

Street, Drainage and Building Act 1974 (part 1)

LAWS OF MALAYSIA

REPRINT

Act 133

STREET, DRAINAGE AND

BUILDING ACT 1974

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An Act to amend and consolidate the laws relating to street, drainage and building in local authority areas in Peninsular Malaysia, and for purposes connected therewith.

[See Appendix]

WHEREAS it is desired to introduce in the form of an Act of Parliament a uniform system with respect to street, drainage and building in local authority areas in Peninsular Malaysia; AND WHEREAS it is now expedient for the purpose only of ensuring uniformity of law and policy to make a law with regard to local government matters relating to street, drainage and building; NOW THEREFORE, pursuant to the provisions of Clause (4) of Article 76 of the Constitution BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

Short title, application and commencement

1. (1) This Act may be cited as the Street, Drainage and Building Act 1974.

(2) This Act shall apply only to Peninsular Malaysia. (3) This Act shall come into force on such date as the Minister may, after consultation with the State Authority, appoint in relation to that State by a notification in the Gazette and the Minister may, after consultation with the State Authority, appoint different dates

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for the coming into force of different provisions of this Act and may bring all or any provisions thereof into force either in all the local authority areas of a State to which the notification applies or in such local authority area of the State as may be specified in the notification.

(4) Notwithstanding subsection (3) the State Authority may by notification in the Gazette exempt any area of any local authority from any or all the provisions of this Act or any by-laws made thereunder.

(5) Notwithstanding the provisions of subsection (3), in relation to the Federal Territory this Act shall come into force on such date as the Minister may appoint by a notification in the Gazette. (6) Notwithstanding the provisions of subsection (3) the State Authority may by notification in the Gazette extend any or all the provisions of this Act to apply to the whole or any part of any area within the State which is not under any local authority; and may make such modifications, amendments or variations to the provisions as may be necessary for the purpose of application to such area. Savings

2. Nothing in this Act shall affect the past operation of, or anything done under the provisions of, any law relating to street, drainage and building in local authority areas passed before the commencement of this Act:

Provided that any right, liberty, privilege, obligation or liability existing at the commencement of this Act by virtue of any such law shall, except as hereinafter expressly provided, be subject to the provisions of this Act.

Interpretation

3. In this Act, unless the context otherwise requires-- "arcade" includes verandah;

"building" includes any house, hut, shed or roofed enclosure, whether used for the purpose of a human habitation or otherwise, and also any wall, fence, platform, staging, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, landing-stage or bridge, or any structure support or foundation connected to the foregoing;

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"Certificate of fitness for occupation, temporary certificate of fitness for occupation and partial certificate of fitness for occupation" mean such certificates given or granted under the Uniform Building By-Laws;

"developer" means any person, body of persons, company, firm or society who or which engages in or carries on or undertakes the business of developing or providing moneys for development or purchasing or partly developing and providing moneys for purchasing buildings;

"dwelling house" includes a building or tenement wholly or principally used, constructed or adapted for use for human habitation; "footway" includes footpaths and verandah-ways at the sides of streets;

"frontager" means the owner of premises fronting on, adjoining, abutting on, or (though not actually so fronting, adjoining or abutting) adjacent or accessible to a street or back-lane or where-- (a) the owner of the premises by himself or his tenant has the right to use or commonly does use the street or back-lane as a means of access to or drainage from the premises; and

(b) in the opinion of the local authority, the use or the right to use is for the advantage or benefit of the land; "house" includes dwelling-house, warehouse, office, counting-house, shop, school, and any other building in which persons are employed;

"Improvement Service Fund" means the Improvement Service Fund established under section 132;

"local authority" means any city council, municipal council, town council, town board, local council, rural board or similar local authority established by written law and in relation to the Federal Territory means the Commissioner of the City of Kuala Lumpur appointed under section 3 of the Federal Capital Act 1960 [Act 190];

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"nuisance" means any act, omission or thing occasioning or likely to occasion injury, annoyance, offence, harm, danger or damage to the sense of sight, smell or hearing, or which is or is likely to be injurious or dangerous to health or property; "occupier" means the person in actual occupation of the land or building in respect of which the word is used, or having the charge, management or control thereof either on his own account or as agent of another person, but does not include a lodger; "owner" means--

(a) the registered proprietor of the land;

(b) the lessee of a lease including a sub-lessee of the land whether registered or not;

(c) the agent or trustee of any of the owners described in paragraphs (a) and (b) of this definition if in the opinion of a local authority any of those persons cannot be traced or, if any of those persons has died, his legal personal representative;

(d) the person for the time being receiving the rent of the premises in connection with which the word is used whether on his own account or as agent or trustee for any other person or as receiver or who would receive the same if such premises were let to a tenant;

"person" includes a company, a partnership, a body of persons and a corporation sole;

"a place of public resort" means a building, or a defined or enclosed place used or constructed or adapted to be used either ordinarily or occasionally as a church, chapel, mosque, temple or other place where public worship is or religious ceremonies are performed, not being merely a dwelling house so used, or as a cinema, theatre, public hall, public concert room, public ballroom, public lecture room, or public exhibition room, restaurant, night club, terminus, or shopping arcade, or as a public place of assembly for persons admitted thereto by ticket or otherwise, or used or constructed or adapted to be used either ordinarily or occasionally for any other public purpose;

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"premises" includes messuages, houses, buildings, lands, tenements, easements and hereditaments of any tenure, whether open or enclosed, whether built on or not, whether public or private, and whether maintained or not under statutory authority; *"private connection pipe" has the same meaning assigned to it under the Sewerage Services Act 1993 [Act 508];

"private street" means any street not being a public street; "public street" means any street over which the public has a right of way which was usually repaired or maintained by the local authority before the coming into operation of this Act or which has been transferred to or has become vested in the local authority under this Act or in any other manner;

"qualified person" means an architect, engineer or a building draughtsman registered under any written law relating to the registration thereof;

*"sewer" has the same meaning assigned to it under the Sewerage Services Act 1993;

*"sewerage system" has the same meaning assigned to it under the Sewerage Services Act 1993;

"sky-sign" means any erection consisting of a frame, hoarding, board, bar, pillar, post, wire or any combination of such things, or any erection of a like nature, or any visible object which floats or is kept in position by wire or other flexible attachment, displayed for the purposes of trade or professional advertisement in such a position as to be conspicuously visible against the sky above the general level of the roofs or surrounding buildings from any street or public place;

"State Authority", in relation to--

(a) the States of Malaysia, means the Ruler or Yang di-Pertua Negeri of a State and includes in Negeri Sembilan the Yang di-Pertuan Besar acting on behalf of himself and the Ruling Chiefs; and

*NOTE--See section 17 of the Street, Drainage and Buildings (Amendment) Act 1993 [Act A867]. 14 Laws of Malaysia ACT 133

(b) the Federal Territory of Kuala Lumpur means the Minister charged with the responsibility for local government; "street" includes any road, square, footway or passage, service road, whether a thoroughfare or not, over which the public have a right of way, and also the way over any bridge, and also includes any road, footway or passage, open court or open alley, used or intended to be used as a means of access to two or more holdings, whether the public have a right of way over it or not; and all channels, drains, ditches and reserves at the side of any street shall be deemed to be part of such street;

"street works" includes work of sewerage, levelling, paving, metalling, flagging, kerbing, channelling, draining, lighting, laying of water, gas or electricity services and otherwise the making good a street or part of a street;

"structural elements" means those parts or elements of a building which resist forces and moments and includes foundations, beams, columns, shear cores, slabs, roof trusses, staircases, load bearing walls and all other elements designed to resist forces and moments but excludes doors, windows and non-load bearing walls; "structural plan" means a plan relating to structural elements; "sullage" includes any household waste liquids discharged from any bath,

shower, lavatory, basin, floor gully, laundries or sink (not being a slop sink) but excludes faecal water and urine. PART II

STREETS

Maintenance and repair of public streets

4. (1) The local authority shall, so far as the funds at its disposal will admit, cause all public streets together with the footways thereof, whether covered by arcades or not, to be maintained and repaired and may--

(a) cause the same to be paved, metalled, flagged, channelled, drained, kerbed, lighted or otherwise improved, and the surface thereof to be raised, lowered or altered as it thinks fit;

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(b) make and keep in repair any footways for the use of foot passengers in any such street;

(c) place on the sides of such footways or otherwise such fences and posts as are needed for the protection of foot passengers;

(d) provide street lighting.

