



LAWS OF MALAYSIA

ONLINE VERSION OF UPDATED
TEXT OF REPRINT

Act 282

LEMBAGA KEMAJUAN WILAYAH PULAU PINANG ACT 1983

As at 1 February 2013

Latest amendment made by
Act A970 which came
into operation 27 September 1996

<i>First Reprint</i>	2001
<i>Second Reprint</i>	2006

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Act 282

LEMBAGA KEMAJUAN WILAYAH PULAU PINANG ACT 1983

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LAWS OF MALAYSIA

Act 282

LEMBAGA KEMAJUAN WILAYAH PULAU PINANG ACT 1983

An Act to incorporate the Lembaga Kemajuan Wilayah Pulau Pinang and to provide for matters connected therewith.

[1 June 1983, P.U. (B) 252/1983]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Lembaga Kemajuan Wilayah Pulau Pinang Act 1983.

Interpretation

2. In this Act, unless the context otherwise requires—

“accounting officer” includes every officer and servant who is charged with the duty of collecting, receiving, or accounting for, or who in fact collects, receives or accounts for, any money of the Fund,

or who is charged with the duty of disbursing, or who does in fact disburse, any such money, and every officer and servant who is charged with the receipt, custody or disposal of, or the accounting for, any store and property of the Lembaga or who in fact receives, holds or disposes of such store and property;

“Chairman” means the Chairman of the Lembaga appointed under section 5 and includes the Deputy Chairman when performing the duties of the Chairman under subsection 13(2) and any member of the Lembaga when presiding at any of its meetings;

“company” has the same meaning as that assigned to “corporation” under subsection 4(1) of the Companies Act 1965 [*Act 125*];

“corporation” means a corporation established under section 29;

“Deputy Chairman” means the Deputy Chairman of the Lembaga appointed under section 5;

“Deputy General Manager” means a Deputy General Manager appointed under subsection 14(6);

“Division” means a Division set up under section 15;

“Fund” means the fund established under section 18;

“General Manager” means the General Manager appointed under subsection 14(1) and includes a Deputy General Manager directed to perform the duties of the General Manager under subsection 14(7);

“Kawasan Lembaga Kemajuan Wilayah Pulau Pinang” means the area or areas determined by the Minister in accordance with section 10 to be the Kawasan Lembaga Kemajuan Wilayah Pulau Pinang;

“Lembaga” means the Lembaga Kemajuan Wilayah Pulau Pinang established under section 3;

“the State” means the State of Penang.

PART II

THE LEMBAGA

Lembaga

3. There is hereby established a body corporate by the name “Lembaga Kemajuan Wilayah Pulau Pinang” with perpetual succession and a common seal, which may sue and be sued in its name and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with any movable or immovable property or any interest therein vested in the Lembaga upon such terms as it deems fit.

Functions of the Lembaga

4. (1) The functions of the Lembaga shall be—

- (a) to promote, stimulate, facilitate and undertake economic and social development in the Kawasan Lembaga Kemajuan Wilayah Pulau Pinang;
- (b) to promote, stimulate, facilitate and undertake residential, agricultural, industrial and commercial development in the Kawasan Lembaga Kemajuan Wilayah Pulau Pinang; and
- (c) to control and co-ordinate the performance of the aforesaid activities in the Kawasan Lembaga Kemajuan Wilayah Pulau Pinang.

(2) The Lembaga shall have power to do all things expedient or reasonably necessary for, or incidental to, the discharge of its functions, and in particular, but without prejudice to the generality of the foregoing—

- (a) to carry on all activities, particularly commercial and industrial activities and activities of research and training, the carrying on whereof appears to it to be requisite, advantageous or convenient for or in connection with the discharge of its said functions, including the manufacturing, assembling, processing, packing, grading and marketing of products;
- (b) to initiate preliminary studies of possible development and redevelopment areas and make preliminary plans outlining development or redevelopment activities and preliminary surveys to determine if the undertaking and carrying out of development or redevelopment projects are feasible;
- (c) to co-operate with or act as agent or managing agent of, or otherwise act in association with or on behalf of, the Government of the Federation or of the State, any public authority, any company, any corporation or any other body or person;
- (d) to promote and co-ordinate the carrying on of such activities by the Government of the Federation or of the State, any public authority, any company, any corporation or any other body or person;
- (e) with the approval of the Minister and the concurrence of the Minister of Finance, to establish or expand, or promote the establishment or expansion of, companies, corporations or other bodies to carry on any such activities either under the control or partial control of the Lembaga or independently;
- (f) to give assistance to any public authority, company, corporation or other body or person appearing to the Lembaga to have facilities for the carrying on of any such activities, including, with the approval of the Minister and the concurrence of the Minister of Finance, financial assistance by the taking up of share or loan capital or by loan or otherwise;

