



LAWS OF MALAYSIA

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FEDERAL TERRITORY (PLANNING) ACT 1982

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LAWS OF MALAYSIA**Act 267****FEDERAL TERRITORY (PLANNING) ACT 1982**

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LAWS OF MALAYSIA**Act 267****FEDERAL TERRITORY (PLANNING) ACT 1982**

An Act to make provisions for the control and regulating of proper planning in the Federal Territory, for the levying of development charges, and for purposes connected therewith or ancillary thereto.

*[Parts I, II & III—25 August 1982,
P.U. (B) 445/1982;
Parts IV to X—15 August 1984,
P.U. (B) 315/1984]*

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, application and commencement**

1. (1) This Act may be cited as the Federal Territory (Planning) Act 1982.

(2) Without prejudice to subsection (3), this Act shall apply only to the Federal Territory.

(3) This Act shall come into force on such date as the Minister may by notification in the *Gazette* appoint:

Provided that the Minister may appoint different dates for the coming into force of this Act for different parts of the Federal Territory or for different provisions of this Act.

Interpretation

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

“action area” means an area shown in any development plan or has been declared as such in accordance with the provisions of this Act to facilitate new development, redevelopment or improvement;

“agriculture” includes horticulture, farming, the growing of crops, fruits, vegetables or trees or the growing of any plants for use as fodder, dairy farming, the breeding and keeping of livestock, fish or bees, and the use of land for purposes ancillary to any of those activities or to any other agricultural activities but does not include the use of any land as a garden to be enjoyed together with a building attached on the land;

“amenities” means such quality or condition of a place or area as contributes to its pleasantness, harmony, and better enjoyment, and includes open spaces, parks, recreation grounds, and playgrounds;

“Appeal Board” means the Appeal Board constituted under section 45;

“authorized officer”, in relation to any provision, means an officer designated in writing by the Commissioner to be an authorized officer for the purposes of that provision;

“building” includes any house, hut, shed or roofed enclosure whether temporary or permanent and whether or not used for the purpose of human habitation, and also any wall, fence, platform, staging, gate, wireless, post, aerials and antenna used for transmission purposes, pillar, paling, frame, hoarding, slip, bathing and swimming pools, dock, wharf, pier, jetty, landing stage or bridge, or any structure, support, or foundation connected to or with any of the foregoing;

“building operation” means the demolition, erection, re-erection, or extension of a building or structure or part thereof and includes—

- (a) any increase in height or floor space of a building;
- (b) any addition to or alteration of a building that affects or is likely to affect its drainage or sanitary arrangements or its soundness;
- (c) any addition to or alteration of a building, whether done before or after completion of the building, that departs in any particular from any plan or specification approved at any time by any authority empowered under any written law to approve the plan or specification in respect of that building;
- (d) any addition to or alteration of a building that materially affects or is likely to materially affect the building in any manner; and
- (e) any other operation normally undertaken by a person carrying on the business of building construction;

“commerce” means carrying on any trade, business or profession and includes the supply or offer to supply goods or services, the storage, or exchange of goods of any type whatsoever for purpose of trade, business or profession, the running of private hospitals, nursing homes, infirmaries, sanatorium, educational institutions, boarding houses and the establishment of offices;

“commercial use” means the use of any land or building or part thereof for purposes of commerce;

“Commissioner” means the Commissioner appointed under the Federal Capital Act 1960 [*Act 190*];

“Comprehensive Development Plan” means the comprehensive development plan referred to as plans Nos.: 1039, 1040 and 1041 in the *City of Kuala Lumpur (Planning) Act 1973 [*Act 107*];

“density” means the intensity of use of land reckoned or expressed in terms of the number of persons, dwelling units, or habitable rooms, or any combination of those factors, per unit area of land;

“development” means the carrying out of any building, engineering, mining, industrial, or other similar operation in, on, over, or under land, and includes any change in the use of any land or building or any part thereof, or the subdivision or amalgamation of lands;

“development area” means a part or the whole of an action area which is to be acquired in accordance with section 47;

“development charge” means the development charge levied under section 40;

“development order” means the development order issued under this Act granting planning permission with or without conditions for any development specified in such order;

“development plan”, in relation to an area means—

(a) the local plan for the area; or

(b) if there is no local plan for the area, the structure plan for the area;

and, in relation to any land or building, means the development plan, as so defined, for the area in which the land or building is situated;

“enforcement notice” means an enforcement notice served pursuant to section 27;

*NOTE—The City of Kuala Lumpur (Planning) Act 1973 [*Act 107*] has since been repealed by the Federal Territory (Planning) Act 1982 [*Act 267*]*—see* subsection 65(1) of Act 267.

“engineering operation” includes the formation or levelling of land, the formation or laying out of means of access to a road and the laying out of cables, mains or means of water supply sewerage or drainage;

“Federal Territory” means the area as shown in the deposited plan identified by reference to *Gazette* Plan No. 383;

“floor area” means the total area of floor space within a building measured between the external sides of walls or in the case of party walls, between the centre of the party walls;

“industry” includes the carrying out of any manufacturing, fabricating, repairing, assembling or processing of agricultural produce or finishing process;

“industrial use” includes the use of any land or building or part thereof for purposes of industry;

“land” includes—

- (a) the surface, and all substances forming the surface, of the earth;
- (b) all substances below the surface of the earth;
- (c) all vegetation and other natural products, whether or not requiring periodical application of labour to their production, and whether on or below the surface of the earth;
- (d) all things, whether on or below the surface of the earth, that are attached to the earth or permanently fastened to any thing attached to the earth;
- (e) land covered by water; and
- (f) any estate or interest in, or right over, land;

“local plan”, in relation to an area, means the local plan as prepared under section 13;

“occupier”, in relation to any land or building, includes—

- (a) a tenant of the land or building;
- (b) an owner of the land or building occupying or otherwise using the land or building;
- (c) a person in actual occupation of the land or building or having the charge, management, or control thereof, whether on his own account or as an agent of another person;

but does not include a lodger;

“open space” means any land whether enclosed or not which is laid out (or reserved for laying out) wholly or partly as a public garden, park, sport and recreation ground or pleasure ground or walk, or as a public place;

“owner”, in relation to any land or building, means—

- (a) the registered proprietor of the land;
- (b) the registered lessee of a lease including a registered sub-lessee;
- (c) the agent or trustee of any of the persons described in paragraphs (a) and (b) if in the opinion of the Commissioner that any of such persons cannot be traced;
- (d) the legal personal representative of any of the persons described in paragraphs (a) and (b) if any of such persons is dead;
- (e) the person who for the time being is receiving the rent of the premises in connection with which the word is used whether on his own account or as agent or trustee for any other person or as a receiver or who would receive the

same if such premises were let to a tenant;

“planning permission” means permission granted with or without condition in a development order to carry out any development specified in such order;

“plinth area” means the proportion of the area of any lot to be covered by building;

“plot ratio” means the ratio between the total floor area of a building and the area of the building plot;

“public place” includes any place, building or road which is open to the use and enjoyment of the public or where the public have or are permitted to have access whether on payment or otherwise;

“purchase notice” means a purchase notice referred to in section 46;

“requisition notice” means a requisition notice referred to in section 30;

“residence” means the use for human habitation of any land or building or part thereof including gardens, grounds, garages, stables, and out-houses, appertaining to such building;

“road” means any road whether public or private and includes any street, square, court, alley, lane, bridge, footway, track, bridle path, passage, or highway, whether thoroughfare or not over which the public has a right of way;

“structure plan”, in relation to an area, means a written statement accompanied by diagrams, illustrations and other descriptive matter containing policies and proposals in respect of the development and use of land in the area and may indicate action area; and “draft structure plan” shall be construed as the text requires;

“use”, in relation to any land, means any use of the land other than merely for the keeping or storage of materials and equipment intended

to be employed in the construction or erection of a building on the land, or as a site for temporary building for the accommodation of workers involved in the construction or erection of the building;

“utility” includes roads, water and electricity supplies, telephone services, street lighting, sewerage, drainage, public works, and other similar public services and conveniences.

(2) For the avoidance of doubt in construing the scope of any change in the use of land for purposes of this Act, it is decided that—

- (a) the use of land as a place for depositing refuse or waste materials involves a change in the use of land, notwithstanding that the land is comprised of a site already used for that purpose if the superficial area or the deposit is thereby extended;
- (b) any use of land or part thereof which contravenes or is inconsistent with or contrary to any provision of the development plan involves a change in the use of the land.

