



LAWS OF SARAWAK

REPRINT

Chapter 4

SARAWAK RIVERS ORDINANCE, 1993

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SARAWAK RIVERS ORDINANCE, 1993

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LAWS OF SARAWAK**Chapter 4****SARAWAK RIVERS ORDINANCE, 1993**

An Ordinance to provide for the control and regulation of traffic by water in ports and harbours or on rivers wholly within Sarawak and in the foreshores and for matters connected therewith and incidental thereto.

[*1st October, 1993]

*(Swk. L.N. 121/93)

Enacted by the Legislature of Sarawak—

PART I
PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the Sarawak Rivers Ordinance, 1993, and shall come into force on such date as the Minister may, by notification in the **Gazette*, appoint.

Interpretation

2—(1) In this Ordinance—

“antiquity” shall have the same meaning as assigned to it in the Sarawak Cultural Heritage Ordinance, 1993 [*Cap. 6*];

[*Ins. Cap. A105.*]

“barrage” means any barrier or structure erected on a river to regulate the flow or volume of water in the river or for the purposes of controlling fluvial or tidal waters, and includes shiplocks and other integral facilities;

[*Ins. Cap. A46*]

“Board” means the Sarawak Rivers Board established under section 3;

“Controller” means the Controller of Rivers appointed under section 10, and includes any officer discharging the duty of the Controller;

“goods” includes goods or burden of any description;

“master” includes every person (except a pilot) having command or charge of a vessel;

“Minister” means the Minister for the time being charged with the responsibility for rivers;

“passenger” includes any person carried in a vessel other than the master or crew;

“permit” means a permit issued under section 15;

“pollutant” means crude oil, diesel oil, fuel oil, lubrication oil or any substance whether liquid, solid or gaseous which is hazardous or potentially hazardous to public health, or to fish or aquatic life, or to plants, and includes minerals or radioactive chemicals or properties;

“port” means the navigable waters of a port specified in the First Schedule to the Merchant Shipping (Ports and Rivers) Regulations, 1961 [*G.N.S. 43/1961*];

“river” means any port, river, channel or foreshore declared to be a river under section 11;

“riverine traffic fee” means the fee approved by the Majlis Mesyuarat Kerajaan Negeri to be imposed by the Board under section 12(2)(k);

[Ins. Cap. A127.]

“Riverine Transport Officer” includes the Controller and any officer appointed under section 10;

“shiplock” means a facility which is part of a barrage provided to raise or lower water levels in the barrage for the passage of vessels;

[Ins. Cap. A46.]

“vessel” means and includes any ship, boat or canoe, or other description of vessel used in navigation, however propelled;

“wreck” includes any abandoned or discarded vessel, jetsam and floatsam found in rivers.

[Ins. Cap. A80.]

(2) In this Ordinance, a reference to the Yang di-Pertua Negeri shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a member thereof acting under the general authority of the Majlis.

PART II SARAWAK RIVERS BOARD

Establishment and composition of Sarawak Rivers Board

3.—(1) There shall be established a Sarawak Rivers Board which shall consist of—

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) the State Attorney-General or his nominee;
- (d) the State Financial Secretary or his nominee;
- (e) the Commissioner of Police or his nominee;
- (f) the Director of Marine or his nominee; and

(g) not more than nine and not less than five other members to be appointed in the manner specified in subsection (3).

[Am. Cap. A80; Am. Cap. A127.]

(2) The Chairman may appoint a suitable person to be Secretary to the Board.

(3) The Chairman, a Deputy Chairman and the members of the Board referred to in paragraphs (a), (b) and (g) of subsection (1) shall be appointed by the Majlis Mesyuarat Kerajaan Negeri and shall hold office for such period, receive such remuneration and allowances and be subject to such conditions as may be determined by the Majlis Mesyuarat Kerajaan Negeri.

[Ins. Cap. A80.]

(4) The Board shall for the purposes of the Land Code [*Cap. 81 (1958 Ed.)*] be deemed to be a Native of Sarawak.

(5) The Board shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name, and is capable of entering into contracts, taking, acquiring, holding, selling or disposing of movable or immovable properties for the purpose of this Ordinance and may do and suffer all acts or things which a body corporate may by law do and suffer or which are necessary or convenient for the purposes of this Ordinance.