Boundary stones

(2) The local authority may set up or affix to any premises abutting on a public street, boundary stones or other marks to denote the length, width and alignment of such street. Penalty

(3) Any person who removes, defaces or injures any stone or mark set up in accordance with this Act shall be liable on conviction to a fine not exceeding five hundred ringgit.

Owner or occupier to protect boundary stones

(4) The owner and occupier of any premises in or against or to which such stone or mark is set up or affixed shall protect the same.

(5) The expense of replacing any such stone or mark shall be paid by the occupier or, if the premises are unoccupied, by the owner, and shall be recoverable in the manner hereinafter provided. Power to make and improve streets

5. The local authority may, with the consent of the State Authority-- (a) lay out and make new streets and back-lanes;

(b) build and construct bridges and tunnels;

(c) turn, divert, discontinue or stop up any public street; and (d) widen, open, enlarge or otherwise improve any public street.

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Power to take land adjoining new streets for building purposes

6. (1) In laying out or making any new streets, or in widening, opening, enlarging or otherwise improving any public street, in addition to the land required for the carriageways and footways thereof, the local authority may request the State Authority, to acquire the land necessary for the buildings to form the said street and, with the consent of the State Authority may-- (a) erect any buildings upon the land so acquired or alter any existing buildings thereon; and

(b) sell and dispose of such land or buildings with such stipulations and conditions as to the class and description of buildings to be erected on such land as it thinks fit. (2) For the purpose of subsection (1), in relation to the Federal Territory reference to the State Authority shall be construed as reference to the Government of the Federation.

Power to acquire to be in accordance with law relating to compulsory acquisition

7. (1) Where any immovable property not being State land is needed to be acquired for any of the purposes under sections 5 and 6, such property may be acquired in accordance with any law relating to the compulsory acquisition of land for the time being in force in the State in which the property is situate. (2) For the purpose of subsection (1), in relation to the Federal Territory reference to the State land shall be construed as reference to Federal land.

Local authority may recover cost of new street or of widening, opening, etc., of public street

8. (1) When the local authority has made a new street or has widened, opened, enlarged or otherwise improved a public street, it may, with the approval of the State Authority, recover the cost of acquiring the land for, and of--

- (a) constructing the new street; or
- (b) widening, opening, enlarging or otherwise improving the public street, from the developer concerned or the frontagers or both. Street, Drainage and Building 17
- (2) If such sum is to be paid by the developer, it may be recovered from the developer.
- (3) If such cost is to be paid by the frontagers, the persons who are the frontagers when the work is completed shall be liable and the sum shall be recoverable in the manner hereinafter provided. (4) In determining the respective amounts to be paid by the frontagers or developers the local authority may take into consideration any or all of the following factors: (a) the frontage of their respective premises;
- (b) the area of their respective premises;
- (c) the degree of benefit to be derived by those premises from the construction of the street;
- (d) where any section of the street has previously been constructed, the amount and value of street works already executed by the frontager;
- (e) reasonable charges in respect of surveys and superintendence;
- (f) the cost of the premises voluntarily surrendered by the owners to the local authority; and
- (g) any other matters which in the opinion of the local authority are relevant and proper to be considered.
- (5) If the frontager or the developer is dissatisfied with the apportionment of costs, he may, within one month of the receipt of the notice of apportionment, appeal to the State Authority whose decision shall be final and shall not be subject to any appeal or review in any court.
- (6) The local authority may exempt any frontager or class of frontagers from payment of the whole or part of the cost of the street works.

Private persons making new streets

9. (1) No person shall make any new street without the prior written permission of the local authority.

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(2) Any person who intends to make any new street shall apply to the local authority, accompanied by a plan in duplicate, showing the intended level and construction of such street and the level of the houses to be built on the land abutting upon it and the proposed manner of draining it and by a statement specifying the use for which such street is intended:

Provided that the local authority shall not approve the detailed plans of any new street unless the use of the land for this purpose has been approved by the competent authority under any law relating to town and country planning.

(3) The local authority may give written directions to the person submitting a plan for a new street with regard to any of the following particulars:

(a) compliance with this Act and any by-laws made thereunder; (b) the line of the new street, so as to ensure that it forms a continuous street with any existing or proposed new street;

(c) the level, material and construction of the new street; (d) the provision of footpaths and the size, specification and gradient of such footpaths;

(e) the provision along the length of the new street of intersecting streets or back-lanes;

(f) the width of the new street;

(g) the width of any intersecting street or back-lane, which shall be of such width as the local authority requires; (h) the gradients, levels and mode of drainage of the new street and of any intersecting streets or back-lanes; (i) the rounding of the corners of new streets;

(j) the provision of culverts and the sizes, specifications and gradients of such culverts; and

(k) the provision of street lighting,

and the person to whom any such written directions are given shall amend the plan accordingly.

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(4) The person whose plan has been approved by the local authority and each successor in title of such person, in so far as the street lies in the land acquired by him, shall lay out the new street and demarcate its boundaries by such boundary stones or other marks as may be specified by the local authority to denote the length, width and alignment of the street.

(5) If the new street has not been laid out and demarcated within the period of six months from the date when the plan was first approved or within such further period as may be approved by the local authority, the local authority may enter upon the land and lay out the new street and demarcate its boundaries at the expense of the person whose plan has been approved or of his successor in title.

(6) The person whose plan has been approved by the local authority or his successor in title in so far as the street lies in the land acquired by him shall, if he constructs the new street, construct the new street in accordance with the plan approved by the local authority within such period as may be specified in such approval: Provided that the local authority may renew such approval for such period as it considers necessary.

(7) Any person who--

(a) constructs any new street otherwise than in accordance with a plan approved by the local authority under this section;

(b) without the permission in writing of the local authority plants any hedge in such manner that any part thereon is in any direction less than twenty feet from the centre of the carriageway of any street, not being a public street, or less than forty feet from the opposite side of any road or path which is used or intended to be used as the means of access to two or more houses exclusive of the width of any footway which the local authority requires; or

(c) constructs any culvert or bridge on the line of the new street drainage otherwise than in accordance with the plans and specifications approved by the local authority, shall be liable on conviction to a fine not exceeding two thousand ringgit, and a Magistrate's Court shall, on the application of the 20 Laws of Malaysia ACT 133

local authority, make a mandatory order against the offender requiring him to execute any one or more of the following works: (i) to alter the street;

(ii) to remove any hedge so planted;

(iii) to alter or remove any culvert or bridge so constructed; or

(iv) to comply with the plan approved by the local authority. (8) Where any new street is stated to be intended for pedestrians, the local authority may impose such conditions for ensuring that the same shall not be used by vehicles or classes of vehicles as may be specified by it.