- (g) with the approval of the Minister and the concurrence of the Minister of Finance, to purchase, underwrite or otherwise acquire any stock and shares in any public or private company, and to dispose of the same on such terms and conditions as the Lembaga may, with the approval of the Minister and the concurrence of the Minister of Finance, determine;
- (h) to require departments and government al and non-governmental agencies engaged in carrying out or intending to carry out development in the Kawasan Lembaga Kemajuan Wilayah Pulau Pinang to submit reports regarding their activities or proposed activities containing such particulars and information as may be specified by the Lembaga;
- (i) to appoint agents or establish such other bodies as it may deem fit for the purpose of carrying out its functions;
- (j) to impose fees or any other charges it deems fit for giving effect to any of its powers or functions;
- (k) to receive, in consideration of the services rendered by it, such commission or payment as may be agreed upon;
- (l) to regulate development in the Kawasan Lembaga Kemajuan Wilayah Pulau Pinang; and
- (m) to do such other things as it deems fit for the effective carrying out of its functions and powers.

(3) Subject to section 9, it shall be the responsibility of the Lembaga in discharging its functions under this Act to ensure that the functions shall be performed in such manner as shall be in furtherance of the policy of the Government for the time being in force and in particular the policy relating to the restructuring of society.

(4) Notwithstanding subsections (1), (2) and (3), the Lembaga shall, before discharging any of its functions involving development planning, first consult the State Government.

Membership of the Lembaga

5. (1) The Lembaga shall consist of the following members who, with the exception of the General Manager, shall be appointed by the Minister:

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) three representatives of the Federal Government;
- (d) three representatives of the State Government;
- (e) three persons of relevant professional standing; and
- (f) the General Manager.

(2) The provisions of the First Schedule shall apply to the Lembaga.

(3) Whenever the office of General Manager is vacant, subsection (1) shall be read as if paragraph (f) had been deleted.

Alternate members

6. (1) The Minister may, in respect of each member of the Lembaga appointed under paragraphs 5(1)(c) and (1)(d), appoint one person to be an alternate member to attend, in place of the member, meetings of the Lembaga that the member is for any reason unable to attend.

(2) When attending meetings of the Lembaga, an alternate member shall for all purposes be deemed to be a member of the Lembaga.

(3) An alternate member shall, unless he sooner resigns his membership or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate ceases to be a member of the Lembaga.

(4) The provisions of paragraphs 1 and 2 of the First Schedule shall also apply in respect of an alternate member in addition to the other provisions of the First Schedule which are applicable to him when attending meetings of the Lembaga.

Public Authorities Protection Act 1948

7. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Lembaga or against any member, officer, servant or agent of the Lembaga in respect of any act, neglect or default done or committed by him in such capacity.

Public servants

8. All members, officers and servants of the Lembaga, while discharging their duties as such members, officers and servants, shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

Power of Minister to give directions

9. (1) The Lembaga shall be responsible to the Minister, and the Minister may from time to time give directions not inconsistent with the provisions of this Act and the Lembaga shall, as soon as possible, give effect to all such directions.

(2) Without prejudice to the generality of subsection (1) and subject to consultation with the Lembaga and the concurrence of the Minister of Finance, the power of the Minister to give directions shall extend to the giving to it of directions—

(a) as to the disposal of capital assets; and

(b) as to the application of the proceeds of such disposals,

notwithstanding that the directions may be of a specific character:

Provided that no such direction shall, so long as any sum borrowed by the Lembaga in accordance with the provisions of this Act remains outstanding, be given.

The Kawasan Lembaga Kemajuan Wilayah Pulau Pinang

10. (1) For the purposes of this Act, the Minister may, with the concurrence of the Government of the State, from time to time determine by notification in the *Gazette*, the area or areas within which the Lembaga shall perform its functions under this Act and such area or areas shall be known as the “Kawasan Lembaga Kemajuan Wilayah Pulau Pinang”.

(2) Notwithstanding any other written law, it shall be the responsibility of the Lembaga to discharge the functions provided by this Act in the Kawasan Lembaga Kemajuan Wilayah Pulau Pinang.

Additional functions of the Lembaga

11. In addition to the duties imposed upon and powers vested in the Lembaga by this Act, the Lembaga may undertake such other functions, exercise such other powers and administer and expend such other moneys for such purposes as the Government of the Federation or, with the approval of the Minister, the Government of the State may assign or give to it and, in so doing, the Lembaga shall be deemed to be fulfilling the purposes of this Act, and the provisions of this Act shall apply to the Lembaga in respect of such functions and powers and the administration and expending of such moneys:

Provided always that such moneys and the accounts thereof shall be kept separate and apart from those of the Fund.

