



LAWS OF MALAYSIA

Act 278

LEMBAGA LETRIK SABAH ACT 1983

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Date of Royal Assent 9th Mac 1983

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LAWS OF MALAYSIA

Act 278

LEMBAGA LETRIK SABAH ACT 1983

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement.
2. Interpretation.

PART II

ESTABLISHMENT AND CONSTITUTION
OF BOARD

3. Establishment of Board.
4. Composition of Board.
5. Resignation and revocation.
6. Disqualification from membership.
7. Vacation of office.
8. Leave of absence.
9. Casual vacancies and temporary membership.
10. Remuneration of members of Board.
11. Members of Board to dispose of interest in any energy undertaking.

PART III

PROCEDURE OF BOARD

12. Meetings.
13. Procedure of meetings.
14. Members interested not to act.
15. Power to appoint committee.
16. Meetings of a committee.
17. Delegation of powers.
18. Power of Chairman to delegate.
19. Execution of documents, etc.
20. Vacancy not to invalidate acts, etc.

Mac 1983

Mac 1983

[Arrangement of Sections]

4

ACT 278

PART IV

ADMINISTRATION

Section

21. Appointment of General Manager, Deputy General Managers, officers and servants.
22. Restriction on alterations in establishment.
23. General Manager as chief executive.
24. Officer or servant not to be interested in contracts.

PART V

FUNCTIONS OF THE BOARD, ETC.

Functions

25. General functions of Board.

Supply

26. Duty of Board to supply energy.
27. Supply for private purposes.
28. Supply of energy to public lamps.
29. Maximum power.
30. Conditions under which supply may be declined, etc.
31. Conditions under which supply may be discontinued.
32. Notice to be given to Board before removing.
33. Payment in arrears.
34. Security for payment.
35. Recovery of electricity rents.

Power of Entry

36. Power to enter lands or premises for ascertaining quantity of electricity consumed, or to remove fittings.

Electric Lines

37. Electric lines, etc. not to be subject to distress, etc., in certain cases.
38. Electric lines, etc., let on hire, though fixed to premises, to remain property of Board.

PART VI

FINANCIAL PROVISIONS

39. Funds of the Board.
40. Power to issue stock, etc.

Section

41. General duties and powers of Board in financial matters.
42. Method of charging.
43. Rates and scales of charges for energy.
44. Other charges by agreement.
45. Price for supply to public lamps.
46. Investment of funds.
47. Borrowing powers.
48. Loans may be secured by mortgage.
49. Power to make loans.
50. Power to guarantee loans.
51. Annual estimates.
52. Statutory Bodies (Accounts and Annual Reports) Act 1980 to apply.
53. Exemption from stamp duty.
54. Bank account.
55. When tenders to be called.

PART VII

PLANS, ETC.

Plans

56. Map of area of supply to be made.
57. Plans for approval of Minister.

Wayleaves

58. Wayleaves over land.

Works

59. Power to break up street, etc. under superintendence, and to open drains.
60. Conditions as to superintendence of breaking up of streets.
61. Streets, etc., broken up to be reinstated without delay.
62. Notice to be served on persons having control, etc., before breaking up streets or opening drains.
63. Laying of electric supply lines, etc., or gas or water pipes or other electric supply lines.
64. Power to require position of poles, pillars, etc., to be altered.
65. Alteration of pipes or wires.
66. Power to remove trees, etc., endangering overhead lines.

PART VIII

TRANSFER TO BOARD OF BODY CORPORATE
UNDERTAKINGS, ETC.

Property, Contracts, Etc.

Section

67. Compensation for transferred undertakings.
68. Existing contracts, etc.
69. Pending proceedings.

Officers or Servants

70. Transfer of officers or servants on establishment of body corporate.

PART IX

GENERAL

71. Power of Minister to give directions.
72. Power of suspension of executive function.
73. Secrecy and penalty.
74. Injuring works with intent to cut off supply or maliciously extinguishing public lamp.
75. Stealing electricity.
76. Wilful injury to works, tampering with meter or fraudulent use of energy.
77. Penalty for fraudulently or improperly using electricity of Board.
78. Satisfaction for accidentally damaging Board's work.
79. Penalty for connecting or disconnecting or altering adjustment of meter without notice.
80. Penalty for unauthorised breaking of seals.
81. Penalty when not otherwise expressed.
82. Offences committed by corporate bodies.
83. Recovery of penalties, etc.
84. Protection against legal proceedings.
85. Public servants.
86. Public Authorities Protection Act 1948 to apply.
87. Person authorized to prosecute.
88. Sanction for prosecution.
89. Power to make regulations.
90. Saving rights of Government of State of Sabah in the foreshore.

w.r.f. 152.87 - Am. AA 665/87
Act 478/92
7
Act A 995/97
Act A 1127/01

LAWS OF MALAYSIA

Act 278

LEMBAGA LETRIK SABAH ACT 1983

An Act to provide for the establishment of a board to be known as "Lembaga Letrik Sabah" and for the exercise and performance by the board of functions relating to the supply of electricity and certain other matters and for purposes connected therewith.

*
[1st January, 1984] PU(B) 647/83

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

PART I

PRELIMINARY

1. This Act may be cited as the Lembaga Letrik Sabah Act 1983, and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Short title and commencement.
1.1.84
(PU(B) 647/83

2. In this Act, unless the context otherwise requires—
"area of supply" means that area within which the Board is, or a licensee is authorized, to generate and/or to supply energy;

Interpretation.

"Board" means the Lembaga Letrik Sabah constituted under section 3;

"Chairman" means Chairman of the Board;

"consumer" means a person who is supplied with energy or whose premises are for the time being connected for the purpose of a supply of energy with any installation;

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“danger” means danger to health or to human life or limb from shock, burn, or other injury and includes danger to property, installation or equipment resulting from the generation, transmission, distribution or utilisation of energy;

“Deputy Chairman” means Deputy Chairman of the Board;

“distributing main” means the portion of any main which is used for the purpose of giving origin to service lines for the purposes of general supply;

“electrical supply line” means any wire, conductor or other means used for conveying electricity for power, lighting or heating purposes and includes any instrument, insulator, casing, tubing or post supporting any electric supply line or anything connected therewith;

Act 139.

“energy” means either natural gas or synthetic gas, liquefied petroleum gases, electricity, or other energy forms including solar, geothermal, biomass and wind, tidal and water power when produced, generated, transmitted, supplied or used for purpose except the transmission of any communication or signal; electricity unless otherwise defined is an article as provided for under section 3 of the Factories and Machinery Act 1967;

“equipment” includes any item for such purposes as generation, conversion, transmission, distribution or utilisation of electrical energy, such as machines, transformers, apparatus, measuring instruments, protective devices, wiring materials, accessories and appliances;

“functions” includes powers and duties;

“gas” means a combustible gaseous fuel including natural gas and gaseous fuels derived from any raw materials;

“General Manager” means the General Manager appointed under section 21 and includes any person for the time being so appointed to perform the duties of the General Manager;

“general supply” means the general supply of energy specially agreed with any public or local authority for the general supply of energy to public lamps, but shall not include the supply of energy to any one or more particular consumers under special agreement;

“generating station” means any station for generating electrical energy, including any buildings and plant used for the purpose and the site thereof, and includes a site intended to be used for a generating station, but does not include any station for transforming, converting, or distributing electrical energy;

“installation” means the whole of any plant or equipment under one ownership or in charge of the same management, designed for the supply or use, or both, as the case may be, of energy, including prime movers, if any, with all necessary plant, buildings and land in connection therewith, pipe lines, supply lines and consuming equipment, if any;

“licence” means a licence issued under any written law, permitting the licensee to operate or work an electrical installation and includes any licence issued under any other law enforced before the promulgation of this Act;

“licensee” means a person permitted by licence to work or operate an electrical installation and includes an authorised agent;

“liquefied petroleum gases” means a mixture of hydrocarbons, principally propane and butane, which is produced, stored, distributed or sold in liquid form in pressurised containers for any use;

“main” means any electrical line which may be laid underground or erected overhead by the Board or licensee and through which energy may be supplied by the Board or licensee for the purposes of general supply;

“member” means a member of the Board including the Chairman and Deputy Chairman;

“meter” means and includes any and every kind of machine, device or instrument used for the measurement of the supply of energy;

