



LAWS OF SARAWAK

REPRINT

Chapter 30

PROTECTION OF PUBLIC HEALTH ORDINANCE, 1999

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**PROTECTION OF PUBLIC HEALTH
ORDINANCE, 1999**

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ORDINANCE, 1999**

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LAWS OF SARAWAK

Chapter 30

**PROTECTION OF PUBLIC HEALTH
ORDINANCE, 1999**

An Ordinance to consolidate the law relating to public health in Sarawak and to make better provisions in relation thereto.

**[1st November, 2000]*

**(Swk. L.N. 37/2000)*

Enacted by the Legislature of Sarawak—

PART I

PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the Protection of Public Health Ordinance, 1999, and shall come into force on such date as the Minister may, by notification in the **Gazette*, appoint.

Interpretation

2.—(1) In this Ordinance—

“analysis” includes any examination made to ascertain the nature and amount of any constituent of a sample of food or any drug, and “analyse” shall be construed accordingly;

“analyst” means an analyst appointed by the appropriate authority to carry out analysis required under this Ordinance;

“animal” includes any bird, fish, amphibian and reptile, quadruped, domesticated or otherwise;

“article” does not include a live animal;

“building” includes any structure or premises whatsoever, whether permanent or temporary, wheresoever located, for whatsoever purpose used;

“Chief Administrative Officer” means the Chief Administrative Officer of a local authority;

“contamination” means the presence of agents of an infectious disease on the surface of or in non-living things or on the body surface of living things, and includes any undesirable chemical or substance;

“designated trades” means those trades designated in the Schedule;

“Director” means the Director of Health in Sarawak, and includes his Deputy, any person for the time being discharging the duties of the Director, and any person authorized by the Director to carry out any of the functions or duties conferred on him by this Ordinance;

“disease bearing insect” means any insect carrying or causing or capable of carrying or causing any disease to human beings or domestic animals, and includes the eggs, larvae and pupae of such insect;

“drain” includes a private drain and a public drain;

“federal Government” means the Government of Malaysia;

“food” includes any substance consumed by human beings or any substance used in the composition or preparation of any such substance including flavouring matters and condiments;

“food premises” means any premises used or intended to be used for the preparation, processing, storage, packaging of food for sale, and where food is served or offered for sale to the public;

“Government” means the Government of the State of Sarawak;

“hotel” means any building where separate accommodation is offered to the public at a charge, with outlets and facilities for refreshment, dining, entertainment and recreation;

“infection” means the entry of agents of an infectious disease into living things and the multiplication of such agents in living things;

“infectious disease” means any of the diseases specified in the First Schedule to the Prevention and Control of Infectious Disease Act 1988 [*Act 342*], and includes zoonotic diseases;

“infested” means infested with rodents or disease bearing insects;

“local authority” means any local authority constituted under, or named in the First Schedule to, the Local Authorities Ordinance, 1996 [*Cap. 20*];

“lodging house” means any premises in which general accommodation, with or without partition, is offered to the public at a charge, and includes a boarding house or dormitory not belonging to the federal Government or the Government;

“medical practitioner” means a medical practitioner registered under the Medical Act 1971 [*Act 50*];

“Minister” means the Minister in the Government having responsibilities for public health;

“occupier”, in respect of any building, means the person in occupation of the premises or having charge, management or control thereof or any part thereof either on his own account or as agent or invitee of another person, and includes a lodger;

“Ordinance” includes any regulations or by-laws made thereunder;

“owner”, in respect of any premises, means the registered proprietor of the land and, if the registered proprietor of the land cannot be traced, the person for the time being receiving rent of any premises, whether on his account or as agent or trustee or as receiver or manager or as liquidator, or who would receive the same if the land or building thereon were let to the tenant, and includes—

- (a) the federal Government and the Government;
and
- (b) any subsidiary proprietor and a management corporation as defined in the Strata Titles Ordinance, 1995 **[Cap. 18]**;

“premises” means messuages, buildings, holdings, easements and hereditaments of any tenure, and includes any place, structure, tent, stall or mobile vehicle, vessel or any part thereof whether open or enclosed, permanent or temporary and whether public or private, occupied or unoccupied or used for any purpose whatsoever;

“private drain” means a drain used for the drainage of any building or premises or private land or compound of any such building or premises;

“public drain” means a drain connecting a private drain with another water-course or to which water from a private drain is discharged;

“public health officer” means any medical officer or health inspector in the service of the Government, a local authority or the federal Government, and includes any authorized officer appointed under section 3(2) of the Food Act 1983 **[Act 281]**;

“the State” means the State of Sarawak.

(2) Any reference in this Ordinance to the “Yang di-Pertua Negeri” shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a member thereof acting under the general authority of the Majlis.

PART II ADMINISTRATION

Administration of Ordinance

3.—(1) Subject to any general or special direction by the Minister, this Ordinance shall, in any area in the State, be administered by the local authority having jurisdiction in that area.

(2) In the exercise of its powers and functions under this Ordinance, a local authority shall have such authority or powers as may be conferred on it by the Local Authorities Ordinance, 1996 [Cap. 20], or any other written laws.

Exercise of power by local authority

4. The powers conferred by this Ordinance on a local authority shall, subject to such direction as may be given by the Minister, be exercised by the Chief Administrative Officer or any other officer or servant of the local authority, generally or specially authorized in that behalf by the local authority.

