

Quantity Surveyors Act 1967 (Revised 1992)

1Quantity Surveyors

LAWS OF MALAYSIA

REPRINT

Act 487

QUANTITY SURVEYORS

ACT 1967

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LAWS OF MALAYSIA

Act 487

QUANTITY SURVEYORS ACT 1967

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Act 487

QUANTITY SURVEYORS ACT 1967

An Act to provide for the establishment of the Board of Quantity Surveyors, for the registration of Quantity Surveyors and approval to practise of firms or bodies corporate practising as consulting Quantity Surveyors, for the regulation of the practice of quantity surveying and for matters connected therewith.

[Throughout Malaysia--1 December 1973,

P. U. (B) 515/1973]

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

PART I

PRELIMINARY

Short title and application

1. (1) This Act may be cited as the Quantity Surveyors Act 1967, and shall apply throughout Malaysia.

(2) (Omitted).

(3) (Omitted).

Interpretation

2. In this Act, unless the context otherwise requires-- "architectural consultancy services" has the meaning assigned to it in the Architects Act 1967 [Act 117];

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"authorized officer" means an officer authorized by the Board under paragraph 4(ff);

"firm or body corporate practising as consulting Quantity Surveyors" means a sole proprietorship, partnership or body corporate incorporated under the Companies Act 1965 [Act 125], which is approved by the Board to practise as consulting Quantity Surveyors under section 7A or 7B;

"Minister" means the Minister charged with the responsibility for public works;

"prescribed" means prescribed by rules made by the Board of Quantity Surveyors;

"Professional Architect" has the meaning assigned to it in the Architects Act 1967;

"Professional Engineer" has the meaning assigned to in the Registration of Engineers Act 1967 [Act 138];

"professional engineering services" has the meaning assigned to it in the Registration of Engineers Act 1967;

"Register" means the Register of Quantity Surveyors kept and maintained by the Board of Quantity Surveyors under section 5; "registered graduate Quantity Surveyor" means a Quantity Surveyor who is registered under subsection 10(1);

"registered Quantity Surveyor" means a Quantity Surveyor registered under

subsection 10(2);

"temporary registered Quantity Surveyor" means a Quantity Surveyor registered under subsection 10A(3).

PART II

BOARD OF QUANTITY SURVEYORS

Establishment of Board of Quantity Surveyors

3. (1) For the purposes of this Act there is hereby established a board to be called "the board of Quantity Surveyors" (hereinafter "Quantity Surveyors" referred to as "the Board") which shall be a body corporate with perpetual succession and a common seal and which may sue and be sued.

(2) The Board shall consist of the following members who shall be Malaysian citizens and who are appointed by the Minister-- (a) a President appointed from among registered Quantity Surveyors;

(b) five members being registered Quantity Surveyors holding office in the public service of Malaysia;

(c) (Deleted by Act 242);

(d) one registered Quantity Surveyor who is in the service of any local authority or statutory authority;

(dd) one registered Quantity Surveyor from an institution of higher learning;

(e) five registered Quantity Surveyors who have had at least six years professional experience practising their profession in Malaysia, four of whom shall be from the consulting practice and one from the private sector but not the consulting practice, on the nomination of the Council of Institution of Surveyors (Malaysia) or any other professional body that the Board may from time to time recognize to represent Quantity Surveyors;

(f) one member on the nomination of the Board of Architects from among members of that Board established under the Architects Act 1967;

(g) one member on the nomination of the Board of Engineers from among members of that Board established under the Registration of Engineers Act 1967;

(h) two registered Quantity Surveyors to be nominated by the President.

(2A) (Deleted by Act 242).

(3) A member of the Board including the President shall be appointed for a term which shall not exceed three years and shall unless he sooner resigns or his appointment revoked hold office for such term as may be specified in the instrument appointing him and shall be eligible for reappointment.

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(4) If any member of the Board dies or resigns or his appointment is revoked, a new member shall as soon as practicable be appointed in his place and the member so appointed shall hold office for the remainder of the term for which his predecessor was appointed. (5) The Schedule shall have effect with respect to the Board. Functions of the Board

4. The functions of the Board shall be-- (a) to keep and maintain a Register of Quantity Surveyors; (b) to approve or reject applications for registration or approval to practise under this Act or to approve any such application subject to such conditions or restrictions as it may deem fit to impose;

(c) to order the issuance of a written warning or reprimand, the imposition of a fine, suspension, cancellation, removal or reinstatement in accordance with Parts III and IV; (d) to fix from time to time with the approval of the Minister the scale of fees to be charged by registered Quantity Surveyors and firms or bodies corporate practising as consulting Quantity Surveyors for professional advice or service rendered;

(e) to hear and determine disputes relating to professional conduct or ethics of registered, registered graduate or temporary registered. Quantity Surveyors or to appoint a committee or arbitrator or arbitrators to hear and determine such disputes;

(ea) to act as a stakeholder in a contract for consulting quantity surveying services, where deemed necessary by the Board; (f) to determine and regulate the professional conduct and ethics of the quantity surveying profession;

(fa) to hold or cause to be held professional development programmes for registered, registered graduate or temporary registered Quantity Surveyors to further enhance their knowledge in the latest developments relating to the profession;

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(fb) to appoint a body comprising of members of the Boards, other persons and/or institutions as may be determined by the Board to accredit qualifications and to conduct examinations for admission to the profession;

(fc) to appoint any person to represent the Board in any body or panel of examiners which may be appointed by an institution, body or society representing the profession, and to make recommendations to the Board in relation to examinations for the purpose of qualifying for admission to the profession;

(fd) to appoint members of the Board to sit on any board, committee or body formed for purposes relating to the profession, and to appoint members of the Board to sit on the Board of Engineers and the Board and appoint members of the Board of Architects in accordance with the relevant laws;

(fe) to provide scholarships and other facilities for the promotion of learning and education in connection with quantity surveying, where deemed necessary by the Board;

(ff) to authorise any person to investigate the commission of any offence under this Act or any rules made under this Act; and

(g) generally, to do all such acts, matters and things as are necessary to carry out the provisions of this Act. Power of the Board to purchase or lease land, etc. 4A. The Board shall have power--

(a) to purchase or lease any land or building as may be required for the proper exercise of its functions under this Act;

(b) from time to time to borrow or raise money by bank overdraft or otherwise for the purposes specified in paragraph (a); and

(c) to lease out, dispose of, or otherwise deal in any immovable property of the Board.