(3) For the avoidance of doubt in construing the scope of any change in the use of building for purposes of this Act, it is declared that—

- (a) any increase in the number of units in any building to more than the number originally approved by any authority empowered under any written law to give such approval for the building involves a change in the use of the building;
- (b) the use as a dwelling house of any building, not originally constructed for human habitation involves a change in the use of the building;
- (c) any alteration or addition to that part of the building (whether such part is in the interior of the building or attached to the exterior of the building) which abuts into any regular line of street as prescribed by or defined in any written law relating to streets, drainage and building involves a change in the use

of the building;

- (d) any use of a building or part thereof which contravenes or is inconsistent with or contrary to any provision of the development plan involves a change in the use of the building;
- (e) the use for other purposes of a building or part thereof originally constructed as a dwelling house involves a change in the use of the building.

PART II

FUNCTIONS AND POWERS OF THE COMMISSIONER

General planning policy

3. The Minister shall be responsible for general policy with respect to the planning of the development of all lands within the Federal Territory and (subject to Clauses (5) and (6) of Article 91 of the Constitution) of the use of such lands and buildings and for such purposes the Minister may give directions of a general character or specific in nature not inconsistent with the provisions of this Act and the Commissioner shall give effect to such directions.

Advisory Board

4. (1) There shall be established for the purpose of this Act a body to be known as the Federal Territory Planning Advisory Board, which in this Act is referred to as the “Advisory Board”, to advise the Minister upon—

- (a) the draft structure plan;
- (b) the draft local plan;

- (c) the declaration and revocation of action areas;
- (d) the declaration of development areas; or
- (e) such other matters as the Minister may from time to time refer to the Advisory Board.

(2) The Advisory Board shall consist of—

- (a) the Secretary General of the Ministry of the Federal Territories and Urban Wellbeing who shall be the Chairman;
- (b) a representative of the Land Executive Committee established under the National Land Code [*Act 56 of 1965*];
- (c) the Director General of Perbadanan Pembangunan Bandar (UDA);
- (d) the Director General of the Federal Town and Country Planning Department; and
- (e) three other members as may be appointed by the Minister.

(3) A member of the Advisory Board appointed under paragraph (2)(e) shall, unless he sooner resigns his office or his appointment is sooner revoked, hold office for a period not exceeding three years and shall be eligible for reappointment.

(4) A member of the Advisory Board may be paid such allowances as the Minister may with the approval of the Minister of Finance, determine.

(5) Subject to this Act and any regulations made thereunder, the meetings and procedure of the Advisory Board shall be determined by the Advisory Board.

(6) A member of the Advisory Board having an interest in any matter before it shall disclose the fact of his interest and the nature thereof, and such disclosure shall be recorded and such member shall not take part in any proceedings of the Advisory Board relating to such matter.

(7) All members of the Advisory Board shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

(8) The Minister shall not be bound to concur with the opinion expressed by the Advisory Board on any matter referred to it.

Commissioner to carry out functions and powers conferred and duties imposed by this Act

5. (1) The Commissioner is hereby appointed to exercise all the functions and powers conferred and to perform the duties imposed on him by this Act.

(2) In his exercise of any functions and powers conferred or in his performance of any duties imposed by this Act, the Commissioner shall not be subject to section 5 of the Federal Capital Act 1960; and any provisions in that Act referring to the Lembaga Penasihat Kuala Lumpur established under the said section 5 shall not apply to the Commissioner in his exercising of the functions and powers and in his performance of his duties under this Act.

(3) Where by or under this Act the Commissioner is empowered to exercise any powers or to perform any duties, he may in writing delegate subject to such conditions and restrictions as may be specified in such written delegation, the exercise of such powers or the performance of such duties to any person described by name or office:

Provided that nothing in this subsection shall apply to any power to make subsidiary legislation conferred upon the Commissioner by or under this Act.

(4) Where the Commissioner delegates the exercise of any powers or the performance of any duties to any person pursuant to subsection (3), the person so delegated shall in this Act be referred to as an authorized officer.

(5) The Commissioner may appoint with the approval of the Minister and subject to such terms and conditions as may be specified in the letter of appointment, agents to transact any business or to do any act required to be transacted or done in the execution of his functions, powers and duties or for the better carrying into effect the purpose of this Act; and the agent so appointed shall in this Act be referred to as the authorized agent.

Functions of the Commissioner

6. (1) Subject to the provisions of this Act, the functions of the Commissioner shall be to regulate, control and plan the development of all lands within the Federal Territory and the use of such lands and buildings and to perform any such other functions as the Minister may assign to him.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Commissioner may, and shall if directed by the Minister—

- (a) prepare and implement the development plan;
- (b) undertake, assist and encourage the collection, maintenance and publication of statistics, bulletins and other publications relating to town planning;
- (c) prepare and furnish reports relating to the working of this Act; and
- (d) perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be assigned by the Minister.

(3) The Commissioner may exercise all such powers as may be necessary or expedient for the purposes of carrying out his functions under this Act.

PART III

DEVELOPMENT PLANS

Draft structure plan, procedure of public notice and hearing of objections

7. (1) On the date of this Act coming into force or as soon as possible thereafter, the Commissioner shall submit the draft structure plan prepared by him to the Minister for the Minister's consent to publish a public notice in the *Gazette* and in such local newspapers as the Commissioner may determine of the preparation of the draft structure plan for the Federal Territory.

(2) The public notice under subsection (1) shall contain—

- (i) particulars of the place where copies of the draft structure plan may be inspected and where copies may be purchased on payment of the prescribed fees;
- (ii) invitation for objections in writing stating the grounds for the objections from any person with respect to the draft structure plan; and
- (iii) the period within which, but not less than one month from the date the notice is published, such objections may be made, provided that the period of objection may be extended by the Commissioner if he considers it necessary.

(3) For the purpose of considering and reporting on any objection made pursuant to subsection (2) the Minister shall appoint a Committee hereinafter in this Act referred to as the “the Committee” comprising of not less than three persons to be appointed by the Minister.

(4) If no objection is received, the Commissioner shall on the expiry of the period within which objections may be made submit the draft structure plan to the Minister for his decision pursuant to section 8.

(5) Where any objection is received, the Commissioner shall inform the Committee who shall consider and report on such objection.

(6) In considering any objection the Committee shall as soon as practicable hear any person including representatives of Government Departments or statutory bodies who in filing the objection has made a request to be heard.

(7) After the Committee has heard and considered the objections it shall within a reasonable time but not later than six months or such extended period as the Minister may allow after the date of the last hearing make a report to the Commissioner and the Commissioner shall consider the report of the Committee and may make such amendments to the draft structure plan as he considers proper and shall submit the draft structure plan with or without amendments together with the report of the Committee to the Minister not later than three months from the date of the receipt of the report from the Committee or such other extended period as the Minister may allow.

Approval or rejection of draft structure plan by the Minister

8. As soon as may be after the receipt of the draft structure plan, pursuant to subsection 7(4) or (7) the Minister may—

- (i) approve it; or
- (ii) approve it with such modifications, as he may consider necessary; or
- (iii) return it to the Commissioner for further consideration before granting his approval; or
- (iv) reject the plan.

Publication of public notice concerning the approved draft structure plan

9. (1) Immediately after the draft structure plan has been approved by the Minister, the Commissioner shall publish a public notice in the *Gazette* and in such local newspapers as the Commissioner may determine of the approval of the draft structure plan with or without any amendments or modifications and of the place where copies of such plan may be inspected and where copies may be purchased on payment of the prescribed fees.

(2) From the date of publication of the public notice in the *Gazette* under this section, such structure plan as published shall come into effect.

Alteration, addition, revision or replacement of structure plan

10. (1) At any time after a structure plan for the Federal Territory comes into effect, the Commissioner may submit to the Minister and shall, if so directed by the Minister, submit to him within a period specified in the direction, proposals for such alteration, addition, revision or replacement in whole or in part to the plan as appear to the Commissioner to be expedient or as the Minister may direct, as the case may be.

(2) For the purpose of making proposals to carry out any alteration, addition, revision or replacement in whole or in part to the structure plan, the Commissioner may at his own instance and shall, if so directed by the Minister, institute such survey as may be necessary to examine the matters that may be expected to affect the development or the proper planning of the development of the Federal Territory.

(3) Without prejudice to the generality of subsections (1) and (2) the matters to be examined may include—

- (a) the principal physical, economic, environmental and social characteristics including the principal land uses of the

Federal Territory, and so far as they may be expected to affect the Federal Territory and those of the neighbouring areas;

- (b) the size, composition, and distribution of the population of the Federal Territory whether resident or not;
- (c) without prejudice to paragraph (a), the communication, transport system, and traffic of the Federal Territory, and so far as they may be expected to affect the Federal Territory, those of the neighbouring areas;
- (d) any matters not mentioned in any of the preceding paragraphs that may be expected to affect any matters so mentioned;
- (e) such other matters as may be prescribed or as the Minister may in any particular case specify; and
- (f) any changes already projected in any of the matters mentioned in any of the preceding paragraphs and the effect that those changes are likely to have on the development, or the planning of the development of the Federal Territory.