(9) Any person who keeps open or uses such street in breach of the conditions imposed under subsection (8) shall be liable on conviction to a fine not exceeding one thousand ringgit and shall also be liable to a further fine not exceeding one hundred ringgit for every day during which the offence is continued after service of a notice to cease the breach.

(10) No person shall erect or maintain or permit to be erected or maintained any obstruction in any street, and the local authority may, where any such obstruction exists, take down and remove the same and cost and expenses of so doing may be recovered from the person who erects, maintains or permits the erection or maintenance of such obstruction and shall be recoverable in the manner hereinafter provided.

(11) For the purposes of this section the continuation of an existing street or the widening or alteration of any existing street or the adapting for carriage traffic of a street made for other traffic shall be deemed to be making a new street in respect of the whole thereof.

(12) If the person applying under subsection (2) is dissatisfied with any requisition or disapproval by the local authority, he may, within seven days from the receipt of such requisition or disapproval, appeal to the State Authority whose decision shall be final. (13) If the local authority does not, within two months of receipt of the application and plan under this section approve, disapprove or make written requisition with regard thereto the applicant may then apply to the State Authority, and the powers vested in the local authority under this section shall then be vested in the State Authority.

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Approval of plans to expire

10. All plans for the making of a new street which were approved under the provisions of any written law before the coming into force of this Act shall expire at the end of one year from the date of coming into force of this Act:

Provided that the local authority may grant a renewal of such approval for such period as it may determine, but such renewal shall not in the aggregate exceed twelve months.

Paving, etc., of private streets

11. (1) Where any private street or part of a private street in the opinion of the local authority requires street works, the local authority shall cause to be prepared plans and specifications of the street works and an estimate of the cost thereof and a provisional apportionment of such estimated expenses among the frontagers or developers or both and shall serve a notice of such decision upon each of the frontagers and developers requiring them to execute to the satisfaction and in accordance with the directions in writing of the local authority, such street works and within such period as may be specified in the notice.

Apportionment of cost

(2) In apportioning the estimated cost thereof among the frontagers or developers, the local authority may take into consideration any or all of the following factors:

- (a) the frontage of their respective premises;
- (b) the area of their respective premises;
- (c) the degree of benefit to be derived by those premises from the construction of such street works;
- (d) the amount and value of street works already executed by any frontager or developer;
- (e) reasonable charges in respect of surveys, superintendence and publication and service of notices; and
- (f) any other matters which in the opinion of the local authority are relevant and proper to be considered.

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Plans, etc., to be open to inspection by or on behalf of any person upon whom notice served

(3) During one month from the date of the issue for service of the notice referred to in subsection (1), the said plans, specifications, estimate and provisional apportionment shall be open to inspection by or on behalf of any person upon whom such notice has been served and by or on behalf of the owners of any building or holding listed at the office of the local authority; and

such notice shall state--

(a) that such plan, specification, estimate and provisional apportionment are so open to inspection as aforesaid during the usual office hours until a day (not less than one month from the date of issue for service of such notice) upon which the local authority will consider any objections to the proposed street works or to the plan, specification, estimate and provisional apportionment or any amendment thereof; and

(b) that in default of compliance with the requirements of the local authority as stated in such notice, the local authority will itself cause the street works to be executed. Local authority may amend plan, etc., for any street works (4) The local authority may from time to time amend the plan, specification, estimate and provisional apportionment for any street works, but if by reason of such an amendment the estimate in respect of any private street or part thereof is increased or the provisional apportionment of the cost of such street works on any premises is increased, such notices previously served shall be withdrawn by the local authority and fresh notices based on the amended plan, specification, estimate and provisional apportionment or any of them shall be served by the local authority in accordance with the provisions of subsection (1) and the amended plan, specification, estimate and provisional apportionment shall be similarly open to inspection.

Frontagers may object to execution of proposed street works and to plan, etc.

(5) During the period of one month referred to in subsection (3) the frontager or developer shown in the provisional apportionment or amended provisional apportionment as liable to be charged with Street, Drainage and Building 23

any part of the expenses of executing the street works may, by notice in writing duly served upon the local authority, object to the proposed street works and to the plan, specification, estimate and provisional apportionment or to any one or more of them or to any amendment thereof pursuant to subsection (4), on any one or more of the following grounds:

(a) that the alleged private street or part thereof is not or does not form part of a street within the meaning of this Act;

(b) that the alleged private street or part thereof is (in whole or in part) a public street;

(c) that there has been some material informality, defect or error in, or in respect of, the decision, notice, plan, specification, estimate or provisional apportionment or amendment thereof;

- (d) that the proposed street works are insufficient or unreasonable or that the expenses as estimated are excessive;
- (e) that any premises ought to be excluded from or listed in the provisional apportionment;
- (f) that the provisional apportionment or amended provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or (where the provisional apportionment is made with regard to other considerations other than frontage as provided in this section) in respect of the degree of benefit derived by any person or the amount and value of any street works already executed by the owner or occupier of any premises.

Objections

(6) After objections duly made under subsection (5) have been inquired into and the persons making them have been allowed an opportunity of being heard, the local authority may at its discretion confirm or amend the plan, specification, estimate and provisional apportionment.

(7) The plan, specification, estimate and provisional apportionment so confirmed or amended shall be open to inspection by the persons referred to in subsection (3) or (4) during the usual office hours at the office of the local authority and a notice stating that they are open to inspection shall be published in such manner as the local authority may determine.

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(8) No objection shall be made to such amended requisition or estimates or apportionment.

When local authority may execute work

(9) If such street works--

(a) are not commenced within the period specified in the notice served under subsection (1); or

(b) are not commenced within thirty days from the date of such confirmation or amendment under subsection (6); or

(c) having been commenced are thereafter suspended or are not completed within the period specified in the notice under subsection (1) or within thirty days

of confirmation or amendment under subsection (6) as the case may be, the local authority may, if it thinks fit, cause the same to be executed and completed.

Final apportionment on completion of work

(10) When the street works have been completed by the local authority and the cost thereof ascertained, the local authority shall cause a final apportionment of the cost of such street works to be made by dividing the expenses in the same proportions as those made in which the estimated expenses were divided in the provisional apportionment or amended provisional apportionment (as the case may be) and such final apportionment shall be conclusive for all purposes and notice of such final apportionment shall be served upon persons who are frontagers at the time of completion of the work affected thereby or the developers or both and the sums apportioned thereby shall be recoverable in the manner hereinafter provided.

Extent of liability of owner when expenses exceeded (11) If the expenses incurred by the local authority in executing the street works as shown in the final apportionment exceeds the estimated expenses as shown in the provisional apportionment or amended provisional apportionment (as the case may be) the frontagers or developers affected shall not be liable to pay that part of such expenses as shown in the final apportionment which are in excess of a sum equal to the estimates shown in the said provisional apportionment plus ten per centum thereof.

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(12) (a) The local authority may instead of charging the frontagers or developers pay the whole or part of the cost of the street works and may exempt any premises or class of premises from payment of the whole or part of the cost apportioned to that premises or class of premises.

(b) If the local authority exempt any premises or class of premises from payment of the whole or part of the apportioned cost, the local authority shall pay the sums apportioned to such premises or class of premises as if it were the owner of that premises or class of premises.

