



LAWS OF MALAYSIA

REPRINT

Act 380

INCORPORATION (STATE LEGISLATURES COMPETENCY) ACT 1962

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**INCORPORATION (STATE LEGISLATURES
COMPETENCY) ACT 1962**

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LAWS OF MALAYSIA**Act 380****INCORPORATION (STATE LEGISLATURES
COMPETENCY) ACT 1962**

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LAWS OF MALAYSIA

Act 380

INCORPORATION (STATE LEGISLATURES COMPETENCY) ACT 1962

An Act relating to the powers of State Legislatures to make laws with respect to the incorporation of certain persons and bodies within a State.

[31 August 1957]

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:

Short title and commencement

1. This Act may be cited as the Incorporation (State Legislatures Competency) Act 1962 and shall be deemed to have come into operation upon Merdeka Day.

Interpretation

2. In this Act—

“existing State law” means any law enacted by any Legislature of a State and in operation in the State immediately before Merdeka Day;

“Minister” means the Prime Minister or such Minister as may be nominated by him.

State Legislatures authorized to make laws relating to the incorporation of certain persons and bodies

3. It shall be within the power of the Legislature of a State, in relation to any matter specified in the First Schedule, to make laws with respect to the incorporation of any person or body within the State, and for such incidental and consequential matters in relation thereto (including the regulation and winding up of any person or body so incorporated) as the Legislature may deem necessary; and the Legislature may from time to time amend or repeal any such laws:

Provided that with respect to the incorporation of any person or body within the State for the purpose of agricultural development or housing development or of development of urban or rural areas, the special provisions prescribed in the Second Schedule hereto shall have effect.

Second Schedule to apply to all corporations established for development of urban or rural areas

3A. Notwithstanding the proviso to section 3, the special provisions prescribed in the Second Schedule, except paragraph 2 thereof, shall also have effect with respect to Corporations established within the State for the purpose of agricultural development or housing development or of development of urban or rural areas before the coming into force of that Schedule.

Amendment of existing laws

4. Where any existing State law provides, in relation to any matter specified in the First Schedule, for the incorporation of any person or body, it shall be within the power of the State Legislature to amend or repeal such laws.

Effect of State laws

5. Any person or body duly incorporated by or under a State Enactment, whether passed before or after the date of commencement of this Act, or by or under an Enactment of the Federated Malay States, and any person or body incorporated under any Ordinance of the Straits Settlements and in operation in the State of Malacca or Penang immediately before the date of commencement of this

Act shall, so long as such Enactment or Ordinance remains in force, for all purposes be deemed to be a body corporate throughout Malaysia, as if the Enactment or Ordinance creating such body corporate had been enacted by Parliament.

Saving

6. Nothing in this Act shall affect the powers of Parliament to make laws with respect to the incorporation, regulation and winding up of corporations.

Power to amend Schedules

7. The Yang di-Pertuan Agong may by order add to or amend the First and Second Schedules.

8. *(Omitted).*

FIRST SCHEDULE

[Sections 3 and 7]

1. State Scholarship
2. State Educational Endowments
3. Charities and Charitable Institutions
4. Incorporation of the State Secretary
5. Incorporation of the Menteri Besar or Chief Minister
6. The Development of Urban and Rural Areas
7. Assistance to Padi Planters
8. State Parks
9. Museums and Public Libraries
10. Sultanate Lands
11. Propagation of the teachings of Islam
12. Economic and social development of the Islamic community
13. Agricultural Development
14. Housing Development
15. Water Supply
16. Customary Lands
17. Water Resources Management

SECOND SCHEDULE

[Sections 3 and 7]

Special provisions relating to the incorporation of any person or body for the purpose of agricultural development or housing development or development of urban or rural areas.

Interpretation

1. In this Schedule, “corporation” means a corporation established under section 3 for the purpose of agricultural development or housing development or development of urban or rural areas.

Arrangements to be first made between the State and Federal Government prior to any incorporation

2. No corporation shall be established by any State unless arrangements shall have been made between the State and the Federal Government in relation to the establishment thereof.

Minister's direction, performance of Federal functions and authority

3. A State law establishing any corporation shall provide for the corporation to be subject to any direction of the Minister and may provide—

- (a) for the performance of any functions of an authority of the Federal Government by the corporation; and
- (b) for the executive authority of the Federal Government to extend to such corporation.