(4) In formulating his policy and general proposals for the alteration, addition, revision or replacement in whole or in part of the structure plan, the Commissioner shall have regard to current policies in respect of the social and economic planning and development, the environmental protection of the nation and region and such other matters as the Minister may direct him to take into account.

Consent of the Minister and publication of notice

11. Upon the proposals having been prepared under section 10 the Commissioner shall as soon as possible but in any case not

later than the time, if any, prescribed by the Minister submit to the Minister for his consent to publish a public notice of the proposals, and subsections 7(2), (3), (4), (5), (6) and (7) and sections 8 and 9 shall apply, with such modifications as may be necessary in relation to the draft structure plan.

Declaration and revocation of action area

12. The Commissioner with the approval of the Minister may at any time by notification in the *Gazette* and in such local newspapers as the Commissioner may determine, declare any area not already shown to be an action area on the development plan to be an action area or may revoke any action area shown on the development plan.

Preparation of draft local plans

13. (1) The Commissioner in the course of preparing a draft structure plan for the Federal Territory or before the Minister approves or rejects a draft structure plan that the Commissioner has prepared, may, if he thinks it desirable, prepare a draft local plan for any part of the area.

(2) Where a structure plan for the Federal Territory has come into effect, the Commissioner shall as soon as practicable consider, and thereafter keep under review, the desirability of preparing and, if he considers it desirable and he has not already done so, shall prepare, a draft local plan for any part or for the whole of the Federal Territory.

(3) A draft local plan shall consist of a map and a written statement and shall—

- (a) formulate, in such detail as the Commissioner thinks appropriate, his proposals for the development and use of land in the area of the local plan, including such measures as the Commissioner thinks fit for the improvement of the

physical environment and the improvement of transportation and;

- (b) contain such matters as the Minister may in any particular case specify.

(4) A draft local plan for an area shall be accompanied by such diagrams, illustrations, and descriptive matter as the Commissioner thinks appropriate for the purpose of explaining or illustrating the proposals in the plan and the diagrams, illustrations, and descriptive matter shall be treated as forming part of the plan.

(5) If an area is indicated as an action area in a structure plan or declared to be an action area under section 12, the Commissioner shall, as soon as practicable after the structure plan comes into effect, prepare a draft local plan for that area.

(6) In formulating his proposals in a draft local plan, the Commissioner shall ensure that the proposals conform generally to the structure plan as it stands for the time being, whether or not it has come into effect, and shall have regard to any information and other considerations that appear to him to be relevant, or that may be prescribed, or that the Minister may in any particular case direct him to take into account.

Publicity in connection with draft local plan

14. When the Commissioner has prepared a draft local plan, he shall, before adopting it under section 16 but not before the structure plan comes into effect, publish a public notice in the *Gazette* and in such local newspapers as the Commissioner may determine of the preparation of the draft local plan and subsection 7(2) shall apply with such modifications as may be necessary.

Inquiries and hearings in respect of draft local plans

15. The Commissioner shall wherever practicable hear any person

including the representative of Government department or statutory body who has made a request to be heard at the time of filing the objection or making representation and if necessary he may call for a local enquiry.

Adoption of draft local plan

16. (1) After the expiry of the period afforded for making objections to or representations in respect of a draft local plan or, if such objections or representations have been duly made during that period after considering the objections or representations, the Commissioner may with the approval of the Minister, subject to subsection (2) adopt the plan either as originally prepared or as modified so as to take account of the objections or representations or for any matters arising there from, and thereupon the plan shall come into effect.

(2) The Commissioner shall cause the fact of his adoption of a draft local plan to be published in the *Gazette* and in such local newspapers as the Commissioner may determine, and of the place where the copies of such plan may be inspected and where copies may be purchased on payment of the prescribed fee.

Alteration, repeal, and replacement of local plans

17. (1) The Commissioner may at any time make proposals for the alteration, addition, revision, repeal or replacement in whole or in part of a local plan.

(2) Without prejudice to subsection (1), the Commissioner shall if the Minister gives him a direction in that behalf in respect of a local plan, as soon as practicable prepare proposals of a kind specified in the direction, being proposals for the alteration, addition, revision, repeal or replacement in whole or in part of the local plan.

(3) Subsection 13(6) and sections 14, 15 and 16 shall apply in relation to the making of proposals for the alteration, addition, revision, repeal or replacement in whole or in part of a local plan.

Suspension of development plan by the Minister

18. (1) The Minister may at his own instance or on the recommendation of the Commissioner and by order published in the *Gazette* and any local newspaper as specified by the Commissioner suspend the development plan or part thereof for such period and in respect of such area within the Federal Territory as the Minister may deem fit if he is satisfied that having regard to such special circumstances it is expedient so to do.

(2) Where the Minister makes an order under subsection (1), he may in that order provide for such adaptation or modification of the provisions of this Act as may be necessary to bring them into accord with the suspension of the development plan or any part thereof in respect of the area to which the suspension relates.

PART IV

PLANNING CONTROL

Use of land and buildings

19. (1) Subject to the provisions of this Act no person shall use or permit to be used any land or building or commence, undertake or carry out any development otherwise than in conformity with the development plan or any planning permission granted under this Act in respect of the development.

(2) Notwithstanding subsection (1), the Commissioner may permit upon such terms and conditions as may be specified in the permit the continuance for such period as may be specified therein of the use of any land or building for the purposes and to the extent for and to which it was being used prior to the date this Act comes into force.

Prohibition of development without planning permission

20. (1) Without prejudice to subsection 19(2), no person shall commence, undertake or carry out any development irrespective of whether or not the development is in conformity with the development plan unless—

- (a) a development order granting planning permission in respect of the development has been issued to him under this Act; and
- (b) where in respect of a development the provisions of section 40 apply, he has complied with the provisions of section 41.

(2) Notwithstanding subsection (1), no planning permission shall be necessary—

- (a) for carrying out such works necessary for the maintenance, improvement or other alteration of any building which affect only the interior of the building and which do not—
 - (i) involve any change in the use of the land or building;
 - (ii) materially affect the external appearance of the building;
 - (iii) involve any increase in height or floor spaces of the building;
 - (iv) involve any addition to or alteration of a building which affects or is likely to affect its drainage, sanitary arrangements or its soundness; or
 - (v) contravene or be inconsistent with any provision in the development plan;
- (b) for any minor works or for the construction of awnings or extensions of such size and materials as the Commissioner may by policy decision exempt;

- (c) for the carrying out by the Federal or the State Government or the City of any works required for the making, maintenance or improvement of a highway, road or public street;
- (d) for the carrying out by the Federal or the State Government or the City or any authority established by law to provide amenities of any works for the purpose of laying, inspecting, repairing or renewing any drains, sewers, mains, pipes, cables or other apparatus including the breaking open of any road or other land for that purpose;
- (e) for the excavations (including wells) made in the ordinary course of agricultural operations;
- (f) for the construction of road intended to give access to land used solely for agricultural purposes;
- (g) for the use of any land or building for a period not exceeding one month or such further period as the Commissioner may allow for purposes of—
 - (i) a temporary mobile cinema, theatre, or show;
 - (ii) a temporary amusement park, fair, or exhibition; or
 - (iii) a temporary ceremony or festivity of a religious, social, or other character;and for any development necessary to give effect to such use;
- (h) for the construction or erection on any land of temporary buildings for the accommodation of works involved in the construction or erection of a building on the land, for which planning permission has been granted;
- (i) for the use of any land or building within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such; or

- (j) for the making of such change in the use of land or building as the Commissioner may prescribe to be a change for which no planning permission is necessary.

Application for planning permission

21. (1) An application for planning permission in respect of a development shall be made to the Commissioner and shall be in such form and shall contain such particulars and be accompanied by such documents, plans and fees as may be prescribed.

(2) If the applicant is not the owner of the land on which the development is to be carried out, the written consent of the owner thereof to the proposed development shall be obtained and endorsed on the application.

(3) Where the development involves the erection of a building, the Commissioner may give written directions to the applicant in respect of any of the following matters, that is to say—

- (a) the level of the site of the building;
- (b) the line of frontage with neighbouring buildings;
- (c) the elevations of the buildings;
- (d) the class, design, and appearance of the building;
- (e) the setting back of the building to a building line;
- (f) access to the land on which the building is to be erected; and
- (g) any other matter that the Commissioner considers necessary for purposes of planning.

(4) The applicant to whom any written directions are given under subsection (3) shall if required by the Commissioner amend the plan submitted with his application accordingly and resubmit the plan within such period or extended period as the Commissioner may specify.