[Ins. Cap. A46.]

(6) All courts or tribunals shall take judicial notice of the common seal of the Board affixed to a document and, until the contrary is proved, it must be presumed that the seal has been duly affixed with the authority of the Board.

[Ins. Cap. A46.]

(7) The common seal of the Board shall be kept in the custody of the Secretary and must not be used except as duly authorized by the Board.

[Ins. Cap. A46.]

Quorum and proceedings of the Board

4 —(1) Five members of the Board shall constitute a quorum.

(2) All acts, matters and things authorized and required to be done by the Board shall be decided by resolution.

(3) The Chairman shall preside at all meetings of the Board at which he is present, and, in case of his temporary absence, the members present and constituting a quorum shall elect a Chairman from among their number.

(4) The Chairman or person elected to chair a meeting pursuant to subsection (3) shall, in addition to his deliberative vote as a member of the Board, have a casting vote.

(5) The procedure of the Board shall be as determined by the Board.

Functions of the Board

5. The functions of the Board shall be—

(a) to plan and make recommendations to the Government for the development and improvement of the riverine transport system wholly within the State;

(b) to control and regulate traffic by water in ports and harbours or on rivers and in the foreshores within the limits of Sarawak;

(c) to take all lawful, necessary and reasonable practicable measures to keep the river or port clean and free from filth, rubbish or refuse;

(d) to take all appropriate measures to prevent or reduce the rate of erosion of the banks of rivers and for the protection and restoration thereof;

(e) to examine, study and determine the utility and practicability of improving the navigability of all rivers as against the encroachment of debris and other refuse from industrial factories operating along the rivers;

(f) to provide buoys, moorings and lights including other aids to navigation to regulate, and for the safety of, riverine traffic;

[Am. Cap. A127.]

- (g) to provide facilities such as wharves, jetties or other passenger landing terminals, and the maintenance thereof;
- (h) to prevent the obstruction of any river or watercourse;
- (i) to make recommendations for the safety of vessels plying in the river and the prevention of collisions;
- (j) to operate and maintain any barrage or shiplock and to control and regulate the passage of vessels through such barrage or shiplock;
- (k) to manage and maintain any wharf, jetty or passenger landing terminal, on behalf of the Government, or any other person, body corporate or authority, upon such terms and conditions as may be agreed between the Board and the owner of such wharf, jetty or passenger landing terminal; and
- (l) to carry out such other duties as the Majlis Mesyuarat Kerajaan Negeri may require.

[Am. Cap. A46; Am. Cap. A80.]

Board to give notice to interested parties

6 When any matter arises for the determination of the Board, all persons having an interest in such matter shall, where reasonable, be notified in writing or in such other manner as the Board may direct of the questions at issue and given facilities for making thereon such representations, in person or by writing, as they may see fit. Representations may be made either to the Board or to such officer of the Government as the Board may appoint to receive representations on its behalf.

Board may summon witnesses

7.—(1) For the determination of any subject under consideration, the Board shall have the powers which a Court of a Magistrate of the First Class has to summon witnesses, to cause oaths and affirmations to be administered to them and to call for the production of documents.

(2) A summons for the attendance of a witness or for the production of any book, document or record before the Board shall be signed and issued by the Chairman of the Board, and shall be served in the same manner as a summons for the attendance of a witness at a criminal trial.

(3) Any person summoned to give evidence or to produce any book, document or record, or giving evidence before the Board, shall be entitled to the same privileges and immunities as if he were summoned to attend to give or were giving evidence at a trial in a Court of a Magistrate of the First Class and may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(4) Any person who fails without reasonable excuse to attend in obedience to such summons, or, subject to the provisions of subsection (3), fails to answer fully to the best of his knowledge any question relevant to the matter under investigation, or when required fails to produce any book, document or record as aforesaid, shall be guilty of an offence: Penalty, imprisonment for three months and a fine of five hundred ringgit.

Director of Marine to co-operate

8 The Director of Marine shall

(a) generally cooperate with and assist the Board in carrying out the provisions of this Ordinance; and

(b) formulate for submission to the Board his recommendations for the improvement in the control of traffic by water on rivers in Sarawak.

