



LAWS OF MALAYSIA

ONLINE VERSION OF UPDATED
TEXT OF REPRINT

Act 418

WATERS ACT 1920

As at 1 February 2018

WATERS ACT 1920

First enacted	1920 (Cap. No. 1460)
	...	
Revised	1989 (Act 418 w.e.f
	...	28 December 1989)

PREVIOUS REPRINTS

<i>First Reprint</i>	<i>2001</i>
<i>Second Reprint</i>	<i>2006</i>

LAWS OF MALAYSIA

Act 418

WATERS ACT 1920

ARRANGEMENT OF SECTIONS

Section

1. Short title, application and construction
2. Interpretation
3. Property in rivers
4. Restoration of river banks
5. Prohibition of acts affecting rivers, except under licence
6. Presumptions
7. Prohibition of diversion of water from rivers, except under licence
8. Licence to divert water may authorize interference with State land or alienated land
9. Revocation and alteration of licences
10. Assessment of compensation
11. Record of licence on titles affected
12. Fees for licences
13. Liability for damage
14. Restriction on construction of walls and buildings on banks of rivers or within flood channels
15. Penalties; sanction for prosecution
16. Power to put a stop to and remedy illegal acts
17. Liability of employer
18. Rules

LAWS OF MALAYSIA

Act 418

WATERS ACT 1920

An Act to provide for the control of rivers and streams.

[**Negeri Sembilan*, ***Pahang*, ****Perak and*
[†]*Selangor—18 September 1920*;
^{††}*Malacca—4 August 1966*;
^{†††}*Penang—10 August 1967*;
[§]*Federal Territory—1 February 1974*]

Short title, application and construction

1. (1) This Act may be cited as the Waters Act 1920.

(2) This Act shall only apply to the States of Negeri Sembilan, Pahang, Perak, Selangor, Malacca, Penang and Federal Territory.

(3) Nothing in this Act shall affect any other Enactment and no prohibition or restriction in this Act contained shall apply to the Government of the States of Peninsular Malaysia or of any of them or to the agents or servants of any of the said Governments.

*NOTE— In its application to Negeri Sembilan—*see* Negeri Sembilan Enactment No. 12/1971 and Enactment No. 3/2007.

**NOTE— This Act has been repealed by Pahang Water Resources Enactment 2007 [*Enact. No. 5/2007*] w.e.f. 1 August 2008.

***NOTE— In its application to the State of Perak—*see* Perak Enactment No. 11 of 1973 and Perak Enactment A11 of 2009.

[†]NOTE— This Act has been repealed by Selangor Waters Management Authority Enactment 1999 [*Enact. No. 2 of 2007*] w.e.f. 1 May 2000.

^{††}NOTE— This Act has been extended to Malacca by Malacca Enactment No. 5/1966.

^{†††}NOTE— This Act has been extended to Penang by Penang Enactment No. 4/1967.

[§]NOTE— This Act has been extended to Federal Territory by P.U. (A) 66/1974.

Interpretation

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

“river” includes—

- (a) a tributary of a river and any other stream or natural water course;
and
- (b) any canal declared by the State Authority of the State in which such canal is situated by notification in the *Gazette* to be subject to this Act;

“State land” and “alienated land” have the same meaning as defined in the National Land Code [*Act 56 of 1965*];

“State Authority” has the same meaning as defined in the Local Government Act 1976 [*Act 171*].

Property in rivers

3. Subject to the terms of any express grant made by or on behalf of the Ruler of a State, the entire property in and control of all rivers in any State is and shall be vested solely in the Ruler of such State; provided that in the case of lands held by the Government under grant or lease or reserved for a public purpose and maintained by a Government Department, such control may be exercised by the Head of such Department, under the direction of the State Authority.

Restoration of river banks

4. Any person who shall in any State interfere with the bank of any river may by order of the State Authority be required to restore the same to the condition in which it was immediately prior to such interference or to remake the same in such manner as may be specified in such order.

