

STATE OF SABAH

I assent,



TUN DATUK SERI PANGLIMA HAJI SAKARAN BIN DANDAI,
Yang di-Pertua Negeri.

30TH SEPTEMBER, 1998.

No. 6 of 1998

An Enactment to provide for the sustainable management of the water resources of the State of Sabah, so as to promote the orderly, equitable and efficient use of water and to maximise its economic, social and environmental benefits for the future, and for other matters connected therewith and incidental thereto.

ENACTED by the Legislature of the State of Sabah as follows:

PART I

PRELIMINARY

Short title
and
commence-
ment.

1. This Enactment may be cited as the Sabah Water Resources Enactment 1998 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpreta-
tion.

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

“authorised person” means a person designated in writing by the Director to be an authorised person;

“aquatic environment” means those physical and biological features, including land, water, the atmosphere, animals and plants, which are within, under, over, in contact with, or sustained by the water in water bodies;

“aquatic vegetation” means vegetation which lives on or in water for all or most of its life cycle, and includes mangroves;

“aquifer” means a geological structure of formation or an artificial landfill permeated or capable of being permeated permanently or intermittently with water;

“bank” in relation to a water body, means any bank, whether naturally or artificially formed;

“bed” in relation to a water body, means the land under the water body bounded by the banks closest to the water body and in relation to a water body subject to tidal influence, means the land under the water body extending to the highwater mark of ordinary spring tides;

“catchment management plan” means a plan prepared under section 34;

“clearing of vegetation” means—

(a) cutting, felling, poisoning, or otherwise destroying; or

(b) topping, lopping, partially removing or otherwise damaging trees, saplings, shrubs, and aquatic or marine vegetation;

“coastal water” means the coastal waters of the State of Sabah and such part of the sea adjacent to the coast of the State

as is deemed by law to constitute the territorial waters of the State;

“construct” includes to install, alter, extend, raise, enlarge, sink, or deepen a structure or work;

“Council” means the Water Resources Council established in section 4;

“declared channel” means a channel, canal, drain, or artificial watercourse, which has been declared to be a declared channel in section 66 of this Enactment;

“Director” means the Director of Water Resources constituted under section 12(1);

“drainage work” means a work (such as a drain, pipe or cutting) which discharges water directly or indirectly into a water body and includes a collection pit, tank, reservoir, storage or other structure to which such works are connected;

“environment” has the same meaning as assigned to it in the Environmental Quality Act 1974;

Act 127.

“flood control work” includes an earthwork, embankment, levee, flood mitigation dam, channel or retarding basin;

“floodplain” means the area of a river valley which is covered with water when the river overflows during floods;

“groundwater” means water occurring under the surface of the ground in any geological formation including alluvial layers, or in land which has been reclaimed or artificially filled;

“material” includes sand, soil, gravel, stones, vegetation whether alive or dead, roots and other matter;

“member” means a member of the Council including the Chairman;

“Minister” means the Minister responsible for water resources;

“occupier” means any person in actual occupation of land, and in the case of Native Reserves under the Land Ordinance includes the head of the community;

Cap. 68.

"owner" means the person in whose name the title to any land is registered and includes any person, other than the Government, who receives or is entitled to receive the rent or profits of any land on that person's own account or on behalf of that person and others or as an agent;

"private water right" means a right to take and use water conferred under section 16;

"public authority" includes—

- (a) the Government of Malaysia;
- (b) the Government of a State;
- (c) any local authority and any other statutory authority; or
- (d) any society, union, organisation or body as the Minister may prescribe from time to time by order published in the *Gazette*;

"return water" means to drain or discharge water to a water body, whether directly or indirectly, by means of constructed or artificial works, including a ditch, drain, whether rural or urban, channel, canal, pipe, culvert or penstock;

"river" means a continually or intermittently flowing body of water, and includes a stream or modified watercourse but does not include any artificial watercourse unless it is a declared channel;

"river reserve or shore reserve" means a reserve established in section 40;

"shore" in relation to water body means the natural or artificially formed shore of the water body or, where there is no shore, means the boundary between the typical aquatic vegetation and the typical non-aquatic vegetation;

"statutory authority" means an authority, whether consisting of a single person or a body of person, established by Federal or State law and exercising powers, discharging duties or performing functions conferred upon the authority by any Federal or State law;

"storage work" means a work which impounds or stores water, whether intentionally or unintentionally, in a water body and includes a dam, weir and embankment;

"subsistence agriculture" means agricultural activity capable of sustaining no more than a family group, including commercial transactions necessary for subsistence, but does not include commercial agricultural enterprise;

"sustainable management" in relation to water resources means managing the use, development and protection of water resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health, while safeguarding the life-supporting capacity of water and those elements of the environment sustained by water bodies both in the present and the future;

"taking water" means to remove, divert or extract water from a water body, whether the water is on or under the surface of the ground, by whatever means, including any structure or measure for impounding or storing water, or any pump, canal, channel, penstock, drain, pipe, culvert, bore, well or other structure;

"vegetation" means all species of plants and trees, whether terrestrial or aquatic, and any other vegetable product of the soil or water;

"water" means water flowing over the ground in significant quantities, water in a water body and water returned by artificial means to a water body, including drainage water, stormwater, wastewater, effluent and sewage generated by urban, industrial and agricultural activities;

"water activity" means any of the activities specified in subsection (1) of section 17;

"water body" means—

- (a) a river, estuary, lake, lagoon, swamp, marsh or other wetland;
- (b) an aquifer;
- (c) coastal waters; and

(d) a declared channel;

"water body alteration activity" means an activity which involves or is likely to have the effect of—

(a) excavating material from the bed, bank or shore of a water body, or from a river or shore reserve;

(b) obstructing, diverting or detrimentally affecting the flow or movement of water in a water body;

(c) changing the course of a water body;

(d) reducing the capacity of a water body to contain water by filling or other means; or

(e) reclaiming land within a water body,

and includes the construction and use of any work or measure for such purposes:

For the purpose of paragraph (b) of this definition, an activity or work may (without affecting the generality of the paragraph) consist of the construction of jetties, groynes, breakwaters, embankments, walkways, boat ramps, boat moorings, fish and oyster racks, fish cages, aquaculture ponds, artificial reefs and navigation markers on, in or above a water body;

"well" means an excavation, bore, spear-point, collection system or other work that is connected to a source of groundwater, whether the water flows naturally at all times or is raised at any time by pumping or other artificial means.

(2) The Director may declare that any water body, vegetation, material, declared channel, or work taking and using water including storing water, for returning water or for flood, control, whether of a specified class or type, or in a particular location, or has or does not have a specified effect is excluded from the respective definitions.