(5) If the plan is not resubmitted within the specified period or extended period, the application for planning permission shall be deemed to have been withdrawn but the applicant may submit a fresh application.

Development order

22. (1) The Commissioner shall have power exercisable at his discretion to grant planning permission or to refuse to grant planning permission in respect of any development irrespective of whether or not such development is in conformity with the development plan; provided however the exercise of the discretion by the Commissioner under this subsection shall be subject to subsection (4) and section 23.

(2) Where the Commissioner decides to grant planning permission in respect of a development he may issue a development order—

- (a) granting planning permission without any condition in respect of the development;
- (b) granting planning permission subject to such condition or conditions as the Commissioner may think fit in respect of the development:

Provided that the Commissioner shall not issue a development order under this subsection unless he is satisfied that the provision of section 41 relating to the assessment of development charges has been complied with.

(3) Without prejudice to the generality of paragraph (2)(b), the Commissioner may impose any or all of the following conditions—

- (a) to the effect that the development order granting planning permission in respect of any change of use of land or building is only for a limited period and after the expiry of that period the use of the land or building as authorized under such development order shall cease to have any effect and the land

or building shall be reverted to its original use; and

(b) to regulate—

- (i) the development and use of any other land which is under the control of the applicant and which is adjoining the land for which planning permission is to be granted for the development thereof; and
- (ii) the works that may be carried out on such other land in the manner and to the extent as may appear to the Commissioner to be expedient with regard to the development for which planning permission is to be granted.

(4) The Commissioner in dealing with an application for planning permission shall take into consideration such matters as are in his discretion expedient or necessary for purposes of proper planning and in this connection but without prejudice to the discretion of the Commissioner to deal with such application, the Commissioner shall as far as practicable have regard to—

- (a) the provisions of the development plan and where the local plan has not been adopted, the Comprehensive Development Plan; and
- (b) any other material consideration:

Provided that in the event of there being no local plan for an area and the Commissioner is satisfied that any application for planning permission should not be considered in the interest of proper planning until the local plans for the area have been prepared and adopted under this Act then the Commissioner may either reject or suspend the application.

(5) Upon the receipt of an application for planning permission the Commissioner shall within such time as may be prescribed either grant or refuse the application and when the application is granted subject

to condition or refused, the Commissioner shall give his reasons in writing for his decision.

(6) Where a development order is granted, whether with or without conditions, it shall be conveyed to the applicant in the prescribed form.

Appeal against decision of Commissioner

23. (1) An appeal against the decision of the Commissioner made under subsection 22(1) or (2) may be made to the Appeal Board within one month from the date of communication of such decision to him, by any applicant aggrieved by the decision of the Commissioner in refusing his application for planning permission or who is aggrieved by any condition imposed by the Commissioner in granting the planning permission in respect of his application.

(2) In considering any appeal the Appeal Board shall hear the appellant and the Commissioner.

(3) After hearing the appeal, the Appeal Board may make an order—

- (a) confirming the decision of the Commissioner and dismissing the appeal; or
- (b) allowing the appeal by directing the Commissioner to grant planning permission subject to such conditions as the Appeal Board may think fit; or
- (c) allowing the appeal by directing the Commissioner to remove or modify any condition subject to which planning permission has been granted or to replace such condition with such other condition as the Appeal Board may think fit.

Lapse of development order

24. (1) A development order issued under this Act shall unless

otherwise extended be valid for twelve months from the date of the issue of the order within which time the development shall commence in the manner specified in such order or the building plans in respect of the development shall be submitted in accordance with any law relating to the erection of buildings:

Provided that this subsection shall not apply in respect of a development order which is expressly mentioned therein that the planning permission granted does not involve any building operation.

(2) On an application being made in that behalf in the prescribed manner before the expiry of the period referred to in subsection (1) the Commissioner may on the payment of the prescribed fee by the applicant grant such extension to a development order as the Commissioner may deem fit.

(3) In granting an extension or further extension of a development order under subsection (2), the Commissioner may impose such conditions on the development order as he thinks fit or vary the conditions originally imposed; and section 23 shall apply with the necessary modifications to the imposition or variation of conditions under this section as it applies to the imposition of conditions under subsection 22(2).

Revocation and modification of development order, permission and approval

25. (1) If it appears to the Commissioner that any development order issued under this Act or under Part V of the City of Kuala Lumpur (Planning) Act 1973 should be revoked or modified, the Commissioner may order such development order or permission or approval to be revoked or modified to such extent as appears to him to be necessary.

(2) An order revoking a development order or a planning permission or an approval of a building plan shall state the period within which the person to whom the permission or approval was granted is

required to demolish any building erected pursuant to the permission or approval and the maximum amount that the Commissioner is prepared to reimburse the person in respect of costs incurred by him in carrying out the demolition.

(3) If, within the period stated in the revocation order or such longer period as the Commissioner may allow, demolition has not been carried out or completed, the Commissioner may himself and at his own expense carry out or complete the demolition.

(4) If demolition has been completed by the person to whom the development order or planning permission or approval of the building plan was issued, the Commissioner shall reimburse the person the costs actually and reasonably incurred by him in carrying out the demolition, but not exceeding the amount stated in the revocation order.

(5) If demolition has been partially carried out by the person to whom the development order or planning permission or approval of the building plan was issued but completed by the Commissioner, the Commissioner shall assess the amount that the demolition would have cost had it been carried out entirely by the Commissioner and determine the amount of the costs actually and reasonably incurred by the Commissioner in completing the demolition, and shall pay the person by way of reimbursement of his costs the difference between the two amounts or the costs actually and reasonably incurred by the person in carrying out his part of the demolition, whichever is the lesser amount, but in no case shall the Commissioner be bound to pay any amount beyond the amount stated in the revocation order.

(6) If a development order or a planning permission or an approval of a building plan is revoked under subsection (1) and the person to whom such order, permission or approval was issued claims from the Commissioner within the time and in the manner prescribed, compensation for any expenditure incurred by him in carrying out works to implement the permission or approval prior to its revocation or modification, the Commissioner shall, after giving the person a reasonable opportunity to be heard, offer such compensation to him as

the Commissioner thinks adequate.

(7) Where a development order or a planning permission or an approval of a building plan is modified under subsection (1), the Commissioner shall reimburse the person to whom such order, permission or approval was issued the costs actually and reasonably incurred by him in implementing the modification, being costs that he would not have incurred had the modification not been ordered, and shall compensate him for any loss suffered as a result of the modification.

(8) If any person is aggrieved by the amount of any reimbursement or compensation offered or paid to him under this section, he may, within the time and in the manner prescribed, appeal to the Appeal Board and the Appeal Board shall assess the amount of reimbursement or compensation to be paid.

Offences relating to unauthorized development

26. (1) Any person who whether at his own instance or at the instance of any other person—

- (a) commences, undertakes or carries out development in contravention of subsection 19(1) or uses or permits to be used any land in contravention of that section;
- (b) commences, undertakes or carries out development in contravention of subsection 20(1);
- (c) commences, undertakes or carries out development in contravention of any condition specified in a development order granting planning permission in respect of such development;
- (d) commences, undertakes or carries out any development where the development order in respect of such development has lapsed under section 24;

- (e) commences, undertakes or carries out any development where the development order or permission or approval for building plan as the case may be in respect of such development has been revoked pursuant to section 25 or subsection 41(2); or
- (f) commences, undertakes or carries out development where the development order or the permission or approval for building plan as the case may be in respect of such development has been modified pursuant to section 25 as a result of which the development so commenced, undertaken or carried out by such person is inconsistent with such modified development order or permission or approval,

is guilty of an offence and on conviction is liable to a fine not exceeding fifty thousand ringgit and in the case of a continuing offence to a further fine which may extend to five hundred ringgit for every day during which the offence continues after conviction for the first commission of the offence.

(2) The owner of the land in respect of which any act that constitutes an offence under subsection (1) is done shall be deemed to have permitted the doing of that act and is liable for the like offence to the like penalty.

(3) Where the use of land or building is permitted to be continued by the Commissioner pursuant to subsection 19(2), any person who continues such use on or after the expiry of the period specified in the permit allowing such use or who continues such use in contravention of any terms or conditions under which such use is permitted, is guilty of an offence and on conviction is liable to a fine not exceeding twenty-five thousand ringgit and in the case of a continuing offence to a further fine which may extend to five hundred ringgit for every day during which the offence continues after conviction for the first commission of the offence.

Enforcement notice relating to development carried out in contravention of the law

27. Where it appears to the Commissioner that any development or use of land or building has been undertaken or carried out or being carried out and has not been completed in contravention of section 26 the Commissioner may at any time serve on the owner of the land and the occupier connected therewith an enforcement notice requiring any or both of them within such period as may be specified therein to comply with the requirements of the enforcement notice:

Provided that nothing in this section shall be construed to preclude the prosecution of any person for an offence under this Act.