Transfer of powers and duties

5. The Yang di-Pertua Negeri may, by Order published in the *Gazette*, transfer any of the powers, duties or functions conferred by this Ordinance, on the Director or a local authority or a public health officer, to such person or body of persons, as may be specified in the Order.

Appointment of public health officers

6. A local authority shall appoint such number of public health officers as may be necessary for the purpose of the administration and enforcement of the provisions of this Ordinance.

Duties of Director

7.—(1) The Director shall have such powers as may be conferred by this Ordinance and he shall advise and assist the local authorities in the administration and enforcement of this Ordinance.

(2) The Director may delegate the exercise of any powers conferred on him by this Ordinance to any medical officer, subject to such terms and conditions as may be imposed.

Appeals to Director

8.—(1) Any person aggrieved by a decision of a local authority or public health officer made under sections 20, 28(2) and 32(1), may appeal against such decision to the Director within seven days from date of notification thereof.

(2) The Director may, upon consideration of such appeal, affirm, vary or rescind the decision of the local authority or public health officer.

Protection of officers

9. Nothing done by the Director, the Chief Administrative Officer or any person duly authorized by the Director or Chief Administrative Officer or any public health officer for the purpose of carrying out any duty under or provision of this Ordinance shall subject that person personally to any action, liability, claim or demand whatsoever.

PART III
CONTROL OF INFECTIOUS DISEASE
WITHIN THE STATE

Epidemiological surveys

10.—(1) The Director or any person duly authorized by the Majlis Mesyuarat Kerajaan Negeri may, from time to time, undertake epidemiological surveys or entomological surveys of people, animals or vectors in order to determine the existence, prevalence or incidence of infectious disease or vector-borne diseases, and to make recommendations to the Majlis Mesyuarat Kerajaan Negeri, on the measures to be taken to prevent the outbreak, or to control the spread, of such diseases.

(2) The Director shall make available to the Minister or the person authorized to undertake the survey under subsection (1), all information or data obtained by him under Part IV of the Prevention and Control of Infectious Diseases Act 1988 [*Act 342*].

Investigation into infectious disease

11.—(1) The Director or any person authorized under section 10(1), may conduct investigation into any infectious disease to identify the cause of the outbreak thereof or the precise nature of the disease, and submit a report or finding of such investigation to the Minister.

(2) In investigating an infectious disease the Director or any authorized person may by notice in writing require—

(a) any person to furnish him as soon as practicable with such information as he may require for the purpose of the investigation; and

(b) any person to submit himself to such medical examination as he thinks fit.

(3) Any person who fails without reasonable cause or excuse to furnish any information or to submit to any medical examination required under subsection (2) shall be guilty of an offence: Penalty, a fine not exceeding three thousand ringgit.

Measures, etc., for investigating infectious diseases and treatment of infected persons

12.—(1) The Director may, after consultation with the Minister, by Order, prescribe any general or specific measures or procedures to prevent the occurrence of and to contain the spread of infectious disease in Sarawak or any part thereof, and may also, by Order, prescribe measures for the treatment, isolation or surveillance of infected persons, and all medical practitioners shall comply with any Order made hereunder.

(2) Any medical practitioner who fails without reasonable cause or excuse to comply with any Order made under subsection (1) shall be guilty of an offence: Penalty, a fine not exceeding three thousand ringgit.

Movement of persons from infected areas outside the State

13. Where an area or place outside the State has been declared as an infected area under either section 6(1) or 10(1) of the Prevention and Control of Infectious Diseases Act 1988 [*Act 342*], the Minister may, by Order published in the *Gazette*,—

(a) regulate, control or prohibit the entry into the State persons from the infected area or having contact with persons suffering from an infected disease in that area;

(b) prescribe such measures to be taken in regard to persons arriving in the State; and

(c) prescribe any measures or actions to be taken by the Director or any local authority or any public officer, to prevent the spread of any infectious disease to the State.

Persons arriving in the State from infected area or having infectious disease

14.—(1) Where there is reason to believe any person arriving in the State is either from an area declared as an infected area under either section 6(1) or 10(1) of the Prevention and Control of Infectious Diseases Act 1988 [*Act 342*] or is suffering from an infectious disease, the Director or a public health officer may—

(a) require the person to undergo examination by a medical practitioner and if such examination shows that he is carrying any infectious disease or likely to have been infected therewith, the Director or public health officer may take the action under paragraph (b) or (c); or

(b) order the person to be kept in isolation under section 14 of the said Act; or

(c) if he does not belong to the State, make recommendation to the State Secretary that the person should not be permitted to remain in the State.

(2) On receipt of the recommendation provided under subsection (1)(c), the State Secretary may direct the Director of Immigration to cancel any visit pass issued to the person under section 65 of the Immigration Act 1959/1963 [*Act 155*].

Movement of person from infected areas in the State

15. Where any area in the State has been declared an infected area under section 11(1) of the Prevention and Control of Infectious Diseases Act 1988 [*Act 342*], the Minister may by Order—

(a) regulate the movement of persons and animals into or from the infected area; and

(b) prescribe such measures or actions to be taken by the Director, public health officer or any officer of the Government or any person within or residing in the infected area to prevent the spread of the infectious disease or necessary for its eradication:

Provided that the provisions of such Order shall not be inconsistent with the said Act or any regulations made under section 11(2) of that Act.

