

GEOLOGICAL SURVEY ACT 1974, No. 129

Preamble

An Act to regulate and control geological surveys, to establish geological archives and to provide for matters incidental thereto.

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

PART I PRELIMINARY

1. Short title and commencement.

(1) This Act may be cited as the Geological Survey Act 1974 and shall apply throughout Malaysia.

(2) This Act shall come into force on such date as the Minister may by notification in the Gazette appoint; and the Minister may appoint different dates for the coming into operation of different provisions of this Act and different dates may be appointed for different States or parts of Malaysia:

Provided that no date shall be appointed under this section in respect of Sabah and Sarawak unless the Governments of those States have been consulted.

2. Interpretation.

In this Act, unless the context otherwise requires -

"analysis" means the determination of the composition of a specimen or sample by physical or chemical method;

"authorized person" means a person authorized by a Geological Survey Officer in making a geological survey;

"Collector" means a Collector of Land Revenue within the meaning of the National Land Code and the Land Ordinance of Sabah and in relation to Sarawak means the Superintendent appointed under section 3 of the Land Code of Sarawak;

"Director General" means the Director General of Geological Survey appointed under section 3;

"fossiliferous material" means any mineral substance, including rock material, which contains remains or traces of animals or plants which have been preserved by natural processes in the earth's crust;

"geological survey" means any systematic investigation of the surface, or content of the earth with or without the aid of any physical or chemical measurement;

"Geological Survey Officer" means any person appointed under section 3;

"identification" means the naming of a sample using simple physical and chemical tests when necessary;

"mineral" means any naturally occurring homogeneous substance with a definite chemical composition and an ordered atomic arrangement;

"ore" means solid naturally occurring mineral aggregate of economic interest from which one or more valuable constituents may profitably be recovered by treatment;

"rock material" means any rock, stone, marble, gravel, sand, earth, laterite, loam, clay, soil, mud, turf, peat, coral, shell or guano within or upon any land;

"sample" means a fraction of naturally occurring matter representative of the mass of which it forms a part;

"specimen" means a fraction of naturally occurring matter not necessarily representative of the mass of which it forms a part.

PART II

ADMINISTRATION

3. Appointment, powers and duties of officers.

(1) There shall be appointed a Director General of Geological Survey, a Deputy Director General of Geological Survey and such other officers of the Geological Survey as may be deemed necessary for carrying out the purposes of this Act.

(2) The duties and powers of the officers appointed under this section shall be those assigned to them by this Act and any regulations made thereunder.

(3) Every officer appointed under this section shall be deemed by such appointment to be vested with all the powers of any Geological Survey Officer subordinate to him.

(4) The Director General may authorize any person in writing to conduct a geological survey in his behalf.

(5) Every appointment and authorization under this section shall be published in the Gazette.

(6) Subject to section 4, the Director General shall have superintendence over all other officers appointed or persons authorized under this section.

(7) All officers appointed and persons authorized under this section shall be deemed to be public servants within the meaning of the Penal Code applicable.

4. Power of Minister to issue directions.

The Minister may from time to time give the Director General directions of a general character, and not inconsistent with the provisions of this Act, as to the exercise of the powers and discretions conferred upon the Director General by, and the duties required to be discharged by the Director General under this Act or any regulations made thereunder, in relation to all matters which appear to him to affect any geological survey, and the Director General shall give effect to all such directions.

5. Consultations by Geological Survey Officers.

(1) The Director General may authorize any Geological Survey Officer to undertake consultation, analysis or other service for any other person.

(2) A Geological Survey Officer authorized under subsection (1) may require the person consulting him to obtain the written approval of the proprietor or occupier of all land onto which he requires to enter, and to obtain such permits and authority as may be necessary under any law for the purpose of the consultation, analysis or other service.

(3) In the event of any specimen or sample being submitted for analysis a Geological Survey Officer authorized under subsection (1) may order the retention or disposal of the specimen or sample or any portion thereof as he deems fit.

(4) Fees for consultation, analytical and other services under this section may be charged at such rates as may be prescribed.

PART III

GEOLOGICAL SURVEYS BY GEOLOGICAL SURVEY OFFICERS

6. Authority for geological survey.

Whenever it appears to the Minister that a geological survey should be made of any area he may, with the concurrence of the State Authority, by notification in the Gazette, designate the area to be surveyed (hereinafter referred to as "the designated area") by the Director General.

7. Power to enter land and notice to enter land.

(1) Subject to this section a Geological Survey Officer or an authorized person shall have power to enter any land within the designated area for the purpose of geological survey.

