

33. (1) This section applies where the Director has directed a person to install a measuring or recording device in connection with a work authorised under this Enactment for taking and using water.

Measuring devices.

(2) A person shall be guilty of an offence if that person wilfully or negligently —

- (a) damages a device to which this section applies;
- (b) prevents such a device from recording properly; or
- (c) without the written approval of the Director, otherwise interferes with such a device.

PART VI

CATCHMENT PLANNING AND PROTECTION

34. (1) The Council shall ensure the development of catchment management plans for the whole of the State.

Catchment management plans.

(2) The Director, in co-ordination with the relevant public authorities, shall prepare catchment management plans for the State according to the priorities, geographical areas and timetable determined by the Council.

(3) A catchment management plan shall be accompanied by —

- (a) a description of —
 - (i) the water resources of the catchment; and
 - (ii) the condition of the catchment and its contribution to the quantity and quality of water resources and the aquatic environment;
- (b) an analysis of the sources and causes of the degradation of water resources, whether resulting from natural causes or human activity;
- (c) a summary of existing and proposed legislative and administrative controls and measures for protecting, using and developing land in the catchment; and
- (d) the strategies, actions and measures which are recommended for —

- (i) the orderly and planned development and use of the water resources;
- (ii) maintaining or improving the quantity and quality of water; and
- (iii) maintaining or improving the condition of the catchment and the aquatic environment.

(4) The recommendations in a catchment management plan may include but are not restricted to —

- (a) the declaration of —
 - (i) water protection areas referred to in section 36;
 - (ii) water conservation areas referred to in section 38;
 - (iii) floodplain management areas referred to in section 39; and
 - (iv) variaton or introduction of river reserves or shore reserves referred to in section 40;
- (b) the development of plans for the management of surface water and groundwater;
- (c) options for the future development of water resources;
- (d) programs of measures for catchment improvement; and
- (e) educational programs promoting the value of water and ways to improve the catchment.

(5) A declaration referred to in paragraph (a) of subsection (4) may be made where no catchment management plan exists, provided that the Council has agreed that the declaration should be made.

Procedure
for
development
of
catchment
management
plans.

35. (1) A draft catchment management plan shall be submitted by the Director to the Council for the Council's approval and, without limiting the generality of the Council's discretion, the Council may, before approving the plan —

- (a) require the Director to consult with any public authority, industry group or other party potentially affected by the proposed plan;

- (b) identify matters for further consideration by the Director; and
- (c) require the draft plan to be modified.

(2) The Yang di-Pertua Negeri may, on the recommendation of the Council, by order published in the *Gazette*, approve a catchment management plan.

(3) A public authority shall take action to implement those recommendations of a catchment management plan approved under subsection (2) which require action by that authority.

(4) The Council may establish catchment management committees to provide advice on and to assist in the development and implementation of catchment management plans, and the Council or the Director may require a catchment management committee to report on the condition of its catchment area and on progress in implementing the relevant catchment management plan.

(5) The Director shall report to the Council within two years of the date of approval of a catchment management plan, and five-yearly thereafter, on the implementation and effectiveness of a catchment management plan.

(6) Where the Council identifies a lack of progress in the implementation of a catchment management plan, it may require a public authority to take the action necessary to implement the plan.

36. (1) This section applies where, on the advice of the Council, the Yang di-Pertua Negeri is satisfied that an area of State land, which may include State land which is a forest reserve established under the Forest Enactment 1968 requires specific protection to ensure a source of water, or water resources in a particular water body or locality, is adequately protected from reduction in flow, or from pollution or degradation.

Water
protection
areas.

En. No. 2 of
1968.

(2) Where this section applies, the Yang di-Pertua Negeri may, by order published in the *Gazette*, declare an intention to establish an area of State land to be a water protection area and the notification shall specify the location of such land and the date for the intended declaration of the area as a water protection area.