(13) For the purpose of this section "developer" means the developer of lands belonging to persons who would be frontagers. Declaration of public streets

12. (1) Where street works have been executed to the satisfaction of the local authority under this Part in respect of a private street, which is not less than forty feet wide, then on the request-- (a) in the case of street works executed under section 11, of the several frontagers listed in the final

apportionment as together have an annual value of more than fifty per centum of the total annual value of the premises so listed; or

(b) in any other case, of the several frontagers of such private street or part of a private street as together have an annual value of more than fifty per centum of the total annual value of the premises fronting on, adjoining, abutting on or (though not actually so fronting, adjoining or abutting) adjacent or accessible to such private street or part of the private street, as the case may be,

demanding that the private street or part of the private street be declared a public street, the local authority shall declare the same to be a public street and such street shall thereupon become a public street and forever afterwards be maintained by the local authority.

(2) The declaration shall be published in such manner as the local authority thinks fit.

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Private streets may be declared public streets

13. (1) If any street, not being a public street, is levelled, channelled and drained, and either paved, metalled or flagged to the satisfaction of the local authority, it may, whether at the request of the frontagers or otherwise, if it thinks fit, declare that at the expiration of one month from the date thereof the said street shall become a public street.

(2) Notwithstanding subsection (1) the local authority may require the frontagers to provide lighting for the street to the satisfaction of the local authority as a condition precedent to the declaration under subsection (1).

(3) A copy of the intention to declare such street as a public street shall be forthwith posted up in some prominent part of the said street.

(4) At the expiration of the said period, unless the frontagers or such frontagers having the greater part in the annual value have, by notice to the local authority in writing under their hands, objected thereto, the said street shall become a public street and forever afterwards be maintained by the local authority.

(5) After considering the objections or if there is no objection after the expiration of the said period the local authority shall declare the street as a public street.

Widening of private streets

14. (1) Whenever the local authority decides that it is necessary to widen, open, enlarge or otherwise improve any private street or any part of a private street, the local authority shall prepare a plan showing the premises which will be acquired for the purpose of effecting such widening, opening, enlarging or otherwise improving the street:

Provided that any acquisition of premises shall be in accordance with the law relating to the compulsory acquisition of land. Street, Drainage and Building
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Acquisition of whole building if part rendered useless (2) Where the acquisition under this section of any portion of a building affixed to a holding renders useless the remainder of such building, the State Authority shall, if the owner so requires, acquire the remainder of the holding of which such building forms a part.

Acquisition of whole holding in certain circumstances (3) Where the acquisition under this section of any portion of a holding having no building affixed to that portion or to the remainder of the holding, would render useless as a building site the remainder of the holding the State Authority shall, if the owner so requires, acquire the remainder of the holding. (4) The cost of acquisition under this section may be recovered from the developers or frontagers or both.

Owner to repay local authority cost of acquisition (5) If it is to be recovered from the frontagers it shall be apportioned among the persons who are frontagers of such street at the time of completion of such widening, opening, enlarging or other improvement and the sums apportioned shall be recoverable as hereinafter provided from such persons by the local authority. Factors to be taken into consideration for apportionment (6) In apportioning the cost thereof among the frontagers or developers, the local authority may take into consideration any or all of the following factors:

- (a) the frontage of their respective premises;
- (b) the area of their respective premises;
- (c) the degree of benefit to be derived by those premises from the widening of the street;
- (d) the amount and value of street works already executed by any frontager or developer;

(e) the cost of premises voluntarily surrendered by the owners to the local authority; and

(f) any other matters which in the opinion of the local authority are relevant and proper to be considered.

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(7) The frontagers or developers affected by the apportionment may within one month of the receipt of the notice to pay the amount appeal to the State Authority whose decision shall be final. (8) Pending the decision of the State Authority, the frontager or developer shall be bound to pay the sum first and if the decision of the State Authority is in favour of the appellant, the local authority shall remit such sum or part of such sum as the case may be.

(9) For the purpose of subsections (1), (2) and (3) in relation to the Federal Territory references to the State Authority shall be construed as references to the Government of the Federation. (10) For the purpose of this section "developer" means the developer of lands belonging to persons who would be the frontagers. Repair of private streets

15. (1) Where any private street or any part thereof is in a dangerous or defective condition, the local authority may, by notice in writing, require--

- (a) the developer;
- (b) the frontagers of such street; or
- (c) any other person who, in the opinion of the local authority, was responsible for causing the street to be in a dangerous or defective condition,

to cause such street to be properly repaired and amended within such time as may be prescribed in such notice and may in such notice specify the date before which such work shall be commenced. (2) If any frontager or developer or any other person fails to comply with the requirements of such notice, the local authority may itself cause the work to be done and such frontager or such other person shall pay to the local authority the cost and expense thereof as apportioned by the local authority:

Provided that if such frontager or developer or such other person fails to commence such work before the date specified under subsection (1), the local authority may in its discretion, notwithstanding that the period stated in the notice for the completion of the work has not yet expired, itself cause the

work to be done and recover the cost and expense thereof in the manner hereinafter provided.

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(3) If any frontager or developer or any other person is dissatisfied with the apportionment of costs, he may within one month from the date of receipt of the notice appeal to the State Authority whose decision thereon shall be final and shall not be subject to any appeal in any court.

(4) Notwithstanding subsections (1) and (2), the local authority may, in its discretion, and so far as the funds at its disposal will admit, execute at its own expense street works on any private street or any part thereof as may be deemed necessary for or conducive to the public safety, health, convenience or comfort: Provided that the execution of such street works at the expense of the local authority shall not affect the liability of such frontagers or developers or any other persons under subsections (1) and (2). (5) A certificate of the local authority stating that it is of the opinion that such person named in such certificate was responsible for causing a private street or part thereof to be in a dangerous or defective condition shall be prima facie evidence of such facts for the purpose of any proceedings for the recovery of the cost and expense of repairing such private street.

(6) For the purpose of this section "developer" means the developer of lands belonging to persons who would be the frontagers. Notice on person causing private street to be in a dangerous or defective condition

16. (1) Where the local authority is of the opinion that any frontager, developer or any other person is responsible for causing a private street or any part thereof to be in a dangerous or defective condition it may, by notice, require him not to make further use of the private street for the purpose of transporting any matter, material or thing, or prohibit the use of the road by specified class of vehicles, until he deposits with the local authority such sum as the local authority may specify.

(2) The local authority shall in specifying the sum to be deposited with the local authority under subsection (1) have regard to the cost and expense that would have to be incurred if it should cause the repairs to be done.

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(3) Any frontager, developer or any other person who fails to comply with the notice shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term which may extend to twelve months or to both.

(4) The certificate of the local authority stating that it is of the opinion that such frontager, developer or such other person named in such certificate was responsible for causing a private street or part thereof to be in a dangerous or defective condition shall be prima facie evidence of such facts for the purposes of any prosecution under this section.

Payments to be made before erection of buildings in respect of street works

17. (1) Subject to this section-- (a) where any building which is to be erected will have frontage on a private street in respect of which the local authority may be able to exercise its powers under the provisions of section 11 to require street works to be executed or to execute street works on its own; or (b) in any case where an application is required, under the provisions of section 9, for the making of a new street, no work shall be commenced or done for the purpose of erecting such buildings, unless--

(aa) the person erecting the building has deposited with the local authority such sum, if any, as may be required to be deposited in accordance with an order made under section 18; or

(bb) the deposit in respect of the erection of such building or class of buildings has been exempted under any order made by the State Authority under subsection (8): Provided that such person may, if the local authority so agrees, instead of making a deposit of a sum of money give a security to the satisfaction of the local authority.