Prohibition of acts affecting rivers, except under licence

5. (1) No person shall, except under and in all accordance with the terms of a licence under this Act,

- (a) fell any tree so that it falls into a river;
- (b) in any manner obstruct or interfere with any river;
- (c) build any bridge, jetty, or landing stage (other than a bath-house) over or beside any river at a point where the width of such river exceeds twenty feet.

(2) Licences to do in any district any of the acts specified in subsection (1) may be issued by the District Officer of such district with the approval, in each case, of the State Authority, any such licence may be subject to such conditions and restrictions as the State Authority approves; all such conditions and restrictions shall be set out in the licence.

(3) Nothing in subsection (1) shall be deemed to apply to any bridge, jetty or landing stage in existence at the commencement of this Act or to the repair or renewal thereof.

Presumptions

6. Where the bank of a river is interfered with, or where any felling, obstruction, interference, or building takes place in contravention of section 5, the owner and the occupier of the land wherein the bank so interfered with or any part thereof is included and the owner and occupier of the land whereon such tree was felled or which is nearest to such obstruction, interference or building shall in any proceedings under this Act be presumed, in the absence of proof to the contrary, to have interfered with the bank, or effected the felling, obstruction, interference, or building, as the case may be.

Prohibition of diversion of water from rivers, except under licence

7. (1) Save as may be expressly authorized under the provisions of any other law no person shall, except under and in accordance with the terms of a licence

under this Act, by means of any ditch, drain, channel, pipe, or otherwise divert water of any river from its natural course.

(2) Whenever any such diversion shall have been made, the occupier or occupiers of the lands (if any) benefited by such diversion shall, in the absence of proof to the contrary, be presumed to have made it.

(3) Licences to divert water from a river in any State for use in the generation of electricity may be granted by the State Authority of such State.

(4) Licences to divert water from a river in any district for use:

- (a) for private or domestic purposes;
- (b) in the cultivation of rice;
- (c) for industrial and other purposes,

may be granted by the District Officer of such district with the approval, in each case falling under paragraph (a) or (c), of the State Authority.

(5) Every licence granted under this section shall set out the purpose for which the same is granted and shall be for such period and subject to such conditions and restrictions as may be stated therein.

Licence to divert water may authorize interference with State land or alienated land

8. (1) A licence under this Act to divert water from a river in any State may extend to authorizing the licensee to erect, cut, or construct and maintain upon or through any State lands or alienated lands specified in that behalf in the licence any pump, line of pipes, flume, race, drain, dam, or reservoir and, subject to such conditions and restrictions as may be specified in the licence, to take and use the water therefrom in such quantities and in such manner as in the opinion of the State Authority of such State may be necessary for carrying out the purpose of the licence.

(2) A licensee so authorized as aforesaid may enter upon the State lands or alienated lands so specified as aforesaid for the purposes expressed in such

licence and carry out all or any of the works thereby sanctioned and exercise all or any of the rights thereby granted; provided that he shall be liable to make compensation to the owner or lawful occupier of any alienated land upon which such work shall be carried out or such rights exercised.

Revocation and alteration of licences

9. (1) There shall be power at any time—

- (a) without cause assigned to revoke or alter, or to vary the period, terms, or conditions of, any licence granted under this Act upon payment to the licensee of compensation for any damage which he may sustain in respect of such revocation, alteration, or variation;
- (b) to revoke without compensation any licence on breach by the licensee of any condition or restriction to which the licence is subject or on conviction of the licensee of any offence punishable under this Act.

(2) The power in subsection (1) referred to may in the case of a licence granted by the State Authority be exercised by the State Authority and in the case of a licence granted by a District Officer be exercised by the District Officer; provided that in the case of a licence to the granting whereof the approval of the State Authority is required, such approval shall also be necessary to the exercise by a District Officer of the power in subsection (1) referred to.