PART IV
CONTROL AND DESTRUCTION OF
DISEASE BEARING INSECTS

Prevention of conditions for propagating insects

16.—(1) No person shall do or perform any act or thing or carry out any activities which may or be liable to create such conditions as may be favourable to the propagation or harbouring of disease bearing insects.

(2) Every person shall comply with all reasonable instructions as may be given by the Director or a public health officer with a view to ensuring that such conditions do not arise or with the view to removing or terminating such conditions.

(3) Such direction may be given to the owner or occupier of any premises and to any person therein, including his agents or servants.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence: Penalty, a fine not exceeding two thousand ringgit and, in the case of a second or subsequent offence, a fine not exceeding five thousand ringgit or imprisonment for a term not exceeding nine months or both such fine and imprisonment.

(5) If in any proceedings for the contravention of subsection (1), it is shown that an act or thing or activity done or performed in any premises may, or is liable to, create such condition as may be favourable to the propagation or harbouring of disease bearing insects, it shall be presumed, until the contrary is proved, that the act or thing is done or performed by, or with the permission of, the owner or occupier of the premises.

Application of insecticides

17.—(1) The Director or a local authority may require the application of such form of insecticides as he may think fit, to any building, premises, pond, drain, mill, pool or any stable, pigsty, cattle shed, chicken coop or other place or structure used for the shelter or keeping of animals, and may, if he deems necessary, carry out the application of insecticides after giving due notice to the owner or occupier thereof.

(2) Whether the application of insecticides is carried out by the Director or a local authority, to eliminate conditions giving rise to the propagation or breeding of disease bearing insects caused by the acts or omission of the owner or occupier of any building, premises or property, the Director or local authority may by notice require the owner or occupier thereof to pay the costs and expenses of carrying out the application of insecticides to the federal Government or local authority, as the case may be.

Right of entry

18.—(1) The Director or any public health officer may, upon service of written notice on the owner or occupier of any premises, enter the same to—

(a) inspect the premises to ensure that the same does not harbour or have conditions likely to harbour or propagate disease bearing insects; or

(b) collect, remove or destroy all empty cans, bottles or other articles which accords conditions or breeding grounds for disease bearing insects; or

(c) cut down or remove any grass, trees, plants, stumps or undergrowth in which disease bearing insects are likely to breed or harbour; or

(d) flush private drains whose conditions are likely to harbour or breed disease bearing insects; or

(e) carry out the application of insecticides under section 17.

(2) The costs and expenses of carrying out any of the measures outlined in subsection (1)(b), (c), (d) and (e) shall be borne by the owner or occupier of the premises:

Provided that before any such measure is taken the Director or local authority shall give the owner or occupier thereof at least twelve hours to undertake the same himself, failing which, the Director or local authority shall proceed to take any of the aforesaid measures.

(3) The costs and expenses if incurred by a local authority shall constitute a charge against the owner of the premises and may be recovered in the manner prescribed in the Local Authorities Ordinance, 1996 [*Cap. 20*], for the recovery of rates.

No compensation against Director and local authority

19. No person shall be entitled to compensation for any loss or damage suffered or incurred by any application of insecticides undertaken by the Director or a local authority under section 17 or as a result of any entry into premises made by the Director or public health officer under section 18.

Closure of premises

20.—(1) Where any premises is found to have conditions favourable to the breeding or harbouring of disease bearing insects, the Director or the local authority may, by Order addressed to the owner or occupier thereof, direct the premises to be closed for such period of time as the Director or the local authority deems fit or sufficient to eradicate the disease bearing insects.

(2) Any owner or occupier who fails to comply with an Order issued under subsection (1) shall be guilty of an offence: Penalty, a fine not exceeding five thousand ringgit or imprisonment not exceeding nine months or both such fine and imprisonment, and, in the case of a continuing offence, a further fine of two hundred ringgit for each day during which the offence continues.

PART V
FOOD PREMISES

Licensing of food premises

21.—(1) No person shall operate or use or permit any premises to be used as a food premises without first obtaining a licence from a local authority.

(2) Any person who contravenes subsection (1) shall be guilty of an offence: Penalty, a fine not exceeding ten thousand ringgit or imprisonment not exceeding two years or both such fine and imprisonment.

(3) Where an offence under subsection (2) has been committed, a local authority may, by Order addressed to the offender, require the premises or any part thereof where the offence took place, shall no longer be operated or used as a food premises as from the date stipulated in the Order.

(4) If any person fails to comply with the Order under subsection (3), the local authority may take such steps or measures as are necessary to ensure that the Order is complied with and shall be entitled to recover from that person the costs and expenses incurred.

General conditions for licence

22. No licence shall be issued for the use or operation of any premises as a food premises unless the same complies with the provisions of this Ordinance, the Local Authorities Ordinance, 1996 [*Cap. 20*], the Buildings Ordinance, 1994 [*Cap. 8*], and any regulations or by-laws made thereunder.

Cleanliness of food premises

23.—(1) No premises shall be used as a food premises unless—

(a) the whole of the premises is maintained in a good, clean and tidy condition, free of all rodents and disease bearing insects, and has adequate ventilation;

(b) there are receptacles of the type approved by a local authority in the premises for the storage of wastes which must be collected and removed at such intervals as may be approved or directed by the local authority;

(c) the premises has been installed with a drainage system in proper working order, with mechanism, of a type approved by a local authority, to trap or contain oily by-products of food and food or kitchen wastes;

(d) the toilets in the premises are in working order, properly and regularly cleaned and such toilets shall be located in such places as may be approved by the local authority;

(e) adequate and reliable supply of clean drinking water from a water supply authority or such other source as may be approved by the local authority; and

(f) adequate wash basins for cleansing of utensils and appliances for the preparation and serving food, and for the convenience of the customers.