Additional duties and powers of a corporation

4. In addition to the functions and duties imposed upon any corporation by the law establishing it, the corporation may undertake such other functions and duties and administer and expend such moneys for such purposes as the State or any statutory authority, after approval by the Federal Government, may assign to it and in so doing the corporation shall be deemed to be fulfilling the purposes of the law establishing the corporation.

Membership

5. (1) There shall be appointed by the Minister three representatives of the Federal Government as members of the corporation.

(2) Subject to subparagraph (1) the law establishing the corporation may provide for the appointment of any number of other members not exceeding nine:

Provided that where the other members exceed six in the case of appointments made before the coming into effect of this subparagraph such members shall continue to be members until their terms of appointment expire or for not longer than one year from the date of the coming into effect of this subparagraph, whichever period comes soonest.

(3) A member of the corporation other than those mentioned in subparagraph (1) and any member appointed by virtue of his office, shall unless he sooner resigns or his appointment is revoked, hold office for a term not exceeding two years and shall be eligible for reappointment:

Provided that if a member resigns or his appointment is sooner revoked another person may be appointed to replace him for the remainder of the term of the member replaced.

Chairman

6. The Chairman of the corporation shall not be the Chief Executive of the corporation.

Disqualification of membership

7. (1) The following persons shall be disqualified from being appointed or being members of the corporation:

- (a) a person who is of unsound mind or is otherwise incapable of performing his duties;
- (b) a bankrupt;
- (c) a person who has been found guilty of an offence involving fraud, dishonesty or moral turpitude.

(2) A member of the corporation shall vacate his office if he fails to attend three consecutive meetings of the corporation without the permission in writing of the person charged with the responsibility for the general administration of the corporation or if he becomes disqualified under subparagraph (1).

Quorum and procedure of meetings

8. (1) The quorum of the corporation at any meeting shall be at least half of the members of the corporation with at least one member being a representative of the Federal Government being present except that the quorum shall be at least two-thirds with at least one member being a representative of the Federal Government being present where the meeting deliberates or decides on matters referred to in subsubparagraphs 14 (1)(a) to (d).

(2) If on any question to be determined by the corporation there is an equality of votes, the person presiding at such meeting shall have a casting vote.

(3) Subject to subparagraphs (1) and (2), the corporation may determine its own procedure.

Conflict of interest

9. (1) No member of the corporation shall have (and if he has, he shall forthwith cease to be such a member) any interest, directly or indirectly, personally or through relatives, financial or otherwise in any scheme, project, enterprise or contract undertaken or which is proposed to be undertaken by the corporation or in any matter under discussion by the corporation.

(2) Subparagraph (1) shall not apply to a member in respect of his interest in a company or other body to which he has been nominated by the corporation to be its representative and where such corporation or other body is under the control or partial control of the corporation.

Improper use of information

10. An officer or servant of a corporation shall not make use of any information acquired by virtue of his position as an officer or servant of the corporation to gain directly or indirectly an improper advantage for himself or for any other person or to cause detriment to the corporation.

Establishment of the Fund

11. There shall be established in respect of the corporation a Fund, hereinafter referred to as the “Fund”, to be administered and controlled by the corporation—

- (a) into which shall be paid any Federal or State grant, all borrowings and all receipts of the corporation; and
- (b) from which shall be defrayed all expenses of the corporation incurred, and all payments required to be made by the corporation under the law establishing such corporation.

Federal grant

12. The Federal Government may grant moneys to a corporation for the purposes of it carrying out its functions and duties.

Unexpended assets

13. The assets of the corporation may, in so far as they are not required to be expended by the corporation, be invested in such manner as may be approved by the Minister of Finance.

Assets not to be disposed off without consent

13A. No corporation shall, without the prior consent of the Minister of Finance, dispose, divest or exchange for cash or other consideration any of its assets unless the Minister directs, either specifically in respect of any particular asset, or generally in respect of any category of assets, that having regard to the low value of the asset or assets, such prior written consent need not be obtained:

Provided that this provision shall not apply in respect of the sale of any land which has been subdivided into factory, housing or shop lots, irrespective of whether such land is intended to be sold with or without a building erected thereon.