Direction of the Minister

9 The Minister may issue directives not inconsistent with the provisions of this Ordinance to the Board regarding the policy to be pursued by the Board and any such directive shall become binding on the Board which shall forthwith take all steps necessary or expedient to give effect thereto.

Appointment of Controller of Rivers and other officers

- 10.** —(1) The Board may, with the approval of the Minister,—
- (a) employ and appoint—
 - (i) a chief executive officer to be known as the Controller of Rivers; and
 - (ii) one or more Riverine Transport Officers and such other officers and employees as it considers expedient for the performance of its functions under this Ordinance; and
 - (b) pay to any person in its employment such salary, wages or other remuneration as it may deem fit and may grant to any such person such leave as it may deem fit, and may for the benefit of its officers and employees make standing orders for the following matters:
 - (i) the terms and conditions of service of its officers and employees;
 - (ii) the provision of pensions, provident fund, or other superannuation benefits for its officers and employees;
 - (iii) the provision to make and to guarantee loans to any officer or employee of the Board for the purchase of a house or for any other purposes the Board may specify;
 - (iv) the conduct and management of its activities.
- [Am. Cap. A46.]*
- (2) The Controller shall be the chief executive officer of the Board and shall be responsible for the day to day administration and management of the affairs of the Board and shall, subject to such limitations as the Board may specify, perform all duties imposed and exercise all powers conferred on the Board by this Ordinance.

(3) The Controller shall be responsible for the preparation and execution of programmes, schemes or projects, for the carrying out of the decisions of the Board, for the issue of policy guidance or of elucidation of decisions of the Board and for the supervision and control over the implementation of such decisions, and may participate without the right to vote in any meeting of the Board.

(4) A Senior Riverine Transport Officer shall be the supervisor for such area as may be designated by the Controller and shall act under the direction of the Controller. Each such officer shall have personal charge and supervision under the Controller, and shall direct the officers, patrol boats and other means under his command to detect and bring to punishment offenders against the provisions of this Ordinance and regulations made thereunder.

(5) All members of the Board, officers and employees of the Board shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

(6) The Board may employ and pay agents and technical advisers including advocates and solicitors, bankers, stock-brokers, surveyors, valuers or other persons, to transact any business or to do any act required to be transacted or done in the execution of its duties or for the better carrying into effect of the purposes of this Ordinance.

(7) No member of the Board, Riverine Transport Officer or any other person whomsoever acting under the direction of the Board shall be personally liable for any act or default done or omitted to be done in good faith and without negligence in the course of his duty for purposes of carrying out the provisions of this Ordinance or regulations made thereunder.

(8) If any person is dissatisfied with any decision or order of the Controller or any duly authorized Riverine Transport Officer made or given by virtue of subsection (2), (3) or (4), he may appeal from such decision or order to the Board within fourteen days of the date of such decision or order being communicated to him.

(9) If any person is dissatisfied with any decision or order made or given by the Board under this Ordinance, he may appeal from such decision or order to the Minister within fourteen days of the date of such decision or order being communicated to him. The decision of the Minister shall be final.

PART III POWERS AND DUTIES OF THE BOARD

Declaration of rivers

11.—(1) The Minister may, by notification in the *Gazette*, declare any port, river, channel or fore shore to be a river within the meaning of this Ordinance to the extent to which such port, river, channel or foreshore is within the limits of Sarawak.

(2) When any port, river, channel or foreshore has been declared to be a river within the meaning of this Ordinance, all the provisions of this Ordinance and regulations made thereunder shall have effect in such port, river, channel or foreshore.

Powers and duties of the Board

12.—(1) Notwithstanding anything to the contrary contained in any written law, the Board shall, within the limits of any river as may be declared under section 11, be responsible for the discharge and provision of the following duties and services:

(a) the provision of buoys, moorings and lights including other aids to navigation to regulate, and for the safety of, riverine traffic;

(b) to collect, remove and dispose of or otherwise to deal with any object, wreck, refuse, pollutant, tree, timber, log, weed, long grass or any other things or materials in the rivers;

(*bb*) to take such measures as may be considered necessary or expedient to promote and to ensure safety of riverine traffic;

(c) to remove any dead wood, dilapidated fence, logs or other material left on the banks or abutting upon such river;

- (d) to take measures to prevent such rubbish or refuse from accumulating in or flowing into such river;
- (e) to provide facilities such as wharves, jetties or other passenger landing terminals, and the maintenance thereof;
- (f) to provide pilotage services;
- (g) to regulate, control and guide any vessel through any barrage or shiplock; and
- (h) to maintain, manage and operate on behalf of the Government, or any other person, body corporate or authority, any wharf, jetty or passenger landing terminal.

