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**PART II****ADMINISTRATION**

**3.** (1) Any decision made, or action taken, under this Enactment shall be consistent with achieving the sustainable management of the water resources of Sabah. Decisions and actions.

(2) A person making a decision or taking an action under this Enactment shall consider, where relevant, the effects of the decision or action upon—

- (a) the quantity, flow and quality of water in water bodies;
- (b) the exercise of private rights to water;
- (c) authorised water activities;
- (d) the requirements of any plan made under Part VI of this Enactment;
- (e) State and regional economic development;
- (f) the stability, continuation and well-being of communities affected; and
- (g) the aquatic environment.

**4.** (1) There shall be established a Water Resources Council, whose functions shall be to— Establishment of Water Resources Council.

- (a) advise the Minister on the management and use of water resources;
  - (b) report to the Minister on the condition of water resources;
  - (c) make recommendations on the improvement of the quantity and quality of water for the benefits of human use, the aquatic flora and fauna and the aquatic environment, including wetlands and floodplains;
  - (d) determine those water activity licence applications which have State or regional significance or are of particular significance in a local area;
  - (e) adopt and review plans for the orderly and effective development of water resources;
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- (f) set priorities for, ensure the development of, recommend for approval and review catchment management plans developed under Part VI and other plans for the improvement of the management of water resources;
- (g) develop and issue, with the approval of the Minister, State policies and guidelines for the management and protection of water resources; and
- (h) require public authorities to—
  - (i) take action to implement the recommendations of an approved catchment management plan including taking enforcement action where relevant; and
  - (ii) act to minimize or prevent harm to water resources.

Council  
membership.

5. (1) The Council shall consist of the following members—
- (a) a Chairman;
  - (b) the Permanent Secretary of the Ministry of Culture, Environment and Tourism or his authorised representative;
  - (c) the Secretary for Natural Resources or his authorised representative who shall be the secretary of the Council;
  - (d) the Director of the Department of Lands and Surveys or his authorised representative;
  - (e) the Director of the Forestry Department or his authorised representative;
  - (f) the Director of the Department of Agriculture or his authorised representative;
  - (g) the Director of Water Resources or his authorised representative;
  - (h) the Director of the State Economic Planning Unit or his authorised representative;
  - (i) the Director of the Department of Town and Regional Planning or his authorised representative;
  - (j) the Director of the Department of Irrigation and Drainage or his authorised representative;
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- (k) the Director of the Fisheries Department or his authorised representative;
- (l) the Director of the Water Department or his authorised representative;
- (m) the Director of the Department of Ports and Harbours or his authorised representative;
- (n) the Director of the Federal Department of Environment (Sabah Region) or his authorised representative;
- (o) the Director of the Department of Geological Surveys or his authorised representative; and
- (p) two other members with appropriate technical or academic expertise in matters related to water resources.

(2) The members of the Council under paragraphs (a) and (p) of subsection (1) shall be appointed by the Yang di-Pertua Negeri.

(3) Subject to such conditions as may be specified in his instrument of appointment, a member of the Council appointed by the Yang di-Pertua Negeri shall, unless he sooner resigns or his appointment is revoked, hold office for a term not exceeding three years and shall on ceasing to be a member, be eligible for reappointment.

6. (1) A member appointed by the Yang di-Pertua Negeri may resign his office at any time by letter addressed to the Yang di-Pertua Negeri.

Resignation  
and  
revocation.

(2) The Yang di-Pertua Negeri may revoke the appointment of a member appointed by him at any time without assigning any reason therefor.

7. The following persons are disqualified from being appointed or, if appointed, remaining as members of the Council—

Disqualifica-  
tion from  
membership.

- (a) a person who is of unsound mind or is otherwise incapable of performing his duties or managing his affairs;
- (b) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude; and
- (c) a bankrupt.

Vacation of office.

**8.** The office of a member of the Council appointed by the Yang di-Pertua Negeri shall become vacant—

- (a) if he dies;
- (b) in the case of the Chairman, if he absents himself from three consecutive meetings of the Council without leave of the Minister;
- (c) in the case of a member, if he absents himself from three consecutive meetings of the Council without leave of the Chairman;
- (d) if he becomes disqualified for membership under section 7;
- (e) if his resignation is accepted by the Yang di-Pertua Negeri; or
- (f) if his appointment is revoked by the Yang di-Pertua Negeri.

Casual vacancies and temporary membership.

**9.** (1) If the office of a member appointed by the Yang di-Pertua Negeri becomes vacant, the Yang di-Pertua Negeri may appoint another suitably qualified person to fill such vacancy for so long only as the member in whose place he is appointed would have held office.