Effect of enforcement notice served pursuant to section 27

28. (1) Any person on whom an enforcement notice is served pursuant to section 27 and who is aggrieved by such notice may within the period and in the manner prescribed apply for planning permission in respect of the development or for the retention on the land of any buildings or works or for the continuance of any use of the land, to which the enforcement notice relates.

(2) If an application for planning permission is made under subsection (1) the Commissioner shall have power exercisable at his discretion to determine whether to suspend the enforcement notice or proceed to take action in terms of the notice.

- (i) section 21 shall apply to any application for planning permission under this section provided however in addition to any fees required to be paid under section 21 a further fine as may be provided shall be payable for an application made under this section;
- (ii) the Commissioner shall have power exercisable at his discretion to grant planning permission or to refuse to grant

planning permission with respect to an application made under this section; and subsections 22(2) to (6) shall apply to an application made under this section;

- (iii) if planning permission is granted with respect to an application, the enforcement notice shall not take effect or if planning permission is granted for the retention only of some buildings or works or for the continuance of use of only a part of the land the enforcement notice shall not take effect regarding such buildings or works or such part of the land, but shall have full effect regarding other buildings, works or other parts of the land.

Penalty for non-compliance with enforcement notice served pursuant to section 27

29. (1) Without prejudice to subsection (4), if within the period specified in the enforcement notice served pursuant to section 27 or, as the case may be, within such period as may be specified by the Commissioner after the withdrawal or refusal of the application for planning permission made in connection therewith, the enforcement notice or so much of it as continues to have effect is not complied with the Commissioner or any authorized officer may enter with or without workmen upon the land and take such steps as may be necessary to execute the enforcement notice including the demolition or alteration of any building or works or the removal of any goods, vehicles or things from any building or land.

(2) The Commissioner may request the officer in charge of the police district in which action is to be taken to provide police officers to render assistance to any authorized officer in taking any action by virtue of subsection (1) and it shall be the duty of the officer in charge of the police district to comply with the request of the police officers provided in compliance therewith to render such assistance.

(3) Where the Commissioner exercises the power under subsection (1), he may recover any expenses and costs incurred by him from the

owner of the land in the same manner as an action to recover rates under any written law relating to local government.

(4) Any person who fails to comply with any requirement of the enforcement notice served pursuant to section 27 within such period as may be specified therein or, as the case may be, within such period as may be specified by the Commissioner after the withdrawal or refusal of the application for planning permission made in connection therewith is guilty of an offence and on conviction is liable to a fine not exceeding twenty thousand ringgit and in the case of a continuing offence to a further fine which may extend to five hundred ringgit for every day during which the offence continues after conviction for the first commission of the offence.

Requisition notice

30. (1) Without prejudice to section 27, if the Commissioner is satisfied—

- (a) that any use of land should be discontinued; or
- (b) that conditions should be imposed on the continued use thereof; or
- (c) that any building or works on any land should be altered or removed,

the Commissioner may, by notice, which in this Act is referred to as the “requisition notice”, served on the owner of the land—

- (i) require the discontinuance of that use; or
- (ii) impose such conditions for the continued use of the land as may be specified in the requisition notice; or
- (iii) require such steps as may be specified in the requisition notice to be taken for the alteration or removal of the buildings or works as the case may be;

and the owner shall, within such period as may be specified in the requisition notice, not being less than one month from the date of service of the notice, comply with such requirements or conditions.

(2) A person aggrieved by a requisition notice may, within the period stated therein and in the manner prescribed, appeal to the Appeal Board.

(3) If an appeal is filed under subsection (2), the requisition notice shall be suspended until the determination or withdrawal of the appeal.

(4) In considering an appeal under subsection (2), the Appeal Board shall hear the appellant and the Commissioner.

(5) If the owner of the land to which the requisition notice relates has, in consequence of complying with the notice, suffered damage in the form of a depreciation in the value of the land or incurred expenses or costs in carrying out works in compliance with the notice, he may claim from the Commissioner, within the time and in the manner prescribed, compensation for the damage, expenses or costs.

(6) If a claim is made under subsection (5) the Commissioner shall, after giving the person making the claim an opportunity to be heard, offer him such compensation as the Commissioner considers adequate.

(7) If the person to whom compensation is offered under subsection (6) is aggrieved by the amount thereof, he may, within the time and in the manner prescribed, appeal to the Appeal Board and the Appeal Board shall assess the amount of compensation to be paid.

(8) A person who fails to comply with a requisition notice served on him under subsection (1) within the period specified therein or, where an appeal has been made under subsection (2), within such period after the determination or withdrawal of the appeal as may be specified by the Commissioner commits an offence and is liable, on conviction, to a fine not exceeding ten thousand ringgit and, in the case of a continuing offence, to a further fine which may extend to five hundred ringgit for each day during which the offence is continued after the conviction for the first commission of the offence.

(9) Without prejudice to subsection (8) if within the time specified in the requisition notice, there is no compliance, the Commissioner or any person so authorized by him, may enter with or without workmen upon the land and take such steps as may be necessary to execute the requisition notice including the demolition or alteration of any building or works or removal of any goods, vehicles or things from any building or land and in such event subsections 29(2) and (3) shall *mutatis mutandis* apply.

PART V

PRESERVATION AND PLANTING OF TREES

Provision for preservation and planting of trees

31. (1) It shall be the duty of the Commissioner whenever it is appropriate at the time of granting planning permission or at any time thereafter to impose conditions for the preservation or planting of trees and the making up of open spaces.

(2) The Commissioner may at the time of granting planning permission and at any time thereafter require the applicant to deposit and deposit further with the Commissioner such amount as the Commissioner may determine to ensure that—

- (a) the condition for the preservation or planting of trees will be complied with; and
- (b) any open spaces are made up according to the approved plans and specifications.

(3) The amount determined by the Commissioner shall be deposited within such period as may be specified by the Commissioner.

Commissioner may cause trees to be properly planted

32. (1) If—

- (a) the condition for the preservation and planting of trees is not complied with; or
- (b) the open spaces are not made up in accordance with the approved plans and specifications,

to the satisfaction of the Commissioner in any case where a deposit has been made under section 31, the Commissioner may, at any time, after service of a notice on the person who made the deposit cause the trees to be planted, or execute or cause works to be carried out to ensure that the open spaces are made up in accordance with the approved plans and specifications.

(2) The cost of any works to be carried out by the Commissioner under subsection (1) shall be recovered from the deposit made under section 31.

Refund of deposit on completion of works

33. (1) Where a deposit has been made under section 31 and the trees have been planted, or the open spaces are made out in accordance with the approved plans and specifications, the Commissioner may, upon an application being made refund to the person who made the deposit the whole or part of the deposit.

(2) The Commissioner may retain the deposit or part thereof if he is of the opinion that—

- (a) the trees have not been properly planted; or
- (b) the open spaces have not been properly made out in accordance with the approved plans and specifications; or
- (c) it is required for a period of maintenance, which period shall not exceed twelve months from the date of completion of the works described in the approved plans and specifications.

Refund of deposit where building works are not commenced

34. Any person who has made a deposit under section 31 and who subsequently does not proceed with the implementation of the planning permission may notify the Commissioner who may, in his discretion, refund the deposit or part thereof as he may determine.

Tree preservation order

35. If it appears to the Commissioner that it is expedient in the interest of amenity to make provision for the preservation of any tree, trees or groups of trees in the Federal Territory, he may for that purpose make an order, which in this Act is referred to as a “tree preservation order”, with respect to such tree, trees or groups of trees as may be specified in the order, and in particular, provision may be made by any such order—

- (a) for prohibiting the cutting down, topping, lopping or wilful destruction of trees, except with the consent of the Commissioner; and
- (b) for securing the replanting in such manner as may be directed by or under the order:

Provided that this section shall not apply to the cutting down, topping or lopping of trees which are dying or dead or for the prevention of imminent danger.

Prohibition to cut tree with girth exceeding one metre

36. (1) Notwithstanding section 35 no person shall, without the written permission of the Commissioner fell or cut any tree with a girth exceeding one metre growing on any land except where—

- (a) the felling or cutting is for the prevention of imminent danger; or

(b) the felling or cutting is in compliance with any written law.

(2) For the purpose of subsection (1) the girth of a tree shall be measured half a metre from the ground provided that the girth of the tree with buttress shall be measured above the buttress.

(3) Any person who fells or cuts a tree in contravention of subsection (1) or who wilfully causes the death of a tree to which that section applies is guilty of an offence and is liable on conviction to a fine not exceeding five thousand ringgit.