[Am. Cap. A46; Am. Cap. A80; Am. Cap. A127.]

(2) The Board shall, subject to such regulations as may be prescribed under section 38, have power—

- (a) to plan for the improvement of the riverine traffic system;
- (b) to define and establish anchorage grounds for vessels in a port or river wherever it is manifest to the Board that the commercial interest require such anchorage grounds for safe navigation;
- (c) to control the transportation of goods and passengers by means of vessels;
- (d) to control the operators of commercial vessels;
- (e) to require the owner or occupier of any land abutting on a river—
 - (i) to remove, lower or trim, to the satisfaction of the Board, any tree, shrub or hedge on the river bank or overhanging or interfering in any way with the traffic on the river; and

- (ii) to undertake or adopt such measures as the Board may deem necessary for the protection of the course and banks of any river and for controlling the discharge or deposit of any refuse into the river;
- (f) to make, divert, straighten, define and control the course of any river or watercourse after giving notice and making compensation to any owner or occupier of land abutting on such river or watercourse;
- (g) to prevent the obstruction of any river or watercourse;
- (h) to control, co-ordinate or supervise the management of the services provided by the Board under subsection (1);
- (i) to prohibit any private sewer or public drain from discharging rubbish or refuse, pollutant or any other material into the river or watercourse so as to affect or to cause a condition which is hazardous to public health, or to fish or aquatic life, or to plants;
- (j) to carry out investigations in connection with accidents involving loss of life or any serious injury to any person or affecting the loss of or serious damage to a vessel;
- (k) with the approval of the Majlis Mesyuarat Kerajaan Negeri, to impose a riverine traffic fee of an amount fixed by the Board, on any vessel entering, navigating through or using any of the rivers declared under section 11 or which calls at any port on the foreshores of Sarawak, and to apply the money so collected:
 - (i) to provide for and maintain buoys, moorings and lights which the Board may provide under section 12(1)(a);
 - (ii) to remove and dispose of wrecks found in the rivers and foreshores; and
 - (iii) for such other purpose as the Majlis Mesyuarat Kerajaan Negeri shall approve;

(l) to go aboard any vessel and make such inspection, examination, investigation, survey or all other acts as may be necessary for enforcing or carrying out the provisions of this Ordinance; and

(m) to do anything which in the Board's opinion is calculated to facilitate the proper discharge of its functions or is incidental or conducive thereto.

[Am. Cap. A127.]

(3) Any person who in anyway obstructs or hinders any Riverine Transport Officer or any person authorized in writing in that behalf by the Board in the course of his duty or in the execution of any services under this section shall be guilty of an offence: Penalty, imprisonment for six months and a fine of two thousand ringgit.

(4) In addition to any other powers conferred by this Ordinance, the Board shall have the power to do all or any of the following things:

(a) subject to the approval of the Minister, to enter into any contract with such person or party for the provision of any services or the discharge of any duties which the Board is required under this Ordinance to provide or discharge;

(b) subject to the approval of the Minister, to form, incorporate, establish or maintain a company or to acquire, hold or having registered in its name shares in any company;

(c) subject to the approval of the Minister, to enter into joint venture or arrangement with any company, person or party to undertake or carry out any of the functions or duties imposed on the Board by this Ordinance;

(d) to acquire, purchase, hold or secure any property, both movable or immovable or any interest in property vested in the Board, or to dispose of, sell or transfer any such property; and

(e) to lease, rent or hire any property, both movable or immovable, or any interest in property, upon such terms and conditions to be approved by the State Financial Authority.

[Am. Cap. A46.]

