarawak Research and Development Council Ordinance, 2017, and shall come into force on such date as the Chief Minister shall by notification in the *Gazette*, appoint.

(2) The Chief Minister may appoint different dates for the coming into force of different parts or provisions of this Ordinance.

**Interpretation**

2.—(1) In this Ordinance, unless the context otherwise requires—

“Advisory Panel” means the panel of advisors formed and constituted by the Council under section 8(1);

“Council” means the Council established under section 3;

“commercial application” in relation to any finding or discovery or knowledge resulting from any research and development, means the application, utilization or exploitation

of such finding, discovery or knowledge or technology or innovation in the manufacture, production, sale, distribution of any product or service in the course of trade, business or enterprise or profession, and includes any business or commercial activity that is necessary for or related to the promotion, development or enhancement of any such trade, business, enterprise or profession;

“company” means a company incorporated and registered under the Companies Act 2016 [*Act 777*];

“fund” refers to the Sarawak Research and Development Fund established under section 9;

“General Manager” means the General Manager of the Council appointed under section 5 and includes any person appointed by the Council to temporarily discharge the functions and duties of the General Manager;

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

“member” means a member of the Council and includes the Chairman;

“research and development” means research directed towards the innovation, introduction, and improvement of products and processes including research and development in science, technology and social sciences;

“repository” means a system for storing, retrieving and managing research and development documents including relating to intellectual properties and other relevant information;

“scientific research” means any systematic, investigative or experimental activity or study, including for the purpose of increasing or acquiring new knowledge into crops, plants, trees, biological substances, marine life, soils and the biodiversity of Sarawak;

“statutory body” means a body corporate established under the laws of Sarawak;

“technology research” means any systematic, investigative or experimental activity or study involving the application of technical knowledge or innovative skills, to

develop, create or establish new or improved systems, processes, products, ideas, devices, and designs for commercial application, for the improvement of transportation and the development and promotion of the usage of green or clean energy and to safeguard or enhance the quality of the environment.

## PART II

### COUNCIL FOR RESEARCH AND DEVELOPMENT

#### **Establishment of Council for research and development**

3.—(1) There shall be established a body corporate to be known as the Sarawak Research and Development Council with perpetual succession and a common seal and shall, by that name, be capable of—

(a) suing and being sued;

(b) acquiring, holding, owning property, both moveable and immoveable, and the development thereof; and

(c) carrying out such acts and having such obligations and incurring such liabilities as bodies corporate may lawfully do and suffer.

(2) All deeds and other documents requiring the common seal of the Council to be affixed at the execution thereof, shall be affixed in the presence of—

(a) the General Manager; and

(b) a member of the Council duly authorized by a resolution passed by the Council,

and such affixation shall be sufficient evidence that the common seal affixed is that of the Council and that it has been duly and properly affixed and the deed or document has been lawfully executed.

(3) All documents and instruments which are not required by any written law to be executed under seal, may be executed on behalf of the Council by the Chairman (or any other member authorized in writing by the Council) and the General Manager.

(4) The Council shall for all purposes of the Land Code [*Cap. 81 (1958 Ed.)*] be deemed a native.

### **Composition of the Council**

4.—(1) The Council shall consist of the following members—

(a) a Chairman who shall be the Chief Minister or such other person as may be appointed by the Chief Minister to be the Chairman; and

(b) not less than six and not more than twelve other members.

(2) The members referred to in subsection (1)(b) shall be appointed by the Majlis Mesyuarat Kerajaan Negeri for a term not exceeding three years and shall be eligible for re-appointment.

(3) The Majlis Mesyuarat Kerajaan Negeri may at any time, without assigning any reasons, revoke or terminate the appointment of any member of the Council appointed under subsection (2).

(4) Any member of the Council appointed under subsection (2) may resign by notice in writing addressed to the Chief Minister.

(5) The Schedule shall apply to the Council, its members and proceedings.

### **General Manager**

5.—(1) The Council shall appoint a General Manager who shall be responsible for the administration of its affairs, the control and supervision of the staff and the implementation and execution of decisions and directions of the Council.

(2) The General Manager shall also be the Secretary to the Council who shall:

(a) keep and have custody of proper records of all proceedings of the Council and any committee established under section 7(m), and have possession of the common seal.

(b) keep and have custody of proper records of all proceedings and deliberations of the Advisory Panel and forward or submit all its reports, advice and recommendations to the Council.