(4) Where in any proceeding for an offence under this section it is proved that a tree was felled or cut, it shall be presumed, until the contrary is proved that the tree had been felled or cut by the occupier of the land on which the tree was growing.

Replacement of trees

37. (1) If any tree in respect of which a tree preservation order is for the time being in force is removed or destroyed in contravention of the order or is removed or destroyed or dies, it shall be the duty of the owner of the land, unless on his application the Commissioner dispenses with this requirement, to plant another tree of an appropriate size and species at the same place as he reasonably can.

(2) The duty imposed by subsection (1) on the owner of the land shall attach to the person who is from time to time the owner of the land and may be enforced as provided.

Penalties for non-compliance with the preservation order

38. If any person, in contravention of a tree preservation order cuts down or wilfully destroys a tree or tops or lops the tree in such a manner as to be likely to destroy it, he is guilty of an offence and is liable on conviction to a fine not exceeding five thousand ringgit.

Enforcement of duties as to tree preservation order

39. If a tree preservation order which requires replacement of a tree is not complied with, the Commissioner may proceed to replace the tree of such size and species as he may decide and the cost and expenses incurred thereby shall be paid by the person in default or the owner.

PART VI

DEVELOPMENT CHARGE

Development charge and liability thereto

40. (1) Where a local plan or an alteration of a local plan effects a change of use, density, plot ratio or floor area in respect of any land so as to enhance the value of the land, a development charge at the prescribed rates shall be levied in respect of any development of the land commenced, undertaken, or carried out in accordance with the change.

(2) Without prejudice to the subsection (1), a development charge at such rates as may be prescribed shall also be levied by the Commissioner where the development order granting planning permission in respect of a development is subject to—

(a) a condition that such development may be carried out only if spaces for car parking are provided in such manner and to such extent as specified in the development order; and

(b) a further condition that the Commissioner may accept payment of a development charge at the prescribed rates in lieu of the provision of the spaces for car parking.

(3) The development charge referred to in subsections (1) and (2) may, in the discretion of the Commissioner, be levied on—

(a) the owner of the land to which the development charge relates; or

- (b) the person who carries out the development in respect of which the development charge relates.

(4) The Commissioner with the approval of the Minister may, by rules provide for the rates to be charged, the application for and the procedure of the assessment of the development charge, the collection or refund of the development charges and forfeiture of moneys deposited in connection with development charges or exemptions from development charges.

Determination of development charge

41. (1) Before granting planning permission for any development, the Commissioner shall determine whether a development charge is payable in respect of the development and, if payable, the amount thereof, and shall serve on the applicant for planning permission an order in the prescribed form demanding payment of the amount:

Provided that the Commissioner may in his discretion permit the development charge to be paid by such number of instalments as he deems just together with interest thereon at such rate as he may fix.

(2) Notwithstanding anything in this Act, the Commissioner may refuse to grant planning permission or revoke any development order granting planning permission for any development at any time if the development charge in respect of such development or any part thereof remains unpaid; and section 25 shall not apply to any development order revoked under this subsection.

(3) The Commissioner may at any time vary any order issued under subsection (1) if he is satisfied that subsequent to the issue of such order the actual density, floor area or plot ratio differs from the density, floor area or plot ratio upon which the development charge has been based, and shall determine the new development charge accordingly and make an order to that effect.

(4) The Commissioner shall serve the order made under subsection (3) in the manner specified in subsection (1).

(5) The Commissioner shall—

- (a) demand the payment of the difference in the amount of development charge if the amount in the order made under subsection (3) exceeds the amount specified in the order made under subsection (1); or
- (b) refund the difference in the amount of the development charge if the amount paid in consequence of the order under subsection (1) exceeds the amount specified in the order made under subsection (3).

Appeal against assessment of development charge

42. (1) If any person liable for a development charge is dissatisfied with the order made under subsection 41(1) or (3) he may, within such time and in such manner as may be prescribed, appeal to the Appeal Board.

(2) The Appeal Board may, after hearing the Commissioner and the appellant make such order as it deems fit.

Development charge to be a charge on land

43. If any development is commenced or carried out without payment of the amount of the development charge determined under the provisions of this Part, the amount of the development charge shall be recoverable in the same manner as arrears of rates under any law relating to local government.

Payment of moneys into fund

44. The Commissioner shall pay all monies collected under this Act

into the fund constituted under any law relating to local government and notwithstanding the provisions of that law relating to the expenditure of moneys out of that fund the Commissioner shall have power to expend such moneys collected under this Act for the purposes of putting into effect the provisions of this Act:

Provided that any moneys collected by virtue of subsection 40(2) shall not be expended except for the purpose of providing spaces for car parking in the City.

PART VII

APPEAL BOARD

Appeal Board

45. (1) For the purpose of this Act there shall be appointed an Appeal Board consisting of three members, one of whom shall be the Chairman, which in this section is referred to as “the Chairman”, and two other members who shall serve in the Appeal Board pursuant to subsection (5).

(2) There shall also be a Deputy Chairman of the Appeal Board, which in the section is referred to as “Deputy Chairman”, who shall only serve in the Appeal Board if the Chairman is unable to exercise his functions owing to illness, absence from Malaysia or for any other cause whatsoever and when the Deputy Chairman serves in the Appeal Board under the aforesaid circumstances he shall exercise the functions of the Chairman.

(3) The Chairman and the Deputy Chairman shall be persons nominated by the Chief Justice of the High Court in Malaya, from amongst persons who are judges of such High Court or who for the ten years preceding the nomination have been advocates and solicitors of such High Court or have been members of the judicial and legal service of Malaysia.

(4) The appointment of the Chairman and Deputy Chairman shall be made by the Yang di-Pertuan Agong by notification in the *Gazette* from amongst the persons nominated pursuant to subsection (3) and a person so appointed shall unless he sooner resigns or his appointment revoked, hold office for a period not exceeding three years and shall be eligible for reappointment.

(5) (a) Whenever a need arises for the Appeal Board to be convened, the Chairman shall call upon to serve on the Appeal Board any two members from a panel of persons appointed by notification in the *Gazette* by the Minister.

(b) The appointment of any member, other than the Chairman and the Deputy Chairman shall be for a period of three years unless he sooner resigns or his appointment is sooner revoked.

(6) The Yang di-Pertuan Agong may revoke the appointment of the Chairman or Deputy Chairman and the Minister may revoke the appointment of the other members without assigning any reason therefor.

(7) A member of the Appeal Board having an interest in any matter before it shall disclose the fact of his interest and the nature thereof, and such disclosure shall be recorded and such member shall take no part in any proceedings of the Appeal Board relating to such matter.

(8) Every decision of the Appeal Board shall be made by the Chairman after considering the opinion of the other two members but in making his decision the Chairman shall not be bound to concur with the opinion of the other two members or either of them provided that the Chairman shall record his reasons for dissenting therefrom.

(9) The Appeal Board shall in addition to all the powers contained under this Act have powers to summon and examine witnesses, require any person to bind himself by an oath to state the truth, compel the production and delivery of any document which it considers to be material for the proceeding before it, to award costs or make any order in respect of any appeal before it where this Act does not provide for the nature of the order to be made.

(10) Every person summoned by the Appeal Board to attend its proceedings is legally bound to attend at the place and time specified in the summons, and every person required by the Appeal Board to produce or deliver any document to the Appeal Board or to any public servant is legally bound to so produce or deliver the document.

(11) All summonses, notices, awards, and orders issued, made or given under the hand of the Chairman shall be deemed to be issued, made, or given by the Appeal Board.

(12) An order made by the Appeal Board on an appeal before it shall be final, shall not be called into question in any court, and shall be binding on all parties to the appeal or involved in the matter.

(13) For the purposes of the Penal Code, the Appeal Board shall be deemed to be a court and every member thereof shall be deemed to be a public servant.

(14) The Minister may make rules to prescribe the procedure of appeals to the Appeal Board and the fees payable in respect thereof and to regulate the proceedings of the Appeal Board but, until such rules are made and in operation the Appeal Board shall, for the purpose of its proceedings, as far as practicable follow the Subordinate Courts Rules 1980 [*P.U. (A) 328/1980*].

(15) Members of the Appeal Board shall be paid such allowances as the Minister may with the approval of the Minister of Finance, determine.

PART VIII

PURCHASE NOTICE AND ACQUISITION OF LAND

Notice requiring purchase of land in certain cases

46. (1) Without prejudice to the operation of any written law for the time being in force relating to the acquisition of land, a registered proprietor of land—

- (a) for the development of whose land planning permission has been refused under section 22 on the grounds that the land is indicated in the development plan, whether expressly or by implication, as land intended for a public purpose and who claims that, by reason of the refusal, the land is incapable of reasonable beneficial use; or
- (b) who claims that, by reason of compliance with a requisition notice in respect of his land served on him under section 30, the land is incapable of reasonable beneficial use,

may, in the prescribed manner, serve on the Commissioner a purchase notice in the prescribed form, requiring his interest in the land to be purchased in accordance with this section.