(2) The owner or occupier of a food premises shall ensure that the premises and all tables and chairs used by the public for consumption of food are cleaned and washed daily.

Permits for food fair, etc.

24.—(1) No person shall promote, organize or stage any temporary food fair, function or event, whether within any premises or in any open space, where food is cooked or prepared and sold for public consumption, without first obtaining a permit from a local authority.

(2) No permit shall be issued unless a public health officer certifies that the premises or space where such food fair, function or event is held is in a clean and sanitary condition, with proper ventilation and with adequate toilet and wash basin facilities, and supplied with clean drinking water from a water supply authority or such other source as may be approved by a local authority.

Licensing of hawkers operating from stalls, etc.

25. No person shall hawk, sell or expose for sale any food or goods of any kind or set up or use any stall, table, showboard, vehicle, vessel or receptacle for the purpose of hawking, selling or exposing for sale any food or goods of any kind in any street or part thereof or in any premises or public place or along any river without first obtaining a licence from a local authority.

Workers in food premises

26.—(1) All persons working in a food premises must be medically examined at such interval as the local authority may stipulate in the licence issued under this Part.

(2) Such medical examination shall be undertaken by a medical practitioner and any medical report issued pursuant to such examination shall on demand by the Director or a public health officer be produced for his inspection.

(3) Any person—

(a) who refuses to submit to a medical examination being required to do so under this section; or

(b) who has been medically examined and is found to be unfit to work in a food premises or to be suffering from an infected disease,

but continues to work in a food premises, shall be guilty of an offence: Penalty, a fine not exceeding two thousand ringgit or imprisonment not exceeding six months or both such fine and imprisonment.

(4) Anyone who employs a person referred to in subsection (3) to work in a food premises shall be deemed to have aided and abetted that person in the commission of the offence and shall be liable to the penalty prescribed in subsection (3).

(5) (a) The local authority may require persons working in food premises to attend such courses as the local authority may direct or conduct, on the handling of food or general public hygiene or cleanliness.

(b) The local authority may, by notice in writing, direct that any person who fails, without reasonable cause, to attend such courses shall not be permitted to work in a food premises.

(c) Any person who fails to comply with a direction issued under paragraph (b) shall be guilty of an offence: Penalty, a fine not exceeding one thousand ringgit and, in the case of a continuing offence, a further fine of fifty ringgit for each day during which the offence continues.

Food or article unfit for human consumption

27.—(1) No person shall, without lawful excuse, have in his possession any food or article intended for human consumption which is unwholesome or unfit for human consumption.

(2) The Director or a public health officer may at all reasonable times—

(a) enter into and inspect any place which is used, or which he has reasonable grounds for believing to be used—

(i) for the sale, either wholesale or retail, of food or article intended for human consumption; or

(ii) for the preparation or storage of such food or article intended for sale; and

(b) search any cart or vehicle or any basket, sack, bag, parcel or receptacle which he has reasonable grounds for believing to contain food or article intended for human consumption and may examine any such food or article which is therein.

(3) For the purposes of subsections (1) and (2), any food or article commonly used for human consumption—

(a) which is exposed or kept for sale;

(b) which is found in premises used for the preparation, storage or sale of that food or article,

shall be presumed, until the contrary is proved, to have been sold or, as the case may be, to be intended for sale for human consumption.

(4) If it appears to the Director or a public health officer that any such food or article is unwholesome or unfit for human consumption, the food or article may be seized by the Director or public health officer.

(5) Any food or article seized may be kept or stored in the place or premises where it was seized or may at the direction of the Director or a public health officer be removed to any other place or, where the food or article is likely to decay or is deleterious to health, be destroyed.

(6) A certificate signed by the Director or a public health officer shall be accepted by a Magistrate's Court as sufficient evidence that any food or article seized was unwholesome or unfit for human consumption at the time of seizure.

(7) A person claiming anything seized under this section may within forty-eight hours after the seizure thereof complaint to a Magistrate's Court, and such complaint may be heard and determined by the Court, which may either confirm or disallow the seizure wholly or in part, or may order any food or article seized to be returned to the owner and may order payment to be made to the owner of the food or article of such amount as the Court considers will compensate him for any loss or depreciation resulting from the seizure.

(8) If within forty-eight hours after such seizure no complaint has been made, or if such seizure is confirmed by the Magistrate's Court, every food or article seized shall become the property of the Director or local authority, as the case may be, and shall be destroyed or otherwise disposed of so as to prevent the food or article from being used for human consumption.

(9) No person shall obstruct the Director or any public health officer in the exercise of his powers under this section or tamper with any food or article kept or stored in any place or premises under subsection (5).

Cleanliness of vehicles, equipment, etc.

28.—(1) Any person who uses a vehicle for the transportation of food shall ensure that the surface of the vehicle with which the food is likely to come into contact is kept in a state of cleanliness, good order and condition so as to prevent any risk of contamination of the food.

(2) The Director or a public health officer may, by notice in writing, require any person who uses a vehicle to transport food to use or install in or on the vehicle any device or equipment as he thinks fit to ensure that the food carried in or on the vehicle will not be contaminated.