Returns, reports, accounts and information

12. (1) The Lembaga shall furnish to the Minister and such other person, body of persons or public authority as may be directed by the Minister such returns, reports, accounts and information with respect to its property and activities as the Minister may from time to time require or direct.

(2) Without prejudice to the generality of subsection (1), the Lembaga shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister and, if so directed by the Minister, to the Government of the State or any other public authority a report dealing with the activities of the Lembaga during the preceding financial year and in such form and containing such information relating to the proceedings and policy of the Lembaga as the Minister may from time to time specify.

PART III

CHAIRMAN, OFFICERS, SERVANTS, DIVISIONS

The Chairman

13. (1) The Chairman shall perform such duties as the Minister may from time to time determine.

(2) If the Chairman is temporarily absent from Malaysia or temporarily incapacitated through illness or for any other sufficient reason from the performance of his duties, the Deputy Chairman shall perform the duties of the Chairman during such temporary absence or incapacity.

General Manager and his Deputies

14. (1) The Lembaga may, with the approval of the Minister, appoint any person, designated as "General Manager", to be the principal

executive officer and vest him with such powers and impose upon him such duties and functions as may be determined by the Lembaga.

(2) The General Manager shall be responsible for—

- (a) the preparation of programmes, schemes and projects for the consideration of the Lembaga;
- (b) the execution of all programmes, schemes and projects of the Lembaga; and
- (c) the carrying out of the decisions of the Lembaga and the directions of the Chairman.

(3) The General Manager shall be responsible to the Chairman.

(4) The General Manager shall have general control of the officers and servants of the Lembaga.

(5) The General Manager shall perform such other or further duties as the Lembaga or the Chairman may from time to time direct.

(6) To assist the General Manager in his functions, the Lembaga may, with the approval of the Minister, appoint one or more Deputy General Managers and vest them with such powers and impose upon them such duties and functions as may be determined by the Lembaga.

(7) If the General Manager is temporarily absent from Malaysia or temporarily incapacitated through illness or for any other sufficient reason from the performance of his duties, the Lembaga may direct any Deputy General Manager to perform his duties during such temporary absence or incapacity.

(8) The General Manager and every Deputy General Manager are officers of the Lembaga.

Organization of the Lembaga into Divisions

15. (1) The Lembaga may set up such Divisions as it may think desirable, and each Division shall be under the control and charge of an officer.

(2) The officer in charge of each Division shall be appointed by the Lembaga with the approval of the Minister.

(3) It shall be the responsibility of the officer in charge of a Division to implement and execute the decisions of the Lembaga on matters pertaining to his Division, to submit policy recommendations for consideration by the Lembaga, to participate without the right to vote in any meeting of the Lembaga whenever matters pertaining to his Division are being considered in the meeting and also to exercise all the powers that may be delegated to him by the Lembaga.

Appointment of other officers and servants

16. (1) Subject to any regulations made under section 17, the Lembaga may appoint on such terms and conditions as the Lembaga may think desirable such other officers and servants as may be necessary for carrying out the purposes of this Act.

(2) No person shall be eligible for employment as an officer or servant of the Lembaga who has, directly or indirectly, by himself or his partner, any share or interest in any contract or proposed contract with, for or on behalf of the Lembaga.

(3) Any officer or servant of the Lembaga who has or acquires any such share or interest shall be liable in the discretion of the Lembaga to summary dismissal without notice.

Regulations governing conditions of service of officers and servants

17. The Lembaga may, from time to time, with the approval of the Minister, make regulations governing the conditions of service of its officers and servants.

Disciplinary committees

17A. (1) The Lembaga shall have disciplinary authority over all its officers and servants and shall exercise disciplinary control in respect of all such persons in accordance with this Act and any regulations made under section 17C.

(2) For the purposes of this section—

(a) there shall be established a disciplinary committee of the Lembaga in respect of the General Manager consisting of—

(i) the Secretary General of the Ministry, who shall be the chairman of the committee; and

(ii) two members of the Lembaga to be appointed by the Lembaga; and

(b) the Lembaga may, by notification in the *Gazette*, establish different disciplinary committees for different categories of officers or servants of the Lembaga.

(3) The following shall apply to any disciplinary committee established pursuant to paragraph (2)(b):

(a) such committee shall consist of any number of members of the Lembaga, other than the Chairman of the Lembaga, or officers of the Lembaga, or any combination of such members and officers; and

- (b) an officer who is a member of a disciplinary committee shall not be lower in rank than any officer or servant over whom the committee of which he is a member has disciplinary authority.