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PART III

REGISTRATION OF QUANTITY SURVEYORS

Register

5. The Register of Quantity Surveyors shall be in four Parts, that is to say--

(a) Part A--which shall contain the names, registration numbers, addresses and other particulars of registered Quantity Surveyors, together with particulars of any conditions or restrictions imposed by the Board under paragraph 4(b);

(b) Part B--which shall contain the names, registration numbers, addresses and other particulars of registered graduate Quantity Surveyors together with conditions or restrictions imposed by the Board under paragraph 4(b); (c) Part C--which shall contain the names, addresses and other particulars of firms or bodies corporate practising to practice as consulting Quantity Surveyors together with particulars of any conditions or restrictions imposed by the Board under subsection 7A(3) or 7B(1); and (d) Part D--which shall contain the names, registration numbers, addresses and other particulars of temporary registered Quantity Surveyors together with particulars of any conditions or restrictions imposed by the Board under subsection 10A(3).

Appointment and duties of Registrar

6. (1) The Minister shall appoint a Registrar of Quantity Surveyors (hereinafter referred to as "the Registrar") who shall be under the general direction of the Board and who shall sign all certificates of registration, permits to practice and their renewals, and orders of the Board, and record all entries of registration, suspension, cancellation, removal and reinstatement in the Register.

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(2) The Registrar shall publish in at least two national newspapers, in the national language, and the English language, and may, if he thinks fit, cause to be published by electronic means the name, registration number or permit number, address and other particulars of--

(a) a registered, registered graduate or temporary registered Quantity Surveyor whose registration has been--

(i) by an order of the Board--

(A) suspended under paragraph 15(1A)(c) or subsection 15(3); or

(B) cancelled under paragraph 15(1A)(d) or section 25A; or

(ii) reinstated under section 17; or

(b) a firm or body corporate practicing as consulting Quantity Surveyors whose permit to practise has been--

(i) by an order of the Board--

(A) suspended under paragraph 7A(5) (cc) or

subsection 15(3); or

(B) cancelled under paragraph 7A(5) (dd) or

subsection 7B(3) or section 25A; or

(ii) reinstated under subsection 7A(9) or section 17. (2A) The publication under subsection (2) shall be made-- (a) as soon as possible after the order of the Board is made, if there is no appeal to the Appeal Board against that order; or

(b) as soon as possible after the order of the Board is confirmed by the Appeal Board, if there is an appeal filed against that order.

(3) In any proceedings, a certificate of registration or permit to practise shall be conclusive proof that the person, or firm or body corporate named in it is a registered, registered graduate or temporary registered Quantity Surveyor, or a firm or body corporate practising as consulting Quantity Surveyors, respectively.

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(4) The Registrar may annually publish and offer for sale copies of the Register.

Restrictions of unregistered persons, registered graduate and temporary registered Quantity Surveyors

7. (1) No person shall unless he is a registered Quantity Surveyor-- (a) practise or carry on business or take up employment as a Quantity Surveyor under any name, style or title containing the words 'Quantity Surveyors', 'Building Economist', 'Project Cost Consultant' or the equivalent thereto in any other language or bearing any other word whatsoever in any language which may reasonably be construed to imply that he is a registered Quantity Surveyor; (b) use or display any sign, board, card or other device representing or implying that he is a registered

Quantity Surveyor;

(c) be entitled to recover in any court any fee, charge remuneration or other form of consideration for any professional advice or services rendered as a registered Quantity Surveyor;

(d) identify or describe himself as a registered Quantity Surveyor or use the abbreviation "Reg. QS." after, or in any way in association with, his name.

(2) Notwithstanding subsection (1), a registered graduate or temporary registered Quantity Surveyor may subject to section 8 with the written approval of the Board take up employment as a Quantity Surveyor.

Quantity surveying practice by firms or bodies corporate 7A. (1) Notwithstanding subsection 7(1), a firm, or a body corporate may practise as consulting Quantity Surveyors and recover in any court any fee, charge remuneration or other form of consideration for any professional advice or services rendered by it pursuant to its practice as such, if it has the written approval of the Board, and has been issued with a valid permit, to so practise. 15Quantity Surveyors

(2) Every application by a firm or a body corporate for approval to practise as consulting Quantity Surveyors shall be made to the Board in the prescribed form and manner and shall be accompanied by the prescribed fee.

(3) The Board shall grant its approval for a firm or a body corporate to practise as consulting Quantity Surveyors, subject to such conditions or restrictions as it may deem fit to impose, if-- (a) in the case of the sole proprietorship, the sole proprietor is a registered Quantity Surveyor;

(b) in the case of the partnership, all the partners are registered Quantity Surveyors; or

(c) in the case of the body corporate, it--

(i) has a board of directors comprising persons who are registered Quantity Surveyors;

(ii) has shares held by members of the board of directors mentioned in subparagraph (i) solely or with any

other persons who are registered Quantity

Surveyors; and

(iii) has a minimum paid-up capital which shall be an amount to be prescribed by the Board.

(4) A firm or a body corporate practising as consulting Quantity Surveyors shall, within thirty days of the occurrence of any change-- (a) in the case of a firm, of its sole proprietor or in the composition of its partners; or

(b) in the case of a body corporate, in the composition of its board of directors or shareholders,

furnish to the Board a true report in writing giving full particulars of the change.