PART VI

SANITARY CONDITIONS OF PREMISES

Insanitary premises

29. Where the Director or a public health officer is of the opinion that any premises or any part thereof are in an unclean, grimy, neglected, unkempt or insanitary condition, he may by an order in writing direct the owner or occupier thereof to take all or any of the following measures, at the expense of that owner or occupier, within a time and date to be specified in the order:

(a) to remove all rank or noisome vegetation, refuse or other matter within those premises or part thereof, or in the immediate vicinity of those premises, to such place or otherwise dispose of it at such place, as may be specified in the order;

(b) to cleanse the premises or part thereof internally or externally, or both internally and externally, and if necessary disinfect it.

Destruction of rats, wasps, bees, etc.

30.—(1) Where the Director or a public health officer is of the opinion that—

(a) any premises are so infested with rats, mice, snakes, insects or other vermin; or

(b) there exist, in any premises, wasps, bees, hornets or other insects capable of stinging and the Director or public health officer is of the opinion that there is a probability, risk or danger that the persons in those premises or in the vicinity thereof may be stung by them, or if any of those persons has been stung by them,

the Director or public health officer may, by notice in writing, require the owner or occupier of the premises at his own expense to take such measures as the Director or public health officer may consider necessary, within such time and date as may be specified in the notice, for the destruction of the rats, mice, snakes, wasps, bees, hornets or other insects or vermins, or the removal of their breeding places and for preventing their reappearance.

(2) Where wasps, bees, hornets or other insects capable of stinging exist in any vacant premises and the owner cannot by the exercise of reasonable diligence be found, and the Director or public health officer is of the opinion that persons in the vicinity of the premises are in imminent danger of being stung by them, or if any such persons have been stung by them, he may enter upon the premises and take such measures as he considers necessary for their destruction, for the removal of their breeding places and for preventing their reappearance, and the costs and expenses thereby incurred may be recovered from the owner of such premises if he could be subsequently located.

Premises for designated trades

31.—(1) No person shall use any premises for a designated trade without first obtaining a licence from a local authority, to be issued pursuant to regulations made under section 64.

(2) Where a designated trade is also a prescribed trading activity under the Land Use (Control of Prescribed Trading Activities) Ordinance, 1997 [*Cap. 23*], and carried out within a designated area under that Ordinance, no licence shall be issued under this Ordinance unless a licence under that Ordinance has been issued for that trading activity.

Regular inspection of designated premises

32.—(1) The Director or any public health officer shall make regular inspection of premises used for a designated trade, and may, by Order in writing, direct the owner or occupier thereof to take all or any measures at the expense of the owner or occupier, within such time and date to be specified in the Order—

(a) to improve the sanitary condition of such premises;

(b) if the premises or any part thereof are found to be infested with disease bearing insects or rodents, to disinfect the same or to remove breeding places for such insects or rodents and preventing their reappearance; and

(c) to cleanse the premises or part thereof internally or externally or both internally and externally.

(2) Any person who fails to comply with the Order issued under subsection (1) shall be guilty of an offence: Penalty a fine not exceeding three thousand ringgit or imprisonment for a term not exceeding six months or both such fine and imprisonment.

PART VII
HOTELS AND LODGING HOUSES

Licensing of hotels and lodging houses

33.—(1) No person shall, notwithstanding any other written law, use any building as a hotel or lodging house without first obtaining a licence from a local authority under this Ordinance.

(2) No licence shall be issued under subsection (1) if the document of title for the land on which the building intended to be used for a hotel or lodging house, is situated, contains any condition which prohibits the usage thereof for such purpose.

Conditions for grant of licence

34. The granting or renewal of a licence shall be subject to the following conditions:

(a) the building is constructed and maintained in accordance with the provisions and requirements of the Buildings Ordinance, 1994 [*Cap. 8*];

(b) the local authority is satisfied that there are adequate fire fighting facilities and equipment in the building and there are available first aid facilities therein;

(c) there is adequate and reliable clean drinking water supplied to the building from a water supply authority or a source approved by the local authority;

(d) the building has proper and adequate facilities for the storage and disposal of wastes;

(e) in the case of a building which does not have separate toilet and bathroom for each separate guest room, there is one toilet for every ten persons and one bathroom for every four persons, with separate toilet and bathroom for the use of persons of different sex;

(f) there are adequate toilets for use by the public in the common areas of the building with separate toilet for different sex;

(g) the kitchen or food preparation areas are of the standard approved by the local authority and maintained in a clean and hygienic conditions;

(h) the number of parking spaces required by the State Planning Authority pursuant to Part X of the Land Code [*Cap. 81 (1958 Ed.)*], to be provided by the proprietor of the land on which the building is situated, has not been reduced and no such parking space has been used for other purposes;

(i) such other conditions as the local authority may impose under regulations made under section 64; and

(j) such fees as may be prescribed by regulations made under section 64 for the issue or renewal of the licence has been paid.

General licence conditions

35.—(1) Each licence for a hotel or lodging house shall be for a duration of one year from the date of issue thereof and may be renewed for a period of not exceeding twelve months.

(2) Where a licence is issued for a hotel, it may authorize the holder thereof to operate within the hotel, such outlets or facilities as may be specified in the licence including the following:

(a) restaurants;

(b) bars or lounges;

(c) recreation or gymnasium or fitness room, including swimming pool;

(d) private car parks;

(e) entertainment centres; and

(f) barber or hairdressing salons:

Provided that the local authority may impose on such licence terms and conditions which it may impose under any other written law relating to the issue of licences for such facilities and provided further that nothing in this section shall preclude the local authority or any other authority from issuing separate licences for such facilities under any other written law.