(4) The committee established pursuant to paragraph (2)(b) shall exercise its powers in all matters relating to the discipline of officers and servants placed under its jurisdiction.

(5) In the exercise of its disciplinary functions and powers, a disciplinary committee referred to under subsection (2) shall have the power to take disciplinary action and impose any disciplinary punishment or any combination of two or more of disciplinary punishments as may be provided for under any regulations that may be made under section 17C.

Appeal against decision of disciplinary committee

17B. (1) A decision of the disciplinary committee under paragraph 17A(2)(a) shall be appealable to the Minister.

(2) A decision of any disciplinary committee under paragraph 17A(2)(b) shall be appealable to the Disciplinary Appeal Committee which shall consist of the following members:

- (a) the Chairman of the Lembaga, who shall be the chairman of the Disciplinary Appeal Committee and having a casting vote; and
- (b) three members of the Lembaga, not being members of the disciplinary committee whose decision is the subject matter of the appeal, to be appointed by the chairman of the Disciplinary Appeal Committee with the approval of the Lembaga for the purpose of the appeal.

(3) The Minister or the Disciplinary Appeal Committee, as the case may be, may confirm, reverse or vary the decision of the disciplinary committee.

(4) When the Disciplinary Appeal Committee considers an appeal under subsection (2), a member of the disciplinary committee against whose decision the appeal is made who is also a member of the Lembaga shall not be present or in any way participate in any proceedings relating to that appeal.

(5) The decision of the Minister or the Disciplinary Appeal Committee under subsection (3) shall be final and conclusive.

Power to make disciplinary regulations

17C. (1) The Lembaga may, with the approval of the Minister, make such regulations as it deems necessary or expedient to provide for the discipline of the officers and servants of the Lembaga.

(2) The disciplinary regulations made under this section—

- (a) may create disciplinary offences;
- (b) may provide for disciplinary punishments as the Lembaga may deem appropriate, and the punishments may extend to warning, fine, forfeiture of emoluments, deferment of salary movement, reduction of salary, reduction in rank and dismissal;
- (c) shall provide for an opportunity to the person against whom disciplinary proceedings are taken to make representations against the disciplinary charge laid against him before a decision is arrived at by the disciplinary committee except in the following cases:
 - (i) where an officer or servant of the Lembaga is dismissed or reduced in rank on the ground of conduct in respect of which a criminal charge has been proved against him;
 - (ii) where the Lembaga, on the recommendations of the Minister charged with home affairs, is satisfied that in

the interest of the security of Malaysia or any part thereof it is not expedient to carry out the requirement of this paragraph; or

- (iii) where there has been made against an officer or servant of the Lembaga any order of detention, supervision, restricted residence, banishment or deportation, or where there has been imposed on such officer or servant of the Lembaga any form of restriction or supervision by bond or otherwise, under any law relating to the security of Malaysia or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls;
- (d) may provide for the interdiction with reduced emoluments of an officer or servant of the Lembaga during the pendency of a criminal proceedings against him or disciplinary proceedings against him with a view to his dismissal or reduction in rank; and
- (e) may provide for the suspension without emoluments of an officer or servant of the Lembaga where the officer or servant has been convicted by any criminal court or where an order of detention or restriction has been made in respect of or imposed on the officer or servant.

Imposition of surcharge

17d. (1) A person who is or was in the employment of the Lembaga may be surcharged if it appears to the Lembaga that the person—

- (a) has failed to collect money owing to the Lembaga for the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of money from the Lembaga or for any payment of money which is not duly approved;

- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any money, store or other property of the Lembaga;
- (d) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
- (e) has failed to make any payment, or is or was responsible for any delay in the payment from the Lembaga, of money to any person to whom such payment is due under any law or under any contract, agreement or arrangement entered into between that person and the Lembaga.

(2) The Lembaga shall, before the person is surcharged, serve on him a written notice calling on him to show cause why he should not be surcharged.

(3) If a satisfactory explanation is not received within fourteen days from the date of service of the aforesaid notice, the Lembaga may—

- (a) in the case of paragraphs (1)(a), (b) and (c), surcharge against the person a sum not exceeding the amount not collected, or of the improper payment made, or of the deficiency in or destruction of the property caused; and
- (b) in the case of paragraphs (1)(d) and (e), surcharge against the person, such sum as the Lembaga may think fit.

Notification of surcharge

17E. The Lembaga shall notify the person surcharged in respect of any surcharge made under subsection 17D(3).