Investment and borrowing

14. (1) No corporation shall, without the prior written consent of the Minister of Finance unless he gives a general or specific direction on the matter—

- (a) establish or promote the establishment or expansion of companies or other bodies to carry on activities either under the control or partial control of the corporation itself or independently;
- (b) give financial assistance to any company, other statutory authority, any body or person by the taking up of shares or debentures or by way of any loan, advance, grant or otherwise;

(c) purchase, underwrite or otherwise acquire any stock and shares in any public or private company; or

(d) borrow money or enter into any guarantee involving financial liability.

(2) Where the corporation exercises its power under subsubparagraph 1(a) or where it already has control or partial control of a company or other body the members of the management of the company or other body shall comprise not less than one member or one officer of the corporation.

(3) In giving any consent under subparagraph (1) the Minister of Finance may impose such terms and conditions as he may deem fit.

(4) No statutory authority shall be established by a corporation either under the law establishing the corporation or under any other law.

(5) A company or other bodies established by a corporation under subsubparagraph 1 (a) shall not borrow money without the prior written consent of the Minister of Finance.

Expenditure and preparation of estimates

15. (1) The expenses of the corporation shall be defrayed out of moneys in the Fund in accordance with such estimates as may be authorized in subparagraph (2).

(2) Before the beginning of July each year the corporation shall submit to the Menteri Besar or Chief Minister an estimate of the expenses for the following year in such form and with such particulars as the Menteri Besar or Chief Minister may require; and the Menteri Besar or Chief Minister shall before the beginning of September of each year notify the corporation of the amount authorized for each description of expenditure.

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

Keeping of accounts

16. (1) The board of the corporation shall cause to be kept proper accounts and other records of the corporation's transactions and affairs in accordance with generally accepted accounting principles and shall do all things necessary to ensure that all incomes are properly accounted for and that all expenditures out of its Fund, including payments in respect of salaries, remuneration and other monetary benefits to members of the corporation and its employees, are properly authorized and that adequate control is maintained over the assets, or in the custody of, the corporation and over the incurring of any liability by the corporation.

(2) The Minister of Finance may make regulations as may be necessary to accomplish the objective of subparagraph (1) and for ensuring proper financial management and control system and practices within corporations and in addition he may make regulations concerning—

- (a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all revenue, loan, trust and other moneys and all bonds, debentures and other securities howsoever raised or received by or an account of corporations and the guidance of all persons concerned therein;
- (b) the designation of accounting officers of corporations and their accountability for ensuring that the funds and assets of such corporations are placed under their control at all times and that the funds are expended prudently, economically and with the utmost concern for value received;
- (c) the more effectual recording, examination and inspection of all receipts and expenditure and of the keeping of all necessary books and accounts by corporations;
- (d) the forms of all books, returns and documents whatever required under this Schedule or regulations made hereunder;
- (e) the purchase, safe custody, issue, sale, or other disposal or writing off of chattels or other property of corporations and the proper accounting for any stock-taking of such chattels and property;
- (f) the preparation of estimates of revenue and expenditure by corporations.

(3) Regulations made under subparagraph (2) may be made applicable to corporations generally or to any particular class or category of corporations or to any particular corporation.

Investigation of accounts

17. (1) The Minister or Minister of Finance may at any time direct such person as he may appoint to make an investigation of the books, accounts and transactions of a corporation.

(2) Such corporation shall afford such person access to its books, accounts and documents and shall give such information as may be required by the person to conduct the investigations:

Provided that the books, accounts and documents shall not be required to be produced at such times and at such places as shall interfere with the proper conduct of the normal daily business of the corporation.

Financial year and audited accounts

18. (1) The corporation shall have a financial year beginning on 1st January.

(2) The accounts of the corporation shall be audited annually by the Auditor General or other auditor appointed by the corporation with the approval of the Minister of Finance.

(3) The corporation shall within 6 months after the end of each financial year have its accounts audited and transmitted to the Minister together with a copy of any observations made by the Auditor General or the auditor appointed under subparagraph (2) on any statement or on the accounts of the corporation and a copy of the annual report referred to in paragraph 19.