(5) If the Board finds that--

(a) the firm or body corporate practising as consulting Quantity Surveyors, or sole proprietor or any partner of the firm, or directors or shareholder of the body corporate, has breached, or failed to comply with or carry out any of the conditions or restrictions imposed by the Board when granting approval;

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(b) the composition of the partners of the firm, or of the board of directors or the shareholding of the body corporate, practising as consulting Quantity Surveyors does not comply with section 7B or subsection (3);

(c) the firm or body corporate practising as consulting Quantity Surveyors has breached any of the requirements of subsection (4); or

(d) the sole proprietor or any partners of the firm, or any director or shareholder of the body corporate, practising as consulting Quantity Surveyors, being a person who is a registered Quantity Surveyor, has committed, or is guilty of, or has contributed to, any of the acts or things set out in--

(i) paragraph 15(1)(a); or

(ii) paragraphs 15(1)(b) to (o) (except paragraphs (e) and (f)),

the Board may, subject to subsections (6) and (6A), by written notice to the firm or body corporate practising as consulting Quantity Surveyors, order--

(aa) the issuance of a written warning or reprimand to; (bb) the imposition of

a fine not exceeding fifty thousand ringgit on;

(cc) the suspension of the permit to practise for a period not exceeding one year of;

(dd) the cancellation of the permit to practise of; or (ee) any combination of the sanctions set out in

paragraphs (aa) to (dd) on,

the firm or body corporate practising as consulting Quantity Surveyors.

(6) The Board shall not make any order under paragraphs (5) (aa) to (ee) based upon any of the grounds of complaint set out in paragraphs (5) (a), (b), (c) or (d) (ii) unless--

(a) there has been an investigation of the grounds of complaint conducted by an Investigating Committee; and

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(b) the Board, after having studied the recommendations of the Investigating Committee--

(i) may, if it proposes to make an order under paragraph (5) (aa) or (bb), convene a hearing of the grounds of complaint conducted by at least 10 members of

the Board; or

(ii) shall, if it proposes to make an order under paragraph (5) (cc) or (dd), convene a hearing of the grounds of complaint conducted by at least 10 members of

the Board.

(6A) The firm or body corporate practising as consulting Quantity Surveyors will be given an opportunity to be heard-- (a) at the investigation--

(i) in the case of a sole proprietorship, by the sole proprietor; or

(ii) in the case of a partnership or body corporate, by a partner, director or representative appointed in writing; or

(b) at the hearing--

(i) in the case of a sole proprietorship, by the sole proprietor or counsel;
or

(ii) in the case of a partnership or body corporate, by a partner, director, representative appointed in writing or counsel.

(6B) Notwithstanding subsection (6), the Board may make an order under paragraphs (5) (aa) to (ee) if the Board has under paragraph 15(1A) (c) or (d) suspended or cancelled the registration of--

(a) a sole proprietor;

(b) one of the partners in a partnership comprising only two partners; or

(c) one of the directors in the board of directors of a body corporate comprising only two directors.

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(7) The Board shall not make an order under paragraphs (5) (aa) to (ee) based on the grounds of complaint set out in paragraph (5) (d) if, on the date of hearing, the firm or body corporate practising as consulting Quantity Surveyors satisfies the Board-- (i) that the partner or director or shareholder, as the case may be, who has committed, or is guilty of, or has contributed to, the act or thing in question has ceased to be a partner of the firm or director or shareholder of the body corporate; and

(ii) that notwithstanding that such partner or director or shareholder, as the case may be, has ceased to be a partner or director or shareholder, the firm or body corporate is able to comply with the requirements of section 7B or subsection (3).

(8) Upon the Board suspending or cancelling the permit to practise of a firm or body corporate practising as consulting Quantity Surveyors pursuant to paragraph (5) (cc) or (dd), respectively, the firm or body corporate shall cease to practise as consulting Quantity Surveyors but it shall be entitled to recover in any court any fee, charge, remuneration or other form of consideration for any professional advice or services rendered by it pursuant to its practice as consulting Quantity Surveyors where such advice was given or such services were rendered prior to the date of receipt of the written notice from the Board suspending or cancelling its permit to practise.

(9) Without prejudice to section 17, the Board may at any time upon receipt of

an application from a firm or body corporate whose permit to practise as consulting Quantity Surveyors has been suspended or cancelled pursuant to paragraph (5) (cc) or (dd), respectively, reinstate the permit to practise to such firm or body corporate if it is satisfied that--

(a) the firm or body corporate has complied with the requirements of section 7B or subsection (3);

(b) the firm or body corporate is capable of complying with the conditions or restrictions imposed by the Board pursuant to section 7B or subsection (3) at the time of the original approval; and

(c) where the permit to practise is suspended or cancelled based on the grounds of complaint set out in paragraph (5) (d), the partner or director or shareholder, as the case may be, who has committed, or is guilty of, or has contributed, to the act or thing in question has ceased to be the partner of the firm, or director or shareholder of the body corporate.

(10) In reinstating the permit to practise under subsection (9) the Board may impose such additional terms, conditions or restrictions as it deems fit.

(11) (Deleted by Act A1157).

(12) The Registrar shall, upon approval being granted by the Board, issue to the firm or body corporate whose application to practise as consulting Quantity Surveyors has been approved by the Board, a permit to practise in the prescribed form. (13) Every permit to practise shall, subject to this Act, expire on 31 December of the year in which it is issued and may be renewed annually upon payment of the prescribed fee and upon satisfying such conditions as may be prescribed by the Board. (14) (Deleted by Act A1157).

A body corporate providing quantity surveying services, professional engineering services and/or architectural consultancy services

7B. (1) Where a body corporate carries on a practice of providing quantity surveying services, professional engineers services and/or architectural consultancy services, the Board may, subject to such conditions or restrictions as it may deem fit to impose, grant an approval to practise in respect of that part of the practice providing quantity surveying services.