(3) Within an area which has been the subject of notification

Under this section, unless the notification otherwise provides —

- Cap. 68. (a) no land shall thereafter be alienated under the provisions of the Land Ordinance; and
- (b) no person shall thereafter be authorised to erect a new structure, establish a new plantation or clear land.
- (4) Following a declaration under subsection (2), the District Officer or the Assistant Collector of Land Revenue of the District in which the land concerned is located shall —
- (a) advertise the intention to establish the water protection area;
- (b) inquire into representations and claims made in response to the notification and the appropriateness of maintaining any right or privilege in or over the land;
- (c) consider and report on the merits of such representations and claims; and
- Cap. 68. (d) take such other action as is required under the Land Ordinance for the reservation of any land for a public purpose.
- (5) The Yang di-Pertua Negeri shall, after considering the report of the District Officer or the Assistant Collector of Land Revenue made under subsection (4) of this section and after such other enquiry considered necessary, make an order —
- (a) conceding, modifying or disallowing the exercise of any right or privilege, wholly or in part and specifying the quantity and nature of such right or privilege;
- (b) declaring the land referred to in the order to be a water protection area; and
- (c) setting out the proposed method of management of the area.
- (6) Every right or privilege continued in an order made under subsection (5) shall be exercised subject to the control of the Director.
- (7) If the Yang di-Pertua Negeri considers it expedient to include

in any water protection area land leased, granted to or lawfully occupied by any person, he may cause such land to be acquired as for a public purpose under the provisions of the Land Acquisition Ordinance and may thereafter include such land within the limits of the water protection area.

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(8) Land within a water protection area is subject to the control of the Director, except that any land within a forest reserve which is included in a water protection area, shall be subject to the control of the Director of the Forestry Department.

(9) A water protection area shall be managed in accordance with the method of management set out in the order establishing the area and the provisions of this Enactment.

37. (1) Any person who —

- (a) enters a water protection area without the authorisation of the Director or person delegated the control of the area;
- (b) enters land in a forest reserve which is also a water protection area without the authorisation of the Director and the Director of the Forestry Department;
- (c) fails to comply with the terms of such an authorisation,

Control of activity in water protection areas.

shall be guilty of an offence.

(2) Where a person, authorised to take and use water, receives a benefit from the protection afforded by a water protection area in maintaining the quantity or quality of water, the Director may, in accordance with rules made by the Minister, impose a charge on that person for the cost of activities undertaken by the Director in controlling and managing the water protection area.

38. (1) This section applies where, on the recommendation of the Council, the Yang di-Pertua Negeri is satisfied that it is necessary to control, limit or modify activities within an area of land, to prevent the pollution or degradation of surface water or groundwater, or the loss of its availability, or to protect a water body or an aquifer for which a catchment management plan or other investigation has identified that protection is required.

Water Conservation areas.

(2) Where this section applies, the Yang di-Pertua Negeri may,

by order published in the *Gazette*, declare the area of land to be a water conservation area.

(3) The declaration of a water conservation area shall be accompanied by —

- (a) a statement of the purpose of the declaration of the area;
- (b) the modifications, conditions or specifications that apply to activities, measures or development;
- (c) the classes or types of activity, measures or development which —
 - (i) may not be undertaken within the area; or
 - (ii) may be undertaken but only in specified locations or at specified distances from water-bodies; and
- (d) any measures or works to be undertaken and the types or classes of activity or development to which such measures or work apply.

(4) The Director may, in writing and consistent with an order made under subsection (3), notify the owner or occupier of land within a water conservation area that specified types of activities or development are —

- (a) to be undertaken in a specified manner or in specified locations or at specified distances from water bodies ; or
- (b) prohibited.

(5) Without limiting the generality of subsection (4), the Director may direct the owner or occupier of land within a water conservation area to —

- (a) take measures or construct works to slow, reduce or prevent water from running off land into a water body;
- (b) plant specified types of vegetation;
- (c) relocate structures;
- (d) undertake an activity, including an agricultural activity, in a specified way; or
- (e) take other measures to prevent degradation of water

resources.

(6) The Director shall take into account the likely economic and social impacts on the owner or occupier of land to whom a direction is given under this section.

(7) Any person who contravenes or fails to comply with a notification of the Director under subsection (4) or a direction of the Director under subsection (5) 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.

39. (1) This section applies where, on the advice of the Council, the Yang di-Pertua Negeri is satisfied that it is necessary to control, limit or modify activities in an area of land where the identified flood characteristics warrant the planned development and location of structures, buildings and flood protection works to minimise damage and water degradation caused by flooding.

Floodplain
management
areas.

(2) Where this section applies, the Yang di-Pertua Negeri may, by order published in the *Gazette*, declare an area of land to be a floodplain management area.