“Minister” means the Minister for the time being charged with responsibility for matters relating to energy;

“natural gas” means a gaseous product comprised principally of methane which is produced from naturally occurring underground reservoirs and which is used for its fuel value or as a feedstock;

“pipeline” means a mechanical conduit used for the conveyance of fluids and shall include related facilities such as metering and pressure control equipment;

“power” means electrical power or the rate per unit of time at which energy is supplied;

“premises” means and includes any building, room, tenement, hut, or shed or other erection and all the land occupied or used or authorised for occupation or use in connection therewith, being under one ownership, lessee-ship, management or occupation;

“prime mover” means a machine supplying mechanical energy to a generator;

“public authority” means the Government or any department or branch of the Government or the Board;

“public lamp” means an electric lamp used for the lighting of any street or other public place;

“State” means the State of Sabah;

“street” includes any thoroughfare over which the public have a right of way;

“sub-station” means the works or station where energy is received for transformation or conversion and includes all buildings and plant used for the purpose and the site thereof;

“supply line” means a conductor or other means of conveying, transmitting or distributing energy, together with any casing, coating, covering, tube, pipe, insulator or post enclosing, surrounding or supporting the same or any part thereof or any building or equipment connected therewith for the purpose of transforming, conveying, transmitting or distributing energy;

“transformation” means the transformation of voltage from a lower to a higher voltage or vice versa;

“voltage” means extra high voltage, high voltage, low voltage and extra low voltage as prescribed;

“works” includes electric supply lines, canals, river-works, dams, headwork, pipelines, buildings, machinery, matters or things of whatever description required to supply energy and to carry into effect the objects of the Board.

PART II

ESTABLISHMENT AND CONSTITUTION OF BOARD

3. (1) There is hereby established a body by the name "Lembaga Letrik Sabah" or in English "Sabah Electricity Board" which shall be a body corporate with perpetual succession, capable of suing and being sued in its corporate name and with power to purchase or otherwise acquire, hold and exchange or alienate or otherwise deal with in any lawful manner whatsoever, any property movable and immovable, and to enter into contracts and generally to do such acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its objects and the exercise of its powers as set out in this Act.

Establishment of Board.

(2) The Board shall have a common seal which shall bear such device as the Board may approve and such seal may from time to time be broken, changed, altered and made anew by the Board, as the Board may think fit.

← AA995

(3) Until a common seal is provided under subsection (2), a stamp bearing the inscription "Lembaga Letrik Sabah" may be used as the common seal of the Board.

4. (1) The Board shall consist of the following members—

Composition of Board.

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) seven other members, of whom at least three shall hold office in the public service; and
- (d) the person who for the time being holds the office of the General Manager;

Provided that the General Manager shall not be entitled to vote at the meeting of the Board.

(2) The members as specified in paragraphs (a), (b) and (c) of subsection (1) shall be appointed by the Minister.

(3) A member who is an officer in the public service may by instrument in writing addressed to the Chairman appoint another officer in the public service as an alternate member who may attend on his behalf any meeting of the Board which such member is for

any reason unable to attend and such alternate member when attending such meeting shall for all purposes be deemed to be a member of the Board.

(4) Subject to the provisions of section 7, a member, other than the General Manager, shall hold office for a period of three years from the date of his appointment, and shall be eligible for re-appointment.

Resignation
and
revocation.

5. (1) A member, other than the General Manager, may at any time resign his office by giving notice in writing to the Chairman.

(2) The appointment of a member may at any time be revoked by the Minister if he thinks it expedient to do so.

Disqualifi-
cation
from
membership.

6. The following persons shall be disqualified from being appointed as or, if appointed, remaining as a member—

- (a) a person who is of unsound mind or otherwise incapable of performing his duties or managing his affairs;
- (b) a person who is prohibited from being a director of a company under the provisions of any written law relating to companies;
- (c) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude; and
- (d) a bankrupt.

Vacation of
office.

7. The office of a member, other than the General Manager, shall become vacant—

- (a) on his death;
- (b) if he is absent from three consecutive meetings of the Board without the special leave of the Chairman or leave of absence granted under this Act and the Board passes a resolution declaring his office vacant;
- (c) if he resigns his office;
- (d) if he becomes disqualified for membership under section 6;
- (e) if his appointment is revoked by the Minister.

8. The Minister may grant to any member such leave of absence as the Minister may deem fit. Leave of absence.

9. (1) If the office of a member, other than the General Manager, becomes vacant, the Minister may appoint another suitably qualified person to fill such vacancy for so long only as the member in whose place he is appointed would have held office. Casual vacancies and temporary membership.

(2) Where any member, other than the General Manager, is prevented by illness, absence from the State or other like cause from performing his duties as a member the Minister may appoint any suitably qualified person to act as deputy for such member during such period as he is so prevented from performing his duties.

10. There shall be paid to the members, or to such of them as the Minister may determine, such salaries, fees and allowances out of the funds of the Board as the Minister may from time to time approve. Remuneration of members of Board.

11. (1) Every person appointed to be a member of the Board shall, within three months after his appointment, sell or dispose of all shares in any energy undertaking which, at the time of his appointment, he owns or is interested in for his own benefit, and it shall not be lawful for any member of the Board, whilst he holds office as such, to purchase or become interested in for his own benefit any shares in any energy undertaking, and, if any member of the Board becomes entitled, for his own benefit, under any will or succession to any shares in any energy undertaking, he shall sell or dispose of the same within three months after he has become entitled thereto: Members of Board to dispose of interest in any energy undertaking.

Provided that the Minister may waive the requirements of this subsection in any specific case.

(2) Any member of the Board who retains, purchases, takes or becomes or remains interested in any shares in any energy undertaking in contravention of the provisions of this section shall be disqualified from, and be deemed to have vacated his office as such member, and the Chairman shall cause an entry to that effect to be made in the minutes of the Board as soon as practicable after the fact of any such contravention comes to his knowledge.

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(3) The fact of any person disqualified under this section having sat on, or taken part in any proceedings of, the Board before such entry as aforesaid has been made in the minutes shall not invalidate any resolution or proceedings of the Board.

(4) In this section—

“shares in any energy undertaking” means any stock, shares, debentures, debenture stock, bonds or other securities of any company engaged in the State in the generation, distribution or supply of energy, or the manufacture therein of electrical equipment, and includes any share or interest in any unincorporated undertaking similarly engaged.

PART III

PROCEDURE OF BOARD

Meetings. 12. (1) The Board shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Chairman may determine:

Provided that the Chairman shall not allow more than three months to elapse between such meetings.

(2) Where not less than three members, by notice in writing signed by them and addressed to the Chairman, request that a meeting of the Board be held for any purpose specified in such notice the Chairman shall, within seven days of the receipt by him of such notice, convene a meeting accordingly.

Procedure of meetings. 13. (1) The quorum at all meetings of the Board shall be three members present in addition to the Chairman or Deputy Chairman.

(2) In the absence of the Chairman from any meeting of the Board, the Deputy Chairman shall preside thereat and, in the absence of both the Chairman and the Deputy Chairman, the members present shall elect one of their members to preside thereat.

(3) Questions arising at any meeting of the Board shall be decided by the votes of the majority of those present and voting thereon and in the case of an equality of votes the Chairman or other person presiding at such meetings shall have a second or casting vote.

(4) Subject to the provisions of this Part, the Board shall have power to make standing orders to regulate its own proceedings.

14. (1) Any member who has or acquires, directly or indirectly by himself, his partner or agent—

Members interested not to act.

(a) any share or interest in any contract made with or work done for the Board or in any company or with any person or in respect of any undertaking with which the Board proposes to contract; or

(b) any beneficial interest in land proposed to be acquired, purchased, leased or otherwise dealt with by the Board or which he knows to be affected or to be likely to be affected by any project, scheme or enterprise approved or proposed to be approved by the Board;

shall, before taking part in any proceedings at a meeting of the Board, relating to or affecting directly or indirectly any such contract or land, inform the person presiding at such meeting of the nature and extent of such share or interest, and such information shall be recorded in the minutes of such meeting, and such member shall not vote upon any resolution or question relating thereto or to matters incidental thereto and if the person presiding at the meeting so requests, such member shall withdraw from the meeting during such deliberation or decision:

Provided that no member shall be deemed to have or acquire any share or interest in a contract with the Board by reason only that he has or acquires a share in any loan issued by the Board or in any security for the same:

Provided further that for the purpose of determining whether there is a quorum a member who attends the meeting shall be treated as being present notwithstanding that, under the provisions of this section, he may not vote or has withdrawn.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand ringgit and imprisonment for six months.