(3) No authorization shall be granted under subsection (2) unless the holder of the hotel licence is also the operator of the facilities therein referred.

(4) (a) No licence issued under this section shall be transferred, sublet or assigned without the prior written approval of the local authority.

(b) For the purpose of this subsection, a licence, if issued to a company, is deemed to have been transferred where the controlling shares thereof is transferred or disposed of.

Revocation and suspension of licence

36. A licence issued under this Part may be revoked, cancelled or suspended by the local authority if—

(a) the holder thereof contravenes any of the terms and conditions of the licence or any provisions of this Ordinance or any regulations made thereunder;

(b) the building to which the licence is issued has been destroyed or declared unfit for habitation under section 10 of the Buildings Ordinance, 1994 [*Cap. 8*]; and

(c) the holder thereof has been wound up or adjudged a bankrupt.

Appeal

37. Any person whose licence issued under this Part has been revoked, cancelled or suspended or whose application for such licence or renewal thereof has been refused, by the local authority, may, within twenty-one days from the receipt of the decision of the local authority appeal against the same to the Minister whose decision thereon shall be final and shall not be questioned or reviewed in any court of law.

PART VIII

FUNERAL PARLOURS, CEMETERIES AND CREMATORIA

Licensing of funeral parlours, cemeteries and crematoria

38.—(1) No person shall establish, use, manage, operate or run any premises as a funeral parlour, cemetery or crematorium without first obtaining a licence from a local authority, or in the case of a cemetery for interment of persons of the muslim faith, from the Majlis Islam Sarawak.

(2) No licence for the use of any land as a cemetery or crematorium shall be granted unless the State Planning Authority has approved the use of the land for such purposes.

Corpse of person dying of infectious diseases

39. No licensee of any funeral parlour shall receive the corpse of any person who has died of an infectious disease without the permission in writing of the Director who may grant permission for such corpse to be so received subject to such terms and conditions as he may think fit.

Corpse not to be retained beyond 48 hours unless encoffined

40.—(1) No corpse shall be retained in any premises, including a funeral parlour, for a period longer than forty-eight hours after death, unless the corpse is encoffined in a hermetically sealed coffin or is embalmed.

(2) So long as such corpse is encoffined in a hermetically sealed coffin or is embalmed, it may be retained in any premises, including a funeral parlour, for a period not exceeding seven days after death, but where it is intended to retain a corpse for a period exceeding seven days, the permission in writing of the Director shall be obtained.

Decomposed corpse

41. No corpse in an advance stage of decomposition shall be received into any funeral parlour unless encoffined in a hermetically sealed coffin.

Places which may be used for burials, etc.

42.—(1) No place shall be used or prepared for the burial or cremation of any corpse except cemeteries or crematoria licensed by a local authority.

(2) Notwithstanding subsection (1), the Minister may permit the burial of a deceased person at such other place as deemed suitable for burial.

Unlawful burials

43.—(1) No person shall bury or cremate or cause or procure or suffer to be buried or cremated any corpse in or upon any place, not being a place where burial or cremation is permitted under this Ordinance or prepare any such place to be used for the burial or cremation of any corpse.

(2) A public health officer may, by notice in writing, require any person who has been convicted of an offence under this section to remove within fourteen days—

(a) the corpse in respect of the unlawful interment of which he has been convicted from the place in which it has been buried, to a lawful burial ground; and

(b) any structure which has been erected at such place.

(3) If, within fourteen days, the person convicted produces to the public health officer a licence granted under section 42, the notice may be cancelled.

(4) Any person who refuses or neglects to comply with a notice issued under subsection (2) shall be guilty of an offence and the public health officer may proceed to authorize any person to carry the notice into execution at the expense of the person so refusing or so neglecting to comply with the notice and to hire or employ proper persons for that purpose and may recover such expenses in the manner provided by law for the levy of fines imposed by a court.

Power to close cemeteries, etc.

44. If at any time it appears to the Minister that—

(a) burials in any cemetery or place of burial should be wholly discontinued;

(b) the cremation of corpses in any crematorium or any place used for the cremation of corpses should be wholly discontinued; or

(c) any cemetery or place of burial, crematorium or any place used for the cremation of corpses or any part thereof is being used in contravention of any condition of the licence granted in respect of the cemetery or crematorium,

the Minister may order that the cemetery or crematorium or any part thereof shall be closed or the licence in respect thereof shall be revoked, as the case may be, and thereafter it shall not be lawful for any person to use the cemetery or crematorium or any part thereof for the burial or cremation of corpses.

Exhumation

45. No corpse shall be exhumed otherwise than—

(a) by a notice from a public health officer under section 43;

(b) by order of a Judge, Magistrate, Coroner or Commissioner of Police for the purpose of judicial inquiry or proceedings; or

(c) by written permission granted for that purpose by the Minister.

Penalty

46. Any person who contravenes any of the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand ringgit and, in the case of a second or subsequent conviction, to a fine not exceeding five thousand ringgit or to imprisonment not exceeding eighteen months or to both such fine and imprisonment.

Bringing corpses into or out of the State

47.—(1) No person shall bring into or take out of the State any corpse or human remains except under and in accordance with the terms of a permit granted by the Director.