(3) The declaration of a floodplain management area shall be accompanied by a plan which includes—

- (a) a description of a flood characteristics of the area and a summary of technical investigations of flooded behaviour;
- (b) an evaluation of the economic, social and environmental consequences of flooding; and
- (c) measures for minimising the impact of flooding, which may include —
 - (i) the relocation or physical alteration of existing structures and buildings;
 - (ii) guidelines for the future placement of structures to minimise the impeding of flood waters;
 - (iii) construction of works to divert or mitigate the impact of flooding; or

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(iv) development of or amendment of a scheme or plan made under the Town and Country Planning Ordinance.

(4) In a floodplain management area the Director may for the purpose of implementing any plan made under subsection (3), direct the owner or occupier of land in writing that —

(a) the alteration or removal of any building or structure is required; and

(b) specified types of activities or developments are —

(i) to be undertaken in a specified manner or in specified locations or at specified distances from water bodies; or

(ii) prohibited.

(5) The Director shall take into account the likely economic and social impacts on the owner or occupier of land to whom a direction is given under subsection (4).

(6) Any person who contravenes or fails to comply with a direction of the Director made under subsection (4) 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.

River and
shore
reserves.

40. (1) From the date of the commencement of this Enactment, river reserves and shore reserves are established on land which is —

(a) in the case of river reserves, within twenty metres of the top of the bank of every river, including its estuary, where the river channel is not less than three metres in width; and

(b) in the case of shore reserves, within twenty metres of the edge of all coastal waters.

(2) Subsection (1) does not apply to an artificial watercourse, whether or not the watercourse is the subject of a declaration by the Director under section 66 of this Enactment.

(3) River and shore reserves are established for the purpose of

protecting the volume or flow of water in water bodies and preventing the degradation of the quality of water resources and damage to the aquatic environment in water bodies.

(4) On the recommendation of the Council, the Yang di-Pertua Negeri may, by order published in the *Gazette*, declare that —

- (a) a river reserve of a specified width is established adjacent to a river whose channel is less than three meters wide;
- (b) a river or shore reserve of a specified width is established adjacent to a water body which is not included in subsection (1); or
- (c) the width of an existing river reserve or shore reserve is increased or decreased.

(5) Action may not be taken to alienate State land within a river reserve or shore reserve without the prior written consent of the Council.

41. (1) Within a river or shore reserves or on, in or above a water body it is an offence to undertake, without the approval in writing of the Director, any activity which involves —

Power of Director in river and shore reserves.

- (a) the removal of natural vegetation or the removal or deposition of material;
- (b) the erection of a structure or building; or
- (c) the carrying out of a commercial or agricultural activity,

unless the activity is of a type which the Director has declared in writing does not require approval.

(2) If, in the Director's opinion, an activity or a structure or building, within a river reserve or shore reserve, or a water body adjacent to that land, is causing a reduction in the volume or flow of water or the degradation of the quality of water or the aquatic environment, the Director may direct the person undertaking the activity or the owner or occupier of the structure or building, in writing —

- (a) to modify or cease the activity; or
- (b) to modify, relocate or remove the structure or building.

- Director to carry out work.
- 42.** (1) Where a direction in writing by the Director 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 —
- (a) enter the site of an activity, structure or building and, to the extent necessary to gain access to such site, enter adjoining land;
 - (b) carry out the actions or work specified in the order; and
 - (c) take any other action in relation to the activity, structure or building that the Director or authorised person considers to be necessary or expedient for the purposes of this Enactment.
- (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.
- Identification of declared areas.
- 43.** The Director shall arrange for a map to be available for public inspection, free of charge, during ordinary office hours, at the office of the Director, showing the land described in any declaration of land or order in force establishing —
- (a) a water protection area;
 - (b) a water conservation area;
 - (c) a floodplain management area; or
 - (d) the establishment of or variation to a river or shore reserve made under section 40.
- Approval of plans.
- 44.** The Minister shall not submit a proposed order referred to in this Part to the Yang di-Pertua Negeri for approval unless the order and the documents accompanying or referred to in the proposed order have been agreed to by the Council.
- Consultation with Director of Town and Regional Planning. Cap. 141.
- 45.** Where any land which will be affected by a proposed order referred to in this Part is also subject to an approved scheme under the Town and Country Planning Ordinance or to a draft scheme or draft plan under that Ordinance, the Director shall, prior to submitting the proposed order to the Council, consult with and take into