(2) Where a member appointed by the Yang di-Pertua Negeri is prevented by illness, absence from the State of other like cause from performing his duties as a member, the Yang di-Pertua Negeri may appoint any suitably qualified person to act as deputy for such member during such period as he is so prevented from performing his duties.

Remuneration or allowance.

**10.** There may be paid to the members of the Council such remuneration or allowances as the Minister may determine.

Council procedure.

**11.** (1) The Council shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Chairman may determine, provided that the Chairman shall not allow more than four months to elapse between such meetings.

(2) Nine members of the Council shall form a quorum at any meeting of the Council.

(3) The Council shall determine any matter by a majority of the votes of members present at a meeting, except that if there is an equality of votes, the Chairman or, if the Chairman is absent, the presiding member shall have a casting vote in addition to a deliberative vote.

(4) Subject to this Enactment, the Council shall determine its own procedure.

(5) The Council shall cause minutes of all meetings of the Council to be maintained and kept in a proper form and copies thereof submitted to the Minister.

(6) The Chairman of the Council shall preside at all meetings of the Council, except that, if the Chairman is unable to preside, owing to absence or inability to act, the members present shall elect one of their number to preside at that meeting and no business may be transacted at any meeting until a member has been elected to preside over that meeting.

(7) The Council may establish committees to assist it in the carrying out of its functions and the procedure of such committees shall be determined by the Council.

**12.** (1) For the purpose of this Enactment, there shall be a Director of Water Resources who shall be appointed by the Minister from amongst members of the State public service.

Director of  
Water  
Resources and  
other officers.

(2) The functions of the Director shall be to—

- (a) manage the State's water resources;
- (b) take action to protect the quantity and quality of water resources and the aquatic environment;
- (c) identify opportunities for water use and promote and facilitate the beneficial use of water;
- (d) decide on licence applications for water activities other than those determined by the Council under paragraph (d) of subsection (1) of section 4;
- (e) plan for the orderly development and use of water resources and take measures to resolve conflict between water uses;

- (f) protect river and shore reserves;
- (g) develop, implement and monitor catchment management plans and other plans for water management, including floodplain management plans, surface water management plans and groundwater management plans;
- (h) collect and maintain data on water resources and report to the Council and the Minister on the condition of water resources;
- (i) manage water protection areas to maintain the quality and quantity of water and the aquatic environment;
- (j) promote the value of water resources through education and information programs;
- (k) develop guidelines, objectives and policies to assist public authorities to manage water resources within their control; and
- (l) co-ordinate administrative action for water resources management.

(3) There shall be such number of other officers as may be necessary and expedient for the due administration of this Enactment who shall be appointed by the Minister from amongst members of the State public service.

(4) The Minister may give the Director directions of a general character not inconsistent with this Enactment as to the exercise of the powers, duties and functions of the Director under this Enactment and the Director shall give effect to any directions so given.

Delegation  
by Director.

**13.** (1) The Director may, by notification in the *Gazette*, delegate any of the powers vested in him under this Enactment, except for this power of delegation, to—

(a) an officer of a public authority; or

(b) in respect of powers relating to a water protection area declared for the protection of the water supply for a village or local community, to a committee established by the Director,

but no such delegation shall prevent the exercise by the Director of any power so delegated.

(2) A delegation made under subsection (1) may refer to the exercise of a function or a class of functions, either throughout the State or in a specified geographical area, and shall specify the conditions under which the delegation may be exercised.

(3) A delegation made by the Director may include a requirement to report to

the Council or the Director on the performance of the function.

**14.** (1) Every Government department, statutory body and local authority shall, in regard to matters relevant to water resources—

Co-operation  
with Council  
and Director.

- (a) have regard to the provisions of section 3 of this Enactment;
- (b) generally co-operate with and assist the Council and Director in carrying out their functions;
- (c) provide any information on water resources to the Council or Director as is required for them to undertake their functions;
- (d) investigate and report on matters which are identified by the Council as relevant to the sustainable management of water resources;
- (e) contribute as necessary to the development of catchment management plans; and
- (f) follow policies and guidelines issued by the Council.

(2) Without limiting the generality of subsection (1) of this section, all public authorities shall co-operate with and assist the Director in formulating and implementing plans made under this Enactment and in this regard—

- (a) develop or modify any proposals for future development, policies, plans and strategies to ensure their consistency with plans made under this Enactment;
- (b) take into account such plans when undertaking their functions; and
- (c) take such other action within their administration as may be necessary to implement the plans.

### **PART III**

#### **THE RIGHT TO WATER**

**15.** (1) The Government has the right to the use and flow and to the control of the water—

- (a) in water bodies;

Control of the  
use and flow  
of water