(2) If any work for the erection of any new building is commenced in contravention of subsection (1), the local authority shall serve a notice in writing upon the person who, in the opinion of the local Street, Drainage and Building 31

authority, is responsible for the commencement of any such work, or post a notice at the site of the erection of the new building, requiring such person and any other person to cease building operation forthwith and the building operation shall not resume unless the requirements under subsection (1) have been complied with.

(3) If the person served with the notice under subsection (2) claims that he is not the person responsible for the commencement of any such work, he shall, within seven days of service of the notice on him, lodge his disclaimer of responsibility with the local authority.

(4) If any work for the erection of any new building is commenced in

contravention of subsection (1) the person who is responsible for the commencement of such work shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding twelve months or to both. (5) Any person who fails to comply with any notice under subsection (2) shall in addition to any fine imposed under subsection (4) be liable to a further fine not exceeding two hundred and fifty ringgit for every day during which such notice was not complied with.

(6) Where any person has been convicted of an offence under subsection (4) or (5) or both and the erection of the building has been completed, the court before which such person is convicted may, in addition to such fine or imprisonment that it may impose under subsection (4) or (5) or both, order him to deposit any amount that he would have been required to deposit under section 18, and such amount may be recovered according to the law for the time being in force for the recovery of fines. (7) A certificate of the local authority stating that it is of the opinion--

(a) that the person named in such certificate is responsible for the commencement of any work for the erection of any new buildings; or

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(b) that any new building in respect of which a prosecution had been instituted in regard to the commencement of any work, for contravening subsection (1), has been completed,

shall be prima facie evidence of such facts for the purposes of any prosecution under this section.

(8) The State Authority may by order in writing exempt any building or class of buildings from the provisions of subsection (1).

Determination of the amount to be deposited and the date of completion

18. (1) Any person who intends to commence any work for the erection of any new building shall unless exempted apply to the local authority for an order from the local authority specifying the amount required to be deposited for street works and the date on or before which such street works shall be completed. (2) The person applying for such an order shall within fourteen days of service of the order on him deposit with the local authority the sum stated in the order or give the security. (3) In making the order the local authority shall have regard to the amount that would be expended by it if it executed the street works under this Act.

(4) Any person who is dissatisfied with such order shall, within ten days of

the service of the order on him, appeal to the State Authority whose decision thereon shall be final and shall not be subject to any appeal in any court.

Local authority may execute and cause to be properly carried out street works

19. (1) If street works are not commenced after the commencement of building operations or are not executed to the satisfaction of the local authority, in any case where a deposit has been made or security given under subsection 18(2), the local authority may, at any time after giving notice of its intention to do so execute or cause the street works to be properly carried out. Street, Drainage and Building 33

(2) The costs of the execution of the street works or of causing the street works to be properly carried out by the local authority shall be recovered from the deposit made or security given under subsection 18(2).

Refund of deposit when street works have been completed

20. (1) Where a deposit has been made or security given under subsection 18(2) and street works have been carried out to the satisfaction of the local authority, the local authority shall refund to the person who made such deposit or given such security the whole or part of such deposit or security.

(2) The local authority may retain the deposit or security or any part of such deposit or security if, it is of the opinion that-- (a) the street works have not been executed properly; (b) the building operations, in regard to the erection of any building which have not been commenced or completed, would require further street works to be executed; or (c) such deposit or security is required for a period of maintenance, which period shall not exceed twelve months. (3) In this section and in section 19 "building operations" means such works as are carried out for the erection of any new building including works which are preparatory to the erection of such new building.

Refund of deposit when building operations are not commenced

21. (1) Any person who has made a deposit or given a security under subsection 18(2) and who subsequently decides not to proceed with the erection of any building, without having commenced any building operations, shall serve the local authority notice of this intention not to proceed with the erection of such building. (2) The local authority shall, upon receipt of such notice, cancel the approval of the plans and specifications in respect of such proposed building.

(3) The local authority shall refund the deposit or part thereof or return

Preparation of scheme for building

22. (1) Where the local authority has reason to believe that any land is likely to be used for building purposes, it may prepare a scheme consistent with any plans made under any law relating to town and country planning, showing the streets, back-lanes and open spaces which it deems necessary to secure proper sanitary conditions, amenity and convenience in connection with the laying out and the use of such land and of any neighbouring lands. (2) The local authority shall as soon as the scheme is prepared publish a public notice of the preparation of the scheme in the Gazette and in such local newspaper or newspapers as the local authority may determine, giving particulars of place where copies of the scheme may be inspected, inviting objections in writing from any person with respect to the scheme and stating the period (which shall not be less than one month) within which such objections may be made.

(3) If no objection is received within the period in which objections may be made the local authority shall apply to the State Authority for an order that the scheme be confirmed.

(4) Where there is any objection the local authority shall, after the expiry of the period within which such objection may be received, consider such objection and may in this connection hear any person who in filing the objection has requested to be heard. (5) The local authority shall after considering the objection submit to the State Authority its scheme whether modified or otherwise and may enter its reasons for refusing to modify or for modifying in the manner that it did.

Order may be made with conditions

(6) The State Authority may by order confirm the scheme submitted by the local authority under subsection (3) or (5) and may, in confirming the scheme, modify the scheme or impose such conditions as the State Authority thinks fit.

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State Authority may modify scheme

(7) The State Authority may, on the application of either the owner of the land affected or the local authority at any time after any scheme has been confirmed under subsection (6) but only after giving every owner or reputed owner of any property which in its opinion is affected by such modification and the local authority an opportunity to be heard either in person or by

counsel, modify such scheme or any part thereof.

Effect of plan forming part of scheme

(8) Any plan forming part of any scheme made under this section shall, for the purposes of section 70, have the same effect as a plan approved by the local authority under that section: Provided that the duty imposed by the scheme shall not attach to any person unless and until he submits a plan for the erection of a building on some part of the land comprised in the plan under section 70.

Regular line of street may be prescribed

23. (1) The local authority may, with the sanction of the State Authority, prescribe a line on each side of a public street within which, except under section 34 no portion of any building abutting on the said street shall, after such line has been prescribed, be constructed.

(2) A line so prescribed shall be called "the regular line of the street".

Local authority in certain cases may take possession of land within the regular line of street

24. (1) When any building or any part of a building which lies within the regular line of the street falls down or is burned down or is taken down the local authority may take possession of the portion of land within the regular line of the street that was occupied by the said building and, if necessary, clear the same. 36 Laws of Malaysia ACT 133

(2) If any land, whether open or enclosed, lies within the regular line of the street and is not occupied by a house, or if a platform, verandah, step or some other structure external to a house abutting on a public street or a portion of a platform, verandah, step or other such structure is within the regular line of the street, the local authority may, after giving to the owner of the land or building not less than seven clear days' notice in writing of its intention to do so, take possession of the said land with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step or such other structure and, if necessary, clear the same. Land taken to form part of street

(3) Land so taken possession of under this section shall be acquired by the State Authority at the request of the local authority in accordance with any law relating to the compulsory acquisition of land and when acquired shall be deemed to be a part of the public street.

(4) For the purpose of subsection (3), in relation to the Federal Territory reference to the State Authority shall be construed as reference to the Government of the Federation.