(5) (a) For the purposes of enabling the Board to discharge its duties and functions, the Majlis Mesyuarat Kerajaan Negeri may, by Order signified in the *Gazette*, vest in the Board any wharf, jetty or passenger landing terminal, barrage, shiplock or facility in any river, upon such conditions and restrictions, if any, as specified therein.

(b) As from the date of such vesting, the Board shall have the general control, care and maintenance of the wharf, jetty and passenger landing terminal, barrage, shiplock or facility.

[Ins. Cap. A46.]

Antiquity and treasure trove

12A.—(1) Any antiquity and treasure trove found on the bed or beneath any river or foreshore, shall be the property of the Government.

(2) (a) Any person who discovers any object which he has reason to believe is an antiquity or a treasure trove in or beneath any river or foreshore of the State shall immediately notify the Controller in writing.

(b) Upon receipt of such notification, the Controller shall inform the Director of Sarawak Museum and the antiquity and treasure trove shall be dealt with in accordance with Part II of the Sarawak Cultural Heritage Ordinance, 1993 [*Cap. 6*].

Permit to explore, excavate, etc., antiquity or treasure trove

12B.—(1) Notwithstanding the provisions of any other written law, no person shall undertake to explore for, dig, excavate, salvage or remove any antiquity or treasure trove from any river or the foreshores without a valid permit, in the prescribed form, issued by the Controller.

(2) A permit issued under this section may be granted for such period and subject to such terms and conditions as the Controller may approve.

Offence

12C. Any person who contravenes the provisions of section 12A(2)(a) or 12B(1) shall be guilty of an offence and shall be punishable upon conviction with a fine not exceeding ten thousand ringgit or a term of imprisonment not exceeding two years or both.

[Ins. Cap. A105.]

Payment of riverine traffic fee

12D.—(1) The owner, agent or master of every vessel, not exempted under section 35(2)(b) or (3), which enters, navigates through or uses any river declared under section 11 or who puts such vessel into any port on the foreshores of Sarawak, shall pay to the Board, the riverine traffic fee fixed under section 12(2)(k), in such manner as may be prescribed by the Board.

(2) A receipt for payment of the riverine traffic fee shall be given by the person authorized by the Board to collect the same (in this section referred to as “the authorized collector”) to every person paying the riverine traffic fee.

(3) (a) In order to ascertain the burden of any vessel liable under this section to pay the riverine traffic fee, the authorized collector may require the owner or master of the vessel to produce the register or certificate of registration of the vessel for his inspection; and on the refusal or neglect of such owner or master to produce such register or certificate or to satisfy the authorized collector as to what is the true burden on the vessel, he may cause the vessel to be measured; and any costs or expense so incurred shall be recoverable from the owner or master of such vessel in the same manner as the riverine traffic fee payable under this section.

(b) Such measurement shall, in the case of a foreign registered vessel, be subject to such provisions relating to cargo space as may be prescribed, be deemed to be the real burden of the vessel and may be treated as such for all purposes of this section.

(4) The Master of any vessel who—

(a) departs or attempts to depart from any wharf or port within any river or on the foreshores of Sarawak without payment of the riverine traffic fee or any part thereof;

(b) fails or refuses to produce to an authorized collector the register of certificate of registration of his vessel as required under subsection (3)(a); or

(c) refuses to have his vessel measured to ascertain her burden in tons,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment not exceeding nine months or to both.

(5) The Controller may, in any case where the riverine traffic fee or any part thereof, is not paid,—

(a) apply, in accordance with relevant rules of the Rules of the High Court 1980 [*P.U.(A)50/80*], to that Court, for a warrant of arrest against the vessel or her sister vessel; or

(b) levy distress against any cargo, equipment or things on board the vessel, and if the outstanding fees are not paid within seven days ensuing distress, cause the cargo, equipment and things to be appraised and auctioned in accordance with rules made under section 38, and the proceeds of sale be applied towards settlement of reasonable expenses incurred in the sale or auction of the said goods, equipment or things, then to settle the outstanding riverine traffic fee and the surplus to be paid, on demand, to the owner, master or agent of the vessel.

[Ins. Cap. A127.]

Power of Riverine Transport Officer in investigation

13—(1) Every Riverine Transport Officer acting under the direction of the Controller making an investigation under this Ordinance shall have the power to require information, whether orally or in writing, from any person supposed to be acquainted with the facts and circumstances of the case under investigation.