### **Functions and duties of Council**

6. The functions and duties of the Council are—

(a) to support, direct, stimulate and facilitate research and development in Sarawak;

(b) to co-ordinate, direct, monitor and assist research and development undertaken by Government departments, statutory bodies, companies or corporations owned or controlled by the Government, and to facilitate co-operation, communication, exchange of knowledge, ideas and information between them.

(c) to promote, develop and sustain an environment conducive or capable of—

(i) developing, nurturing and retaining talents and intellectual capital, with scientific and technological knowledge, innovative skills and capabilities, required to support the State's advancement and for the promotion of the State's economic growth and progress;

(ii) facilitating the commercial application of findings, discoveries and innovations resulting from research and development carried out in the State; and

(iii) enhancing the research standards and capabilities of educational institutions in Sarawak and to attract scientific and technological talents thereto;

(d) to establish, build, develop, manage and maintain facilities including repositories and institutions for undertaking research and development in the State as may be determined by the Council from time to time;

(e) to provide financial assistance from moneys in the fund for research and development at any Government department, statutory body, company or corporation belonging to the Government and any educational institution in the State or in any facility or institution approved by the Council;

(f) to promote education in scientific and technology research and to provide financial assistance, in the form of loans, grants or advances to those pursuing scientific and technology research, or for the development or provision of

incubation facilities for new enterprises towards the commercialization of any research discoveries, findings or innovations;

(g) to create, develop, apply for and hold intellectual property rights arising out of research and development under this Ordinance, including those intellectual property rights transferred to and vested in the Council under section 39(4)(c) of the Sarawak Multimedia Authority Ordinance, 2017 [*Cap. 73*], and to enter into arrangements with any person, organization or institution for the commercial application of such intellectual property rights on such terms as to royalties, commissions, fees, profit sharing schemes, or other tangible benefits or rewards as the Council may deem fit or to be commercially advantageous;

(h) to enhance or advance knowledge, skills and capability to use and apply new and innovative technologies in the conduct of personal affairs and businesses;

(i) to implement any programme, policy and plan of the Government, not inconsistent with the provisions of this Ordinance, designed or intended to facilitate or advance research and development in Sarawak; and

(j) to carry out such other undertakings, activities or businesses as the Majlis Mesyuarat Kerajaan Negeri may direct in writing.

### **Powers of Council**

7. The Council shall have the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions or the discharge of its duties and, in particular—

(a) to enter into collaborative arrangement (including the provision of financial support) with any industry, educational institution or research institution to promote, facilitate and advance research and development or the commercial application of any finding, discovery and intellectual property resulting from such research and development;

(b) to provide direction and financial support for any research and development carried out by any Government department, statutory body or company or corporation belonging to the Government;

(c) to form or participate in the formation of any company or enter into any joint venture or partnership for the purpose of this Ordinance;

(d) to carry out feasibility studies with a view to establish strategic direction for any specific research or for the commercial application of any discovery, finding and innovation;

(e) to grant licence, on such terms and conditions as the Council deems fit, for the use or commercial application of any intellectual property rights belonging to the Council;

(f) to provide or develop incubator facilities for new enterprises and business support facilities or assistance to growing enterprises, which are based on or involved in the commercial application by any person approved by the Council of any discovery, finding or innovation arising from research and development undertaken in accordance with this Ordinance;

(g) to publish, produce or sponsor the publication of journals, books or other materials in written form, electronic or other media on research and development undertaken pursuant to this Ordinance and to promote or undertake publicity in regard to such research and development;

(h) to receive, accept, acquire, develop or hold or sell, charge, pledge or otherwise dispose of any property, moveable or immovable;

(i) to accept or receive donations and gifts from any source and to raise funds by borrowing or any other lawful means to enable the Council to perform its functions and discharge its duties;

(j) to apply for and seek loans, grants, funds and other financial assistance from the Government of Malaysia and other corporations, institutions or bodies, whether within or outside Sarawak, for the purposes of this Ordinance;

(k) to invest all moneys not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Council in any bank or financial institution licensed under the Financial Services Act 2013 [Act 758] or Islamic Financial Services Act 2013 [Act 759] or in such other investments or securities as may from time to time be approved by the Council;