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Power to
appoint
committee.

15. (1) Subject to the provisions of this Act, the Board may, for any general or special purpose, appoint such committees as it thinks desirable.

(2) A committee may do all such things as may be necessary for the effective carrying out of its functions but shall be subject to the general directions of the Board.

(3) A committee shall consist of a Chairman and not more than five other persons.

(4) A committee may consist of persons who are not members of the Board.

(5) Members of a committee may be paid such remuneration or allowance as the Board may, with the approval of the Minister, determine.

Meetings of
a committee.

16. (1) In the absence of the Chairman of a committee from any meeting of the committee such other member of the committee as may be elected by the members present shall preside over the meeting.

(2) The quorum for the meeting of a committee shall be three.

(3) Any question to be determined at any meeting of a committee shall be decided by the votes of the majority of those present and voting thereon, and in the case of an equality of votes the person presiding shall have a second or casting vote.

(4) A committee may invite to any of its meetings any person who can in its opinion contribute to its deliberations but such a person shall have no right to vote at the meeting.

(5) Subject to this section and the directions of the Board, a committee shall regulate its own procedure.

Delegation
of powers.

17. (1) The Board may delegate to any committee, member, officer or servant of the Board, such of its functions as it may deem necessary or desirable.

(2) Any functions delegated under this section—

(a) may be so delegated subject to such conditions or restrictions as the Board may either generally or specially impose;

(b) shall be exercised by the committee, member, officer or servant concerned in the name and on behalf of the Board.

(3) No delegation made under this section shall preclude the Board itself from exercising or performing at any time any of the functions so delegated.

18. (1) Subject to the provisions of this Act and of any regulations made thereunder, the Chairman may delegate in writing to any member, officer or servant of the Board the power and authority to carry out on his behalf such duties, powers or functions as he may determine.

Power of Chairman to delegate.

(2) The Chairman may at the time of delegating any power or authority under subsection (1) to any member, officer or servant, or at any time thereafter give directions as to the manner in which such delegated power or authority is to be exercised and may at any time revoke, modify or increase such delegation.

19. (1) The common seal of the Board shall be in the custody of the Chairman and shall not be used except in the presence of the Chairman or Deputy Chairman and one member and such use shall be authenticated by the signatures of such persons and such authentication shall be sufficient evidence that such seal was duly and properly fixed and that it is the lawful seal of the Board.

Execution of documents, etc.

Subs. AA665

← AA665

(2) All documents, other than those required by law to be under seal, to which the Board is a party may be signed on behalf of the Board by the Chairman or any member or by any officer or servant generally or specially authorised in that behalf by the Board.

20. (1) No act or proceeding of the Board or any committee thereof shall be questioned on account of any vacancy among the members or on account of the appointment of any member having been defective.

Vacancy not to invalidate acts, etc.

(2) Until the contrary is proved, every meeting of the Board or of any committee thereof shall be deemed to have been duly convened and held and all members present thereat shall be deemed to have been duly qualified.

(3) A statement in any document to the effect that any function has been delegated under this Part shall, unless the contrary is proved, be evidence that such delegation has been lawfully made.

PART IV
ADMINISTRATION

Appoint-
ment
of General
Manager,
Deputy
General
Managers,
officers and
servants.

21. (1) Subject to section 22, the Board shall—

(a) from time to time, with the approval of the Minister, appoint and employ, a General Manager and such number of Deputy General Managers; and

(b) from time to time, appoint and employ, such other officers and servants as may be necessary, for carrying out its functions and duties under this Act.

(2) Whenever the General Manager is prevented by illness, absence from the State, or other like cause from performing his duties as such, or when the office of General Manager is vacant, the Board may with the approval of the Minister, appoint one of its officers to perform the duties of General Manager during such period as the General Manager is so prevented from performing his duties or the said office is vacant.

(3) Subject to the approval of the Minister, the General Manager and other officers and servants of the Board shall be engaged on such terms and conditions as the Board may think fit.

Restriction
on altera-
tions in
establish-
ment.

22. The Board shall not, without the approval of the Minister, make any addition to its established posts.

General
Manager as
chief
executive.

23. (1) The General Manager shall be the chief executive officer responsible to the Board and shall perform such duties and exercise such powers as may be determined or delegated by the Board.

(2) Subject to the directions and control of the Board, all officers and servants of the Board shall be under the administrative control of the General Manager.

Officer or
servant not
to be
interested
in contracts.

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

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

(3) No officer or servant shall be deemed to have or acquire any such share or interest by reason only that—

(a) he is or becomes a member of an incorporated company which owns land situated in Sabah or had a contract with or executes work for the Board; or

(b) he has or acquires a share in any loan, issued by the Board or in any security for the same.

PART V

FUNCTIONS OF THE BOARD, ETC.

Functions

25. (1) Subject as hereinafter provided it shall be the duty of the Board—

General
functions
of Board.

(a) to manage and work the electrical installations belonging to the Board, and such other installations and equipment as may be acquired or installed by the Board;

(b) to establish, manage and work such energy installations as the Board may deem it expedient to establish;

✓ (c) to promote and encourage the production, generation and utilisation of energy with a view to the economic development of the State;

✓ (d) to secure the supply of energy at reasonable prices;

(e) to make regulations, in accordance with this Act, governing the generation, transmission, distribution and use of energy:

Provided that the regulations made under this paragraph shall conform to the standard of safety and not be inconsistent with the requirements of any written law pertaining to such standard of safety;

(f) to advise the Minister on all matters relating to the generation, transmission, distribution and use of energy.

(2) For the purposes of subsection (1) and subject to the provisions of any written law the Board may—

- (a) subject to the provisions of this Act, generate, transmit, transform, distribute and sell energy either in bulk or to individual consumers in any part of the State;
- (b) purchase, construct, reconstruct, maintain and operate supply lines, generating stations, transformer stations, pipelines, gas treatment equipment, equipment for the extraction and distribution of liquefied petroleum gases, and all other appropriate stations, buildings and works;
- (c) sell, hire or otherwise supply energy plant and energy fittings, and install, repair, maintain or remove any energy plant and energy fittings;
- (d) acquire any property, movable or immovable, which the Board deems necessary or expedient for the purpose of construction, extending or maintaining any energy installation or otherwise carrying out its duties and functions under this Act;
- (e) carry on all such other activities as may appear to the Board requisite, advantageous or convenient for it to carry on for or in connection with the performance of its duties under this Act or with a view to making the best use of any of its assets; and
- (f) perform and permit its employees to perform any functions which may be delegated to it or them under the provisions of any written law relating to energy or machinery.

(3) Subject to the provisions of this Act, the Board shall for the purpose of carrying out the duties imposed upon it have power—

- (a) to pay any person in its employ remuneration according to the conditions of his appointment;
- (b) to establish, control, manage and maintain, or contribute to, any pension scheme or provident fund approved by the Minister of Finance for the benefit of its staff or the dependants of deceased members of such staff;

N.B. (c) to authorize any department of the Government or the State or any person or organisation, and to employ any agent, to carry out any work or perform any act in furtherance of the objects of this Act which the Board is competent to perform and which is approved by the Board;

(d) to appoint such technical advisers as it may deem necessary and to permit such advisers to attend any meeting of the Board:

Provided that such advisers shall not vote at any such meeting.

Supply

26. (1) Subject to the provisions of subsection (2) in so far as it is able to do so in the area of supply of the Board as may be determined from time to time by the Minister, the Board shall supply energy to any person requiring a supply of energy (in this section referred to as a consumer) if such consumer undertakes to enter into a contract with the Board giving such security as the Board may require to take or continue to receive, and to pay for a supply of energy upon such terms and conditions as the Board may determine.

Duty of Board to supply energy.

(2) The Board may in its discretion refuse to give such supply of energy to any building which has been erected in contravention of any written law or which is in a ruinous or dangerous condition.