Provision of footways, etc.

25. (1) Wherever there is a frontage to the public street vacant of houses to a depth of four feet or more, lying between arcades or public footways or between such buildings and another street, the local authority may by notice in writing, require the owner or owners of such vacant frontage or the owners of the several frontages making up the same forthwith to allow without compensation a footway of a width of seven feet or equal to the vacant depth of the frontage whichever is less, to be made for the use of the public along the said frontage, and, if necessary for this purpose, to set back any wall, fence, paling, hedge or other similar erection separating his or their land from the public street to a distance not exceeding seven feet from the edge of the street within three months from the date of the notice.

(2) The cost of constructing and maintaining any footway proposed to be made under the powers given in this section, as well as the cost of setting back any such erection as aforesaid, shall be borne by the local authority and the notice or notices required to be given Street, Drainage and Building 37

shall contain a specification of the work required to be done and the materials to be used and an offer by the local authority to pay such sum as may be specified therein as being the cost of carrying out such work.

Who to execute work

(3) On receipt of the notice the owner or owners may either execute the work as regards their respective frontages or require the local authority to do so, and, where any owner executing such work fails to complete the work within the time specified in the notice, the local authority may enter upon his land and carry out the work.

Plan to be delivered

(4) In every case where a footway is made under this section, the local authority shall deliver to each owner of the land a plan showing the land taken for such footway and a statement to the effect that the land has been taken under this section for use as a public footway, subject nevertheless to the right of each owner and his successors in title at any time to build in such manner and to such extent as he would have been entitled to build if the land had not been taken for use as a public footway.

Local authority may put up lamp posts and lamps

26. (1) The local authority may cause lamp irons, lamp posts or other lighting apparatus to be put up or fixed upon or against the walls or palisades of any building or enclosure, doing as little damage as is practicable thereto, or to be put up or erected in such other manner within any street, road or place as it deems proper and may cause such number of lamps of such sizes and sorts to be provided and affixed and put on such lamp irons and lamp posts as are necessary for lighting all or any of such streets, roads and places and cause the same to be lighted during such hours as are necessary.

Troughs and pipes to be fixed

(2) The owner of every house or building shall, within twenty- one days after the service of notice from the local authority to that effect, put up and keep in good condition proper troughs, gutters and pipes for receiving and carrying the water from the roof and 38 Laws of Malaysia ACT 133

other part of such house or building and for discharging the same in such manner as the local authority may direct so that it shall not fall upon persons passing along the street or enter any sewer. (3) If the notice is not complied with the local authority at any time after the expiration of the time so specified may cause the work to be done and the cost and expenses of so doing shall be paid to the local authority by the owner in default. Situation of water pipes, etc., to be altered at the expense of the local authority

27. (1) If the local authority deems it necessary for the purposes of this Act to raise, sink, lower or otherwise alter the situation of any water pipe or other waterworks, electric lighting cable or main telegraph wire or other electric lighting apparatus or telegraph apparatus laid in any street, it may, by notice in writing, require the person or authority, to whom any such pipes, works, cables, mains or apparatus belong or under whose control they are, to cause forthwith, or as soon as conveniently may be, any such pipes, works, cables, mains or apparatus to be raised, sunk, lowered or otherwise altered in position in such manner as it directs: Provided that such alteration is not such as to permanently injure such works, cables, mains or apparatus or to prevent the water from flowing as freely and conveniently as before. (2) The expenses attending such raising, sinking, lowering or altering, and reasonable compensation for the damage done thereby, may be paid by the local authority.

(3) If the person or authority to whom any such pipes, works, mains, cables or apparatus belong, or under whose control they are, does not proceed forthwith, or as soon as conveniently may be, after the receipt of such notice to cause the same to be raised, sunk, lowered or altered in the manner required by such

notice, a Magistrate's Court shall, on the application of the local authority, issue a mandatory order for the execution of the necessary work. Where road is injured by excavation local authority may repair and recover expenses

28. (1) If the roadway, drain or verandah way in or adjoining any public street is damaged by or in consequence of any excavation on land adjoining such roadway, drain or verandah-way the local authority may repair and make good the damage done. Street, Drainage and Building 39

(2) All costs and charges arising therefrom shall be paid to the local authority by the owner of the land on which the excavation has been made.

Names of streets

29. (1) The local authority may, subject to the approval of the State Authority, determine the name by which any street shall be known and may alter the name of any street or part of a street. (2) The local authority may cause the name of any street to be painted, or otherwise marked, in a conspicuous position on any house, building or erection in or near such street and from time to time alter or renew such inscription of the name of any street, if the name of the street is altered or such inscription becomes illegible or damaged.

(3) Any person who destroys, pulls down, defaces, covers or conceals any inscription of the name of a street which has lawfully been set up, or sets up in any street any other name different from the name lawfully given to such street, shall be liable on conviction to a fine not exceeding five hundred ringgit.

Designation of fire hydrants

30. (1) The local authority may cause to be affixed on a conspicuous part of any house or building a plate indicating the position of the nearest fire hydrant and may place fire alarms, electric or otherwise, at convenient places in the streets.

Penalty

(2) Any person who destroys, pulls down, defaces, covers or conceals any such plate shall be liable on conviction to a fine not exceeding five hundred ringgit.

Numbers on houses

31. (1) The local authority shall in its discretion allot a number to any

house or building and may fix a mark displaying such number in a conspicuous place on the outside of any house or building or at the entrance of the enclosure fronting the street, and may from time to time change such number and replace or refix any mark displaying such number.

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Penalty for destroying

(2) Any person who destroys, pulls down, defaces, covers or conceals any such mark shall be liable on conviction to a fine not exceeding five hundred ringgit.

(3) The owner and occupier of such house or building shall protect such number.

(4) The expense of replacing or refixing any such number which has been destroyed, pulled down, defaced, covered or concealed shall be paid by the occupier or, if the house or building is unoccupied, by the owner, and shall be recoverable in the manner hereinafter provided.

Doors not to open outwards

32. (1) All doors, gates, bars and ground-floor windows opening upon any street shall be hung or placed so as not to open outwards except when the same are hung or placed in such manner as, in the judgment of the local authority, to cause no obstruction in any such street.

(2) If any door, gate, bar or window is hung or placed so as to open outwards on any such street, the owner of the premises to which the same is attached shall, within fourteen days after the service of such notice from the local authority to that effect, cause the same to be altered so as not to open outwards. Projections from houses not to be allowed

33. (1) The local authority may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment or obstruction which has been or may be erected or placed against or in front of such house or building, if the same overhangs or juts into or in any way projects into or encroaches upon or is an obstruction to the safe and convenient passage along any public street or obstructs or projects or encroaches into or upon any aqueduct, drain or sewer in such street. Same to be removed

(2) Such owner or occupier shall, within fourteen days or such extended time

as the local authority may allow, after the service of such notice upon him, remove such projection, encroachment or obstruction or alter the same in such manner as therein directed. Street, Drainage and Building 41

Owner may recover expenses from occupier

(3) In case such projection, encroachment or obstruction was made or put up by the occupier and the expenses of removing or altering the same have been paid by the owner, including a payment by the owner to the local authority when the work has been executed by it under the power hereinafter provided, then the owner shall be entitled to recover the reasonable expenses from the occupier. Occupier may recover expenses from owner

(4) In case such projection, encroachment or obstruction was not made or put up by the occupier and the expenses of removing or altering the same have been paid by him, including a payment by him to the local authority when the work has been executed by it under the power hereinafter provided, then the occupier shall be entitled to deduct the reasonable expenses from the rent payable by him to the owner.