(2) Whoever, on being required by a Riverine Transport Officer to give information under this section, refuses to comply with such request by the officer or furnishes as true, information which he knows or has reason to believe to be false, shall be guilty of an offence: Penalty, imprisonment for three months and a fine of one thousand ringgit.

(3) A Riverine Transport Officer may without warrant enter any vessel, wharf, jetty or any other premises for the purpose of ascertaining whether the provisions of this Ordinance or its regulations or the conditions or restrictions of any permit issued under this Ordinance or its regulations are being complied with, and may call upon any person to produce such books, accounts, articles or other documents or things as such officer may consider necessary for the purpose:

Provided that any person not in uniform purporting to exercise any powers under this section shall on demand produce his written authority to exercise these powers to any person lawfully demanding the same.

[Ins. Cap. A80.]

Power to examine person acquainted with case

13A.—(1) The Controller or any other Riverine Transport Officer in carrying out any investigation under this Ordinance or its regulations may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) The person referred to in subsection (1) shall be bound to answer all questions relating to the case put to him by the Controller or any other Riverine Transport Officer:

Provided that the person may refuse to answer any question to which would have a tendency to expose him to a criminal charge, penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not the statement is made wholly or partly in answer to questions.

(4) The Controller or any other Riverine Transport Officer in examining a person under subsection (1) shall first inform the person of the provisions of subsections (2) and (3).

(5) A statement made by a person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb-print, as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish, and the Controller or any other Riverine Transport Officer shall endorse thereon under his hand the fact of the refusal and the reason for it, if any, as stated by the person examined.

[Ins. Cap. A80.]

PART IV

RIVER TRANSPORT PERMITS

Vessels to have permits

14 —(1) No vessel shall be used for hire or trade or carriage of passengers and goods (other than for private use) upon any river to which this Ordinance applies unless such vessel—

(a) is registered in accordance with section 15; and

(b) has its name endorsed upon a valid permit issued under section 15; or

(c) is exempted from this section by an Order made under section 35(3).

(2) If any vessel is used on any river without being registered and without having a valid permit, the owner of such vessel shall be guilty of an offence: Penalty, imprisonment for six months and a fine of two thousand ringgit, unless he proves that the offence was committed without his knowledge, consent or connivance.

River transport permits

15.—(1) Subject to such conditions as may be prescribed, it shall be lawful for the Board, on application made in that behalf in the prescribed form by the owner, to register and to issue permits for vessels intended to be used on any river to which this Ordinance applies.

(2) A registered vessel in respect of which a permit has been issued by the Board may, subject to any regulations made under this Ordinance, be used during the currency of such permit upon any of the rivers specified in the permit.

(3) Permits shall be in duplicate in such form as the Minister may by regulation prescribe. One copy of such permit shall be issued to the owner of the vessel to which the permit relates and the other copy shall be retained by the Board.

(4) Every permit shall, unless otherwise stipulated by the Board, expire on the last day of the year in which it was issued.

(5) There shall be charged for every permit such fee as the Minister may by regulation prescribe.

(6) No permit issued to a vessel under this section shall be transferable to or be used by another vessel except with the written consent of the Board which shall be endorsed on such permit.

Register

16.—(1) A Register of all vessels registered under this Ordinance shall be kept by the Board in the prescribed form.

(2) There shall be charged for registration such fee as the Minister may by regulation prescribe.

(3) The Register shall be open to inspection by the person upon payment of a fee prescribed by the Board.

Marking name or number

17. —(1) No permit shall be issued until the name of the vessel, or the number of the permit if the Board so directs, has been painted or marked to the satisfaction of the Controller on each side of the bow of such vessel.

(2) The Board before issuing a permit shall examine the vessel, cause it to be surveyed if necessary and satisfy itself that it is safe and proper for the conveyance of passengers and cargo. The survey of passenger and cargo vessels shall consist of such technical examination as the Board may consider necessary.