Withdrawal of surcharge

17F. Notwithstanding subsection 17D(3) and section 17E, the Lembaga may at any time withdraw any surcharge in respect of

which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Lembaga shall forthwith notify the person surcharged of the withdrawal.

Recovery of surcharge

17G. The amount of any surcharge made under subsection 17D(3) and not withdrawn under section 17F shall be a debt due to the Lembaga from the person surcharged and may be sued for and recovered in any court at the suit of the Lembaga and may also, if the Lembaga so directs, be recovered by deduction—

(a) from the salary of the person surcharged; or

(b) from the pension of the person surcharged,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

Composition of the Lembaga in special cases

17H. In any action for surcharge against the General Manager, the composition of the Lembaga for the purposes of sections 17D and 17G shall not include the General Manager.

PART IV

FINANCE

Establishment of the Fund

18. (1) For the purposes of this Act there is hereby established a fund (referred to in this Act as “the Fund”) to be administered and controlled by the Lembaga.

(2) The Fund shall consist of—

- (a) such sums as may be provided from time to time for those purposes by Parliament or the Legislative Assembly of the State;
- (b) such sums as may be paid from time to time to the Lembaga from loans;
- (c) moneys earned by the operation of any project, scheme or enterprise financed from the Fund;
- (d) moneys earned or arising from any property, investments, mortgages, charges or debentures acquired by or vested in the Lembaga;
- (e) any property, investments, mortgages, charges or debentures acquired by or vested in the Lembaga;
- (f) sums borrowed by the Lembaga for the purposes of meeting any of its obligations or discharging any of its duties; and
- (g) all other sums or property which may in any manner become payable to or vested in the Lembaga in respect of any matter incidental to its powers and duties.

(3) In this section, the expression “loans” means such sums as may be made available from time to time to the Government of the Federation or of the State by way of loan.

Balancing of revenue account

19. It shall be the duty of the Lembaga to conserve the Fund by so exercising and performing its powers, functions and duties under this Act as to secure that the total revenues of the Lembaga are, subject to any directions given by the Minister under section 9, sufficient to

meet all sums properly chargeable to its revenue account, including depreciation and interest on capital, taking one year with another.

Reserve fund

20. The Lembaga shall establish and manage a reserve fund within the Fund.

Expenses to be charged on the Fund

21. The Fund shall be expended for the purpose of—

- (a) granting loans under section 28;
- (b) paying any expenses lawfully incurred by the Lembaga, including survey, legal and other fees and costs, and the remuneration of officers and servants appointed and employed by the Lembaga, including superannuation allowances, pensions or gratuities;
- (c) paying any other expenses, costs or expenditure properly incurred or accepted by the Lembaga in the execution of its duties or in the discharge of its functions under section 4;
- (d) purchasing or hiring plant, equipment, machinery, stores and any other materials, acquiring land and erecting buildings, and carrying out any other works and undertakings in the execution of its duties or in the discharge of its functions under section 4;
- (e) repaying any moneys borrowed under this Act and the interest due thereon; and
- (f) generally, paying any expenses for carrying into effect the provisions of this Act.

Expenditure and preparation of estimates

22. (1) The expenses of the Lembaga up to such amount as may be authorized by the Minister for any one year shall be defrayed out of the Fund.

(2) Before the beginning of September of each year, the Lembaga shall submit to the Minister an estimate of the expenses (including those for development projects) for the following year in such form and containing such particulars as the Minister may direct; and the Minister shall before the beginning of that following year notify the Lembaga of the amount authorized for expenses generally or of the amounts authorized for each description of expenditure.

(3) The Lembaga may at any time submit to the Minister a supplementary estimate for any one year and the Minister may allow the whole or any part of the additional expenditure included therein.

(4) The Minister may direct the Lembaga to submit a copy of the estimate or supplementary estimate, as the case may be, to the Government of the State or to such other person as may be specified in the direction.

Statutory Bodies (Accounts and Annual Reports) Act 1980

23. The provisions of the Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Lembaga and to any corporation established under this Act.

PART V**OTHER POWERS OF THE LEMBAGA****Delegation of powers of the Lembaga**

24. (1) The Lembaga may, subject to such conditions, limitations

or restrictions as it thinks fit to impose, delegate to the Chairman, General Manager or any other person the power and authority to exercise or perform on its behalf such powers, duties or functions by this Act vested in or imposed on the Lembaga as the Lembaga may determine, except the power to borrow money, raise loans or make regulations; and any power, duty or function so delegated may be exercised or performed by the Chairman, General Manager or other person, as the case may be, in the name and on behalf of the Lembaga.

