

licence is taken to be held by, and for the benefit of, each successive occupier for the time being of the land specified in the licence as the land on which the authorised water activity is authorised to be carried out.

(4) Each successive occupier shall notify the Director of the change of occupation in the form approved by the Director within thirty days of the change of occupation.

(5) Any person who contravenes or fails to comply with subsection (4) shall be guilty of an offence.

(6) The Director shall keep a register of water licences issued under this Part.

Appeal to  
Council.

**24.** (1) An appeal shall lie to the Council from any decision of the Director under section 20.

(2) No appeal shall be accepted —

(a) until all prescribed fees have been paid; or

(b) later than thirty days after the date of the Director's notification to the applicant of the decision under section 20 which is appealed against.

(3) An appeal shall be lodged on the prescribed form and shall contain particulars of the part of the decision appealed against and the reasons for the appeal.

(4) The Council may appoint a committee from among its members to hear and determine an appeal.

(5) The procedures for the hearing of appeals shall be prescribed by the Minister.

## PART V

### PROCEDURAL

Imposition  
of conditions  
after grant of  
licence.

**25.** (1) Where there has been a change of circumstances or other sufficient cause, the Director may serve on the holder of a licence a written notice to the effect that the Director proposes to alter the licence or a condition of the licence, or impose a specified condition on the licence, for the reasons set out in the notice

(2) The holder of a licence may, within the period of time specified in notice, make objections to the Director in writing or in person, or to the nominee of the Director specified in the notice.

(3) After considering any objections made, the Director may by a further written notice served on the holder of a licence —

(a) proceed with the action referred to in subsection (1);  
as  
originally proposed or varied in accordance with  
the  
objections; or

(b) not proceed with the action.

Alteration of  
licence at  
holder's  
request.

**26.** (1) The holder of a licence may request the Director to alter the licence, amend its conditions or impose a specified conditions.

(2) The Director may, subject to the requirements of this Enactment, at this discretion agree to the request and serve a notice on the holder of the licence setting out the alteration, amendment or condition imposed.

Suspension  
and  
cancellation  
of licence.

**27.** (1) Where any condition of a licence has been contravened or not complied with, the Director may serve on the holder of the licence a written notice that the licence is suspended or cancelled.

(2) The Director may serve on the holder of a licence a written notice to the effect that the Director proposes to suspend or cancel the licence for the reasons set out in the notice, where —

(a) any work or measure authorised by a licence has been used or undertaken in a manner that, in the opinion of the Director, has been harmful to water resources or a water body or has caused water to be wasted;

(b) any fee or charge payable in relation to the licence, or any instalment of any such fee or charge, has not been paid;

(c) the holder of a licence has been convicted of an offence against this Enactment; or

(d) in the opinion of the Director there is other sufficient cause.

(3) The holder of the licence may, within the period of time specified in the notice make objections to the Director in writing or

in person, or to the nominee of the Director specified in the notice.

(4) After considering any objections made, the Director may by a further written notice served on the holder of a licence —

- (a) proceed with the action referred to in subsection (1), as originally proposed or varied in accordance with the objections; or
- (b) not proceed with the action.

Directions on exercise of private water right.

**28.** (1) The Director may, by direction in writing, require a person entitled to exercise a private right to take and use water to —

- (a) fit a work with a device for measuring the water taken;
- (b) limit the capacity of a work to impound, extract or divert water;
- (c) operate a work in accordance with times and procedures specified by the Director; or
- (d) take such other action as the Director may consider necessary to prevent water being used improperly, or to prevent pollution or harm to the aquatic environment.

(2) Any person who contravenes or fails to comply with a direction given under subsection (1) shall be guilty of an offence and shall be liable on conviction, to a fine not exceeding thirty thousand ringgit or to imprisonment not exceeding three years or to both and, in the case of a continuing offence, to a further fine of three hundred ringgit for every day during which the offence continues.

Protected waters order.

**29.** (1) A protected waters order is an order made by the Director for the purpose of preserving or maintaining the flow, volume or quality of water in a water body.

(2) The Director may make a protected waters order if satisfied that, in respect of the water in a water body in a particular locality —

- (a) all lawful requirements for taking and using water and the requirements of the aquatic environment cannot for the time being be met by the quantity of water actually in or likely to be available in or from the water body; or
- (b) there is, in respect of water resources —