(3) The Board shall not supply electrical energy to a consumer, other than a licensee, in any area which for the time being forms part of the area of supply of a licensee, except with the consent of such licensee:

Provided that where the consent of a licensee is required under this subsection and such licensee refuses or withholds such consent, the Board may appeal to the Minister and the Minister, if satisfied that the consent of such licensee is unreasonably refused or withheld, may dispense with such consent. For the purposes of this proviso consent shall be deemed to be unreasonably refused or withheld if the licensee is not willing and able to supply the requisite electrical energy upon reasonable terms and within a reasonable time

having regard, amongst other things to the terms upon and the time within which the Board is willing and able to supply such electrical energy.

(4) Notwithstanding anything in this section contained, the owner or occupier of any premises shall not be entitled to demand or continue to receive from other than normal and regular use from the Board a supply of electricity for any premises having a separate supply of electricity or a supply (in use or ready for use for the purposes for which such emergency supply of electricity is required) of gas, steam or other form of energy unless such owner or occupier has agreed with the Board to pay the Board such minimum annual sum as will give him a reasonable return on the capital expenditure incurred by him in providing such emergency supply and will cover other standing charges incurred by the Board in order to meet the possible maximum demand for those premises. The sum to be paid shall be determined in default of agreement by arbitration.

Supply for
private
purposes.

27. The Board shall, upon being required to do so by the owner or occupier of any premises situated within 100 metres from any distributing main of the Board in which the Board is, for the time being, required to maintain or is maintaining a supply of energy for the purposes of general supply to private consumers under rules made under this Act, give and continue to give a supply of energy for those premises in accordance with the provisions of this Act, and the Board shall furnish and lay any electric supply lines that may be necessary for the purpose of supplying the maximum power with which any such owner or occupier is entitled to be supplied under a contract subject to the following condition:

Provided that the cost of so much of any electric supply lines for the supply of electrical energy to any owner or occupier as may be laid or erected upon the property of that owner or in the possession of that occupier, and of so much of any such electric supply lines as it may be necessary to lay or erect for a greater distance than 15 metres from any distributing main of the Board, although not on that property, shall if the Board so requires, be defrayed by that owner or occupier.

28. The Board shall, upon receiving reasonable notice from a public or local authority requiring him to supply energy to any public lamps within the distance of 100 metres from any distributing main of the Board in which the Board is for the time being required to maintain a current of energy for the purposes of general supply under this Act, give and continue to give a supply of energy to those lamps in such quantities as the public or local authority may require to be supplied.

Supply of energy to public lamps.

29. (1) The maximum power with which any consumer shall be entitled to be supplied shall be of such amount as he may require, not exceeding what may be reasonably anticipated as the maximum power on his premises:

Maximum power.

Provided that where any consumer has required the Board to supply him with maximum power of any specified amount he shall not be entitled to alter that maximum except upon reasonable notice to the Board, and any expenses reasonably incurred by the Board in respect of the service lines by which energy is supplied to the premises of that consumer, or any fittings or equipment of the Board upon those premises consequent upon the alteration, shall be paid by him to the Board and may be recovered as a civil debt.

(2) If any difference arises between any such consumer and the Board as to what may be reasonably anticipated as the maximum power on his premises or as to the reasonableness of any expenses under this section, that difference shall be determined by the Minister.

30. (1) The Board shall not be compelled to give a supply of energy to any premises unless the Board is reasonably satisfied that the electric lines, fittings and equipment therein are in good order and condition and would not in the opinion of the Board affect injuriously the use of energy by the Board or by other persons.

Conditions under which supply may be declined, etc.

(2) If any difference arises as to any improper use of electrical energy, or as to any alleged defects in, or as to unsuitable or as to necessary equipment or protective devices, that difference shall be referred to an Electrical Inspector whose decision shall be final and binding on the parties.

(3) The Board may refuse to supply electrical energy to any public or local authority, company or person whose payments for the supply of electrical energy are in arrears for a period of one month after demand has been made, (not reasonably being the subject of a dispute), whether any such payments be due to the Board in respect of supply to the premises in respect of which such supply is demanded or in respect of other premises.

Conditions under which supply may be discontinued.

31. (1) If a consumer uses any form of lamp or other energy consuming equipment or uses the energy supplied to him by the Board in such a manner as to interfere unduly or improperly with the efficient supply of energy to any other body or person, or if he makes any alteration in his installation without the previous approval of the Board, or if he fails to give reasonable facilities for testing, or if a leakage is discovered on his premises, or if he interferes with the Board's main fuses or equipment, or if he sells or disposes commercially of electrical energy without the consent of the Board, he shall be liable on conviction to a fine of three thousand ringgit and to imprisonment for six months, and the Board may, if he thinks fit, discontinue to supply energy to those premises so long as the consumer makes default in respect to any of the above-named matters.

(2) If any public or local authority, company or person neglects to pay any charge for electricity (not reasonably being the subject of a dispute) or any other sum due from them to the Board in respect of the supply of electricity to such public or local authority, company or person, the Board may cut off such supply, and for that purpose may cut or disconnect any electric supply line or other work through which electricity may be supplied, and may, until such charge or other sum, together with any expenses incurred by the Board in cutting off and re-connecting such supply of electricity, is fully paid, but no longer, discontinue the supply of electricity to such public or local authority, company or person:

Provided that where any company or person has given to the Board a deposit as security for payment for a supply of electrical energy, the Board shall not be entitled to discontinue such supply until the sum due

to him for that supply shall equal the sum so deposited as security and after payment shall have been demanded.

32. (1) Twenty-four hours' notice in writing shall be given to the Board by every consumer before he quits any premises supplied with electrical energy by the Board, and, in default of such notice the consumer so quitting shall be liable to pay to the Board the money due in respect of such supply up to such time as notice of removal is given or up to the next usual period for ascertaining the register of the meter or otherwise for determining the charges due on such premises, or to the date from which any subsequent occupier of such premises may require the Board to supply electrical energy to such premises, whichever shall first occur.

Notice to be given to Board before removing.

(2) Notice to the effect of this section shall be endorsed upon any demand note for charges for electrical energy:

Provided that nothing in this section shall invalidate any agreement entered into between the Board and any consumer as to the period for which a supply of electrical energy shall be taken by such consumer.

33. In case any consumer of electricity supplied by the Board leaves the premises where such electricity has been supplied to him without paying the electricity rent or meter rent due from him, the Board shall not be entitled to require from the next tenant of such premises the payment of the arrears left unpaid by the former tenant unless such incoming tenant has undertaken with the former tenant to pay or exonerate him from the payment of such arrears.

Payment in arrears.

34. The Board may, before executing the necessary work for connecting up the premises of the owner or occupier to the distributing mains, by notice in writing, require the owner or occupier of those premises, within seven days after the date of the service of the notice, to give to him security for the payment of all moneys which may become due to him in respect of the supply, in case the owner or occupier has not already given that security, or in case any security given has become invalid or is insufficient, and in case

Security for payment.

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any such owner or occupier fail to comply with the terms of the notice, the Board may, if he thinks fit, refuse to supply energy for the premises so long as the failure continues.

Recovery of
electricity
rents. ✓

35. (1) If any person supplied with electricity or with any electricity meter or fittings by the Board neglects to pay to the Board the rent due for such electricity, or the rent or money due to the Board for the hire or fixing of such meter, or any expenses lawfully incurred in cutting off the electricity from the premises of such person, or the rates due for the connection of service lines to distributing mains, or any other sum due in connection with the supply of energy, the Board may recover the sum so due in like manner as a penalty under this Act.

(2) Whenever any person neglects to pay any rent or such due payable by him to the Board, the Board may recover the same in any court of competent jurisdiction, and the remedy of the Board under this Act shall be in addition to his other remedies for the recovery of such rent or sum.

Power of Entry

Power to
enter lands
or premises
for
ascertaining
quantity of
electricity
consumed,
or to
remove
fittings.

36. (1) Any officer appointed by the Board may at all reasonable times enter any premises to which electricity is or has been supplied by the Board, in order to inspect the electric lines, meters, accumulators, fittings, works and equipment for the supply of electricity belonging to the Board, and the wires, fittings and equipment belonging to the consumer, and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required, or where the Board is authorized to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric lines, accumulators, fittings, works, or equipment belonging to the Board, repairing all damage caused by such entry, inspection or removal:

Provided that no officer appointed by the Board shall enter such premises without the permission of the occupier first had and obtained. Such permission shall not be refused.