(2) There shall be served with the purchase notice a statement of the facts and reasons to justify the claims in the notice, together with copies of any available documents, including affidavits that may furnish proof of the facts and reasons.

(3) The Commissioner shall investigate the claim made in every purchase notice served under subsection (1) and, if it is satisfied that the notice is in the prescribed form and has been prepared and served in the prescribed manner, shall submit the notice to the Minister together with the statement and any other documents served with the notice and—

- (a) in the case of a purchase notice of a person claiming under paragraph (1)(a), a detailed report concerning the refusal of planning permission giving rise to the claim, a statement of the specific purpose for which the land is intended, and a statement of the opinion of the Commissioner as to whether the land is capable of reasonable beneficial use; and
- (b) in the case of a purchase notice of a person claiming under paragraph (1)(b), details of the requisition notice giving rise to the claim and a statement of the opinion of the Commissioner as to whether the land is capable of reasonable beneficial use.

(4) If the Commissioner is not satisfied that the purchase notice is in the prescribed form or has been prepared or served in the prescribed manner, he shall reject the purchase notice, but without prejudice to the service of another purchase notice.

(5) The Minister, after considering the purchase notice and all other matters submitted by the Commissioner under subsection (3) shall—

- (a) if the Minister is satisfied that the land to which the purchase notice relates is capable of reasonable beneficial use, reject the purchase notice; or
- (b) if the Minister is not satisfied that the land to which the purchase notice relates is capable of reasonable beneficial use or is satisfied that the land is not capable of such use, direct the Commissioner to initiate steps towards the acquisition of the land in accordance with the Land Acquisition Act 1960 [*Act 486*].

(6) For the purposes of the Land Acquisition Act 1960—

- (a) any land intended to be acquired pursuant to this section shall be deemed to be needed by the Commissioner; and
- (b) the land shall be deemed to be needed for the purpose referred to in paragraph 3(b) of the said Act.

PART IX

ACTION AREAS AND DEVELOPMENT AREAS

Service of an action area order

47. (1) Where an area has been shown to be an action area on the development plan or has been declared to be an action area under section 12, the Commissioner shall either before or after adoption of the local plan for the area, serve an action area order on the owner of the lands affected thereby informing them—

- (i) the date on which the area was indicated as an action area on the development plan or declared to be such under section 12;
- (ii) the type of development, redevelopment or improvement that would be permitted or likely to be permitted either by individual lots or as a comprehensive development;
- (iii) the period within which the development is to be commenced in the area and where the Commissioner considers it necessary, requesting that an application for planning permission be made within a specified period.

Declaration of development areas

(2) If within the period specified in the action area order the owner fail to apply for planning permission or, if there is no such period specified and the owner fails to commence development within the period stated in the order, the Commissioner may with the approval of the Minister, by notification in the *Gazette* and in such local newspaper determined by the Commissioner declare the area or any part thereof to be a development area.

(3) Upon an area being declared to be a development area, it shall be the duty of the Commissioner to acquire, by purchase or by compulsory acquisition under the Land Acquisition Act 1960, all alienated lands situated within the area, and to develop the area in accordance with the local plan.

Effect of declaration

48. (1) Every declaration under section 47 shall have effect as a declaration of intended acquisition under the Land Acquisition Act 1960 of all alienated lands situated within the area to which the declaration relates and any such land may, if the Commissioner is unsuccessful in negotiating his purchase of the lands on terms

acceptable to the Commissioner, be acquired and paid for in accordance with the said Act.

(2) For the purpose of the said Act—

- (a) any land intended to be acquired pursuant to this Part shall be deemed to be needed by the Commissioner;
- (b) the Commissioner shall be deemed to be a corporation undertaking a work that is of public utility; and
- (c) the land shall be deemed to be needed for the purpose referred to in paragraph 3(b) of the said Act.

Commissioner may employ agents, enter into arrangements, and establish corporations

49. (1) For the purpose of developing a development area in the discharge of his duty under this part, the Commissioner may with the approval of the Minister appoint or employ agents, and enter into any arrangement for sharing profits, union of interests, co-operation, joint venture, or reciprocal concession with any person, company or body.

(2) The Commissioner may with the approval of the Minister establish a corporation by such name as the Commissioner thinks fit, to develop, carry out and have the charge, conduct and management of any project scheme or enterprise that has been planned or undertaken by the Commissioner in the discharge of his duty under this Part of developing a development area.

(3) Every order made under subsection (2) shall make provision in respect of—

- (a) the purposes and objects for which the corporation is established;

- (b) the constitution of the corporation;
- (c) the duties, powers, and rights of the corporation;
- (d) the system of management of the corporation;
- (e) the financing of the corporation;
- (f) the accounts to be kept by the corporation and the auditing thereof;
- (g) the relations between the corporation and the Commissioner and his right of control over the corporation; and
- (h) the common seal of the corporation.

Power to borrow money

50. The Commissioner may, with the approval of the Minister and of the Minister of Finance on such terms and conditions as he may specify, borrow such sums of money as are necessary for financing the development of a development area.

Power to dispose of land and property

51. The Commissioner may with the approval of the Minister sell, let, or otherwise deal with or dispose of any land or property in a development area.

PART X

MISCELLANEOUS PROVISIONS

Power of entry

52. (1) An authorized officer may, with or without assistants or

workmen, enter upon or into any land or building for the purpose of—

- (a) making any enquiry, inspection, measurement or survey or taking the levels of such land or building;
- (b) setting out boundaries and intended lines of works;
- (c) marking such levels, boundaries and lines by placing marks and cutting trenches;
- (d) examining works under construction and ascertaining the course of sewers and drains;
- (e) digging or boring into the sub-soil;
- (f) ascertaining whether any development has been commenced, undertaken or carried out in contravention of any provision of this Act or rules made thereunder; and
- (g) doing any other acts necessary for the efficient administration of this Act.

(2) No such entry shall be made—

- (i) in the case of any building used solely as a dwelling house or upon any enclosed part or garden attached to such a building, unless prior consent of the occupier has been obtained or at least twenty-four hours notice in writing of the intention to enter has been given to such occupier; and
- (ii) without due regard, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building.

(3) Any person who wilfully obstructs the entry of any of the persons empowered or authorized under subsection (1) to enter into or upon any land or building or assaults any such person after such

entry is guilty of an offence and on conviction is liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year.

Service of document

53. (1) All documents required by this Act or any rules made thereunder to be served upon any person shall, save as otherwise provided in this Act or rules be deemed to be duly served—

- (a) where the document is to be served on a government department, railway or local authority or any statutory authority, company, corporation, society or other body if the document is addressed to the head of the government department, general manager of the railway services, secretary or principal officers of the local authority, statutory authority, company, corporation, society or any other body at its principal, branch, local or registered office as the case may be and is either—
 - (i) delivered at such office; or
 - (ii) sent by registered post to such office;
- (b) where the document is to be served on a partnership, if the document is addressed to the partnership at its usual place of business, identifying it by name or style under which its business is carried on, and is either—
 - (i) delivered at the said place of business; or
 - (ii) sent by registered post to such place;
- (c) in any other case, if the document is addressed to the person to be served and—
 - (i) is given or tendered to him; or

- (ii) is sent by registered post to that person; or
- (iii) if such person cannot be served personally or by registered post, it is given or tendered to some adult member of his family or it is affixed on some conspicuous part of the land or building to which it relates.

(2) Any document which is required or authorized to be served on the owner or occupier of any land or building may be addressed “the owner” or “the occupier”, as the case may be, of that land or building (naming or describing that land or building) without further name or description, and shall be deemed to be duly served if the document so addressed is sent or delivered in accordance with paragraph (1)(c).

(3) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

(4) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be served upon the minor.

(5) A document sent by registered post shall be deemed to be served seven days after the date of registration.

Authentication of documents

54. (1) Every plan including map, development order, order, permit or notice including enforcement or requisition notice, prepared, issued, made or served by the Commissioner under, by virtue or for purposes of this Act shall be authenticated by the signature of the Commissioner or a person authorized in writing by the Commissioner.

(2) A certificate signed by the Commissioner certifying that any such document purporting to be prepared, issued, made or served by him was so prepared, issued, made or served shall be conclusive evidence of the fact so certified.

Documentary proof

55. (1) Every document referred to in section 54 and duly authenticated and certified in the manner thereto described and every document in the form of receipt, application, record or register issued, made or maintained under, by virtue of or for the purposes of this Act shall if duly certified by the Commissioner or an authorized officer in this behalf be admissible as proof of the contents of such document.