(2) The body corporate that applies for approval to practise under subsection (1) must be incorporated under the Companies Act 1965 and--

(a) has a board of directors comprising registered Quantity Surveyors, Professional Engineers and/or Professional Architects;

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(b) has shares held by the persons mentioned in paragraph (a) and any of the following persons and/or bodies corporate where--

(i) the registered Quantity Surveyors, Professional Engineers, Professional Architects, bodies corporate practising as consulting Quantity Surveyors, bodies corporate providing professional engineering services and/or bodies corporate providing architectural

consultancy services hold a minimum combined

share of 70% of the overall equity of that body

corporate, of which the registered Quantity Surveyors and/or bodies corporate practising as consulting

Quantity Surveyors hold a minimum share of 10%;

and

(ii) any other persons, including persons belonging to a profession allied to quantity surveying, engineering or architecture, being a profession approved in writing by the board regulating the profession of quantity surveying, engineering or architecture, respectively, hold a maximum share of 30%,

of the overall equity of the body corporate; and

(c) has a minimum paid-up capital which shall be an amount to be determined by the Minister.

(3) Notwithstanding paragraph 7A(5) (b), where in a body corporate approved to practise under subsection (1)--

(a) the minimum shareholdings of a registered Quantity Surveyor and/or body corporate practising as consulting Quantity Surveyors is less than the percentage stipulated in subparagraph (2) (b) (i); or

(b) the minimum combined shareholdings of a registered Quantity Surveyor, Professional Engineer, Professional Architects, body corporate practising as consulting Quantity Surveyors, body corporate providing professional

engineering services and/or body corporate providing architectural consultancy services is less than the percentage stipulated in subparagraph (2) (b) (i),

that body corporate shall, as soon as possible but not later than three months after such change in shareholdings or within any extended period of time as may be approved by the Board, increase the respective shareholdings so as to comply with the percentage 21Quantity Surveyors

as stipulated in subparagraph (2) (b) (i), and if that body corporate fails to do so within the stipulated time, the Board shall cancel its permit to practise under this Act.

(4) For the purpose of this Act, the body corporate shall, upon being granted approval to practise, be deemed to be a body corporate practising as consulting Quantity Surveyors.

Only registered Quantity Surveyors and firms or bodies corporate practising as consulting Quantity Surveyors may prepare preliminary estimates, cost plans, bill of quantities, etc.

8. (1) Except as otherwise provided in subsection (2) or any other written law, no person or body, other than a registered Quantity Surveyor who is residing and practising in Malaysia or firm or body corporate practising as consulting Quantity Surveyors in Malaysia, shall be entitled to--

(a) prepare and submit to any person, organisation or authority in Malaysia, for construction projects, any feasibility study reports, preliminary estimates, cost plans, documents and reports for pre-qualification of contractors, bills of quantities and other tender documents, tender estimates and reports, contract documents, and valuations of works for interim payments, variation and final account; and (b) provide professional services such as project cost management, value management, risk management,

facilities management, project management, construction management, construction claims management, dispute resolution services, technical and construction cost auditing and condition survey.

(2) Nothing in subsection (1) shall affect the right of any architect, engineer, licensed land surveyor, valuer and appraiser for the time being registered under the relevant laws relating to the registration of such professions, to carry out any activity connected with his professional practice.

(3) Nothing contained in any other written law shall prevent a registered

Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors from making and submitting to any person, organization or authority in Malaysia valuations of structures, plants, machinery and equipment, in the course of carrying out any activity connected with his or its professional practice. 22 Laws of Malaysia ACT 487

Registered Quantity Surveyors etc., subject to this Act

9. Every registered graduate and temporary registered Quantity Surveyor, and firm or body corporate practising as consulting Quantity Surveyors shall be subject to this Act and rules made thereunder.

Qualifications for registration

10. (1) (a) Subject to this Act, any person who holds a qualification in quantity surveying which is recognised by the Board, shall be entitled on application to be registered as a registered graduate Quantity Surveyor.

(b) Subject to this Act, a person who is registered under paragraph (a) shall be required to obtain such practical experience as may be prescribed by the Board after consultation with the Minister in order to be entitled to apply for registration as a registered Quantity Surveyor under subsection (2).

(2) Subject to this Act, any person who--

(a) is a registered graduate Quantity Surveyor;

(b) has obtained the practical experience as prescribed under paragraph (1) (b); and

(c) has passed a test of professional competence or other professional assessment examination conducted or

sanctioned by the Board,

shall be entitled on application to be registered Quantity Surveyor. (3) Subject to this Act, only a citizen or a permanent resident of Malaysia may qualify for registration as a registered or registered graduate Quantity Surveyor.

(4) No person shall be entitled to be registered as a registered Quantity Surveyor if at any time prior to his registration there exists any facts or circumstances which would entitle the Board to cancel his registration pursuant to subsection 15(1A) if he were registered.

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(5) Any person who has been refused registration by the Board upon the ground specified in subsection (4) may, if he has not appealed against such refusal or if his appeal has been dismissed, after the expiration of six months from the date of such refusal or of the dismissal of the appeal make a new application for registration to the Board.

Temporary registered Quantity Surveyors

10A. (1) A foreign quantity surveyor may apply to the Board to be registered as a temporary registered Quantity Surveyor in such manner as may be prescribed by the Board.

(2) A foreign quantity surveyor may be considered for registration as a temporary registered Quantity Surveyor if he satisfies the Board that--

(a) he possesses the qualification that is recognised by the Board to be registered as a registered graduate Quantity Surveyor; and

(b) he possesses the necessary expertise and his physical presence is required in Malaysia for not less than one hundred and eighty days in any one calendar year, or he is a resident representative of the foreign component of a joint-venture.

(3) The Board may approve the registration of a foreign quantity surveyor as a temporary registered Quantity Surveyor-- (a) for such period not exceeding two calendar years; and (b) subject to such conditions or restrictions as it may deem fit to impose.

(4) The Registrar shall, upon receipt of the prescribed fee, issue to every foreign quantity surveyor whose application for registration has been approved by the Board a certificate of registration in the prescribed form.

(5) The certificate of registration may, upon application, be renewable on payment of the prescribed fee and on satisfying such conditions as may be prescribed by the Board.

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(6) For the purpose of this section, "foreign quantity surveyor" means a quantity surveyor who is not a citizen or a permanent resident of Malaysia.