(2) In any case where such permission is refused, the Board may, additional to any penalty to which the occupier, lessee or owner of any premises to which electrical energy is or has been supplied by the Board may be liable under this Act in respect of such refusal, cut or disconnect any electric supply line or other work through which electrical energy may be supplied, and may until such permission is given and any expense incurred by the Board in cutting or disconnecting and reconnecting any electric supply line or other work as aforesaid, are fully paid, but no longer, discontinue or refuse to supply electrical energy to such occupier, lessee or owner.

Electric Lines

37. When any electric lines, meters, accumulators, fittings, works and equipment belonging to the Board are placed in or upon any premises not being in the possession of the Board for the purpose of supplying electricity under this Act, such electric lines, meters, accumulators, fittings, works and equipment shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be, or to be taken in execution under any process of any court or under any proceedings in bankruptcy against the person in whose possession the same may be.

Electric lines, etc., not to be subject to distress, etc., in certain cases.

38. (1) All electric lines, meters, accumulators, fittings, works and equipment let by the Board on hire or belonging to the Board, but being in or upon premises of which the Board is not in possession shall, whether they be or be not fixed or fastened to any part of any premises in or upon which they may be situated, or to the soil under any such premises, at all times continue to be the property of, and be removable by the Board, and sections 36 and 37 shall extend and apply to all such electric lines, meters, accumulators, fittings, works and equipment:

Electric lines, etc., let on hire, though fixed to premises, to remain property of Board.

Provided that such electric lines, meters, accumulators, fittings, works and equipment, have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the Board as the actual owner thereof.

(2) For the purposes of this section electric lines, meters, accumulators, fittings, works and equipment disposed of by the Board on terms of payment by instalment shall, until the whole of the instalments have been paid, be deemed to be electric lines, meters, accumulators, fittings, works and equipment let on hire by the Board.

(3) Nothing in this section shall affect the amount of assessment for rating of any premises upon which any electric lines, meters, accumulators, fittings, works and equipment are or shall be fixed.

PART VI

FINANCIAL PROVISIONS

Funds of
the Board.

39. (1) There shall be established a Fund to be known as the "Lembaga Letrik Sabah Fund" which shall consist of—

- (a) such sums as may from time to time be provided by Parliament to the Board or donated by the Government of Sabah or of any other State or by any other institution or person for the purposes of the Board;
- (b) such sums as may from time to time be raised by the Board by loan;
- (c) such sums as may be collected as tariffs under the provisions of this Act or any other written law;
- (d) all rent and proceeds of sale profits and income and other funds derived by the Board directly or indirectly from the property belonging to the Board;
- (e) all fees and such other sums as may from time to time be paid to the Board.

(2) The Fund of the Board for any financial year shall be applied in defraying the following charges—

- (a) the remuneration, fees and allowances of the members of the Board;
- (b) the salaries, fees, remuneration, allowances, pensions, superannuation allowances and any gratuities due under any contract, of the officers, agents and servants and technical or other advisers of the Board;

- (c) working and establishment expenses and expenditure on, or provision for the maintenance of any of the installations of the Board, and the discharge of the functions of the Board properly chargeable to revenue account;
- (d) interest on any debentures and debenture stock issued, and on any loan raised by the Board;
- (e) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or debenture stock or the repayment of other borrowed moneys;
- (f) such sums as it may be deemed appropriate to set aside in respect of depreciation on the property of the Board having regard to the amount set aside out of revenue under paragraph (e) of this subsection; and
- (g) any other expenditure authorized by the Board and properly chargeable to revenue account.

(3) The balance of the revenue of the Board shall be applied—

- (a) to the creation of a general reserve; and
- (b) to the payment of such interest on shares and stock issued by the Board as the state of the undertakings and the financial position of the Board appear, in the opinion of the Board, to warrant, but so that, in the case of ordinary shares or stock, the rate of interest shall not exceed an average rate, taking one year with another, of six per centum per annum of the nominal value thereof.

40. The Board may, from time to time, with the approval of the Minister, borrow money by the issue of debentures, debenture stock, or raise capital by the issue of shares or stock of such class and value and upon such terms as it may deem expedient, for all or any of the following purposes:

- (a) the provision of working capital;
- (b) the fulfilling of the functions of the Board under this Act;
- (c) the acquisition of other electricity undertaking;

Power to
issue stock,
etc.

- (d) the redemption of any shares or stock which it is required or entitled to redeem; and
- (e) any other expenditure properly chargeable to capital account.

General duties and powers of Board in financial matters.

41. It shall be the duty of the Board so to exercise and perform its functions under this Act as to secure that the total revenues of the Board are sufficient to meet its total outgoings properly chargeable to revenue account, including depreciation and interest on capital, taking one year with another.

Method of charging.

42. The Board may charge for energy supplied to any consumer (otherwise than by agreement) either by the actual amount of energy so supplied or by the maximum power demand in every given period or by a combination of the two or by any other method as may, for the time being, be approved by the Minister.

Rates and scales of charges for energy.

43. (1) Except in the case of an agreement entered into in pursuance of section 44 the prices to be charged by the Board for energy supplied by the Board shall not exceed such tariffs as may, from time to time be fixed under the provisions of this Act.

(2) The Board in fixing tariffs and making agreements for the supply of energy shall not show undue preference as between consumers similarly situated, and shall not exercise undue discrimination as between persons similarly situated, having regard to the place and time of supply, the quantity of energy supplied, the consumer load and power factor, and the purpose for which the supply is taken.

(3) If any difference arises as to what is undue preference, advantage, rebate or privilege, or as to price, that difference shall be determined by the Minister.

Other charges by agreement.

44. Subject to the provisions of this Act and to the right of the consumer to require that he shall be charged according to some or other of the methods above mentioned, the Board may make any agreement with a consumer as to the price to be charged for energy and the mode in which those charges are to be ascertained, and may charge accordingly.

45. The price to be charged by the Board and to be paid to the Board for all energy supplied to the public lamps, and the mode in which these charges are to be ascertained, if not specified in the contract, and the cost of so much of the construction of any electric line from the distributing mains of the Board shall be settled by agreement between the public or local authority and the Board and, in case of difference, shall be determined by arbitration, regard being had to the circumstances of the case and the distributing or other mains (if any) which may have to be laid for the purpose, and the prices charged to ordinary consumers in the district.

Price for supply to public lamps.

46. The Board may, from time to time, invest any of its funds, not immediately required to be expended in the meeting of the obligations or in the discharge of the functions of the Board, in securities authorized for the investment of trust funds by any written law for the time being in force, and may place the same on deposit in any bank or banks licensed under the provisions of the Banking Act 1973, or, in any undertaking as may be approved by the Minister of Finance.

Investment of funds.

Act 102.

47. (1) The Board may, from time to time, with the approval of the Minister, borrow money by the issue of debenture stock or otherwise for the purpose of this Act.

Borrowing powers.

Subs AA665

(2) The Board may, from time to time, for the purpose of this Act, raise loans from the Government, or with the consent of the Minister, borrow by way of a temporary loan or overdraft from a bank licensed under the provisions of the Banking Act 1973, or otherwise.

Act 102.

48. The Board may secure the repayment of any sum borrowed, by the mortgage or charge, legal or equitable, of any property vested in the Board, or of any revenue receivable by the Board under this Act or any other written law.

Loans may be secured by mortgage.

49. (1) Subject to such conditions as the Minister may deem fit to impose in particular cases, the Board may, out of the Fund make loans in accordance with the provisions of this Act in that behalf, in the execution of its duties or in the discharge of its functions under section 25.

Power to make loans.

(2) In making loans under the provisions of subsection (1) the Board may charge such rate of interest as it may deem fit in any particular case.

(3) Every loan shall be repaid to the Board in accordance with the terms and conditions under which such loan was made and the money so paid shall thereupon be taken into the accounts of the Board.

(4) Every mortgage to secure loan and every instrument or charge under the provisions of this Act shall be approved by the Board and all costs, charges and expenses incurred in connection therewith shall be paid by the person to whom the loan is made.

Power to guarantee loans.

50. The Board may, with the written approval of the Minister, guarantee any loans made by any bank or financial institution to any applicant approved by the Board for any purpose for which the Board might itself have granted such loan.