Local authority to pay if erection lawful

(5) If such projection, encroachment or obstruction has been lawfully made, the local authority shall pay the expenses of the removal or alteration thereof and make reasonable compensation to every person who suffers damage by such removal or alteration and, if any dispute arises touching the amount of such compensation, the same shall be ascertained in the manner hereinafter provided. Projecting verandahs, etc., may be made in streets not less than 40 feet wide

34. (1) The local authority may give permission in writing to owners of houses or buildings fronting, adjoining or abutting on public street of not less than forty feet in width to project open verandahs, balconies, sun shades, weather frames and signboards and may, in granting such permission, impose any condition it thinks fit.

(2) On breach of any such condition the local authority may give the owner or occupier notice to comply with such condition and, if such condition is not complied with within thirty days, a Magistrate's Court shall, on the application of the local authority, make a mandatory order for the removal of such projection. 42 Laws of Malaysia ACT 133

Penalty

(3) Any person who contravenes any of the conditions imposed under subsection

(1) shall be liable on conviction to a fine not exceeding one thousand ringgit and shall also be liable to a further fine not exceeding two hundred and fifty ringgit for every day during which the offence is continued after a notice to remedy the contravention has been served upon the owner or occupier. Sky-signs

35. (1) No sky-sign shall be erected in any place within the area of the local authority without the prior written permission of the local authority.

(2) The local authority may give to the owner or occupier of any premises upon which any sky-sign is so erected notice in writing to remove the same, and the owner or occupier shall remove the same within fourteen days after service of such notice. Hedges and trees bordering streets to be trimmed

36. (1) The local authority may by notice in writing require the owner or occupier of any land to trim or prune the hedges thereon bordering any street so that they do not exceed seven feet in height from the level of the street, and, in the case of hedges within fifteen yards of a corner, four feet in height from the level of the street, and to cut and trim all trees or branches of trees overhanging any street.

(2) If the owner or occupier fails to comply with the notice within the period specified therein, the local authority may itself cause the work to be done and recover the cost and expenses thereof in the manner hereinafter provided.

Prevention of grass fires

37. (1) Where the local authority is satisfied that any grass, or other vegetation whether growing or not is in a combustible state or likely to be dangerous to life or property in case it should become lighted, the local authority may by notice in writing require the owner or occupier of the land on which the same is growing or lying to remove the same from the land within a period specified by the notice.

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(2) If the notice is not complied with, the local authority at any time after the expiration of the specified period may, if it thinks fit, cause the work specified in the notice to be done, and the cost and expenses of so doing shall be paid to the local authority by the owner or occupier in default and shall be recoverable in the manner hereinafter provided.

(3) If any fire occurs on any land in respect of which a notice under subsection (1) has been given after the time limited by such notice and before the notice has been fully complied with, the cost and expenses of

extinguishing the fire incurred by the local authority shall be paid to it by the owner or occupier in default and shall be recoverable in the manner hereinafter provided and a certificate as to the amount of such cost and expenses by the local authority shall be conclusive evidence that such amount has been so incurred. Trees not to be planted within twelve feet of street

38. (1) No tree unless it is of a specie allowed by the local authority shall be planted within twelve feet of any street or back-lane. (2) Any person who plants any tree in contravention of this section shall be liable on conviction to a fine not exceeding five hundred ringgit, and the tree may be cut down or dug up by order of the local authority.

Compensation in certain cases

(3) Any tree standing within twelve feet of or overhanging any street or back-lane may be cut down or dug up by order of the local authority:

Provided that where such tree being a fruit tree was planted before the street or back-lane was laid out or intended for a street or back-lane, the local authority shall make such compensation not exceeding fifty ringgit to the owner thereof as is just. Taking up pavement

39. (1) Any person who displaces, takes up or makes any alteration in the pavement, flags or other materials or in the fences or posts of any public street without the prior written permission of the local authority or without other lawful authority shall be liable on conviction to a fine not exceeding five hundred ringgit. 44 Laws of Malaysia ACT 133

(2) Any person who wilfully damages or causes or permits any damage to be done to any street, footway, verandah way, works or property, or any part thereof, belonging to the local authority or along which the public has a right of passage, shall be liable on conviction to a fine not exceeding one thousand ringgit. Prohibition of laying rails, mains, pipes, etc., along streets

40. (1) No person shall lay or carry any line of rails, mains, pipes, conduits or electric lines along, through, across, over or under any street or any place laid out or intended for a street within any local authority area without the prior written permission of the local authority which permission may be granted or not at the discretion of the local authority and upon such terms as it thinks fit. Penalty

(2) Any person who contravenes subsection (1) shall be liable on conviction to a fine not exceeding one thousand ringgit, and the local authority may remove the lines of rails, mains, pipes, conduits or electric lines at his expense.

Precautions against accident. Bars to be erected across streets during repairs and lights placed at night

41. (1) The local authority, any person, or any other authority, shall, while carrying out the construction or repair of any street, back-lane, sewer or drain take proper precaution against accident by shoring up and protecting the adjoining houses and causing such bars, chains or posts to be fixed across or in any street or road to prevent the passage of carriages, carts or other vehicles, while such works are carried on as to it seems proper and causing the works to be sufficiently lighted and guarded during the night. Penalty

(2) Any person, or other authority (but not the local authority) who fails to comply with the provisions of subsection (1) shall be liable on conviction to a fine not exceeding one thousand ringgit. (3) Any person who takes down, alters or removes any such bar, chain or post or extinguishes any such light without the authority or consent of the local authority shall be liable on conviction to a fine not exceeding one thousand ringgit.

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Materials not to be deposited without permission

42. (1) No person shall deposit any building materials or make a hole in any street or back lane without the prior written permission of the local authority.

Fencing and lighting materials or hole

(2) When such permission is granted to any person, he shall at his own expense until the materials are removed or the hole is filled up or otherwise made secure to the satisfaction of the local authority, cause such materials or such hole to be sufficiently fenced and enclosed and shall cause the area to be sufficiently lighted during the night.

Penalty

(3) Any person who deposits materials or makes a hole without such permission or having been granted permission, who fails to fence or enclose or light such materials or hole or who fails to remove such materials or fill up such hole or otherwise make it secure within such time as may be specified in the permission, shall be liable on conviction to a fine not exceeding one thousand ringgit and shall also be liable to a further fine not exceeding one hundred ringgit for every day during which the offence is continued after twenty four hours notice in writing from the local authority to remove such materials or

to fill up such hole. (4) The local authority may itself fence, enclose and light such materials or hole and may remove such material or fill up such hole or otherwise make it secure and all costs and expenses arising therefrom shall be paid to the local authority by the defaulting person.

Dangerous places to be repaired or enclosed

43. (1) If, in the opinion of the local authority, any tank, well, hole or other place is, due to want of sufficient repair, protection or enclosure or any other cause, dangerous to the public, it shall give notice in writing to the owner thereof to repair, protect or enclose the same forthwith so as to prevent danger therefrom. 46 Laws of Malaysia ACT 133

(2) Any owner who fails without reasonable cause to comply with such notice shall be liable on conviction to a fine not exceeding one thousand ringgit, and the local authority may itself repair, protect or enclose the same.