11. (Deleted by Act A131). Application for registration

12. Application for registration shall be made to the Board in such manner as may be prescribed.

Certificate of registration

13. (1) The Registrar shall upon receipt of the prescribed fee issue to every person whose application has been approved by the Board a certificate of registration in the prescribed form. (2) Every such certificate of registration shall, subject to this Act, expire on 31 December of the year in which it is issued and may be renewed annually upon payment of the prescribed fee and upon satisfying the conditions as may be determined by the Board.

Notification of change of address

14. Every registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors shall notify the Registrar of any change in his or its business address.

PART IV

CANCELLATION, REMOVAL, REINSTATEMENT, ETC.

Cancellation of registration, etc.

15. (1) The Board may make any or any combination of the orders specified in paragraphs (a) to (d) of subsection (1A) against a registered, registered graduate or temporary registered Quantity Surveyor under any of the following circumstances: (a) if he is convicted of any offence involving fraud or dishonesty or moral turpitude in Malaysia or elsewhere; 25Quantity Surveyors

(b) if he offers or accepts any commission which in the opinion of the Board is an illicit commission;

(c) if whilst acting in his professional capacity, he at the same time without disclosing the fact in writing to his client, is a sole proprietor, partner, director or member of or substantial shareholder in or agent for any contracting or manufacturing company or firm or business or has any financial interest in such company or firm or business, with which he deals on behalf of his client;

(d) if his registration under this Act has been obtained by fraud or misrepresentation;

(e) if his qualification under section 10 has been withdrawn or cancelled by the Authority through which it was acquired or by which it was awarded;

- (f) if he is found to be of unsound mind;
- (fa) if he is found to be incapable or no longer able to perform his professional duties effectively;
- (fb) if he becomes a bankrupt;
- (g) if he is found by the Board to have contravened or failed to comply with any of the provisions of this Act or of any rules made thereunder;
- (h) if he fails to observe any conditions or restrictions subject to which he is registered;
- (i) if he is found guilty by the Board of any act or conduct which in the opinion of the Board is infamous or disgraceful; (j) if he procures, or assists in procuring, or is knowingly a party to procuring, by fraud or misrepresentation, the approval of the Board for a firm or a body corporate to practise as consulting Quantity Surveyors;
- (k) if he conceals or assists in concealing from the Board the existence of any facts or circumstances which, if known, would entitle the Board to withdraw the approval granted under subsection 7A(3) or section 7B from any firm in which he is the sole proprietor or a partner, or body corporate in which he is a director or shareholder; 26 Laws of Malaysia ACT 487
- (l) if he contravenes, or fails to perform, or assists in the contravention of, or is knowingly a party to the
contravention of or failure to perform, conditions or restrictions imposed by the Board when granting approval to a firm or a body corporate under subsection 7A(3) or section 7B;
- (m) if he causes or permits or suffers any firm in which he is the sole proprietor or a partner, or body corporate in which he is a director or shareholder, to practise as consulting Quantity Surveyors prior to the approval of the Board being obtained;
- (n) if he causes or permits or suffers any firm in which he is the sole proprietor or a partner, or body corporate in which he is a director or shareholder, to continue to practise quantity surveying after the Board has suspended or cancelled its permit to practise under paragraph 7A(5) (cc) or (dd), respectively; or
- (o) if he fails to discharge his professional duties with due skill, care and

diligence.

(1A) The orders referred to in subsection (1) are-- (a) the issuance of a written warning or reprimand; (b) the imposition of a fine not exceeding ten thousand ringgit; (c) the suspension of registration for a period not exceeding one year;

(d) the cancellation of registration.

(2) The Board shall not make any order under subsection (1A), based upon any of the circumstances set out in paragraphs (b) to (d), or (f) to (o) of subsection (1), unless--

(a) there has been an investigation conducted by an Investigating Committee; and

(b) the Board after having studied the recommendations of the Investigating Committee--

(i) may, if it proposes to make an order under paragraph (1A) (a) or (b), convene a hearing conducted by at least 10 members of the Board; or

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(ii) shall, if it proposes to make an order under paragraph (1A) (c) or (d), convene a hearing conducted by at least 10 members of the Board.

(2A) The registered, registered graduate or temporary registered Quantity Surveyor will be given an opportunity to be heard-- (a) at the investigation, in person; or

(b) at the hearing, in person or by counsel.

(3) The Board may, if it deems fit, suspend the registration of any registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors for a period not exceeding six months pending any investigation by an Investigating Committee under this Act and during the period of such suspension he or it shall not exercise any of the rights or privileges accorded to him or it under this Act. (4) (Deleted by Act A1157).

Removal from Register

16. There shall be removed from the Register the name and other particulars

of--

(a) any registered, registered graduate or temporary registered Quantity Surveyor who has died, or firm or body corporate practising as consulting Quantity Surveyors which has ceased to practise;

(b) any registered, registered graduate or temporary registered Quantity Surveyor who has failed to renew his registration, or firm or body corporate practising as consulting Quantity Surveyors which has failed to apply for a renewal of its approval to practise, within one month of the expiry of the registration or approval to practise, respectively; (c) any registered, registered graduate or temporary registered Quantity Surveyor whose registration has been cancelled under paragraph 15(1A) (d) or section 25A, or firm or body corporate practising as consulting Quantity Surveyors whose permit to practise has been cancelled under paragraph 7A(5) (dd), subsection 7B(3) or section 25A; or

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(d) any registered, registered graduate or temporary registered Quantity Surveyor whose registration, or firm or body corporate practising as consulting Quantity Surveyors whose approval to practise, has been effected by reason of any mistake or error made by the Board in considering his or its application for registration or approval to practise, respectively.

Reinstatement

17. (1) Any registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors whose name has been removed from the Register pursuant to an order of the Board under subsection 7A(5) or 15(1A) shall, if his or its appeal is allowed, forthwith be reinstated; and the Registrar shall issue a certificate of registration or permit to practise to him or it.