Annual estimates.

51. (1) The Board shall before the commencement of each financial year cause to be prepared and shall adopt annual estimates of income and expenditure of the Board for the ensuing year.

(2) Supplementary estimates may be adopted by the Board at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Board, be sent forthwith to the Minister for his approval.

(4) No expenditure shall be incurred by the Board which has not been included in annual estimates or supplementary estimates adopted by the Board and approved by the Minister.

Statutory Bodies (Accounts and Annual Reports) Act 1980 to apply. Act 240.

52. For the avoidance of doubt, it is declared that the provisions of the Statutory Bodies (Accounts and Annual Reports) Act 1980 shall apply in respect of the Board.

Act 478 Exemption from stamp duty.

53. The Board shall be exempt from payment of stamp duty under any written law for the time being in force relating to stamp duties.

54. (1) All moneys paid to the Board shall be paid into an account in such bank or banks licensed under the provisions of the Banking Act 1973 as may be approved by the Board.

Bank
account.
Act 102.

(2) All orders against the said account shall be signed by the General Manager and countersigned by another officer of the Board authorized in writing in that behalf by the Board.

55. Tenders for the execution of any work or duty, or for the supply of any materials or for other things necessary for the purposes of the Board whereby the expenditure of the Board is involved, shall be called in such cases and in such manner as the Government may generally or in any particular case direct.

When
tenders to
be called.

PART VII

PLANS ETC.

Plans

56. (1) The Board shall forthwith after commencing to supply energy cause a map to be made of the area of supply to a scale not less than one in fifty thousand or other scale approved by the Director of Lands and Surveys, and shall cause to be marked thereon the position of all transmission lines in such form and showing such detail as the Minister may direct, and shall cause plans to be prepared of the area of each local authority in which distribution lines have been laid to a scale of not less than one in two thousand five hundred or other scale approved by the Director of Lands and Surveys showing the position of all overhead and underground electric lines and shall cause to be marked thereon the depth of all underground lines below the surface, and shall from time to time cause all extensions to be marked thereon as soon as may be practicable after the lines have been laid.

Map of
area of
supply to
be made.

(2) Every map or plan so made or corrected or a copy thereof marked with the date when it was so made or last corrected shall be kept by the Board at his principal office, and shall at all reasonable times be open to the inspection of the Director of Public Works of Sabah, General Manager Railways, Director General of Telecommunications Malaysia and any officer duly

authorized by any local authority. The Director of Lands and Surveys and the local authority shall at a reasonable charge supply to the Board copies of the necessary maps, if available, or failing such maps then they shall supply all information which may be available to enable such maps to be prepared.

(3) The Board shall, if required by the Director of Public Works of Sabah, General Manager Railways, or the Director General of Telecommunications, Malaysia, supply a copy of any such map or plan and shall, if required by a local authority, supply them with a copy of the plans showing the distribution lines within their boundaries.

Plans for approval of Minister.

57. (1) The Board shall before executing any of the several works mentioned below, submit for the approval of the Minister three copies of the respective plans and drawings as follows:

- (a) plans and drawings to a scale of not less than one in five hundred of dams, weirs, canals, reservoirs, tunnels, and headworks;
- (b) plans to a scale of not less than one in fifty thousand or other scale approved by the Director of Lands and Surveys showing the main transmission lines;
- (c) plans and drawings of power houses to a scale of not less than one in five hundred.

(2) If the disapproval of the Minister is not notified in respect of any item at the expiration of twenty-eight days after the same shall have been submitted to him the said plans shall be deemed to have been approved and the Board shall be at liberty to execute the works.

(3) The foregoing provisions shall also apply to any amended plans and drawings which the Board may submit to the Minister to meet any disapproval or objections raised by him:

Provided that the Minister shall notify his approval or disapproval of or objections to any such amended plans and drawings before the expiration of fourteen days as from the date when the same shall have been so submitted, and in the event of no notification being made within such period aforesaid the Board shall be at liberty to proceed as if approval had been given.

(4) The Board shall not execute any of the works in respect of which plans are required to be submitted to the Minister except in accordance with approved plans and any breach of the requirements of this subsection shall render the Board liable on conviction to a penalty of one thousand ringgit for each default.

Wayleaves

58. (1) The Board may place any electric supply line either above or below ground across any land, other than land covered by buildings or used as a garden or pleasure ground:

Wayleaves
over land.

Provided that before placing any such line across any land the Board shall serve on the owner or occupier of the land notice of his intention together with a description of the nature and position of the lines proposed to be placed, and if within twenty-one days after the service of the notice the owner or occupier fails to give his consent or attaches to his consent any terms or conditions to which the Board objects, the District Officer of the district may, subject as hereinafter provided, give his consent to the placing of such lines, either unconditionally or subject to such terms and conditions as he thinks just.

(2) Nothing in subsection (1) shall authorize or empower the Board to lay down or place any electric supply line or other works into, through or against any building or on, over or under any land covered with buildings, or used as a garden or pleasure ground, without the consent of the owner or occupier thereof:

Provided that any support of an overhead line or any stay or strut required for the sole purpose of securing the support of an overhead line may be fixed on any land or building with the consent of the District Officer of the district if in his opinion the consent of the owner or occupier is being unreasonably withheld, and the District Officer of the district shall fix the amount of compensation or of annual rental, or of both, which shall be paid by the Board to the owner or occupier.

(3) If the owner or occupier of any land on which any electric supply line has been placed requires the position of such electric supply line to be changed, the District Officer of the district may, by notice in writing, require the Board to alter the position of the electric

supply line, subject to conditions which, failing agreement between the parties, may be determined by the Minister.

(4) In deciding whether to give or withhold his consent or to issue any notice or to impose any terms or conditions, the District Officer shall take into consideration all representations or objections received in accordance with the notice or otherwise, and shall have regard to the effect, if any, on the amenities or value of the land of the placing or altering of such electric supply line or other work in the manner proposed.

Works

Power to
break up
streets, etc.,
under
superin-
tendence,
and to
open
drains.

59. The Board, under such superintendence as is hereafter specified, may open and break up the soil and pavement of the several streets and bridges within the area of supply and may open and break up any sewers, drains or tunnels within or under such street and bridges and lay down and place, within the same limits, electric supply lines, service lines and other works and, from time to time, repair, alter or remove the same, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges, and he may in such streets erect any poles, pillars, lamps and other works and do all other acts which the Board shall from time to time deem necessary for supplying electricity to the inhabitants of the area included within the said limits, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers, and subject to such rules as may be prescribed from time to time by the Minister.

Conditions
as to
superin-
tendence
of breaking
up of
streets.

60. No such street, bridge, sewer, drain or tunnel shall (except in the case of emergency of which notice shall immediately be given as hereinafter provided), be opened or broken up except after seven days' notice to and under the superintendence of the persons having the control or management thereof or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by the Minister who may, on the application of the persons having the control or

management, or their officer, require the Board to make such temporary or other works as the applicants may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with a sewer or drain:

Provided always that, if the persons having the control or management fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain or tunnel, after having had notice of the Board's intention, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the Board may perform the work specified in such notice without the superintendence of such persons or their officer.

61. When the Board opens or breaks up the road or pavement of any street or bridge, or any sewer, drain or tunnel, he shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the road or pavement, or the sewer, drain or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded and shall cause a light sufficient for warning the public to be set up and maintained against or near such road or pavement where the same shall be opened or broken up every night, before sunset and until sunrise, during which the same shall be continued opened or broken up and shall keep the road or pavement which has been broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than six months in the whole, as the soil so broken up shall continue to subside.

Street, etc.,
broken up
to be
reinstated
without
delay.

62. Before the Board proceeds to open or break up any street, bridge, sewer, drain or tunnel, the Board shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of his intention, not less than seven clear days before beginning such work, except in cases of emergency arising from defects in any of the electric supply lines of other works, and then so soon as is possible after the beginning of the work, or after the necessity for the same shall have arisen.

Notice
to be
served on
persons
having
control,
etc., before
breaking
up streets
or opening
drains.

Laying of electric supply lines, etc., or gas or water pipes or other electric supply lines.