(2) A copy of any document referred to in subsection (1) or any extract therefrom, if duly certified by the Commissioner or any authorized officer in this behalf, shall be admitted as evidence of the matter and transaction therein expressed in any case where and to the same extent as the original of such document would if produced have been admissible to prove such matters and transactions.

(3) Notwithstanding the provisions of any written law, in any proceedings under this Act, a certificate for the purpose of establishing the registered proprietor of any land which purports to be signed by the Registrar of Titles or the Collector of Land Revenue as the case may be shall, unless the contrary is proved, be evidence of any fact stated therein.

Restriction on the summoning of the Commissioner, authorized officers and agents

56. The Commissioner or any authorized officer or agent shall not be required in any legal proceeding to which the Commissioner is not a party, to produce any record, register or document the contents of which can be proved under section 55 by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein, unless by order of the Court made for special cause.

Prosecution

57. (1) The Commissioner may direct any prosecutions for an

offence under this Act or any rules made thereunder and the Commissioner may authorize in writing the incurring of such expense as may be necessary for such prosecution.

(2) Any authorized officer or any police officer not below the rank of an Inspector may conduct such prosecutions on behalf of the Commissioner.

Disposal of goods removed by Commissioner

58. (1) Any goods, vehicles or things removed from any building or land by the Commissioner or any authorized officer under section 29 shall be detained at the risk of the owner or the person offending until the expenses of removal and detention are paid.

(2) In the event of there being no claim for the goods, vehicles or things the goods, vehicles or things may be sold by public auction or, if the Commissioner thinks the circumstances of the case require, may be sold otherwise or be disposed of without sale.

(3) The moneys arising from the sale may be retained by the Commissioner and applied in or towards the expenses incurred and the surplus, if any, shall be paid on demand to the owner of the goods, vehicles or things.

(4) If the surplus is not claimed within two years it shall be paid into the fund of the Commissioner.

Penalty for interference with marks

59. Any person who, without the authority of the Commissioner, wilfully destroys, damages, defaces, moves, or otherwise interferes with any mark placed or set up for the purpose of indicating any level or direction necessary for the carrying out of the purposes of this Act commits an offence and on conviction—

- (a) is liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both; and
- (b) may, in addition to or in place of that penalty, be ordered to pay to the Commissioner a sum, recoverable as a fine, not exceeding three times the cost of repairing or re-emplacing the mark and of making any survey rendered necessary by the act in respect of which he is convicted.

Public Servants

60. The Commissioner and every authorized officer or agent under this Act shall be deemed to be a public servant within the meaning of the Penal Code.

Public Authorities Protection Act 1948

61. The Public Authorities Protection Act 1948 [*Act 198*], shall apply to any action, suit, prosecution or proceeding against the Commissioner, every member of the Appeal Board or Committee and every authorized officer or agent under this Act in respect of any act, neglect or default done or committed by him in such capacity.

Indemnity and exemption from liability, etc.

62. (1) Where the Commissioner in exercising the powers conferred under this Act has incurred expenses and costs which under this Act are payable or recoverable from any person such person shall indemnify and keep indemnifying the Commissioner against any claim, damage, loss or demand whatsoever that may be brought against the Commissioner in any action or proceeding arising out of and incidental to the exercise of such powers.

(2) No act or matter or thing done by the Commissioner, members of the Appeal Board or the Committee, and any authorized officers or agents shall, if the act, matter or thing was done *bona fide* for the purpose of executing this Act, subject any of them personally to any action, liability, claim or demand whatsoever.

Exemption from fees and charges

63. (1) All developments intended exclusively for religious, educational, recreational, social, welfare, or charitable purposes and not for pecuniary profit are exempted from the payment of all charges and fees under this Act.

(2) The exemption under subsection (1) does not extend to development charges.

Power to make rules

64. (1) The Commissioner may with the approval of the Minister make rules generally for the better carrying out of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely—

- (a) regulating the development of land in relation to proper planning;
- (b) the classes of use of land and buildings or parts thereof;
- (c) the control of residential density, floor area, plot ratio, plinth area, and uses of buildings or land;
- (d) regulating the height, design, appearance and siting of buildings, provision of car parking, set back and open

spaces;

- (e) the control of means of access to land or buildings;
- (f) the protection of ancient monuments and land and buildings of historic or architectural interest;
- (g) the details of the forms and contents of the structure plan and local plan, the procedure to be followed in the preparation, submission, and approval thereof, the form and manner in which they shall be published, and the form of the notices relating thereto;
- (h) the qualifications of persons who may prepare or submit plans for the purposes of this Act;
- (i) regulating the dimension, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed, the manner in which they may be affixed to the land or building, the issue of licences for the display of advertisements and to prevent or remove advertisements which are not licensed;
- (j) the prescribing of such fees as may be required to be paid under this Act;
- (k) the rate of development charges and the method of calculation of development charges;
- (l) the form in which any application for planning permission for development shall be made, the particulars to be furnished in such application and the documents and plans which shall accompany such application;
- (m) the form and contents of a tree preservation order;
- (n) the form and contents of an action area order;

- (o) the form of registration of application and the particulars to be contained in such register;
- (p) the manner of filing, and the fees to be paid for, and the procedure to be followed in, appeals to the Appeal Board;
- (q) regulating the conduct of negotiations for the purchase of lands in a development area and the terms of purchase;
- (r) regulating the making and the terms of any arrangement for sharing profits, union of interests, co-operation, joint venture, or reciprocal concession with any person, company or body under section 49;
- (s) securing a just and equitable implementation of section 51;
- (t) to provide for the offences under this Act and any by-laws which may be compounded by the Commissioner, the persons who may compound, the limit of the sum of money to be collected by the Commissioner for compounding such offences and the procedure and forms to be complied with in compounding; and
- (u) any other matters for the smooth execution of the development plan.

Repeal and saving

65. (1) The City of Kuala Lumpur (Planning) Act 1973 [*Act 107*] is repealed.

(2) Notwithstanding the repeal of the law specified in subsection (1), which in this Act is referred to as the “repealed law”—

- (a) any rule made under the repealed law shall in so far as it is not inconsistent with the provisions of this Act continue in

force and have the like effect as if it had been made under this Act;

- (b) any order, development order, notice including enforcement notice and requisition notice, any planning permission, direction, notification or permit made, given, granted, issued, delivered or served under, by virtue of or for purposes of the repealed law and in force immediately prior to the appointed date shall subject to the period of validity specified therein continue in force and have the like effect as if it had been made, given, granted, issued, delivered or served as the case may be under or by virtue of or for the purposes of this Act:

Provided that such person may be removed from office or have his appointment revoked or varied in accordance with the corresponding provisions of this Act relating thereto;

- (c) any person lawfully exercising or holding immediately before the appointed date any function or office corresponding to those conferred by this Act on a member of the Appeal Board, a member of the Committee, or an authorized officer or agent shall on the appointed date continue to exercise such functions or hold such office subject to the terms and conditions as set out in the instrument appointing him:

Provided that such person may be removed from office or have his appointment revoked or varied in accordance with the corresponding provisions of this Act relating thereto.

Perbadanan Pembangunan Bandar Act 1971

66. (1) Notwithstanding section 17 of the *Perbadanan Pembangunan Bandar Act 1971 [Act 46], in respect of the Federal Territory only,

*NOTE—The Perbadanan Pembangunan Bandar Act 1971 [Act 46] has since been repealed by the Perbadanan Pembangunan Bandar (Dissolution) Act 1996 [Act 547].

where the Minister described therein has by notification in the *Gazette* declared any area in the Federal Territory to be an Urban Development Area, the declaration shall be of no force and effect otherwise than with the concurrence of the Minister charged with the responsibility for the Federal Territory.

(2) Where any area in the Federal Territory has been so declared under subsection (1), the functions and powers conferred under and the duties imposed by this Act shall be exercised and performed by the Perbadanan Pembangunan Bandar and the Commissioner shall cease to exercise such functions and powers and perform such duties.

(3) The Yang di-Pertuan Agong may by order published in the *Gazette* make such provisions as he may consider necessary or expedient for the purpose of removing any difficulties occasioned by the coming into effect of the provisions of this section and any such order may be made so as to have effect as from the commencement of the declaration referred to in subsection (1).

LAWS OF MALAYSIA

Act 267

FEDERAL TERRITORY (PLANNING) ACT 1982

LIST OF AMENDMENTS

Amending law	Short title	In force from
	– NIL –	

LAWS OF MALAYSIA**Act 267****FEDERAL TERRITORY (PLANNING) ACT 1982****LIST OF AMENDMENTS**

Section	Amending law	In force from
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