- 
- 
- (i) a significant and immediate threat to the quality of water;
  - (ii) a serious threat to health, caused by or contributed to by activities which are subject to the Enactment;
  - (iii) a significant threat to the aquatic environment; or
  - (iv) other sufficient reason to impose measures for the immediate protection of the water.
- (3) An order issued under subsection (1) shall identify —
- (a) the persons to which it applies, whether holders of licences, persons entitled to exercise a private water right or other persons;
  - (b) the water bodies to which it applies;
  - (c) the purpose of the order;
  - (d) the actions or measures to be taken; and
  - (e) the activities which must be suspended or be modified.
- (4) Following consultation with other Government authorities directly affected by the order and with the public, the order shall be published in the *Gazette* and otherwise made known to the public in such manner as the Director considers appropriate, unless the Director is satisfied that publication may be dispensed with on the grounds of urgency.
- (5) The Director shall immediately notify the Council of the terms of any order made under subsection (1).
- (6) An order made under paragraph (a) of subsection (2) of this section may continue as long as the requirements for water cannot be met from the available water.
- (7) An order made under paragraph (b) of subsection (2) of this section may continue while the situation referred to in that paragraph continues, or for thirty days, whichever is the sooner, and then expires.
- (8) An order made under this section may be renewed with the approval of the Council, with or without modifications.

(9) Any person who contravenes or fails to comply with an order given under subsection (1) shall be guilty of an offence and shall be liable on conviction, to a fine not exceeding fifty thousand ringgit or to imprisonment not exceeding five years or to both and, in the case of a continuing offence, to a further fine of five hundred ringgit for every day during which the offence continues.

Direction to carry out works.

**30.** (1) This section applies to a person —

- (a) engaging in a water activity, including the construction, installation and use of any work or measure to facilitate or undertake the activity —
  - (i) who has not obtained a licence as required by this Enactment;
  - (ii) whose licence has been suspended; or
  - (iii) who has breached a condition of a licence;
- (b) who is entitled to exercise a private water right in respect of which there has been a breach of a direction made by the Director under this section;
- (c) who has acted contrary to the requirements of a protected waters order referred to in section 29; or
- (d) who has otherwise failed to comply with a requirement of this Part.

(2) The Director may, by order in writing served on any person referred to in subsection (1), direct to person, in relation to a work or measure constructed or used for undertaking a water activity to —

- (a) remove the whole or any specified part of the work;
- (b) render the work ineffective;
- (c) permit the flow of water through or past the work;
- (d) prevent the use of the work;
- (e) cease carrying out an activity or implementing a measure;
- (f) carry out remedial or regeneration work; or
- (g) carry out any combination of actions referred to in

paragraphs (a) to (f).

(3) Any person who contravenes or fails to comply with an order under this section within the time specified in the order shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand ringgit or to imprisonment not exceeding five years or to both and, in the case of a continuing offence, to a further fine of five hundred ringgit for every day during which the offence continues.

**31.** (1) Where a direction made under this Part has not been complied with, the Director or a person authorised by the Director may, for the purpose of effecting the order —

Carrying out of works by the Director.

- (a) enter the site of a work, and to the extent necessary to gain access to the work, enter adjoining land;
- (b) carry out the actions or works specified in the order; and
- (c) take any other action in relation to a facility or measure that the Director or authorised person considers to be necessary or expedient.

(2) Costs and expenses incurred by the Director as a result of action taken under this section are recoverable as a debt owed to the Director by the person on whom the order was served and shall be a charge on that person's land.

**32.** (1) This section applies to land forming the bed and banks of a water body and to river and shore reserves.

Impounding orders.

(2) If the Director is satisfied that a person has removed material from land to which this section applies or has, in contravention of this Enactment, deposited material on such land, the Director may issue an impounding order by written notice to the person concerned in respect of either or both of the following —

- (a) the whole or a specified part of the material removed or deposited; and
- (b) any specified plant or equipment used in the removal or depositing.

(3) The order takes effect immediately or from a later time specified in the order and is subject to such conditions as the

Director may specify in the order.

(4) Any person issued with an order shall not cause, permit, suffer or allow any material, plant or equipment that is the subject of the order to be used, moved, sold, disposed of or otherwise dealt with, except as permitted by the order.

(5) Any person who contravenes or fails to comply with an order given under subsection (2) shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand ringgit or to imprisonment not exceeding three years or to both, in the case of a continuing offence, to a further fine of three hundred ringgit for every day during which the offence continues.

(6) The Director may vary or revoke an impounding order or the conditions of an impounding order by written notice given to the person concerned.

(7) An impounding order remains in force until either —

(a) the order is revoked by the Director; or

(b) a period of 12 months elapses after the order is first issued without proceedings having been commenced within that period for an offence under section 12 in respect of the removal or deposition of the material concerned.

(8) If a person issued with an impounding order is convicted of an offence under this section, the court before which the person is convicted may, on the application of the Director, make an order that either or both of the following be forfeited to the State —

(a) any material with which the proceedings are concerned, and which is the subject of the impounding order; and

(b) any plant or equipment used in the removal or deposition of that material, and which is the subject of the impounding order.

(9) Any material, plant or equipment ordered to be forfeited to the State under this section may be disposed of by the Director and any proceeds of disposal shall be applied towards the costs incurred by the Director in carrying out remedial work in respect of the land from which the material concerned was removed.