(3A) The Minister shall cause a copy of every such statement together with copy of any observations made by the Auditor General or the auditor appointed under subparagraph (2) on any statement or on the accounts of the corporation and a copy of the annual report referred to in subparagraph (3) and paragraph 19 to be laid before the Cabinet and the National Finance Council.

(4) The Menteri Besar or Chief Minister shall cause a copy of every such statement together with a copy of any observations made by the Auditor General or the auditor appointed under subparagraph (2) on any statement or on the accounts of the corporation and a copy of the annual report referred to in subparagraph (3) and paragraph 19 to be laid on the table of the next meeting of the Legislature of the State.

Annual report

19. The corporation shall not later than 30th June after each financial year cause to be made and transmitted to the Minister and the Menteri Besar or Chief Ministers, a report dealing with the activities of the corporation during the preceding year.

Power to make regulations

20. (1) The Minister may, after consultation with the Menteri Besar and Chief Ministers, make regulations for the better carrying out of this Schedule including the prescribing of a code of conduct and matters of discipline.

(2) The corporation may, with the approval of the Minister after his consultation with the Menteri Besar or Chief Minister, make regulations for the better carrying out of the law establishing such corporation provided they are not inconsistent with this Schedule.

(3) The law establishing the corporation may provide for the power of the State Authority to make rules for any other purposes not inconsistent with this Schedule.

State law may make other provisions

21. The law establishing a corporation may make other provisions not inconsistent with this Schedule.

22. (*Deleted*).

Dissolution of the corporation

23. Upon the dissolution of a corporation, the assets of such corporation shall, after payment of all liabilities, be disposed of in such manner as the Minister may after consultation with the State Authority determine.

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Act 380

INCORPORATION (STATE LEGISLATURES COMPETENCY) ACT 1962

LIST OF AMENDMENTS

Amending law	Short title	In force from
L.N. 33/1964	Incorporation (State Legislatures Competency) (Amendment) Order 1964	30-01-1964
P.U. 296/1968	Incorporation (State Legislatures Competency) (Amendment) Order 1968	18-07-1968
Act A244	Incorporation (State Legislatures Competency) (Amendment) Act 1974	15-03-1974
P.U. (A) 448/1974	Incorporation (State Legislatures Competency) (Amendment of First Schedule) Order 1974	01-04-1974
Act A351	Incorporation (State Legislatures Competency) (Amendment) Act 1976	01-06-1976
Act A507	Incorporation (State Legislatures Competency) (Amendment) Act 1981	06-02-1981; s. 2 and para 4(a): 15-03-1974; para 4(b): 01-08-1971
P.U. (A) 120/1990	Incorporation (State Legislatures Competency) (Amendment of Second Schedule) Order 1990	04-05-1990
Act 478	Revocation of Exemption From Payment of Stamp Duties Act 1992	21-02-1992
P.U. (A) 384/1993	Incorporation (State Legislatures Competency) (First Schedule) (Amendment) Order 1993	19-11-1993

Amending law	Short title	In force from
P.U. (A) 131/1999	Incorporation (State Legislatures Competency) (Amendment of First Schedule) Order 1999	15-03-1999
P.U. (A) 192/2003	Incorporation (State Legislatures Competency) (Amendment of Second Schedule) Order 2003	13-06-2003
P.U. (A) 192/2005	Incorporation (State Legislatures Competency) (Amendment of Second Schedule) Order 2005	From the Financial year of 2005

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Act 380

INCORPORATION (STATE LEGISLATURES COMPETENCY) ACT 1962

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act A244	15-03-1974
3	Act A244 Act A351 Act A507	15-03-1974 01-06-1976 15-03-1974
3A	Act A351 Act A507	01-06-1976 06-02-1981
4	Act A351	01-06-1976
7	Act A244	15-03-1974
First Schedule	P.U. (A) 33/1964 P.U. (A) 296/1968 P.U. (A) 448/1974 Act A507 P.U. (A) 384/1993 P.U. (A) 131/1999	30-01-1964 18-07-1968 01-04-1974 15-03-1974 01-08-1971 19-11-1993 15-03-1999
Second Schedule	Act A244 Act A507 P.U. (A) 120/1990 Act 478 P.U. (A) 192/2003 P.U. (A) 192/2005	15-03-1974 06-02-1981 04-05-1990 21-02-1992 13-06-2003 From the Financial year of 2005