(3) All costs and expenses arising therefrom shall be paid to the local authority by the owner of the tank, well, hole or other place. Duty of owner or occupier to keep street clean

44. (1) The owner or the occupier of any premises abutting upon any private street to which they have access or the right of access from such premises shall cause such portion of the street as abuts on his premises and up to the centre thereof including the footways, to be properly swept and cleaned so far as is reasonably practicable and the dust, dirt, ashes, rubbish and filth of every sort found thereon to be collected and removed.

Notice to owner or occupier to keep street clean

(2) The local authority may by notice in writing require any person upon whom any duty is cast under subsection (1) to sweep and clean such street and to collect and remove the dust, dirt, ashes, rubbish and filth found thereon at such time or times as may be specified in such notice.

Penalty for non-compliance

(3) Any person to whom such notice is given who fails to comply with it shall be liable without further notice to a fine not exceeding one hundred ringgit for each day during which such non-compliance continues, and the local authority may itself cause the work to be done and the owner or occupier shall pay to the local authority the cost and expense thereof.

Local authority may contract for the work

(4) The local authority may contract with any owner or occupier as aforesaid for sweeping and cleaning such street and for collecting and removing the dust, dirt, ashes and rubbish for such period as the local authority thinks fit.

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(5) The amount due by the contracting persons to the local authority may be recovered in the manner hereinafter provided. Watering streets

45. The local authority shall, so far as it deems requisite for the public convenience, cause any street to be watered, and for that purpose the local authority may provide such works, engines and establishments as it thinks necessary.

Obstruction

46. (1) Any person who-- (a) builds, erects, sets up or maintains or permits to be built, erected or set up or maintained any wall, fence, rail, post or any accumulation of any substance, or other obstruction, in any public place;

(b) without the prior written permission of the local authority covers over or obstructs any open drain* or aqueduct along the side of any street;

(c) deposits or causes to be deposited any box, bale or package or merchandise, utensils, crockery, or other article or thing in any public place for a longer time than is necessary for loading or unloading such merchandise or article; (d) deposits or causes to be deposited any goods, article or thing used for or in connection with his trade in any public place;

(e) deposits or causes to be deposited timber, scrap iron, derelict vehicles or any part thereof, waste materials or other article or thing in any public place;

(f) deposits or causes to be deposited garden refuse, kitchen refuse or trade refuse or any other article or thing in any public place; or

(g) causes or allows any vehicle to rest on any footway, shall be guilty of causing an obstruction and may be arrested without warrant by any police officer or any officer or employee of the local authority authorised in writing in that behalf by the local authority and taken before a Magistrate's Court and shall be liable on conviction to a fine not exceeding five hundred ringgit, and in the case of a second or subsequent conviction to a fine not exceeding one thousand ringgit.

*NOTE--See section 17 of the Street, Drainage and Building (Amendment) Act 1993 [Act A867]. 48 Laws of Malaysia ACT 133

Presumption

(2) If it is shown in any case that any article or thing has been deposited in or upon any public place in proximity to any building or land in contravention of subsection (1) it shall be presumed unless the contrary is proved that the offence was committed by or by the permission of the occupier of such building or land. Power to remove obstruction

(3) (a) The local authority may cause any such obstruction to be removed or may itself through its servants remove the same to a suitable place, there to remain at the risk of the owner or person offending and may detain the same until the expenses of removal and detention are paid.

(b) The local authority shall certify such expenses to the owner or the person offending and the certificate of the local authority shall be conclusive proof of the sum due.

(c) Such sum shall be recoverable in the manner hereinafter provided.

Temporary obstructions on occasions of festivals, etc. (4) Nothing herein shall prevent the local authority from allowing any temporary erections in any public place or the temporary use of any part of a public place on occasions of festivals and ceremonies. Depositing dirt on streets, etc.

47. (1) Any person who-- (a) places, deposits or throws or causes or allows to be placed, deposited or thrown any dust, dirt, paper, ashes, carcase, refuse, boxes, barrels, bales or other article or thing in any public place;

(b) keeps or leaves any article or thing whatsoever in any place where it or particles therefrom have passed or are likely to pass into any public place;

(c) dries any article of food or other article or thing in any public place;

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(d) throws, places, spills or scatters any blood, brine, swill, noxious liquid or other offensive or filthy matter of any kind in such manner as to run or fall into any public place;

(e) drops, spills, or scatters any dirt, sand, earth, gravel, clay, loam, stone, grass, straw, shavings, sawdust, ashes, garden refuse, stable refuse,

trade refuse, manure, garbage or any other thing or matter in any public place, whether from a moving or stationary vehicle or in any other manner; (f) sieves, shakes, cleans, beats or otherwise agitates any lime, ashes, sand, coal, hair, waste paper, feathers or other substance in such manner that it is carried or likely to be carried by the wind to any public place;

(g) throws or leaves behind any bottle, glass, can, food container, food wrapper, particles of food or any other article or thing in any public place;

shall be guilty of an offence under this section and may be arrested without warrant by any police officer or by any officer or employee of the local authority authorised in writing in that behalf by the local authority and taken before a Magistrate's Court and shall be liable on conviction to a fine not exceeding five hundred ringgit, and in the case of a second or subsequent conviction to a fine not exceeding one thousand ringgit.

(2) Any person who, during the construction, alteration or demolition of any building or erection or at any time whatsoever, (a) deposits, drops, leaves or places, or permits or causes to be deposited, dropped, left or placed in or onto any public place, any stone, cement, earth, sand, wood or other building material, thing or substance; or

(b) fails to take reasonable precautions to prevent danger to the life, health or well-being of persons using any public place or any other person from flying dust or falling fragments or from any other material, thing or substance, shall be guilty of an offence under this section and may be arrested without warrant by any police officer or by any officer or employee of the local authority authorised in writing in that behalf by the local authority and taken before a Magistrate's Court and shall be liable on conviction to a fine not exceeding one thousand ringgit, and in the case of a second or subsequent conviction to a fine not exceeding two thousand ringgit.

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(3) For the purposes of paragraph (1) (e)--

(a) where the thing or matter is dropped, split or scattered from a vehicle or drops or spills therefrom, the driver or person having charge or control of the vehicle shall be deemed to have committed the offence, unless the offence is committed by a person other than the driver or person having charge or control of the vehicle and the identity of the person who committed the offence can be established; and

(b) where the driver of a motor vehicle is alleged or is suspected to be guilty of the offence--

(i) the owner of the motor vehicle shall give such information as may be required by a police officer or by an officer or employee of the local authority to give as to the identity and address of the person who was driving the said motor vehicle at or about the time of the alleged offence, and such other

information as such police officer or such officer or employee of the local authority may require, and if he fails to do so within seven days of the date on which the information was required from him,

he shall be guilty of an offence under this section unless he proves, to the satisfaction of the Court, that he did not know and could not with reasonable diligence have ascertained the information required; and

(ii) any other person who was or should have been in charge or in control of the motor vehicle shall, if so required as aforesaid, give any information which it is in his power to give, and which may lead to the identification of the driver, and if, within seven days of the date on which the information was

required from him, he fails to do so, he shall be guilty of an offence under this section.

Presumption as to offender

(4) (a) If in any case it is shown that any dust or other substance in this section mentioned has been deposited in any place in contravention of this section in close proximity to any building or land or that any such water or any offensive matter has run, drained or been thrown or put upon or into any street or drain in contravention of this section, it shall be presumed unless the contrary is proved that the offence was committed by or by the permission of the occupier of such building or land.