Assessment of compensation

10. The amount of any compensation payable under either of the two last preceding sections shall, if not settled by agreement between the parties concerned, be claimed and determined by suit in the appropriate court.

Record of licence on titles affected

11. Where alienated land is affected by any authority under section 8 contained in a licence to divert water from a river, the Land Administrator or

Registrar, as the case may be, having custody of the Register wherein the title to such land is recorded shall, on production to him of such licence, make in the said Register an entry of the grant of the licence and of the period thereof and shall certify on the licence that such entry has been made and shall on proof to his satisfaction of the revocation of any licence whereof an entry has been made as aforesaid make in the said Register an entry of such revocation.

Fees for licences

12. (1) There shall be payable in respect of every licence under this Act in any State such annual fee as may be prescribed, or if no such annual fee be prescribed then such annual fee as the State Authority may impose.

(2) The amount of the annual fee, with the date on which payment is due, shall be set out in every licence.

(3) Notwithstanding the foregoing provisions of this section, in the case of any licence to divert water for use in the generation of electricity, there shall be payable in respect thereof, either the annual fee or such other payments as the State Authority may impose, which shall be payable at such rates, on such dates, and in such manner, as may be set out in the licence.

(4) Any licence in respect whereof the fee or other payment shall remain unpaid for sixty days after the same falls due may without notice to the licensee be revoked, and no compensation shall be payable in respect of such revocation.

Liability for damage

13. No licence under this Act shall exempt any person from liability in respect of any damage occasioned by such person to the property of the Government or of any person.

Restriction on construction of walls and buildings on banks of rivers or within flood channels

14. (1) Save as may be expressly authorized under the provisions of any other law no person shall in any State after the commencement of this Act

erect or build any wall or construct any revetment along the bank of any river or erect any building or structure within fifty feet of any such bank, or within any flood channel declared under this section, except under and in accordance with the terms of a written permission in that behalf from the State Authority; any such permission may be subject to such conditions and restrictions as the State Authority thinks fit to impose.

(2) Where the State Authority is satisfied that the bed of any river in such State is insufficient to contain the waters thereof in time of such floods as may be reasonably expected, he may by notification in the *Gazette* declare any land abutting on such river and extending to such a distance from either or both banks as may be specified in such notification to be a flood channel for such river, and may at any time in like manner revoke or vary any such declaration.

(3) The District Officer or any person authorized thereto by him in writing may enter upon and inspect any buildings or premises to which a permission given under subsection (1) relates.

(4) Any person who contravenes this section shall be liable to a fine of two thousand ringgit; and any building or construction built or erected in contravention of this section may be removed by order of the State Authority and the cost of such removal shall be recoverable from such person by the State Authority, or any person authorized in that behalf by the State Authority, by civil suit.

(5) Nothing in this section shall be deemed to apply to any wall, reventment, building, or structure in existence or in course of construction at the commencement of this Act or the renewal or repair thereof.

Penalties; sanction for prosecution

15. (1) Any person who fails to obey any order given under section 4 shall be liable to a fine of five hundred ringgit and additionally to a fine of ten ringgit a day for every day during which such disobedience shall continue.

(2) Any person who contravenes section 5 or 7 shall be liable to a fine of one thousand ringgit.

(3) No prosecution shall be instituted in respect of any offence punishable under this section except with the written sanction of the District Officer of the district wherein the offence is alleged to have been committed.

(4) Where a conviction is had before the Court of a Magistrate of the First Class of any offence referred to in subsection (1) or (2) such court may impose any penalty provided by this Act.

Power to put a stop to and remedy illegal acts

16. (1) Where in any State any such person interferes with the bank of a river or contravenes section 5 or 7, the State Authority of such State may do and cause to be done all such things as may in his opinion be necessary or expedient for remedying such interference or contravention or the results thereof, and the cost thereby incurred shall be recoverable from such person by State Authority, or any person authorized in that behalf by the State Authority, by civil suit.