(2) Without prejudice to the generality of subsection (1) and to the other provisions of this Act, the Lembaga may delegate to the Chairman, General Manager, any of its other members or any other person authority to sanction expenditure from the Fund or any other moneys vested in and under the control of the Lembaga up to such limit as the Lembaga shall specify.

Power to borrow

25. (1) The Lembaga may from time to time borrow, at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise as the Minister, with the concurrence of the Minister of Finance, may approve, any sums required by the Lembaga for meeting any of its obligations or discharging any of its duties.

(2) The Lembaga may from time to time, with the approval of the Minister and the concurrence of the Minister of Finance, borrow money by the issue of bonds, debentures or debenture stock or raise capital by the issue of shares or stock of such class and value and upon such terms as it may, with the approval of the Minister and the concurrence of the Minister of Finance, deem expedient, for all or any of the following purposes:

(a) the provision of working capital;

(b) the fulfilling of the functions and duties of the Lembaga under this Act;

- (c) the fulfilling of such additional functions as may be undertaken by the Lembaga under this Act;
- (d) the redemption of any shares or stock which it is required or entitled to redeem; and
- (e) any other expenditure properly chargeable to capital account.

Investment

26. The assets of the Lembaga shall, in so far as they are not required to be expended by the Lembaga under this Act, be invested in such manner as the Minister, with the concurrence of the Minister of Finance, may approve.

Power to employ agents

27. The Lembaga may employ and pay agents and technical advisers, including advocates and solicitors, bankers, stockbrokers, surveyors, valuers and other persons, to transact any business or to do any act required to be transacted or done in the execution of its duties or for the better carrying into effect the purposes of this Act.

Power to grant loans

28. In the execution of its duties or in the discharge of its functions, the Lembaga may, with the approval of the Minister and the concurrence of the Minister of Finance, grant loans, and such loans may be granted subject to such terms and conditions as the Lembaga may, with the approval of the Minister and the concurrence of the Minister of Finance, deem fit to impose in particular cases.

Power to establish corporations

29. (1) The Lembaga may from time to time, with the approval of the Minister and the concurrence of the Minister of Finance, by order published in the *Gazette*, establish a corporation by such name as the Lembaga may think fit to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Lembaga in the execution of its duties or the discharge of its functions.

(2) The provisions of the Second Schedule shall apply to every corporation established by the Lembaga under subsection (1).

Compulsory acquisition of land

30. (1) When any immovable property, not being State land, is needed to be acquired by the Lembaga for the purposes of this Act, such property may be acquired in accordance with the provisions of any written law relating to the acquisition of land for a public purpose for the time being in force in the State, and any declaration required by any such written law that such land is so needed may be made notwithstanding that compensation is to be paid by the Lembaga, and such declaration shall have effect as if it were a declaration that such land is needed for a public purpose in accordance with such written law.

(2) The expenses and compensation in respect of any immovable property acquired under this section shall be paid by the Lembaga.

(3) When any immovable property has been acquired under this section, the Lembaga shall extract the necessary documents of title in respect of such property and shall pay any rent to which such property may be subject.

PART VI

GENERAL

31. (*Deleted by Act 478*).

Obligation of secrecy

32. (1) Except for any of the purposes of this Act or for the purpose of any civil or criminal proceedings under any written law, no member, officer or servant of the Lembaga shall disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.

(2) Any person contravening subsection (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding one thousand ringgit or to both.

Power to make regulations

33. (1) The Lembaga may, with the approval of the Minister, make such regulations as may be expedient or necessary for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may be made for—

- (a) prescribing the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Lembaga;
- (b) prescribing for the responsibilities and control of officers and servants of the Lembaga;
- (c) imposing fees in such cases as may be determined by the Lembaga;

- (d) providing for such matters in connection with shares, stock, bonds, debentures or debenture stock issued under this Act as may appear necessary or expedient to the Lembaga, and, in particular, for regulating the method of issue, transfer, redemption or other dealing with such shares, stock, bonds, debentures or debenture stock;
- (e) prescribing the manner in which and the terms and conditions on which loans may be granted by the Lembaga under section 28; and
- (f) providing generally for the exercise of the powers and duties of the Lembaga under the provisions of this Act.

(3) Such regulations—

- (a) may provide that any act or omission in contravention of any provision thereof shall be an offence; and
- (b) may provide for the imposition of penalties for such offences, which penalties shall not exceed one thousand ringgit.

Things done in anticipation of this Act

34. All things done by any person or authority on behalf of the Lembaga in the preparation of and towards the proper implementation of any of the provisions of this Act and any expenditure incurred in relation thereto, in anticipation of the enactment of this Act, shall be deemed to have been authorized by this Act, and all rights and obligations acquired or incurred on behalf of the Lembaga from anything so done or any expenditure so incurred shall upon the coming into force of this Act be deemed to be the rights and obligations of the Lembaga.