(2) Any registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors whose name has been removed from the Register for failure to renew his registration or its permit to practise shall be reinstated as soon as may be after he or it has notified the Registrar of his or its desire to be reinstated and upon payment of such fees as may be prescribed and the Registrar shall issue a certificate of registration or permit to practise to him or it. Provided that no registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyor shall be reinstated under this section if he has failed to renew his registration or its permit to practise within a period of

three years of the expiry thereof. (3) Any registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyor whose name has been removed from the Register pursuant to an order of the Board under subsection 7A(5) or 15(1A) and who has not appealed against that order or whose appeal has been dismissed, may after the expiration of not less than six months from the date of the order of cancellation or from the date of the decision of the appeal apply for reinstatement. The Board upon receipt of satisfactory evidence of proper reasons for his or its reinstatement and upon reimbursement to it of all expenditure incurred by it arising out of the proceedings leading to cancellation of his registration or its permit to practise and upon payment of the prescribed fee shall issue a certificate of registration or permit to practise to him or it.

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Certificates or permits to be returned

18. Any registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors whose name is removed from the Register shall within fourteen days after notification to such person, firm or body corporate by registered post of the removal, surrender to the Board the certificate of registration or permit to practise issued to such person, firm or body corporate under this Act. PART V

GENERAL

Appeal

19. (1) Any person, firm or body corporate-- (a) who has been refused registration or approval to practise by the Board;

(b) who has been registered or approved to practise but is dissatisfied with any conditions or restrictions imposed by the Board under paragraph 4(b), subsection 7A(3), 7B(1) or 10A(3); or

(c) who having been registered or approved to practise has had his or its name removed from the Register pursuant to an order made by the Board under subsection 7A(5) or 15(1A),

may within twenty-one days of being notified of the refusal, conditions, restrictions or removal, appeal to the Appeal Board constituted under section 20 and the Appeal Board may thereupon make such orders as it may deem just or proper.

(2) The Board shall give effect to any order made by the Appeal Board forthwith.

Appeal Board

20. For the purpose of this Part there shall be established an Appeal Board consisting of a person qualified for appointment as a Judge of the High Court as a Chairman who shall be appointed by the Yang di-Pertuan Agong (after consultation with the Lord President) and two other persons appointed by the Yang di-Pertuan Agong.

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Tenure of office of members of the Appeal Board

21. A member of the Appeal Board shall unless he sooner resigns his office or his appointment revoked hold office for such term as may be specified in the instrument appointing him and shall be eligible for reappointment.

Procedure of appeal

22. (1) A notice of appeal against an order of the Board referred to in section 19 shall be made in writing to the Appeal Board and a copy of the notice to the President of the Board. (2) On receipt of a copy of the notice of appeal the President of the Board or in the absence of the President the member delegated by the President so to do shall cause to be prepared and sent to the Chairman of the Appeal Board records or a summary of the records of the proceedings of the Board and the statement setting out the grounds on which the Board arrived at its decision. (3) Upon receiving the records or summary of the records and the grounds of the decision of the Board the Chairman of the Appeal Board shall convene a meeting of the Appeal Board to hear the appeal.

(4) The Appeal Board after hearing the appeal may confirm vary or revoke the decision of the Board.

(5) The decision of the Appeal Board shall be final. Procedure of Appeal Board

23. The Appeal Board shall at its discretion determine its own procedure.

Penalties for obtaining registration by false pretences, etc.

24. Any person, firm or body corporate who-- (a) procures or attempts to procure registration or approval or a certificate of registration or a permit

to practise under this Act by knowingly making or producing or causing to be made or produced any false or fraudulent declaration, certificate, permit, application or representation whether in writing or otherwise;

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(b) wilfully makes or causes to be made any falsification in the Register;

(c) forges, alters or counterfeits any certificate of registration or permit to practise under this Act;

(d) uses any forged, altered or counterfeited certificate of registration or permit to practise under this Act knowing the same to have been forged, altered or counterfeited; (e) impersonates a registered, registered graduate or temporary registered Quantity Surveyor;

(f) buys or fraudulently obtains a certificate of registration or permit to practise under this Act issued to another registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors; or

(g) sells any certificate of registration or permit to practise issued under this Act; or

(h) contravenes subsection 7(1), 8(1), section 24A, 24B, subsection 24D(2) or 25B(5); and,

shall be guilty of an offence under this Act and shall be liable on conviction to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both, and, in the case of a continuing offence, to a further fine of five hundred ringgit for each day during which the offence continues after conviction.

Restriction on employment of unregistered persons as Quantity Surveyors

24A. No person shall employ as a Quantity Surveyor any person who is not registered under this Act.

Restriction on employment of firm or body corporate as consulting Quantity Surveyors

24B. No person shall employ as a consulting Quantity Surveyor any firm or body corporate unless it is approved by the Board to practise as consulting Quantity Surveyors.

Investigating Committee

24C. (1) For the purposes of subsections 7A(6), 15(2) and 15(3), the Board shall appoint an Investigating Committee consisting of--

(a) a Chairman who shall be a registered Quantity Surveyor; (b) two registered Quantity Surveyors who are not members of the Board; and

(c) one other person where deemed necessary,

to conduct an investigation.

(2) Where the Chairman of the Investigating Committee is a member of the Board, he shall not sit as a member of the Board when the Board conducts a hearing or makes an order under subsection 7A(5) or 15(1A) in respect of the registered, registered graduate or temporary registered Quantity Surveyor who has, or firm or body corporate practising as consulting Quantity Surveyors which has, been examined by the Investigating Committee of which he is the Chairman.

(3) Upon completion of its investigation, the Investigating Committee shall submit a report together with its recommendations to the Board for its consideration.

Procedure for hearing and investigation

24D. (1) The Board or Investigating Committee may, for the purpose of a hearing or investigation--

(a) require any person, including a sole proprietor, partner, director, manager or secretary, to attend before it and give evidence on oath or affirmation, and the President of the Board or Chairman of the Investigating Committee presiding at the hearing or investigation may administer to oath; and

(b) require such person to produce any book, document or paper relating to the subject matter of the hearing or investigation which is in the custody of that person or under his control.