(l) to acquire or obtain technologies from any source outside Sarawak to support or facilitate or essential for advancing any specific scientific and technology research and development undertaken by or on behalf of the Council in Sarawak and to arrange for the transfer of such technologies;

(m) to employ or appoint such officers, employees, agents, consultants, experts or advisors or establish committees consisting of persons who may or may not be members of the Council as the Council deems necessary for the efficient performance of its functions and discharge of its duties;

(n) with the approval of Majlis Mesyuarat Kerajaan Negeri—

(i) to establish any scheme for payment of gratuities, pensions, contributions to provident fund or other superannuation benefits to such employees or classes of employees of the Council upon their retirement from the service of the Council or death while in the service of the Council; and

(ii) to pay members of the Council, members of the Advisory Panel and any consultant, expert, advisor or committee engaged, appointed or established by the Council such fees, allowances and other benefits.

#### **Advisory Panel**

**8.—(1)** The Council shall form a panel of not less than four and not more than eight advisors from amongst persons having such expertise, knowledge and qualification as the Council may determine.

(2) The members of the Advisory Panel shall be appointed on such terms and for such period as may be determined by the Council:

Provided that such appointment may be revoked at any time by the Council without assigning any reason.

(3) The functions and duties of the Advisory Panel are—

(a) to advise and provide guidance or recommendation to the Council on any research and development undertaken under this Ordinance;

(b) to review and evaluate any reports, research papers and findings submitted for publication by the Council; and

(c) to provide advice to the Council on:

(i) the submission for registration of any intellectual property rights relating to findings, discoveries and innovations resulting from research and development undertaken under this Ordinance;

(ii) steps to be taken to protect such intellectual property rights, and the commercial application thereof;

(iii) the arrangements that the Council ought to enter into for the commercial application of any discovery, finding and innovation under this Ordinance;

(iv) acquiring or transferring any technology from sources outside Sarawak and the terms and conditions recommended for such acquisition and transfer;

(v) the facilities and institutions to be established by the Council and the intellectual capital or talents needed to achieve the objectives of this Ordinance or to implement any programme, policy or plan of the Government in respect thereof; and

(vi) on any matter or subject referred to the Advisory Panel by the Council from time to time.

PART III  
FINANCIAL ARRANGEMENTS

**Sarawak Research and Development Fund**

9.—(1) There shall be established a fund to be known as the Sarawak Research and Development Fund which shall be held, managed and administered by the Council.

(2) The fund shall be used and applied by the Council—

(a) for the performance of its functions and discharge of its duties;

(b) to enable the Council to exercise the powers conferred by this Ordinance;

(c) to defray all expenses and costs incidental to the administration, management and investment of moneys in the fund;

(d) for investment in such manner as may be determined by the Council;

(e) generally, to carry out and attain the objectives of this Ordinance; and

(f) for such other purposes as the Majlis Mesyuarat Kerajaan Negeri may direct in writing.

(3) There shall be paid into the fund—

(a) all moneys from time to time appropriated from the State Consolidated Fund;

(b) all moneys authorized to be paid into the fund by this Ordinance or any other written law;

(c) any grants or loans or financial assistance from the Government of Malaysia;

(d) donations or monetary contributions from whatever source accepted or received by the Council;

(e) any prize monies or monetary awards given or accorded for any research or innovation or product of or belonging to the Council;

(f) royalties, fees, commissions and other payments received from the licensing or sale of any intellectual property rights arising from discoveries, findings and innovations resulting from research and development pursuant to this Ordinance;

(g) income from investments made in accordance with this Ordinance;

(h) where financial assistance in the form of loans or advances have been granted by the Council, all sums received by way of repayment thereof and interest (if any) derived or accrued therefrom; and

(i) any other form of income or revenue which the Council may be entitled to from time to time including income from the sale or disposal of any property, moveable or immoveable.

(4) No withdrawal from or expenditure shall be charged to the fund unless authorized by this Ordinance or by a resolution passed by the Council.

#### **Financial and accounting procedure**

**10.** The Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995 [*Cap.15*], shall apply to the Council.

#### **Account and audit**

**11.—(1)** The Council shall keep or cause to be kept proper accounts and other records in respect of all its transactions, affairs and activities including the payment into or withdrawal of monies from the fund and maintain adequate control and record of all the property, both moveable and immoveable, of the Council.

(2) The accounts of the Council shall be audited by the Auditor-General or such auditor appointed by the Council in consultation with the Auditor-General.