(2) A Geological Survey Officer or an authorized person shall cause a notice to be served on any person who is the proprietor or occupier of any land, or lessee in the case of mining land, within the designated area notifying that person of his intention to enter upon the land for purpose of geological survey. The notice shall be served not less than 14 days prior to the date of the intended entry.

(3) Where entry to or egress from the designated area cannot be effected without passing through an alienated land, mining land or land occupied under temporary occupation licence, the Geological Survey Officer or the authorized person shall serve a notice on the proprietor, lessee or occupier thereof notifying his intention to enter and re-enter such land for purpose of access to the designated area. The notice shall be served not less than 14 days prior to the date of the intended use of the land as an access.

(4) Any notice to be served under this section may be served on a person or body of persons in the following manner, that is to say -

(a) by delivering the notice to the person; or

(b) by delivering the notice -

(i) at the person's usual or last known place of abode or business to his servant or to an adult member of his family; or

(ii) at the body's registered office or usual or last known place of business to its servant or agent; or

(c) by sending the notice by pre-paid registered post to the person or body -

(i) at the person's usual or last known abode or place of business; or

(ii) at the body's registered office or usual or last known place of business; or

(d) where the Director General is satisfied that a notice under this section cannot be served personally or by post (either because the person to be served is evading service or for some other reason) -

(i) by affixing a copy of the notice in a conspicuous position on the land and on a courthouse, mosque or penghulu's office or in a market or other public place in the area in which the land is situated;

(ii) by publishing a copy of the notice in the Gazette and if he thinks fit, in one or more of the newspapers circulating in the State where the land is situated.

(5) Any person who upon being served with the notice under subsections (2) and (3) shall allow any Geological Survey Officer or authorized person to enter the land or any part thereof.

8. Power of a Geological Survey Officer.

(1) Upon service of the notice under section 7 and subject to provisions of subsection (2) the Geological Survey Officer or any authorized person may, for purpose of making such investigations as the Director General considers desirable in relation to any geological survey -

(a) enter upon any land within the designated area;

(b) cut, remove or otherwise clear such uncultivated vegetation as may be necessary for the proper conduct of such survey;

(c) erect or emplace such pegs and marks as may be necessary for the proper conduct of such survey;

(d) conduct a superficial geological survey;

(e) conduct an artificial geophysical survey;

(f) bore, drill, fracture, dig or pit over the land;

(g) obtain and remove any specimen or sample from the land in furtherance of such survey and remove and dispose of as he deems fit such superficial or cognate material as may be necessary to obtain the specimen or sample.

(2) Any Geological Survey Officer or authorized person entering upon any land for the purpose of a geological survey shall, on demand by the occupier of the land, produce to the occupier his letter of authority in the form prescribed.

(3) In this section -

"artificial geophysical survey" means any investigation of the surface, subsurface, or content of the earth by measuring the deviations of artificially induced physical forces;

"geochemical survey" means any systematic investigation of the surface, subsurface, or content of the earth by means of chemical analysis of specimens or samples taken from the earth, terrestrial water or vegetation;

"natural geophysical survey" means any investigation of the surface or subsurface or content of the earth by measurement of its innate physical properties;

"superficial geological survey" means any systematic investigation of the surface, subsurface, or content of the earth by means of natural geophysical survey, geochemical survey or physical examination;

"systematic investigation" means any investigation including a preliminary examination.

9. Claim for compensation for damage.

(1) Where damage was done to any property during the course of a geological survey, the owner of the property may within six months after the completion of the geological survey on the land where the property was damaged, submit a claim to the Director General, who may -

(a) reject the claim; or

(b) cause the damage to be assessed and pay or tender to the claimant the assessed cost of damage.

(2) If the claimant is dissatisfied with the rejection of the claim or the assessment he may within one month after the service by post of the letter conveying the rejection or after the payment or tender of the assessed cost of damage under subsection (1), appeal to the Collector of the district in which the land is situated.

(3) The Collector shall as soon as practicable hear the claim and may dismiss the claim or make an award as he may think just.

(4) The Collector shall have all the powers of a Court for the summoning and examination of witnesses, the administration of oaths or affirmations, and for compelling the production and delivery to him of documents, including issue documents of title and other documents evidencing title.

(5) Any party who is dissatisfied with the decision of the Collector may within one month after the decision being made appeal to an Appeal Board consisting of the following persons -

(a) a Chairman who shall be the Director General of Lands and Mines (Federal) to hear appeals in cases arising in West Malaysia or the Director of Lands and Surveys of the State of Sabah or Sarawak to hear appeals in cases arising in the respective State; and

(b) two other persons to be selected by the Chairman from a panel of persons to be appointed by the Minister by notification in the Gazette.