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(2) A person, including a sole proprietor, partner, director, manager or

secretary, shall, unless with reasonable excuse-- (a) attend and give evidence when required to do so by the Board or Investigating Committee;

(b) answer truthfully and fully any question put to him by any member of the Board or Investigating Committee; or (c) produce to the Board or Investigating Committee any book, document or paper required of him.

General penalty

25. (1) Any person, firm or body corporate who contravenes or fails to comply with any of the provisions of this Act is guilty of an offence and, where no penalty is expressly provided therefor, is liable on conviction to a fine not exceeding two thousand ringgit. (2) If a firm or a body corporate contravenes or fails to comply with any of the provisions of this Act or any rules made thereunder, the sole proprietor or every partner, director, manager, secretary or other similar officer thereof shall be guilty of the same offence and be liable to the same penalty as the firm or the body corporate is guilty of and liable to, unless he proves that the offence was committed without his knowledge, consent or connivance or was not attributable to any neglect on his part.

Failure to comply with orders of the Board or Appeal Board 25A.

Notwithstanding subsection 7A(6) or 15(2), where a registered, registered graduate or temporary registered Quantity Surveyor, or firm or body corporate practising as consulting Quantity Surveyors refuses or fails to comply with an order of the Board made under subsection 7A(5) or 15(1A), or Appeal Board made under section 19, the Board shall immediately cancel his certificate of registration or its permit to practise, respectively.

Power of search and seizure

25B. (1) An authorized officer shall have the power to investigate the commission of any offence under this Act or any rules made under this Act.

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(2) An authorized officer may, for the purposes of carrying out the objectives of this section, at any reasonable time enter, inspect and examine any place of work.

(3) In exercising his powers under subsection (2), an authorized officer may--

(a) examine any book, account, record or other document as may be necessary to ascertain whether or not this Act or any rules made under this Act has been complied with; (b) direct that the place of work or any part of it, or

anything in it, shall be left undisturbed, whether generally or in particular respect, for so long as is reasonably necessary for the purposes of any examination or investigation under this section;

(c) search for and seize any signboard card, letter, pamphlet, leaflet, notice or any device representing or implying that the person is a registered, registered graduate or temporary registered Quantity Surveyor, or that the firm or body corporate is approved to practise as consulting Quantity Surveyors; or

(d) seize or take copies of or extracts from any book, account, record or other document found in the place of work which he has power to enter or in the vicinity of that place of work, and that is reasonably believed to furnish evidence of the commission of an offence under this Act or any rules made under this Act.

(4) Where by reason of its nature, size or amount, it is not practicable to remove any signboard, card, letter, pamphlet, leaflet, notice, book, account, record or other device or document seized under this section, the authorised officer may, by any means, seal such signboard, card, letter, pamphlet, leaflet, notice, book, account, record or other device or document in the place of work in which it is found.

(5) A person shall not, except with lawful authority— (a) break, tamper with or damage, or attempt to break, tamper with or damage the seal referred to in subsection (4); or (b) remove or attempt to remove any signboard, card, letter, pamphlet, leaflet, notice, book, account, record or other device or document under seal.

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List of things seized

25C. (1) Except as provided in subsection (2), where any signboard, card, letter, pamphlet, leaflet, notice, book, account, record or other device or document is seized from the place of work under section 25B, the authorized officer shall prepare a list of the things seized and immediately deliver a copy of the list signed by him to the occupier of the place which has been searched, or to his agent or servant at that place.

(2) Where the place of work is unoccupied, the authorized officer shall, wherever possible, post a list of the things seized conspicuously at that place.

Rules

26. The Board may with the approval of the Minister make rules to prescribe anything which may be prescribed or required to be prescribed under this Act or to enable it to perform any of its functions or to exercise any of its powers set out in this Act. Authorization by President

26A. (1) Subject to subsection (2) and such policy as the Board may from time to time adopt, the President may from time to time, on payment of the prescribed fee and on such conditions or with such restrictions as he thinks fit to impose, in writing authorize any person who is not a registered Quantity Surveyor, or any firm or body corporate which is not practising as consulting Quantity Surveyors, to do any act or thing that the person, firm or body corporate would, but for the authorization, be prohibited, or not be entitled, to do, and may at any time, without assigning any reason therefor, withdraw the authorization by notice served on the person, firm or body corporate.

(2) No person, firm or body corporate shall be authorized under this section to do any such act or thing for more than a total period of one hundred and eighty days in any one calendar year. (3) A person, firm or body corporate who does any such act or thing under and in accordance with an authorization under subsection (1) shall, notwithstanding any provision of this Act to 36 Laws of Malaysia ACT 487

the contrary, be deemed to be permitted or entitled to do that act or thing as if he were a registered Quantity Surveyor or it were a firm or body corporate practising as consulting Quantity Surveyors. Notices

26B. (1) Any notice or document left at, or posted by registered post or prepaid post to, the last known address or principal place of business last appearing in the Register of a registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors shall be deemed to have been duly served upon that registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors. (2) Subject to subsection (3), if the registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors fails to reply to the notice or document which has been duly served upon him or it in accordance with subsection (1) for at least three times, the Board shall take action against that registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors in accordance with this Act.

(3) If the registered, registered graduate or temporary registered Quantity Surveyor or firm or body corporate practising as consulting Quantity Surveyors fails to reply to the notice or document which has been duly served upon him or it in accordance with subsection (1) for at least three times, and if, with regard to the matter contained in the notice or document, the Board proposes to suspend or cancel his registration or its permit to practise, the Board shall-- (a) cause to be published in at least one national newspaper a notification containing the material contents of that notice or document; and (b) take action in accordance with this Act based on his or its reply to the notification, or otherwise on his or its failure to reply to that notification.

Building and Mining Surveyors excluded

27. This Act shall not apply to Building Surveyors and Mining Surveyors.

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Saving as to right of Government

28. Nothing in this Act contained shall apply to anything done or omitted to be done by or under the authority of the Government of Malaysia or of any State.