(3) At the end of each financial year and so soon as the accounts of the Council has been audited under subsection (2), the Council shall cause a copy of the audited accounts together with any observations or opinion of the Auditor-General or the auditor appointed under subsection (2) to be submitted to the Majlis

Mesyuarat Kerajaan Negeri who may approve and thereafter cause the same to be laid before the Dewan Undangan Negeri.

(4) The financial year of the Council shall commence on the 1<sup>st</sup> of January and end on the 31<sup>st</sup> of December of each year unless the Majlis Mesyuarat Kerajaan Negeri shall by direction alter the period of the financial year of the Council.

### **Estimates**

12.—(1) Before the beginning of September of each year, the Council shall submit to the Chief Minister an estimate of the expenses for the following financial year in such form and with such particulars as the Chief Minister may require, and the Chief Minister shall so soon thereafter submit such estimates to the Majlis Mesyuarat Kerajaan Negeri for approval.

(2) The Council may at any time after consultation with the State Financial Authority, submit a supplementary estimate for any financial year to the Chief Minister who shall thereafter forward the same to the Majlis Mesyuarat Kerajaan Negeri for its consideration and approval.

## **PART IV**

### **STAFFS OF THE COUNCIL**

#### **Officers and employees**

13.—(1) The Council may create or establish such number of posts, either permanent or temporary, as the Majlis Mesyuarat Kerajaan Negeri may approve, necessary to enable the Council to perform its functions, discharge its duties and exercise its powers under this Ordinance and for the efficient management and administration of its affairs and activities.

(2) The Council may appoint or engage, on such terms and conditions to be determined by the Council, persons with requisite qualification and experience to the posts referred to in subsection (1).



**Conduct and disciplinary control of employees**

14. The Statutory Bodies (Conduct and Discipline) Ordinance, 2004 [*Cap. 57*], shall apply to the General Manager and all persons appointed under section 13(2).

**Personal immunity**

15. No member, officer or employee of the Council or any person acting under or carrying out the direction or executing or implementing the decision of the Council shall be personally liable for any act or default of the Council done in good faith and without negligence in the ordinary course of the performance of their functions, duties or in the exercise of any power conferred by this Ordinance.

**Public servants**

16. All members, officers and employees of the Council and persons appointed to serve on the Advisory Panel while performing their functions or discharging their duties under this Ordinance shall be deemed to be “public servants” within the meaning of the Penal Code [*Act 574*].

**Obligation of secrecy**

17.—(1) No member, officer or employee of the Council or any person undertaking research and development approved by the Council shall disclose or disseminate any information obtained by him in the course of the performance of his functions or duties or undertaking research work unless written consent for such disclosure or dissemination has been obtained from the Council or that such information has already been published in pursuance of this Ordinance.

(2) Any person contravening the provision of subsection (1) shall be guilty of an offence and shall, upon conviction, be punished with a fine not exceeding fifty thousand ringgit or imprisonment for a term not exceeding one year or to both.

**Public Authority Protection Act, 1948**

18. The Public Authorities Protection Act 1948 [*Act 198*], shall apply to any action, suit, prosecution or proceeding against the Council or any of its member, officer or employee in respect of

any act, neglect or default done or committed by him in such official capacity.

PART V  
GENERAL PROVISIONS

**Legal representation**

**19.**—(1) In respect of any civil proceedings by or against the Council—

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

(b) an advocate appointed by the Council in consultation with the State Attorney-General;

may appear and represent the Council in such proceedings before any court.

(2) For the purpose of this section, “civil proceedings” include—

(a) any proceedings commenced under the Rules Of Court, 2012 [*P.U (A) 205*];

(b) any proceedings before a tribunal established under any written law;

(c) any arbitration commenced under the Arbitration Act 2005 [*Act 646*];

(d) any mediation which precedes or during any court or arbitral proceedings; and

(e) any disciplinary proceedings against any officer or employee of the Council.

**General penalty**

**20.** Any person who by an act or omission contravenes any provision of this Ordinance or regulations made hereunder, shall be guilty of an offence and shall, upon conviction, if no penalty is expressly provided for such offence, be punished with a fine not exceeding five hundred thousand ringgit or imprisonment for a term not exceeding one year or to both.