(6) The decision of the Appeal Board referred to in subsection (5) shall be final.

PART IV

GENERAL OBLIGATIONS RELATING TO GEOLOGICAL SURVEY, ETC.

10. Application of Part IV.

The provisions of this Part shall apply to all persons other than Geological Survey Officers and authorized persons.

11. Notice on person prospecting.

(1) The Director General may by notice require any person prospecting land for metal or minerals under licence or permit issued under any law relating to mining for the time being in force -

(a) to make and submit to him a record of description and place of finding of specimens of rock material, mineral, ore, fossiliferous materials or other naturally occurring mineral substance in the earth;

(b) to surrender to him the aforesaid specimens or samples or part of the specimens or samples for the purpose of identification or analysis provided such request is made within 6 months after the completion of the prospecting;

(c) to give a true account of the results of the prospecting as soon as possible after its completion or at such intervals during its continuance as he may direct.

(2) The Director General may retain such specimens or samples as may be surrendered to him under subsection (1) (b).

12. Finding of fossiliferous material to be notified.

Where any person conducting a geological survey or prospecting finds any fossiliferous material he shall immediately notify the Director General of such details as may from time to time be prescribed.

13. Development of certain wells to be notified.

(1) Any person who bores, drills, digs or otherwise develops a well for the purpose of searching for or extracting water therefrom shall notify the Director General of such details as may from time to time be prescribed.

(2) For the purposes of this section a well does not include a well which is less than 30 feet in depth without reaching bedrock or yield less than 500 gallons of water per day and is used only for the domestic purposes of the household of the person responsible for its development.

14. Certain excavations to be notified.

Subject to section 13, any person who bores, drills, digs or otherwise develops a hole, pit, shaft, tunnel, cutting or other excavation exposing bedrock (as distinct from alluvium or detritus) shall notify the Director General of such details as may be prescribed from time to time:

Provided that this section shall not apply to any person making an excavation incidental to the erection of a single-storeyed or double-storeyed building or to any person making an excavation in accordance with the provisions of any law relating to mining for the time being in force.

PART V

GEOLOGICAL SURVEY ARCHIVES AND COLLECTIONS

15. Establishment of archives and collections.

(1) The Director General shall cause to be established and maintained records of all geological information obtained by him under this Act, and such records shall be known as the Geological Survey Archives.

(2) The Director General shall cause to be established and maintained collections of all rocks, minerals, ores, fossils, and other naturally occurring mineral substances from the earth obtained or retained by him under this Act, and such collections shall be known as the Geological Survey Collections.

16. Appointment of Keeper of Archives and Curator of Collections.

The Director General may appoint any Geological Survey Officer as Keeper of the Geological Survey Archives or as the Curator of the Geological Survey Collections and may delegate the responsibility for such Archives and Collections to any Geological Survey Officer so appointed.

17. Retention and disposal of specimens and samples.

The Director General may retain any specimen or sample submitted to him for identification or analysis and may at any time arrange for the disposal of such specimens or samples in any way he deems fit, except that such specimens and samples shall be returned to the person submitting them if a request to this effect is made at the time of submission.

PART VI

GENERAL

18. General penalty.

(1) Any person who contravenes any provision of this Act or who fails to comply with any lawful direction, notice, condition or restriction imposed thereunder, shall be guilty of an

offence against this Act and shall on conviction be liable to a fine not exceeding ten thousand ringgit and in addition to a fine of fifty ringgit a day for every day during which the contravention or failure continues.

(2) Where no other penalty is specifically provided in any regulations made under this Act any person who contravenes the provisions of such regulations shall be guilty of an offence against this Act and shall on conviction be liable to a fine not exceeding five thousand ringgit and in addition to a fine of twenty five ringgit a day for every day during which the contravention continues.

19. Offences by bodies of persons and by servants and agents.

Where an offence against this Act or against any regulations made thereunder has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of such an offence as he ought to have exercised, having regards to the nature of his functions in that capacity and to all the circumstances.

20. Who may prosecute.

Prosecutions in respect of offences committed under this Act or any regulations made thereunder may be conducted by the Director General or by a Geological Survey Officer specially authorized in writing in that behalf by the Director General.

21. Action of officers as offence.

Nothing done in good faith by any officer of any Government in the Federation acting in the course of his duties shall be an offence against this Act or any regulations made thereunder.

22. Regulation.

The Minister may make regulations for the carrying out of the provisions of this Act and for prescribing anything which under this Act is required or permitted to be prescribed.