(2) A permit granted under subsection (1) shall stipulate the manner in which the corpse or human remains should be preserved or conveyed into or out of the State and any other measures to be taken by the permit holder to prevent danger to public health or nuisance to any person or the public.

(3) The applicant for such permit shall be required to furnish to the Director all relevant information and documents relating to the corpse or human remains to enable him to give consideration to the application.

(4) No officer of customs or immigration officer or person having control of any aircraft or vessel shall allow any corpse or human remains to be taken into or out of the State unless he is satisfied that a permit in respect thereof has been issued by the Director under this section.

(5) For the purpose of this section, "human remains" includes the ashes of a deceased person who has been cremated.

(6) Any person who contravenes any of the provisions of this section shall be guilty of an offence: Penalty, a fine not exceeding ten thousand ringgit.

Unclaimed corpses

48.—(1) Where the Director is satisfied that—

(a) the identity of the person whose death occurred in the State could not be ascertained or is unknown; or

(b) no relative or next of kin of a person who died in the State has claimed his body for burial within seventy-two hours of his death or such extended period as may be approved,

he may order the body of the deceased person to be buried at any cemetery licensed under section 38, or be cremated at a crematorium licensed thereunder.

(2) Before the burial or cremation of any corpse under subsection (1), the Director shall cause particulars of the deceased person to be recorded and transmit a copy thereof to the Director of National Registration, Sarawak. A copy of such particulars may also be supplied to any person who furnishes evidence acceptable to the Director that he is the next of kin or administrator, executor or personal representative of the deceased person concerned.

PART IX
GENERAL PROVISIONS FOR PROTECTION
OF PUBLIC HEALTH

Provisions of toilets

49. Every owner or occupier of a building shall provide such number of toilets as may be required by a local authority at the time when the building plans thereof is approved.

Cleanliness and maintenance of toilets

50.—(1) The owner or occupier of any premises used as food premises, hotel, lodging house or who is required by the condition of any licence issued to him by a local authority, to provide toilets for the convenience of the public using his premises, shall be responsible for the cleanliness and maintenance of such toilets.

(2) Any owner or occupier of any premises referred to in subsection (1) who fails—

(a) to maintain the toilets, its apparatus, appliances and utensils in good working conditions; or

(b) to maintain the toilets in a clean and hygienic conditions; or

(c) to provide water or hand basins or other similar utensils in such toilets,

shall be guilty of an offence: Penalty, a fine not exceeding one thousand ringgit.

Nightsoil, etc., to be kept on premises

51. No person shall keep or suffer to be kept on any premises in his occupation—

(a) any nightsoil, dung, refuse or any other offensive matter otherwise than in a covered receptacle of a pattern and type approved by the local authority, or permit such receptacle to be in a filthy or noxious condition; or

(b) any goods, merchandise or material which causes or is likely to cause an offensive smell, or which may become the breeding place for insects.

Premises not to be overcrowded

52. No owner or occupier of any premises shall permit the premises to be so crowded with inhabitants as to be likely to cause injury or damage to the health of such inhabitants or any of them.

Wells and pit latrines

53. No person shall construct any well or pit latrine without a permit from a local authority or the Director.

Control of contaminated wells

54.—(1) If the Director or any public health officer is satisfied that any well or any source of water used for human consumption is contaminated to the extent that it may cause the spread of any infectious disease, the Director or such public health officer may order the well to be closed or the source of water to be prohibited for human consumption.

(2) Any person who uses a well that has been closed or who takes water for human consumption from a source prohibited under subsection (1) shall be guilty of an offence: Penalty, a fine not exceeding three thousand ringgit.

Analysis of contaminated food

55.—(1) Where the Director or any public health officer has reasonable grounds to suspect that any food offered for sale or for public consumption is contaminated, he may, by notice in writing, order the seizure of such food and deliver the same for analysis by an analyst in the service of the federal Government or of the Government.

(2) Where the analysis carried out under subsection (1) confirmed that the food is contaminated, the person offering the same for sale shall be guilty of an offence: Penalty, a fine not exceeding two thousand ringgit.

PART X
GENERAL

General powers of entry and investigation

56.—(1) Without prejudice to any specific power of entry and investigation granted under this Ordinance, the Director or any public health officer may at all reasonable times enter any premises and conduct such investigation and inspection as may be considered necessary for the purpose of ascertaining whether the provisions of this Ordinance or any regulations made thereunder or the conditions of any licence or permit issued thereunder are being complied with:

Provided that any officer not in uniform purporting to exercise any powers under this section shall on demand produce his written authority to the owner or occupier of the premises demanding the same.

(2) Any person entering any premises in exercise of the powers conferred by this section may be accompanied by a police officer or any officer of a local authority.

Powers of seizure

57.—(1) Any person authorized to exercise the powers of entry or investigation under this Ordinance may seize, remove and detain any goods, tool, equipment, document, material or any other thing which is used or employed in the conduct of any trade or business in respect of which he reasonably believes to be or has been used in the commission of an offence under this Ordinance or any regulations made thereunder or to contain evidence relating to such an offence.

(2) Any goods, tool, equipment, document, material or any other thing seized, removed or detained under subsection (1) may be

—
(a) disposed of or dealt with in such manner as the court may order; or

(b) sold by the local authority by public auction or tender,

and the proceeds thereof shall, after being applied to cover the costs of such seizure, removal, detention and sale, as the case may be, be returned to the rightful owner or dealt with in such manner as the court may order.