63. (1) Where—

- (a) the Board requires to dig or sink any trench for laying down, erecting or constructing any new electric supply lines (other than service lines) or other works near to which any sewer, drain, watercourse, defence or work, or any main, pipe, syphon, electric supply line, telecommunications wire or cable or other work under the jurisdiction or control of a public or local authority or belonging to any gas, electric supply, telecommunications or water company, has been lawfully placed; or
- (b) any gas, telecommunications, or water company requires to dig or sink any trench for laying down or constructing any new mains, wires, cables, or pipes (other than service pipes) or other works near to which any electric supply lines or works of the Board have been lawfully placed,

the Board or such public or local authority, or company, as the case may be (in this section referred to as "the operator") shall, unless it is otherwise agreed between the parties interested, or in case of sudden emergency, give to the public or local authority, or company concerned, or to the Board, as the case may be (in this section referred to as "the owner") not less than seven days' notice before commencing to dig or sink such trench as aforesaid, and that owner shall be entitled by his officer to superintend the work, and the operator shall conform to such reasonable requirements as may be made by the owner or the officer for protecting from injury every such sewer, drain, watercourse, defence, main, pipe, syphon, electric supply line, telecommunications wire or cable or works, and for securing access thereto, and he shall also, if required by the owner thereof, repair any damage that may be done thereto.

(2) Where the operator finds it necessary to undermine but not alter the position of any pipe, electric supply line, wire or cable or works, he shall support it in position during the execution of his work, and before completion provide a suitable and proper foundation for it where so undermined.

(3) Where the Board in laying any electric supply line crossing is liable to touch any mains, pipes, lines or services belonging to any gas, electric supply, telecommunications or water authority, or company, the conducting portions of the electric supply line shall be effectively insulated in a manner approved by the Electrical Inspector and the Board shall not, except with the written consent of such authority or company as the case may be, and of the Minister, lay his electric supply line so as to come into contact with any such mains, pipes, lines or services, or except with the like consent and in a manner approved by the Minister employ any such mains, pipes, lines or services, as conductors for the purposes of his supply of energy.

(4) Any question or difference which may arise under this section shall be determined by the Minister.

(5) If the operator makes default in complying with any of the requirements of this section he shall make full compensation to all owners affected thereby for any loss, damage, penalty or costs which they may incur by reason thereof and in addition thereto he shall be liable for each default to a penalty not exceeding fifty ringgit and a daily penalty not exceeding fifty ringgit:

Provided that the operator shall not be subject to any such penalty if the court is of the opinion that the case was one of emergency, and that the operator complied with the requirements of this section so far as was reasonable in the circumstances, or that the default in question was due to the fact that the operator was ignorant of the position of the sewer, drain, main, pipe, syphon, electric supply line or work affected thereby, and that such ignorance was not owing to any negligence on the part of the operator.

64. Where the Board has erected in any street any poles, pillars, lamps, or other works, or laid or erected any electric supply line along any street, the Minister may, notwithstanding any other provision in this Act, by notice in writing require the Board to alter the position of such pole, pillar, lamp, or other works, or electric supply line, subject to conditions which, failing agreement, shall be determined by arbitration.

Power to require position of poles, pillars, etc. to be altered.

Alteration
of pipes or
wires.

65. (1) The Board may alter the position of any pipe or of any wire under or over any place which the Board is authorized to open or break up, if such pipe or wire is likely to interfere with the exercise of the Board's powers under this Act and any person may alter the position of any electric supply lines or works of the Board under or over any such place as aforesaid, if such electric supply lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(2) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely—

- (a) not less than twenty-eight days before commencing any alteration, the Board or other person desiring to make the same (hereinafter in this section referred to as "the operator") shall serve upon the person for the time being entitled to the pipe, wire, electric supply lines, or works, as the case may be (hereinafter in this section referred to as "the owner") a notice in writing, describing the proposed alteration, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than 1:100 vertically, and 1:4000 horizontally, and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;
- (b) within fourteen days after the service of the notice, section and plan upon the owner, the owner may serve upon the operator a requisition to the effect that any question arising upon the notice, section or plan shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;
- (c) every arbitrator to whom a reference is made under paragraph (b) shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid, as far as possible, interference therewith;

- (d) where no requisition is served upon the operator under paragraph (b) within the time named, or where such a requisition has been served and the matter has been settled by agreement or determined by arbitration, the alteration may upon payment or securing of any compensation accepted or determined by agreement or arbitration, be executed in accordance with the notice, section and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties;
- (e) the owner may, at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and that he requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, determined by arbitration;
- (f) where a statement is served upon the operator under paragraph (e), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced furnish such security and serve upon the owner a notice in writing intimating the time when the alteration is to be commenced, and the manner in which it is to be made and thereupon the owner may proceed to execute the alteration as required by the operator;
- (g) where the owner declines to comply, or does not within the time and in the manner prescribed by a notice served upon him under paragraph (f), comply with the notice, the operator may himself execute the alteration;
- (h) all expenses properly incurred by the owner in complying with a notice served upon him by the operator under paragraph (f) may be recovered by him from the operator.

(3) Where the Board or other person desiring to make the alteration makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason

thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Power to
remove
trees, etc.,
endangering
overhead
lines.

66. (1) Subject to the provisions of subsection (3), where any tree, structure or object standing or lying near an overhead line interrupts or interferes with, or is likely to interrupt or interfere with the conveyance or transmission of energy or the accessibility of any works, or is likely by reason of its proximity to any overhead line to be a cause of danger, the Board may by agreement with the owner of the land enter upon such land and do such work as may be agreed or in default of agreement, the District Officer of the district on the application of the Board, may order the owner of the land on which such tree, structure or object is situate to trim, alter, lop or in the last resort, fell such tree or remove or deal with such tree, structure or object in such manner as the District Officer may think fit at the expense of the Board, and unless compensation has been agreed may either then or on later enquiry award reasonable compensation to be paid by the Board to the owner.

(2) Any order made under subsection (1) shall be served upon the owner of the land on which the tree, structure or object complained of is situate and if any order is not complied with within seven days thereafter, the Board shall have power to enter on such land and execute such order but shall pay any compensation as provided in subsection (1).

(3) Notwithstanding the provisions of subsections (1) and (2), the Board shall have power, on giving notice to the occupier, without application to a District Officer or payment of compensation to any person, to enter on any land and remove any tree, structure or object referred to in subsection (1) which was planted or placed near an overhead line subsequent to the placing of the line.

(4) Notwithstanding the provisions of this section the Board may, where there is an immediate likelihood of serious danger to any person arising from any tree, structure or object referred to in subsection (1), enter upon any land and take such action as is necessary to remove such danger without notice to any person, but

in each such case shall report such occurrence to the District Officer who on the application of the owner of the land may thereupon award compensation under the provisions of subsection (1).

(5) An appeal shall lie from any decision of the District Officer under this section to the Director of Lands and Surveys, provided that notice of such appeal shall be served upon the other party within five days of service of any order to do work under subsection (1) or within fourteen days of any order assessing compensation.

(6) For the purposes of this section "tree" includes shrubs, hedge, jungle growth or other plant.

PART VIII

TRANSFER TO BOARD OF BODY CORPORATE UNDERTAKINGS, ETC.

Property, Contracts, Etc.

67. (1) Where—

(a) any undertakings, installations or other property, which were the undertakings, installations, or other property of the body corporate constituted under the repealed Sabah Electricity Board Enactment 1981, (hereinafter referred to in this Part at "body corporate"), are transferred to the Board; and

(b) any stock and shares, which were issued to the Chief Minister, incorporated by the Chief Minister (Incorporation) Ordinance, to hold for the purposes of the Government of the State of Sabah, are transferred to the Minister of Finance, incorporated by the Minister of Finance (Incorporation) Ordinance 1957, to hold for the purposes of the Federal Government,

Compensation for transferred undertakings.

Sabah En. 26/81.

Sabah Cap. 23.

Ord. 46/57.

the Federal Government shall, as soon as practicable, pay, in respect thereof, such compensation to the Government of the State of Sabah, as may be agreed upon, by and between the Federal Government and the Government of the State of Sabah.

(2) For the purposes of subsection (1), any undertakings, installations or other property, shall mean, to include, all plants, lands, works and other property, movable or immovable, assets, powers, rights and privileges held or enjoyed in connection therewith or appertaining thereto.