(2) In amplification and not in derogation of the generality of the foregoing powers the State Authority may cause the bank of any river which has been interfered with to be restored or remade, any tree, which on being felled has fallen into a river, or any obstruction in or interference with a river, or any bridge, jetty, or landing stage (other than a bath-house) over or beside any river to be removed or destroyed, and any ditch, drain, channel, pipe, or other means of diverting the water of any river from its natural course to be filled in, closed, destroyed, or removed.

(3) For the purpose of any work or thing about to be or being carried out or done under this section, entry may be made upon any land owned or occupied by any person whose interference with the bank of a river or contravention of section 5 or 7 has given occasion for such work or thing; provided that nothing herein contained shall authorize entry into any dwelling-house and that before entry upon land owned or lawfully occupied by any person not less than twenty-four hours previous notice in writing shall, except in any case where the District Officer otherwise directs, be given to such owner or occupier.

(4) Nothing in this section contained shall affect any liability of any person to prosecution and punishment under section 15.

Liability of employer

17. For the purpose of this Act every person shall be liable for every act and omission of any agent or servant employed by him and acting within the scope of such employment in the same manner and to the same extent as if such act or omission were done or committed by such first mentioned person; but so that nothing in this section shall affect the liability of such agent or servant.

Rules

18. (1) In any State the State Authority may from time to time, make rules, not inconsistent with this Act,

- (a) to prescribe fees payable in respect of licences granted under this Act;
- (b) to restrict to particular areas or rivers the issue by District Officers of licences, or specified kinds of licences under sections 5 and 7;
- (c) generally for the purpose of carrying into effect the provisions and purposes of this Act.

(2) All such rules shall be published in the *Gazette* and shall thereupon have the force of law.

LAWS OF MALAYSIA

Act 418

WATERS ACT 1920

LIST OF AMENDMENTS

Amending law	Short title	In force from
En. 36/1933	Revised Edition of the Laws (Repeals and Minor Amendments) Enactment 1933	09-02-1934
En. 18/1937	Statute Law Revision (Chief Secretary's Powers)	26-07-1937
L.N. 300/1950	Transfer of Powers (Amendment No. 2) Order 1950	04-07-1950
*Malacca Enact. No. 5/1966	Waters Enactment of the Federated Malay States (F.M.S. Cap. 146) (Extended Application to Malacca) Enactment 1966	04-08-1966
*Penang Enact. No. 4/1967	Waters (Extended Application to Penang) Enactment 1967	10-08-1967
*Malacca Enact. No. 16/1971	Waters Enactment of the Federated Malay States (Extended Application to Malacca) (Amendment) 1971	16-09-1971
*Negeri Sembilan Enact. No. 12/1971	Waters Enactment (F.M.S. Cap. 146) (Amendment) 1971	09-12-1971
*Perak Enact. No. 11/1973	Waters (Amendment) Enactment 1973	01-02-1974
*P.U. (A) 66/1974	Federal Territory (Modification of the Waters Enactment) Order 1974	01-02-1974

*NOTE—The amending laws listed are amendments by the States and therefore not incorporated in this Act.

Amending law	Short title	In force from
*Pahang Enact. No. 8/1985	Waters Enactment (Amendment) 1985	01-01-1986
*Negeri Sembilan Enact. No.3 of 2007	Waters (Amendment of Waters Act 1920) Enactment 2007	06-12-2007
*Perak Enact. A11 of 2009	Waters (Amendment) Enactment 2009	15-08-2009

*NOTE—The amending laws listed are amendments by the States and therefore not incorporated in this Act.

LAWS OF MALAYSIA**Act 418****WATERS ACT 1920****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
2	En. 18/1937	26-07-1937
3	En. 36/1933	09-02-1934
5	En. 36/1933	09-02-1934
10	En. 36/1933	09-02-1934
12	En. 36/1933	09-02-1934
15	Act 160	29-08-1975
18	En. 36/1933 En. 18/1937	09-02-1934 26-07-1937