### **Offences committed by corporations**

**21.—(1)** Where a person charged with an offence under this Ordinance or any regulations made hereunder is a body corporate, every person who at the time of the commission of such offence is an officer of that body corporate may be charged jointly in the same proceedings with the body corporate, and where the body corporate is convicted of the offence charged, every such officer shall be deemed to be guilty of that offence and shall upon conviction be punished with the same punishment provided for such offence, unless he proves that the offence was committed without his knowledge or he had taken all reasonable measures or steps to prevent its commission.

(2) For the purpose of this section, the expression “officer” has the same meaning as assigned to it in the Companies Act 2016 [Act 777].

### **Prosecution**

**22.** Prosecution in respect of offences committed under this Ordinance or its subsidiary legislation shall be conducted by the Public Prosecutor or any person authorized by him under section 377(b) of the Criminal Procedure Code [Act 593].

### **Vesting of properties**

**23.** Without prejudice to section 39(4)(c) of the Sarawak Multimedia Authority Ordinance, 2017 [Cap. 73], the Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette*, vest in the Council any properties as may be considered necessary to enable the Council to carry out its functions, duties and powers under this Ordinance.

### **Power to amend Schedule**

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

### **Regulations**

**25.—(1)** The Chief Minister may, with the approval of Majlis Mesyuarat Kerajaan Negeri, make such regulations as it may deem expedient or necessary to carry out the purposes and provisions of

this Ordinance and for the performance or discharge of its functions and duties and the exercise of its powers.

(2) Without prejudice to the generality of subsection (1) such regulations may provide for—

(a) the form and contents or fundamental terms to be incorporated into any licence that the Council may grant for the use of any intellectual property rights owned or belonging to the Council;

(b) the provision and development of incubation facilities and the terms for the granting of loan, advances and financial assistance in relation thereto;

(c) the collaborative arrangements or joint ventures or profit sharing schemes that the Council may enter into with educational institutions and research organizations;

(d) the terms and conditions for the use or leasing of any research facilities or equipment owned or belonging to the Council;

(e) the acquisition and transfer of technology from outside Sarawak for any specific research and development; and

(f) the prescription of offences and its punishment for any contravention of any regulations made hereunder.

*SCHEDULE*

Proceedings of the Council

(Section 4(5))

**Meetings**

1.—(1) The quorum of any meeting of the Research and Development Council (“the Council”) shall be five including the Chairman.

(2) If for any question to be determined by the Council there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

(3) Subject to subparagraphs (1) and (2) and paragraph 2, the Council shall regulate its own procedures.

**Frequency of meeting**

2.—(1) Except with the written approval of the Chief Minister, the Council shall hold at least two meetings in every calendar year.

(2) Meetings of the Council shall be called by the Chairman and notice of such meetings shall be issued and signed by the Secretary or any person specifically authorized by the Secretary.

**Council may invite others to meetings**

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

**Minutes**

4.—(1) The Council shall cause minutes of all its meetings to be maintained and kept in a proper form.

(2) Any minutes of meetings of the Council shall, if duly signed by the Chairman or by the member presiding in his absence, as the case may be, be admissible in evidence in all legal proceedings without further proof and every meeting of the Council 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 thereat to have been duly qualified to act.

(3) Members are entitled to copies of such minutes but shall not, without the permission of the Chairman, transmit, distribute or permit access thereto, to any person who is not a member of the Council.

**Principal office**

5.—(1) The Council shall have a principal office and no change in the principal office may be effected without the prior written approval of the Chief Minister.

(2) The minutes of the Council, its common seal and all its statutory and accounting records shall be kept at the principal office.

**Validity of acts and proceedings**

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

- (a) any vacancy in the membership of, or any defect in the establishment of, the Council;
- (b) the contravention by any member of the Council of the provisions of paragraph 8; or
- (c) any omission, defect or irregularity not affecting the merits of the matter.

**Fees and privileges of members of the Council**

7. There shall be paid to members of the Council such remuneration, allowances and benefits as the Majlis Mesyuarat Kerajaan Negeri may determine from time to time.

**Disclosure of interests**

8. A member of the Council whether directly or indirectly, by himself or his spouse or children, having any interest in any company or undertaking with which the Council proposes to make any contract or whether directly or indirectly having any interest in any such contract or in any matter under discussion by the Council shall disclose to the Council the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the meeting of the Council and, unless specifically authorized thereto by the Chairman, such member shall take no part in any deliberation or decision of the Council relating to the contract or matter.