Indemnity

29. (1) No action or proceeding shall be instituted or maintained in any court against the Board, Appeal Board, Investigating Committee or any body appointed by the Board, any members of the Board, Appeal Board, Investigating Committee or any such body, or any person authorised to act for or on behalf of the Board for any act or omission done in good faith in the discharge of any of its or his functions, powers and duties under this Act or any rules made under this Act.

(2) This section does not apply to powers conferred under section 4A or any power to enter into contracts exercised by the Board. Appointment of advocate and solicitor and other persons

30. (1) The Board may appoint an advocate and solicitor to institute and conduct proceedings on its behalf.

(2) The Board for the purposes of carrying out its functions, powers and duties under this Act may appoint any other person to assist the Board in

carrying out such functions, powers and duties.

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SCHEDULE

[Subsection 3(5)]

1. (1) The following persons shall be disqualified from being appointed to or being members of the Board--

(a) a person who is of unsound mind and/or is otherwise incapable of performing his duties;

(b) a bankrupt.

(2) A member of the Board shall vacate his office if he fails to attend three consecutive meetings of the Board without the permission in writing of the President or if he becomes disqualified under subparagraph (1).

2. (1) The Board shall meet at least once a year at such place as may from time to time be appointed by the President.

(2) At any meeting of the Board the President shall preside, and in his absence the members shall elect one of their number to preside over the meeting. (3) The quorum of the Board shall be ten.

(4) If on any question to be determined by the Board there is an equality of votes, the President or, in the case where the President is absent, the member presiding over the meeting shall have a casting vote. (5) Subject to subparagraphs (3) and (4) the Board shall determine its own procedure and, except in relation to sections 15 and 26, have power to delegate to committees appointed by the Board all or any of the functions of the Board upon such terms and subject to such conditions and restrictions as the Board may in its absolute discretion think fit. Any act, ruling or decision of any committee so appointed shall be deemed to be the act, ruling or decision of the Board.

(6) The Board shall cause proper records of its proceedings and of the proceedings of any committee appointed by it to be kept.

3. (1) 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. (2) Until a seal is provided by the Board under this paragraph, a stamp bearing the description "Board of Quantity Surveyors" may be used and shall be deemed to

be the Common Seal.

(3) The Common Seal shall be kept in the custody of the President and shall be authenticated by the President or other member acting in the absence of the President, and any document purporting to be sealed with the said seal, authenticated as aforesaid shall, until the contrary is shown, be deemed to have been validly executed.

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4. All moneys arising from fees payable under this Act shall be paid to the Board to be applied in the first place to defraying the expenses of registration and other expenses of the administration of this Act including any expenses of the Board that may be allowed under any rules made under this Act and thereafter to providing scholarships and the promotion of learning and education in connection with quantity surveying. Moneys not immediately required by the Board shall be invested in such Trustee Securities as the Board may from time to time determine.

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LAWS OF MALAYSIA

Act 487

QUANTITY SURVEYORS ACT 1967

LIST OF AMENDMENTS

Amending law Short title In force from

Act A131 Registration of Surveyors 07-07-1972

(Amendment) Act 1972

Act A172 Registration of Surveyors 30-03-1973

(Amendment) Act 1973

Act A248 Registration of Surveyors 15-03-1974

(Amendment) Act 1974

Act 242 Valuers, Appraisers and Estate Agents Act 1981

Act A598 Valuers and Appraisers 07-09-1984

(Amendment) Act 1984

Act A742 Registration of Quantity Surveyors 25-08-1989 (Amendment) Act 1989

P.U. (A) 349/2001 Revision of Laws (Rectification 18-03-1992 of Quantity Surveyors Act

1967) Order 2001

Act A1157 Quantity Surveyors (Amendment) 01-12-2002 Act 2002

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QUANTITY SURVEYORS ACT 1967

LIST OF SECTIONS AMENDED

Section Amending authority In force from

Long title Act A742 25-08-1989

Act A1157 01-12-2002

1 Act A742 25-08-1989

2 Act A131 07-07-1972

Act 242 06-02-1981

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Act A1157 01-12-2002

3 Act A131 07-07-1972

Act A172 30-03-1973

Act 242 06-02-1981

Act A598 07-09-1984

Act A742 25-08-1989

Act A1157 01-12-2002

4 Act A131 07-07-1972

Act 242 06-02-1981

Act A1157 01-12-2002

4A Act A742 25-08-1989

5 Act A131 07-07-1972

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Section Amending authority In force from

6 Act 242 06-02-1981

Act A742 25-08-1989

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7 Act A131 07-07-1972

Act 242 06-02-1981

Act A742 25-08-1989

Act A1157 01-12-2002

7A Act A248 15-03-1974

Act 242 06-02-1981

Act A742 25-08-1989

Act A1157 01-12-2002

7B Act A1157 01-12-2002

8 Act A131 07-07-1972

Act 242 06-02-1981

Act A742 25-08-1989

Act A1157 01-12-2002

9 Act A131 07-07-1972

Act A1157 01-12-2002

10 Act A131 07-07-1972

Act 242 06-02-1981

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Act A248 15-03-1974

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18 Act A1157 01-12-2002

19 Act A1157 01-12-2002

20 Act 242 06-02-1981

22 Act A1157 01-12-2002

24 Act A131 07-07-1972

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24A Act A1157 01-12-2002

24B Act A1157 01-12-2002

24c Act A1157 01-12-2002

24D Act A1157 01-12-2002

25 Act A172 30-03-1973

Act A248 15-03-1974

Act A742 25-08-1989

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26A Act A248 15-03-1974

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26B Act A1157 01-12-2002

27 Act 242 06-02-1981

Act A598 07-09-1984

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Schedule Act 242 06-02-1981

Act A742 06-08-1989

Section Amending authority In force from

DICETAK OLEH

PERCETAKAN NASIONAL MALAYSIA BERHAD,

KUALA LUMPUR

BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA