

# WATER SERVICES INDUSTRY (LICENSING) REGULATIONS 2007

PU(A) 432/2007

In exercise of the powers conferred by section 179 of the **Water Services Industry Act 2006**[Act 655], the Minister makes the following regulations:

**27 DECEMBER 2007**

**JIL. 51,; NO. 26,; 27 DECEMBER 2007,; TAMBAHAN NO. 154 PERUNDANGAN (A)**

## PART I

### PRELIMINARY

#### 1. Citation and commencement

- (1) These regulations may be cited as the **Water Services Industry (Licensing) Regulations 2007**.
- (2) These Regulations come into operation on 1 January 2008.

#### 2. Interpretation

In these Regulations, unless the context otherwise requires:-

"control" means any individual, company, or persons acting in concert:-

- (a) having interests of more than fifty per centum in a private company;
- (b) having interests of more than thirty-three per centum in a public company; or
- (c) empowered to make and implement decisions pertaining to the business or administration of a company;

"interest" means holding voting rights, equity or any other rights in a company or entity;

"persons acting in concert" shall have the meaning assigned to it in the **Securities Commission Act 1993**[Act 498];

"foreign shareholder" means:-

- (a) an individual who is not a Malaysian citizen;
- (b) an individual who is a permanent resident;
- (c) a foreign company as defined in the **Companies Act 1965**[Act 125] or any other foreign entity; or
- (d) a Malaysian entity in which the individual, company or entity specified in paragraph (a), (b) or (c) hold more than fifty per centum of the voting rights;

"substantial shareholding" :-

(a) in relation to an individual licensee is where that person has an interest in one or more voting shares in the individual licensee and the nominal amount of that share, or the aggregate of the nominal amounts of those shares, is not less than five per centum of the aggregate of the nominal amounts of all the voting shares in the individual licensee; or

(b) in relation to an individual licensee with share capital which is divided into two or more classes of shares, is where that person has an interest in one or more voting shares included in one of those classes and the nominal amount of that share, or the aggregate of the nominal amounts of those shares, is not less than five per centum of the aggregate of the nominal amounts of all the voting shares included in that class;

"sewerage services licensee" means a service licensee who holds an individual licence to provide sewerage services;

"principal licensee" means an individual licensee who subcontracts a part of the licensed activities to another individual licensee;

"water treatment licensee" means a service licensee who holds an individual licence to undertake water treatment;

"arm's length" in relation to a transaction, means a transaction between two parties, however closely related they may be, which is:-

(a) conducted as if the parties were strangers so that no conflict of interest arises;

(b) freely arrived at in the open market, unaffected by abnormal pressure or by the absence of normal competitive negotiation; and

(c) made on terms and conditions including the price and requirements which might normally be expected to have been made by independent persons engaged in the same or similar activities.

## **PART II**

### **INDIVIDUAL LICENCE**

#### **3. Eligibility**

The following persons or classes of persons shall be eligible to apply for an individual licence:

(a) a company incorporated in Malaysia; and

(b) such other persons or classes of persons as may be decided by the Minister from time to time.

#### **4. Application for individual licence**

(1) Every application for an individual licence shall be made in Form A as set out in the First Schedule and accompanied by the prescribed application fee as set out in Table A of the Second Schedule.

(2) Any person applying for an individual licence for the provision of a particular facility or service shall submit, wherever applicable, the following information:

(a) the particulars of the applicant;

(b) a description of the facilities or services which will be operated by the applicant and the location of the facilities;

(c) the proposed area in which the services are to be provided;

(d) a thirty year master business plan and the rolling business plan stipulated under section 30 of the Act setting out the applicant's plan for expansion, maintenance, repairs, upgrading, improvement, refurbishment or alteration of the public water supply system or public sewerage system and for construction of a new public water supply system or public sewerage system and the anticipated capital and operational expenditure, proposed financing plan, including the sources of financing, whether domestic or foreign, for undertaking such activities;

(e) the proposed operating and maintenance procedures, including a water or sewerage safety plan and disaster recovery plan;

(f) the proposed standards of performance and key performance indicators to be adopted for water supply services and sewerage services;

(g) any other individual or class licence held by the applicant under the Act, its group of companies and any company which is deemed to be associated with a director of the applicant by virtue of section 122a of the Companies Act 1965;

(h) corporate information, including the particulars of any company referred to in paragraph (g) and particulars disclosing the ultimate beneficial shareholders of the applicant and any company referred to in paragraph (g) which holds an individual or class licence together with information detailing the direct and indirect shareholdings of all their shareholders;

(i) the latest audited accounts, memorandum and articles of association and certified true copies of Forms 24, 44 and 49 under the **Companies Regulations 1966**[*P.U. 173/1966*] of the applicant which have been filed with the Companies Commission of Malaysia; and

(j) such other information or documents as the Commission may require in writing or pursuant to any administrative guidelines issued by the Commission.

(3) In processing the application, the Commission shall have the right to request the applicant to make such submissions as deemed necessary so as to enable the Commission to finalise its recommendation to the Minister.

(4) An application for an individual licence in relation to two or more of the following activities, that is:-

(a) ownership of a public water supply system or any part of the system;

(b) ownership of a public sewerage system or any part of the system;

(c) undertaking, providing or making available any water supply services or part of the services by means of operating a public water supply system; or

(d) undertaking, providing or making available any sewerage services or part of the services by means of operating a public sewerage system, shall be made in separate application forms.

## **5. Matters for consideration by Commission in making recommendation**

The Commission shall, before making the recommendation to the Minister as to whether or not an individual licence should be granted to the applicant, consider amongst other matters, the following:

- (a) whether the applicant is eligible to apply for an individual licence under regulation 3;
- (b) the applicable special licence conditions, including the key performance indicators, which would be applicable to the applicant;
- (c) the ability of the applicant to fulfil its licence conditions, including the key performance indicators, and the obligations under the Act; and
- (d) such other matters as the Minister may deem fit and necessary.

## **6. Grant of individual licence**

An individual licence granted shall be in Form B as set out in the Third Schedule.

## **7. Duration and renewal of individual licence**

- (1) An individual licence granted by the Minister is subject to renewal every three years from the date of grant or subsequent renewal.
- (2) An application for the renewal of an individual licence shall be made in Form A as set out in the First Schedule not later than one year before the end of the three years term referred to in subregulation (1) and shall be accompanied by such information as the Commission may require.
- (3) If an applicant fails to make the application for renewal within the time period stipulated in subregulation (2), the individual licence shall lapse at the end of the said three years period unless the applicant is permitted by the Commission to submit the application for renewal at a later date.

## **8. Application to impose additional conditions, vary or revoke the conditions of an individual licence**

- (1) An individual licensee may apply to the Minister to:-
  - (a) impose any additional conditions on the individual licence; and
  - (b) vary or revoke any conditions to the individual licence.
- (2) An application made under subregulation (1) shall be accompanied by the prescribed fee as set out in Table A of the Second Schedule.
- (3) An application made under subregulation (1) shall be in writing and shall be submitted to the Commission stating the following matters:
  - (a) the proposed dates on which the proposed addition, variation or revocation shall become valid;
  - (b) the details of the proposed addition, variation or revocation and the reasons for such addition, variation or revocation; and
  - (c) any other information as the Commission may require.

(4) The Commission may request the individual licensee to provide within a specified time such further information or other document as the Commission may require.

(5) If any further information or other document required under subregulation (4) are not provided by the individual licensee within the time specified in the request or any extension of time granted by the Commission, the application shall be deemed to be withdrawn and shall not be further proceeded with but it shall not affect the right of the individual licensee to make a fresh application.

(6) The Commission shall within sixty days from receipt of the application under subregulation (1) or the providing of the further information or other documents make a recommendation in writing to the Minister stating:-

(a) whether the application should be approved with or without conditions;

(b) whether the application should not be approved; and

(c) the reasons for its recommendation.

(7) The Minister may, after considering the application under subregulation (1) and the further information or other document provided under subregulation (4) and having due regard to the recommendation of the Commission under subregulation (6):-

(a) approve the application; or

(b) refuse to approve the application.

(8) The decision of the Minister to approve or not to approve the application shall be communicated to the individual licensee by the Commission by written notice as soon as practicable.

(9) The written notice by the Commission under subregulation (8) shall specify:-

(a) in the case where the application is approved, the fact of such approval; and

(b) in the case of a refusal to approve the application, the fact of such refusal and the reason for such refusal.

## **9. Change in particulars of individual licensee**

(1) An individual licensee shall notify the Minister in writing, as soon as possible, of any change in the particulars of the individual licensee and the notification shall be accompanied by the prescribed fee set out in Table A of the Second Schedule.

(2) Upon receipt of the notification under subregulation (1), the Minister shall require the Commission to amend the particulars of the individual licensee in its individual licence.

## **10. Replacement of individual licence**

(1) Where an individual licence is lost or destroyed, an individual licensee shall lodge a report to the Commission in respect of the loss or destruction.

(2) An application for a replacement of an individual licence shall be made in writing to the Commission and shall be accompanied by any information as required by the Commission and the fee prescribed for its replacement as set out in Table A of the Second Schedule.

(3) If the Commission is satisfied that the loss or destruction of an individual licence was not the result of any fraud, the Commission may issue a replacement licence in the same form as the original but with the word "DUPLICATE" endorsed on the licence.

(4) The duplicate individual licence issued under subregulation (3) shall have the same effect as the original individual licence.

#### **11. Application to assign, sub-licence or transfer individual licence**

(1) An individual licensee may apply to the Minister to assign, sub-licence or transfer its individual licence by submitting a written application to the Commission and such application shall be accompanied by:-

(a) the relevant particulars of the proposed assignment, sub-licensing or transfer, including the particulars of the proposed assignee, sub-licensee or transferee and the experience and capability of the proposed assignee, sub-licensee or transferee in undertaking the licensed activities; and

(b) the prescribed fees as set out in Table A of the Second Schedule.

(2) The Commission may, at any time after the receipt of an application under subregulation (1), request the individual licensee to give to the Commission within specified time further information or other document on the application.

(3) If any further information or other document required under subregulation (2) are not provided by the individual licensee within the time specified in the request or any extension of time granted by the Commission, the application shall be deemed to be withdrawn and shall not be further proceeded with, but without affecting the right of the individual licensee to make a fresh application.

(4) The Commission shall within sixty days from:-

(a) the receipt of an application under subregulation (1); or

(b) where the Commission has requested for further information or other document under subregulation (2), the provision of the further information or other document, submit a written recommendation to the Minister as to whether or not the application should be approved.

(5) The Minister may, after considering the application under subregulation (1) and the further information or other document provided under subregulation (2) and having due regard to the recommendation of the Commission under subregulation (4):-

(a) approve the application, with or without conditions; or

(b) refuse the application.

(6) The decision of the Minister to approve or to refuse the application shall be communicated to the individual licensee by the Commission by written notice as soon as practicable.

(7) The written notice by the Commission under subregulation (6) shall specify:-

(a) in the case where the application is approved, the fact of such approval and, where conditions are imposed, the conditions imposed; and

(b) in the case of a refusal, the fact of such refusal and the reason for such refusal.

## **12. Standard conditions applicable to all individual licensee**

(1) An individual licensee shall be subject to the following standard conditions:

(a) the individual licensee shall develop and maintain a comprehensive and detailed register of all assets pertaining to water supply or sewerage services, as applicable, including the appropriate diagrams or plans in such format or containing such information as may be required by the Commission from time to time;

(b) the individual licensee shall contribute to the Water Industry Fund in accordance with the Act and its subsidiary legislation;

(c) the individual licensee shall provide information, in such format and at such intervals, as may be required by the Commission in accordance with the Act and its subsidiary legislation;

(d) the individual licensee shall at all times ensure that all its key management and operations staff, agents and sub-contractors have and maintain the qualifications as may be specified by the Commission from time to time or prescribed under the Act, to work, manage or operate the water supply system or sewerage system;

(e) the individual licensee shall comply with the ring-fencing measures stipulated in regulation 16;

(f) the individual licensee shall comply with the provisions pertaining to sub-contracting of its licensed activities as stipulated in regulation 17;

(g) the individual licensee shall comply with the provisions pertaining to the use of local materials and equipment as stipulated in regulation 19;

(h) the individual licensee shall comply with the relevant environmental laws;

(i) the individual licensee shall notify the Commission of any change in the substantial shareholding of the licensee provided that there is no change in control of the licensee as stipulated in subregulation (2);

(j) the individual licensee shall comply with all relevant laws or rules promulgated under any legislation or guidelines issued by the Government or Government agencies pertaining to the restrictions on foreign shareholding in the individual licensee provided that where the individual licensee is listed in the Malaysian stock exchange, the total percentage of the issued and paid capital of the individual licence held by foreign shareholders shall not exceed twenty-five per centum;

(k) the individual licensee shall not undertake any reconstruction, amalgamation or merger without the prior written approval of the Minister;

(l) the individual licensee shall not transfer, dispose or lease a substantial portion of its business, assets or undertaking without the prior written approval of the Minister unless it is a transfer, disposal or lease of assets to Pengurusan Aset Air Berhad which is wholly owned by the Government;

(m) the tenure of the individual licence of the subcontractor to the principal licensee shall be dependent on:-

(i) the contract between that subcontractor and the principal licensee; and

(ii) the individual licence of the principal licensee being in force;

(n) the individual licensee shall observe and comply with the terms of its licence, the provisions of the Act and any subsidiary legislation made or other instruments issued under the Act;

(o) the individual licensee shall indemnify the Government, the Minister and the Commission against any claims and proceedings brought against the Government, the Minister or the Commission arising from or as a result of any breaches or failings on the part of the individual licensee; and

(p) the individual licensee shall comply with such other conditions as may be decided by the Minister from time to time.

(2) Where there is a change in shareholding in the licensee or its holding companies which results in a change in control of the licensee or its holding companies, the prior written approval of the Minister shall first be obtained.

(3) An application for approval under subregulation (2) shall be submitted to the Commission.

(4) Any application for approval of reconstruction, amalgamation or merger as stipulated in paragraph (k) shall be submitted to the Commission.

(5) For the purposes of paragraph (1), a transfer, disposal or lease is regarded to be a substantial portion of an individual licensee's business, assets or undertaking if:-

(a) at the time of the arrangement or transaction of the transfer, disposal or lease of the business, assets or undertaking or part thereof, the value of the business, assets or undertakings exceeds ten per centum of the individual licensee's net asset value determined by reference to the licensee's audited accounts of the preceding financial year or if the audited accounts of the preceding financial year has yet to be certified, the financial year before that; or

(b) in a series of arrangement or transaction entered into by the individual licensee to transfer, disposal or lease of the business, assets or undertaking or part thereof within a period of eighteen months or such other period as may be decided by the Minister, the aggregated value of the business, assets or undertakings exceeds ten per centum of the individual licensee's net asset value determined by reference to the licensee's audited accounts of the preceding financial year or if the audited accounts of the preceding financial year has yet to be certified, the financial year before that.

### **13. Standard conditions applicable to all water distribution licensees**

(1) In addition to the standard conditions set out in regulation 12, a water distribution licensee shall be subject to the following standard conditions:

(a) the water distribution licensee shall comply with its obligation under the Act to ensure that at the time of supply the quality of water supplied complies with the minimum quality standards specified by the Minister;

(b) the water distribution licensee shall prepare and comply with the consumer code prepared by the licensee in accordance with regulation 18;

(c) the water distribution licensee shall develop and implement, at its own cost, a water conservation program on the maintenance of an efficient and economic water supply system as may be required by the Commission from time to time; and

(d) the water distribution licensee shall, where required by the Minister, bill and collect sewerage services charges for and on behalf of the sewerage services licensee, subject to a mutually agreed fee.

#### **14. Standard conditions applicable to all water treatment licensees**

(1) In addition to the standard conditions set out in regulation 12, a water treatment licensee shall be subject to the following standard conditions:

(a) the water treatment licensee shall, subject to subregulation (2), obtain and shall at all times maintain the requisite approvals from the relevant State Government to abstract water from the watercourse throughout the duration of the licence;

(b) the water treatment licensee is prohibited from carrying out its licensed activity until such time it has obtained the requisite approvals from the relevant State Government to abstract water from the watercourse;

(c) a certified true copy of the requisite approval from the State Government shall be forwarded to the Commission as soon as possible but not later than five working days of receipt of the requisite approvals from the relevant State Government;

(d) the water treatment licensee shall ensure that the water treated and supplied by the water treatment licensee complies with the minimum quality standards specified by the Minister at the time of supply; and

(e) the water treatment licensee shall develop and implement, at its own cost, a water conservation program on the maintenance of an efficient and economic water supply system as may be required by the Commission from time to time.

(2) Where a water treatment licensee who has been granted the requisite approvals from the State Government to abstract water from the watercourse subcontracts its water treatment activities in accordance with regulation 17 to another water treatment licensee, hereinafter is referred to as the "second licensee", the standard condition specified in subregulation (1) to apply and maintain the requisite approvals to abstract water from the watercourse shall not apply to the second licensee.

#### **15. Standard conditions applicable to all sewerage services licensees**

In addition to the standard conditions set out in regulation 12, a sewerage services licensee shall be subject to the following standard conditions:

(a) the sewerage services licensee shall prepare and comply with the consumer code prepared by the licensee in accordance with regulation 18; and

(b) the sewerage services licensee shall develop and implement, at its own cost, a water conservation program as may be required by the Commission from time to time.

#### **16. Individual licensees to comply with ring-fencing measures**

Pursuant to paragraph 12(1)(e), an individual licensee shall, as part of the standard conditions for an individual licence, comply with the following restrictions and prohibitions:

(a) an individual licensee shall only provide the activities permitted under its licence except with the prior written approval of the Commission;

(b) an individual licensee shall be prohibited from holding, directly or indirectly, any shares of any kind in any company, business or undertaking except:-

(i) where an individual licensee holds any shares, directly or indirectly, in any company, business or undertaking as at the date of the coming into operation of these Regulations, the individual licensee shall only be permitted to hold such shares for a period of two years from the date of initial issuance of the individual licence or such other period as may be decided by the Commission up to a maximum of four years; or

(ii) that the Commission may exempt Pengurusan Aset Air Berhad from such prohibition on a case-to-case basis so long as Pengurusan Aset Air Berhad is wholly-owned by the Government;

(c) an individual licensee may only undertake any indebtedness which is on or more favourable than normal commercial terms and for the purposes of its licensed activities;

(d) an individual licensee shall not provide or grant any loans to any person except:-

(i) for staff loans; or

(ii) that the Commission may exempt Pengurusan Aset Air Berhad from such prohibition on a case to case basis so long as Pengurusan Aset Air Berhad is wholly-owned by the Government;

(e) an individual licensee shall not create any mortgage, charge, pledge, lien or other form of security or encumbrance over the assets of the individual licensee whatsoever without the prior written approval of the Commission;

(f) an individual licensee shall only enter into any transactions, arrangements or agreements or undertake any obligations on an arm's length basis and for the purposes of its licensed activities;

(g) an individual licensee shall not transfer, pay, lease, licence or lend any sum, asset, right or benefit to any related company as defined in the Companies Act 1965 other than:-

(i) dividend or distribution out of distributable reserves or a repayment of capital;

(ii) payment for any goods or services provided to the individual licensee on an arm's length basis and for the purposes of its licensed activities;

(iii) repayment of or payment of interest on loans not prohibited under paragraph (c);

(iv) payment of group corporation tax relief calculated on a basis not exceeding the value of the benefit received; or

(v) such other circumstances which may be authorised by the Commission in writing;

(h) an individual licensee shall not:-

(i) provide any guarantee or indemnity for the benefit of any other person; or

(ii) enter into an agreement or arrangement, or incur any commitment incorporating a term or condition whereby the individual's licensee's obligation to pay or repay any debt or other sum arises or is increased or accelerated by reason of a default by any person other than the individual licensee, without the prior written approval of the Commission; and

(i) an individual licensee shall not be listed or apply to be listed in any foreign stock exchange without the prior written approval of the Commission.

## **17. Subcontracting of activities under an individual licence**

(1) Subject to subregulation (2), an individual licensee may subcontract a part of its licensed activities, provided that sixty days prior written notice is given to the Commission.

(2) The Commission may impose such terms and conditions on the subcontracting arrangement as it thinks fit, including the terms of the subcontract and the individual licensee shall ensure that the terms and conditions with respect to the subcontracting arrangement are complied with.

(3) An individual licensee shall at all times be fully responsible for the acts and omissions of its subcontractors and their agents, servants and employees.

## **18. Individual licensees to prepare consumer codes**

(1) An individual licensee, other than a water treatment licensee, shall prepare a consumer code which shall include the following:

(a) model procedures for:-

(i) reasonably meeting consumer requirements;

(ii) the handling of customer complaints and disputes including a mediation process, and procedures for the compensation for customers in case of a breach of the consumer code; and

(iii) the protection of consumer information;

(b) provision of information to consumers regarding services, rates and performance;

(c) service levels and quality of service to be provided to consumers;

(d) the provision of fault repair services; and

(e) customer charging, billing, collection and credit practices.

(2) The consumer code shall be submitted by the individual licensee to the Commission for its approval within twelve months from the date of the initial issuance of the licence unless a longer period is allowed by the Commission upon the written request of the individual licensee.

(3) The Commission may require that the consumer code be modified from time to time and resubmitted to the Commission for approval.

(4) The individual licensee shall comply with the consumer code approved by the Commission.

(5) Where the Commission issues a consumer standard, the individual licensee shall comply with the consumer standard but the individual licensee may adopt a consumer code which is of a higher standard and requirement than the consumer standard.

## **19. Use of local equipment and materials**

(1) An individual licensee shall, comply with all relevant laws, rules or guidelines issued from time to time by the Government or Government agencies and the Commission pertaining to the use of local equipment and materials.

(2) The individual licensee shall, upon written request by the Commission, provide such information or documentation as may be required by the Commission, to satisfy the Commission that the individual licensee has complied with its obligations under subregulation (1).

## **20. Special licence conditions**

The special conditions to be imposed by the Minister on an individual licence in respect of the following matters:

- (a) the scope of the individual licence;
- (b) the water supply distribution area or sewerage services area, where applicable;
- (c) the key performance indicators applicable to the applicant; and
- (d) such other matters which the Minister deems necessary.

## **PART III**

### **CLASS LICENSE**

## **21. Eligibility**

The following persons or classes of persons shall be eligible to apply for a class licence:

- (a) a company incorporated in Malaysia;
- (b) individuals who are citizens or permanent residents;
- (c) statutory bodies established under the laws of Malaysia; and
- (d) such other persons or classes of persons as may be decided by the Minister from time to time.

## **22. Grant of class licence**

A class licence granted shall be in Form C as set out in the Fourth Schedule.

## **23. Registration notice of class licence**

(1) A person submitting a registration notice under section 25 of the Act shall do so by submitting two copies of Form D as set out in the Fifth Schedule.

(2) The registration notice shall be accompanied by:-

- (a) the particulars of the applicant;
- (b) a description of the facilities or services which will be operated by the applicant and the location of the facilities;
- (c) evidence that the private water supply system or private sewerage system to be operated complies with the specifications and requirements stipulated in the Act or its subsidiary legislation or is approved by the Commission;

(d) evidence that the applicant possesses the necessary qualifications as may be specified by the Commission from time to time, to operate the private water supply system or private sewerage system;

(e) evidence that the applicant has applied for or has obtained the necessary approvals from the relevant State Government to abstract water from the watercourse; and

(f) such other information or documents as the Commission may require.

(3) The Commission shall endorse the registration notice if the requirements in subregulation (2) has been fulfilled and shall deliver the registration notice to the class licensee as soon as practicable.

(4) The endorsed registration notice shall be evidence of registration by the Commission.

(5) The registration under this regulation shall be valid for three calendar years.

#### **24. Change in particulars of the registration notice**

(1) Subject to subregulation (3), a class licensee shall notify the Commission in writing, as soon as possible, of any change in the particulars of the class licensee lodged with the registration notice and it shall be accompanied by the prescribed fee as set out in the Second Schedule.

(2) Upon the notification referred to in subregulation (1), the Commission may amend the particulars of the class licensee in the registration notice.

(3) Where the change in particulars relate to the location of the private water system or private sewerage system or where there is any change to the private water system or private sewerage system, a new registration notice is required.

#### **25. Standard conditions applicable to all class licensees**

(1) All class licensees shall be subject to the following standard conditions:

(a) the private water supply system or private sewerage system owned or maintained by the class licensee shall be at the location stipulated in the registration notice;

(b) the class licensee shall supply water or provide sewerage services only at the location specified in the registration notice;

(c) the private water supply system or private sewerage system operated or to be operated by the class licensee shall comply with the technical specifications and requirements under the Act or its subsidiary legislation or as approved by the Commission;

(d) the private water supply system or private sewerage system shall at all times be maintained in good and proper working condition;

(e) the private water supply system or private sewerage system shall at all times be maintained and operated by persons having the necessary qualifications as may be specified by the Commission from time to time;

(f) the class licensee shall comply with the relevant environmental laws;

(g) the class licensee shall provide information, in such format and at such intervals, as may be required by the Commission in accordance with the Act and its subsidiary legislation;

(h) the class licensee shall observe and comply with the conditions of the class licence, provisions of the Act and any subsidiary legislation made or other instruments issued under the Act;

(i) the class licensee shall indemnify the Government, the Minister and the Commission against any claims and proceedings brought against the Government, the Minister or the Commission arising from or as a result of any breaches or failings on the part of the licensee; and

(j) the class licensee shall comply with such other conditions as may be decided by the Minister from time to time.

(2) In addition to the standard conditions set out in subregulation (1), where a class licensee is authorised under the class licence to supply water for private use and consumption, the class licensee shall also comply with the following conditions:

(a) the class licensee shall ensure that the water supplied complies with the minimum quality standards specified by the Minister;

(b) the class licensee shall obtain and shall at all times maintain the requisite approvals from the relevant State Government to abstract water from the watercourse throughout the duration of the class licence;

(c) the class licensee is prohibited from carrying out its licensed activity under its class licence until such time it has obtained the requisite approvals from the relevant State Government to abstract water from the watercourse; and

(d) certified true copy of the requisite approvals from the State Government shall be forwarded to the Commission as soon as possible but not later than five working days of receipt of the requisite approvals from the relevant State Government.

## **PART IV**

### **FEES**

#### **26. Fees**

(1) The fees to be paid in respect of an individual licence shall be as prescribed in Tables A and B of the Second Schedule.

(2) The fees to be paid in respect of a class licence shall be as prescribed in Table C of the Second Schedule.

(3) The fees referred to in subregulations (1) and (2) shall be paid to the Commission by such means and in such manner as the Commission may decide from time to time.

#### **27. Individual licence fees**

(1) A person who wishes to operate under an individual licence is subject to the following fees:

(a) application fees;

(b) annual individual licence fees; and

(c) processing fees for renewal.

(2) The annual individual licence fee for each individual licence held shall be paid in the following manner:

(a) on the first anniversary of the licence and annually thereafter, the annual individual licence fee shall be based on the audited accounts of the individual licence; or

(b) if the audited accounts have not been finalized on or before the first anniversary or subsequent anniversaries, the annual individual licence fees shall first be based on the unaudited accounts of the individual licensee provided that within six months after the first anniversary or subsequent anniversary, an adjustment shall be made to the annual individual licence fees based on the audited accounts of the individual licensee.

(3) A renewal fee shall be payable upon approval of the application for renewal of each individual licence.

### **28. Class licence fees**

(1) A person who wishes to operate under a class licence is subject to the following fees:

(a) registration fee; and

(b) such other fees as may be relevant and as set out in the Second Schedule.

(2) The registration fee shall be payable by the person to the Commission upon the registration of that person as a class licensee.

### **29. Certified true copy of a licence**

(1) A licensee may apply to the Commission in writing to obtain a certified true copy of his individual licence or registration notice of his class licence.

(2) An authorisation holder may apply to the Commission in writing to obtain a certified true copy of his authorisation.

(3) Upon payment of the prescribed fee as set out in Table A of the Second Schedule, the Commission shall provide a certified true copy of the relevant individual licence to the individual licensee.

(4) Upon payment of a prescribed fee as set out in Table C of the Second Schedule, the Commission shall provide a certified true copy of a registration notice to a class licensee.

## **PART V**

### **GENERAL**

### **30. Extension of time**

Notwithstanding anything contained in these Regulations or in any request by the Commission, where a time period is specified under these Regulations or in any request by the Commission for an act to be done or a condition to be fulfilled, the person affected may request for an extension of such time in writing and the Minister or the Commission, as the case may be, may grant such extension of time as he or it deems fit.

### **31. Revocation**

The Sewerage Services (Licensing) Regulations 1994[P.U. (A) 114/1994] are revoked.

**FIRST SCHEDULE**

**(Subregulation 4(1), 7(2))**

**FORM A**

**WATER SERVICES INDUSTRY ACT 2006**

**WATER SERVICES INDUSTRY (LICENING) REGULATIONS 2007**

**APPLICATION FOR INDIVIDUAL LICENCE/APPLICATION FOR RENEWAL OF INDIVIDUAL LICENCE**

Tick (a) where applicable

- 1. Application for\*
  - (a) facilities licence
    - (i) public water supply system
    - (ii) public sewerage system
  - (b) service licence
    - (i) water distribution and water treatment water distribution; or water treatment
    - (ii) sewerage services
- 2. Type of application
  - (a) New application
  - (b) Renewal

3. Does the applicant currently hold an approval from the watercourse?  
 Yes  No  
If yes, please provide particulars and a copy of the approval from the State Government

.....

If no, has the applicant made such an application  
.....

Yes  No

If yes, please provide particulars.

**A. PARTICULARS OF APPLICANT**

- 1. Name of Applicant and Company No.: .....
- 2. Registered Address: .....
- Telephone No.: .....

Fax No.: .....

E-mail address: .....

3. Principal Place of Business: .....

Telephone No.: .....

Fax No.: .....

E-mail address: .....

4. Particulars of shareholding of the applicant\*

Name	NRIC No./ Passport No./ Company No.	Address	Number and % of shares held	
			Direct	Indirect

\* Please indicate ultimate beneficial shareholder and also indicate foreign shareholders and local shareholders

Has the applicant complied with the Foreign to foreign shareholding? Please provide

5. Description of the facilities or services to be operated or provided and location of the facilities:

.....

6. Proposed area in which the service is to be provided:

.....

**B INFORMATION**

1. Particulars of two persons namely two directors or a director and the company secretary of the applicant who may be contacted for further information:

.....

Name	Position	Telephone No.	Address

2. All other information required under subregulation 4(2) of the Water Services Industry (Licensing) Regulations 2007 including but not limited to the master business plan, rolling business plan stipulated in section 30 of the Act, proposed operating and maintenance procedures, proposed standards of performance and key performance indicators are enclosed as appendixes to this application.

3. Any additional information considered relevant to this application:

We,....., the applicant declare and confirm in accordance

with the provisions of the Statutory Declaration Act 1960 the following:

(a) we have complied with section 192 of the Water Services Industry Act 2006;

(b) to the best of our knowledge, no receiver or receiver and manager has been appointed in respect of our business, assets or undertaking;

(c) we have not entered into a compromise or arrangement with creditors and not intending, at the time of this application, to enter into a compromise or arrangement with creditors;

(d) to the best of our knowledge, there is no winding up petition presented in court and no winding up petition is to be presented in court; and

(e) we are eligible to apply for an individual licence under the Act and all information given in this application and in the attached appendixes are true and accurate.

Date: .....

Signed by: .....

for and on behalf of .....

Note:

If the space provided is insufficient to provide the particulars, please attach appendixes. Any appendix should be initialed by the signatory to this application.

## SECOND SCHEDULE

(regulation 2, subregulation 8(2), subregulations 9(1), 10(2), paragraph 11(1)(b), regulations 26 and 28 and subregulation 29(3) and (4))

### TABLE A

#### INDIVIDUAL LICENCE FEES

Types of fees	Fees (RM)
Application fee	10,000
Processing fee for renewal of an individual licence	10,000
Application for certified true copy of an individual licence	50
Fee for change in particulars of an individual licence	100

Application to impose additional conditions, vary or revoke the conditions of an individual licence	1,000
Application for assignment, sub-licence or transfer of an individual licence	5,000
Fee for replacement of an individual licence	1,000
Fee for making of copy of, or taking extracts from, the register	50

**TABLE B**

**ANNUAL INDIVIDUAL LICENCE FEES**

<b>Type</b>	<b>Nature</b>	<b>Annual Individual Licence Fee</b>
Facilities Licence only		1% of the gross turnover of the preceding financial year.
Service Licence only	Water Distribution only Water Treatment only Sewerage Services only Water Treatment and Distribution Water Treatment, Distribution and Sewerage Services Water Distribution and Sewerage Services	1% of the gross turnover of the preceding financial year.
Facilities Licence and Service Licence held by the same legal entity		1% of the gross turnover of the preceding financial year.

**TABLE C**

**CLASS LICENCE FEES**

<b>Types of fees</b>	<b>Fees (RM)</b>
Registration fee	500
Application for certified true copy of a class licence registration notice	50
Application for certified true copy of a class licence	50

Fee for change in particulars in the registration of class licence	50
Fee for making of copy of, or taking extracts from the register	50

**THIRD SCHEDULE**

**(regulation 6)**

**FORM B**

**WATER SERVICES INDUSTRY ACT 2006**

**WATER SERVICES INDUSTRY (LICENSING) REGULATIONS 2007**

**INDIVIDUAL LICENCE**

ORIGINAL

Serial No.:

Licence No.:

PURSUANT TO SECTION 9 OF THE WATER SERVICES INDUSTRY ACT 2006

1. A licence is granted to

.....

to

.....

own a public water supply system or any part of the system\*

own a public sewerage system or any part of the system\*

to undertake, provide or make available water supply services\*

to undertake the treatment of water only\*

to undertake the distribution of water only\*

to provide sewerage services\*

2. The Licence shall be effective from .....until .....

unless renewed in accordance with section 17 of the Act and regulation 7 of the Water Services Industry (Licensing) Regulations 2007.

3. The Licence shall be subject to the following conditions:

The following standard licence conditions:

The following special conditions:

Dated:.....

.....

Minister of Energy, Water and Communications

\* Delete whichever is not applicable

**FOURTH SCHEDULE**

**(regulation 22)**

**FORM C**

**WATER SERVICES INDUSTRY ACT 2006**

**WATER SERVICES INDUSTRY (LICENSING) REGULATIONS 2007**

**CLASS LICENCE**

**ORIGINAL**

Serial No.:

Licence No.:

PURSUANT TO SECTION 20 OF THE WATER SERVICES INDUSTRY ACT 2006

A licence is granted in respect of:

The ownership of a private water supply system or any part of the system\*

The ownership of a private sewerage system or any part of the system\*

The undertaking of, providing of or making available any water supply services or part thereof by means of a private water supply system\*

The undertaking of, providing of or making available any sewerage services or part thereof by means of a private sewerage system\*

.....

with effect from

subject to the following standard conditions and such other conditions as may be imposed by the minister from time to time:

Dated:

.....

Minister of Energy, Water and Communications

\* Delete whichever is not applicable

**FIFTH SCHEDULE**

**(subregulation 23(1))**

**FORM D**

**WATER SERVICES INDUSTRY ACT 2006**

**WATER SERVICES INDUSTRY (LICENSING) REGULATIONS 2007**

**REGISTRATION NOTICE FOR CLASS LICENCE**

ORIGINAL

Serial No.:

Class Licence No.

(a) facilities licence

(i) private water supply system

(ii) private sewerage system

(b) service licence

(i) water distribution and water treatment

(ii) sewerage services



Tick (a) where Applicable

2. (a) Name of applicant

(b) Legal status of Applicant:

Company

Individual

Statutory bodies

Others\*

\* Please specify and provide particulars in

(c) Address

Telephone No.:

Fax No.:

E-mail address:

3. Detailed description of the facilities/services to be owned/provided or operated by the applicant and location of the facilities.

4. Location of the facilities/services to be owned/provided or operated by the applicant.

5. Evidence that:

(a) the facilities to be operated complies with the specifications and requirements stipulated in the Act or its subsidiary legislation or is approved by the Commission;

(b) the applicant possesses the necessary qualification as specified by the Commission to operate the facilities or to provide the services; and

(c) the applicant has obtained or applied for the requisite approvals from the State Government to abstract water from the watercourse,

is to be appended.

6. I/We, ..... the applicant, declare and confirm in accordance with the Statutory Declarations Act 1960 that all the information given in this application in the attached appendixes are true and accurate.

Date:

Signed by: .....)

for and on behalf of .....)

Note:

If the space provided is insufficient to provide the particulars, please attach appendixes. Any appendix should be initialed by the signatory to this application.