Existing contracts, etc.

68. All deeds, bonds, agreements, instruments and working arrangements, subsisting immediately before the commencement of this Act, affecting any of the transferred undertakings, installations or other property of the body corporate, shall be of as full force and effect against or in favour of the Board, and enforceable as fully and effectually as if, instead of the body corporate, the Board had been named therein or had been a party thereto.

Pending proceedings.

69. Any proceedings or cause of action, pending or existing immediately before the commencement of this Act, by or against the body corporate, or any debt owing to or by the body corporate, may be continued or enforced, by or against the Board, as if the body corporate had not been constituted.

Officers or Servants

Transfer of officers or servants on establishment of body corporate.

70. (1) Every officer or servant, who immediately before the commencement of this Act, was employed as an officer or servant of the body corporate, shall on the commencement of this Act, be deemed to be transferred from the service of the body corporate to the service of the Board, on terms and conditions of service, perquisites and emoluments no less favourable than those which he enjoyed immediately, prior to the commencement of this Act.

(2) Nothing in this section shall be deemed to affect the right of the Board to terminate the employment of any such officer or servant transferred to the service of the Board, or to vary his rate of pay or conditions of service, in the manner and to the extent that the body corporate could have done had he continued in the service of the body corporate.

PART IX
GENERAL

71. (1) The Minister may give to the Board directions of a general character, not inconsistent with the provisions of this Act, as to the exercise and performance by the Board of its functions, and the Board shall give effect to any direction so given.

Power of Minister to give directions.

(2) The Board shall furnish the Minister with such information with respect to its property and activities as he may from time to time require.

72. Notwithstanding any other provisions of this Act the Minister may, in the public interest, by order suspend all or any of the executive functions of the Board or of any member or of any officer or servant thereof and assign the same to any person or persons for such period as he may deem fit.

Power of suspension of executive functions.

73. (1) Except for the purposes of this Act or of any criminal proceedings under this Act, no member, or officer or servant of the Board shall disclose any information with respect to any individual business, which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.

Secrecy and penalty.

(2) Any person knowingly contravening the provision of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year.

74. Any person who unlawfully and maliciously cuts or injures any electric line belonging to the Board or works with intent to cut off any supply of electricity or otherwise maliciously causes any interruption to the supply, or incites other persons to do so shall be punishable with imprisonment for five years but nothing in this section shall exempt a person from any proceeding for any offence which is punishable under any other provision of this Act or under the Penal Code:

Injuring works with intent to cut off supply or maliciously extinguishing public lamp.

F.M.S. Cap. 45.

Provided that no person shall be punished twice for the same offence.

Stealing
electricity.

75. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity shall be guilty of theft and be punishable accordingly and the existence of artificial means for such abstraction shall be *prima facie* evidence of such fraudulent abstraction.

Wilful
injury to
works,
tampering
with meter
or fraudulent
use of
energy.

76. (1) Any person who wilfully, or fraudulently injures or permits to be injured any works of the Board, or alters the index of any meter for ascertaining the value of the supply, or prevents any such meter from duly registering the value of the supply, or fraudulently abstracts, consumes, or uses the electrical energy of the Board shall be guilty of an offence and shall (without prejudice to any other right or remedy for the protection of the Board) be liable on conviction to a fine of one thousand ringgit and to imprisonment for a term of one year, and the Board may in addition thereto recover the amount of any damage by him sustained.

(2) The existence of artificial means for causing such alteration or prevention, or for abstracting, consuming or using electricity of the Board when such meter is under custody or control of the consumer, shall be *prima facie* evidence that such alteration, prevention, abstraction or consumption, as the case may be, has been fraudulently, knowingly and wilfully caused by the consumer using such meter.

(3) And in any case in which any person has wilfully or fraudulently injured or suffered to be injured any electric lines, meters or fittings belonging to the Board, or altered the index to any meter, or prevented any meter from duly registering the quantity of electricity supplied, the Board may also, until the lines, meters or fittings complained of have been remedied, discontinue the supply of electricity to the person so offending notwithstanding any contract previously existing.

Penalty for
fraudulently
or improp-
erly
using
electricity
of Board.

77. Every person who shall lay or cause to be laid any conductor to communicate with any conductor belonging to the Board without the Board's consent, or shall fraudulently interfere with any meter belonging to the Board or who in case the electricity supplied by the Board is not ascertained by meter shall use the electricity supplied by the Board in a different way or in a greater amount than he has contracted to pay for, or

shall otherwise improperly use such electricity or shall supply any other person with any part of the electricity supplied to him by the Board, shall forfeit to the Board the sum of two hundred ringgit for every such offence and also the sum of fifty ringgit for every day such electric line shall so remain or such excess or improper use be so committed or continued or such supply furnished, and the Board may also until the matter complained of has been remedied, but no longer, cut off the electricity from the house and premises of the person so offending notwithstanding any contract which may have been previously entered into.

78. Every person who shall carelessly or accidentally break or damage any electric supply line, lamp or other work belonging to the Board or under the Board's control shall pay to the Board the amount of the damage done to be recovered in any court of competent jurisdiction.

Satisfaction for accidentally damaging Board's work.

79. Any consumer who connects or disconnects or alters the adjustment of any meter to be used, or used for ascertaining the value of the supply of electricity shall be liable for each offence to a fine of fifty thousand ringgit.

Penalty for connecting or disconnecting or altering adjustment of meter without notice.

80. Where any seal affixed under the provisions of this Act or regulations is broken without the authority of the Board the consumer upon whose premises the seal was placed shall be guilty of an offence and shall be liable on conviction to a fine of two hundred ringgit:

Penalty for unauthorised breaking of seals.

Provided that where it can be proved that the offence was committed by some person other than the consumer, that person shall be punishable as if he were the consumer upon whose premises the breach occurred.

81. Where any default in or contravention of any of the provisions of this Act is made for which no penalty is expressly stated, the public or local authority, company, or person so defaulting or contravening shall be liable to a penalty of one hundred and fifty ringgit.

Penalty when not otherwise expressed.

Offences committed by corporate bodies.

82. Where an offence under this Act has been committed by a corporate body is proved—

- (a) to have been committed in the manner provided in section 75 or 76 (2); or
- (b) to have been committed with the consent or connivance of, or to have been attributable to any neglect,

by or on the part of any director, secretary or similar officer of the body corporate or any person who was purporting to act in such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Recovery of penalties, etc..

83. Any penalties, fees, expenses, or other monies recoverable under this Act or contract, the recovery of which is not otherwise specially provided for, shall be a civil debt recoverable summarily.

Protection against legal proceedings.

84. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board or against the officer or servant appointed by the Board in respect of any act done or statement made *bona-fide* in pursuance or execution or intended execution of this Act.

(2) Where a person is exempted from liability by reason only of the provision of this section the Board is liable to the extent that it would be if such person were a servant or agent of the Board.

Public servants.

85. All members, officers and servants of the Board shall be deemed to be public servants within the meaning of the Penal Code.

F.M.S. Cap. 45.

Public Authorities Protection Act 1948 to apply. Act 198.

86. The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceedings against the Board or against any member, officer, servant or agent of the Board in respect of any act, neglect, or default done or committed by the Board or such person in such capacity.

Person authorized to prosecute.

87. Any prosecution for an offence under this Act may be conducted by any person employed by the Board or by any public officer authorized in writing in that behalf by the Public Prosecutor.

88. No prosecution for any offence punishable under this Act shall be instituted except by or with the previous sanction in writing of the Public Prosecutor.

Sanction
for
prosecution.

89. The Board may, with the approval of the Minister, subject to the express provisions of this Act, make regulations generally for the exercise of the Board's powers and duties under the provisions of this Act.

Power to
make
regulations.

90. Although any shore, bed of a lake, river, channel, creek, bay or estuary is included in the area of supply, nothing shall authorize the Board to take, use or in any manner interfere with any portion of that shore or bed of a lake, or of a river, channel, creek, bay or estuary or any right in respect thereof, or of the water thereof, without the previous consent in writing of the State Authority and neither shall anything in this Act contained extend to take away, prejudice, diminish or alter any of the estates, rights, privileges, powers or authorities vested in or enjoyed or exercised by the Government of the State of Sabah.

Saving
rights of
Government
of Sabah
in the
foreshore.

PART X ---

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