FIRST SCHEDULE

[Subsection 5(2)]

Terms and conditions of appointment, revocation and resignation

1.(1) A member of the Lembaga other than the General Manager shall, subject to such conditions as the Minister may specify in the instrument appointing him, hold office for a term not exceeding three years and shall be eligible for reappointment.

(2) The appointment of any member other than the General Manager may at any time be revoked by the Minister without assigning any reason therefor.

(3) The General Manager shall hold office as a member of the Lembaga for as long as he is the General Manager. His appointment as General Manager may be revoked by the Lembaga with the approval of the Minister and in accordance with the terms and conditions of service applicable to his case.

(4) A member other than the General Manager may at any time resign his office by letter addressed to the Minister. The General Manager may resign his office by letter addressed to the Lembaga and to the Minister and in accordance with the terms and conditions of service applicable to his case.

(5) A member shall devote such time to the business of the Lembaga as is necessary to discharge his duties effectively.

Vacation of office

2. (1) The office of a member of the Lembaga shall be vacated—

- (a) if he dies;
- (b) if there has been proved against him, or he has been convicted on, a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude; or
 - (ii) an offence under any law relating to corruption or under section 32; or
 - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years; or
- (c) if he becomes bankrupt; or

- (d) if he is of unsound mind or is otherwise incapable of performing his duties; or
- (e) if he absents himself from three consecutive meetings without leave of the Lembaga or, in the case of a member appointed under paragraph 5(1)(c) or (1)(d), if he so absents himself without such leave and without being represented thereat by the person appointed to be an alternate member in his place under subsection 6(1):

Provided that, subsection 6(4) notwithstanding, the office of the alternate member shall not be vacated under this subparagraph if he absents himself from three consecutive meetings without leave of the Lembaga as long as the office of the member in respect of whom he has been appointed to be an alternate does not become vacated under this subparagraph; or

- (f) in the event of his resignation being accepted by the Minister or, in the case of the General Manager, by the Lembaga with the approval of the Minister and in accordance with the terms and conditions of service applicable to his case; or
- (g) if his appointment is revoked by the Minister or, in the case of the General Manager, by the Lembaga with the approval of the Minister and in accordance with the terms and conditions of service applicable to his case.

(2) Where any person ceases to be a member by reason of any of the provisions of this Act, another person shall be appointed in his place in accordance with the provisions applying.

Remuneration or allowance

3. There may be paid to members of the Lembaga or any other person (not being an officer or servant of the Lembaga, the officer or servant being within the ambit of the provisions of this Act relating to the terms and conditions of service applicable to his case) such remuneration or allowance as the Minister may determine.

Meetings

4. (1) The Lembaga shall meet at least once in every two months.

(2) The quorum of the Lembaga shall be six.

(3) At all meetings of the Lembaga the Chairman or, in his absence, the Deputy Chairman or, in the absence of both such persons, such member as the members present may elect shall preside.

(4) If on any question to be determined by the Lembaga there is an equality of votes, the Chairman or the member presiding shall have a casting vote in addition to his deliberative vote.

(5) The General Manager shall not have the right to vote at any meeting of the Lembaga and he shall be deemed not to be a member of the Lembaga for the purposes of this paragraph except subparagraph (6).

(6) Subject to the provisions of this Act, the Lembaga shall determine its own procedure.

Lembaga may invite others to meetings

5. The Lembaga may request any person (not being a member of the Lembaga) to attend any meeting or deliberation of the Lembaga 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.

Common seal

6. (1) The Lembaga shall have a common seal which shall bear such device as the Lembaga shall approve; and such seal may from time to time be broken, changed, altered or made anew as the Lembaga may think fit.

(2) Until a seal is provided by the Lembaga, a stamp bearing the description “Lembaga Kemajuan Wilayah Pulau Pinang” may be used and shall be deemed to be the common seal.

(3) The common seal shall be kept in the custody of the Chairman or such other person as may be authorized by the Lembaga, and shall be authenticated by either the Chairman or such authorized person or by any officer authorized by either of them in writing; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the Lembaga; and any such document or instrument may be

executed on behalf of the Lembaga by any officer or servant of the Lembaga generally or specially authorized by the Lembaga in that behalf.

(4) The seal of the Lembaga shall be officially and judicially noticed.

Disclosure of interest

7. Without prejudice to the application of the provisions of section 16 in the case of the General Manager, a member of the Lembaga having, directly or indirectly, by himself or his partner, any interest in any company or undertaking with which the Lembaga proposes to make any contract or having any interest in any such contract or in any matter under discussion by the Lembaga shall disclose to the Lembaga the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Lembaga and, unless specifically authorized thereto by the Chairman, such member shall take no part in any deliberation or decision of the Lembaga relating to the contract or matter.