Powers of closure

58. Any person authorized to exercise the powers of entry or investigation under this Ordinance may forthwith take such steps as he may consider necessary to close or seal off any premises which he is satisfied is being used for any activity in contravention of this Ordinance or any regulations made thereunder or of any of the conditions of a licence or permit issued thereunder.

Obstruction

59. Any person who obstructs, impedes or assist in obstructing or impeding the Director, a public health officer or any other officer in the execution of his duties under this Ordinance or any regulations made thereunder commits an offence.

Conduct of prosecution

60. Prosecution of any offence committed under this Ordinance or any regulations made thereunder may be instituted and conducted by the Public Prosecutor or any person duly authorized by him under section 377(b) of the Criminal Procedure Code [*Act 593*].

Compounding of offences

61. A public health officer or any other officer duly authorized in writing by a local authority may accept from any person reasonably suspected of having committed any offence under this Ordinance or any regulations made thereunder, a sum of money not exceeding one-half of the fine prescribed for such offence.

General penalty

62. Any person who commits an offence under this Ordinance for which no specific penalty is expressly provided shall be liable on conviction to a fine not exceeding three thousand ringgit.

Punishment under other laws, etc.

63. Nothing in this Ordinance shall prevent any person from being charged or prosecuted under any written law for any act or omission which constitutes an offence under this Ordinance or any regulations made thereunder or being liable under that written law to any other higher punishment or penalty than that prescribed by this Ordinance or any regulations made thereunder:

Provided that no person shall be charged, prosecuted or punished twice for the same or similar offence.

Power to make regulations

64. The Majlis Mesyuarat Kerajaan Negeri may make regulations necessary for carrying out the provisions of this Ordinance, and in particular may make provisions for—

(a) regulating the cleansing, disinfection and spraying of premises:

(i) where there has been a case or suspected case of infectious disease; or

- (ii) which are suspected of being contaminated with the agents of infectious disease; or
- (iii) the conditions of which provides breeding grounds for and could harbour disease bearing insects;
- (b) prescribing sanitary standards and sanitary facilities for premises;
- (c) prescribing the fees to be paid under this Ordinance and regulations made thereunder;
- (d) prescribing the forms to be used under this Ordinance and regulations made thereunder;
- (e) prescribing the manner and procedure for compounding of offences;
- (f) licensing of designated trades;
- (g) regulating measures for the prevention and destruction of rats and other vermins, including setting up of traps and use of poisons for such purposes;
- (h) regulating and controlling the state and cleanliness of public toilets;
- (i) prescribing the courses to be conducted for food handlers;
- (j) procedures for the taking of samples and analysis of food suspected to have been contaminated;
- (k) regulating the granting and renewal of licences for hotels and lodging houses;
- (l) regulating the establishment, management and control of cemeteries, crematoria and funeral parlours; and
- (m) the disposal or burial of animals and unclaimed corpses.

Repeal and saving

65.—(1) The Public Health Ordinance, 1962 [*Ord. No. 24/62*], and sections 106, 124, 125, 126, 127, 128, 129 and 130 of the Local Authorities Ordinance, 1996 [*Cap. 20*], are repealed:

Provided that nothing herein shall affect the past operation of, or anything done under, a repealed Ordinance including any right, privilege, licence, proceeding or liability existing at the commencement of this Ordinance by virtue of the repealed Ordinance.

(2) Notwithstanding the repeal of the Public Health Ordinance 1962 [*Ord. No. 24/62*], any by-law, regulation, order or notification made or issued under that Ordinance shall continue to be in force and have effect until and unless such by-law, regulation, order or notification is amended or revoked by any regulation made under section 64 or is repealed under any other written law.

(3) Any proceeding, action, claim or liability made, instituted, filed, commenced or incurred under the repealed Ordinance or any by-law or regulation made thereunder prior to the date of commencement of this Ordinance shall be deemed to be continued or have been so incurred as if this Ordinance has not been enacted.

Removal of difficulties

66. The Minister may, by Order published in the *Gazette*, make such provisions as it considers necessary or expedient for the purpose of removing any difficulties occasioned by the coming into force of this Ordinance, and such Order may be made so as to have effect as from the date of commencement of this Ordinance.

Amendment of Schedule

67. The Majlis Mesyuarat Kerajaan Negeri may, by notification published in the *Gazette*, amend the Schedule and such amendment shall take effect on such date as may be specified in the notification.

SCHEDULE

(Sections 2 and 31)

DESIGNATED TRADES

The following trades are prescribed as designated trades:

- (a) barber or hair dressing salons;
- (b) manufacture, processing, packages, cooking and serving of food;
- (c) sale of petroleum or petroleum products;
- (d) sale of vegetables, fruits and other agricultural produce for human consumption;
- (e) activities for public entertainment;
- (f) laundry services;
- (g) repairs and assembly of vehicle, machinery, plant and equipment;
- (h) wood working or furniture making or timber processing;
- (i) processing of rubber or rubber products; and
- (j) manufacture of insecticides, pesticides or fertilizers.

[List of Amendments]

PROTECTION OF PUBLIC HEALTH

41

LAWS OF SARAWAK

Chapter 30

**PROTECTION OF PUBLIC HEALTH
ORDINANCE, 1999**

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
Swk. L.N. 37/2000	Date of Commencement of the Ordinance	1.11.2000