Minutes

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

(2) Any minutes made of meetings of the Lembaga shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every meeting of the Lembaga 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 thereof to have been duly qualified to act.

Validity of acts and proceedings

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

- (a) any vacancy in the membership of, or of any defect in the constitution of, the Lembaga; or
 - (b) the contravention by any member of the Lembaga of the provisions of paragraph 7; or
 - (c) any omission, defect or irregularity not affecting the merits of the case.
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SECOND SCHEDULE

[Subsection 29(2)]

Power of the Lembaga to make regulations in respect of corporation

1. The Lembaga shall, on or before the date on which any corporation is established under section 29, make regulations in respect of such corporation defining—

- (a) the purposes and objects for which such corporation is established;
- (b) the rights, powers, duties and functions of such corporation;
- (c) the system of management thereof; and
- (d) the relations between such corporation and the Lembaga and its right of control over such corporation.

Limitation on power to establish corporation

2. Nothing in paragraph 1 shall be deemed to authorize the Lembaga to make regulations to establish any corporation for any purpose or object more extensive in scope than the purposes or objects for which the Lembaga has been constituted or to confer on any corporation any right, duty, power or function which is not within the rights, duties, powers or functions of the Lembaga under this Act.

Effect of regulations

3. Subject to the provisions of this Act and of any regulations made under section 33, any regulations made under paragraph 1 shall be binding on the corporation in respect of which they were made and shall have effect for all purposes as if they had been enacted in this Act.

Amendment of regulations

4. The Lembaga may at any time amend, revoke or add to any regulations made under paragraph 1 in respect of any corporation.

Register of corporations

5. The Lembaga shall keep a register in the prescribed form of all corporations established by it under section 29 and such register, together with copies of all regulations made under paragraphs 1 and 4, shall be open to public inspection at such place or places and at such time as it may prescribe.

Winding up

6. (1) The Lembaga may, with the approval of the Minister and the concurrence of the Minister of Finance, by order published in the Gazette, direct that any corporation established by it shall be wound up and dissolved.

(2) Upon the dissolution of any corporation under this paragraph the assets of the corporation after discharging all its liabilities shall be transferred to and shall vest in the Lembaga.

(3) The winding up of a corporation under this paragraph shall be conducted in such manner as the Lembaga may prescribe.

Corporations to be bodies corporate

7. Every corporation established under section 29 shall be a body corporate by such name as the Lembaga shall give to it and shall have perpetual succession and a common seal and may sue and be sued in such name and, for the purpose of carrying into effect the project, scheme or enterprise for which it has been established, may enter into contracts and may hold and deal in or with any immovable or movable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Act and subject to such restrictions or limitations as may be prescribed by the Lembaga in each case.

Common seal of corporations

8. (1) Every corporation shall have a common seal which shall bear such device as the corporation, with the approval of the Lembaga, may approve; and such seal may from time to time be broken, changed, altered or made anew as the corporation, with the approval of the Lembaga, may think fit.

(2) Until a seal is provided by the corporation, a stamp bearing the name of the corporation encircling the letters "LKWPP" may be used and shall be deemed to be the common seal.

(3) The common seal shall be kept in the custody of such person as may be authorized by the corporation, and shall be authenticated by such person; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the corporation; and any such document or instrument may be executed on behalf of the corporation by any officer or servant of the corporation generally or specially authorized by the corporation in that behalf.

(4) The seal of every corporation shall be officially and judicially noticed.

LAWS OF MALAYSIA**Act 282****LEMBAGA KEMAJUAN WILAYAH PULAU PINANG
ACT 1983****LIST OF AMENDMENTS**

Amending law	Short title	In force from
Act 478	Revocation of Exemption from Payment of Stamp Duties Act 1992	21-02-1992
Act A970	Lembaga Kemajuan Wilayah Pulau Pinang (Amendment) Act 1996	27-09-1996

LAWS OF MALAYSIA**Act 282****LEMBAGA KEMAJUAN WILAYAH PULAU PINANG
ACT 1983****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
2	Act A970	27-09-1996
17 _A	Act A970	27-09-1996
17 _B	Act A970	27-09-1996
17 _C	Act A970	27-09-1996
17 _D	Act A970	27-09-1996
17 _E	Act A970	27-09-1996
17 _F	Act A970	27-09-1996
17 _G	Act A970	27-09-1996
17 _H	Act A970	27-09-1996
31	Act478	21-02-1992