Production of permit

18. The copy of the permit issued to the owner of any vessel shall at all times be kept on board the vessel to which such permit relates in the custody of the master of such vessel, and the master shall produce the permit to any Riverine Transport Officer, Marine Officer or Police Officer who shall demand to see the same. Any master neglecting or failing to produce such permit when so demanded shall be guilty of an offence: Penalty, imprisonment for six months and a fine of two thousand ringgit.

Reporting changes of ownership

19. —(1) Every change of owner or master of a vessel registered under this Ordinance shall be reported to the Board by the new owner or master within fourteen days of the date of such change, and the Board shall make the necessary amendments in the permit.

(2) Any owner or master failing to report such change as required by subsection (1) shall be guilty of an offence: Penalty, a fine of five thousand ringgit.

Presumption

20. The owner and master whose names shall appear in the permit as such shall be conclusively presumed to be the owner and master of the vessel to which the permit relates, and shall be liable to the punishment provided for offences committed by an owner or master.

PART V
FUND AND FINANCIAL PROVISIONS

Funds of the Board

21.—(1) For the purposes of enabling the Board to carry out its obligations and functions, there shall be established a Fund to be known as the Sarawak Rivers Fund.

(2) The Board shall have custody of the Fund into which shall be paid—

(a) such sums as the Government may from time to time appropriate to the Fund;

(b) advances from the Government by way of grants, loans or subsidies;

(c) such sums of money borrowed by the Board for the purposes of meeting any of its obligations or discharging its functions;

(d) such sums as may from time to time be raised by the Board by loan or by the issue of debentures or debenture stock under this Ordinance;

(e) all moneys earned by the Board in respect of services provided by the Board or from any project, scheme or enterprise operated by the Board;

(f) fees and charges received by the Board; and

(g) all other sums or property that may in any manner become payable to or vested in the Board.

Application of the Fund

22. The Fund may be applied in defraying the following charges:

(a) the cost of administration of the Board;

(b) the expenses, fees, remuneration and allowances of members of the Board;

(c) the salaries, fees, pensions, provident fund contributions, superannuation allowances and gratuities of the officers, servants, agents, technical or other advisers of the Board;

(d) cost of erecting and maintaining the wharves, jetties or other passenger landing terminals;

(e) cost of providing buoys, moorings, lights and other navigational aids;

(f) cost of keeping the river and port clean and free from filth, rubbish or refuse;

(g) cost of maintaining and restoring river banks and shores;

(h) moneys for the repayment of loans made to the Board;

(i) moneys for the purposes of granting loans;

(j) all costs, charges and expenses of and incidental to the exercise of its powers under this Ordinance; and

(k) any other expenditure authorized by the Board properly chargeable to the Fund.

Bank account

23 —(1) All moneys standing to the credit of the Fund and all moneys paid to the Board shall be deposited into such bank or other financial institutions as may be approved by the Minister.

[Am. Cap. A80.]

(2) All orders or cheques against the said account shall be signed by not less than two of such officers of the Board as may be appointed by the Board for that purpose.

Accounts and audit

24 —(1) The Board shall keep proper accounts and other records in respect of its operations, and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the Board shall be audited by the Auditor-General or other auditor appointed by the Board with the approval of the Minister.

(3) The Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995 [*Cap. 15*] shall apply to the Board.

[Sub. Cap. A80.]

Annual report

25 —(1) After the end of each financial year, the Board shall submit, to the Minister within such time as stipulated in the Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995 [*Cap. 15*]—

(a) the annual statement of accounts of the Board prepared and audited pursuant to section 24; and

(b) a report dealing generally with the activities of the Board during the preceding financial year and containing such information relating to the proceedings and policy of the Board as the Minister may from time to time direct.

(2) The Minister shall, upon receipt of that report, forward it to the Majlis Mesyuarat Kerajaan Negeri for its consideration and thereafter, the report shall be laid before the Dewan Undangan Negeri.

[Sub. Cap. A80.]

Borrowing powers

26 —(1) Subject to the provisions of subsection (2), the Board may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Board to borrow shall be exercisable only with the approval of, and subject to such conditions as may be imposed by, the Minister. Any approval given in any respect for the purpose of this section may be either general or limited to a particular borrowing or otherwise.

Power to make loans

27. Subject to such conditions as it may deem fit to impose in particular cases, the Board may, out of its Funds and resources, make loans in accordance with the provisions of this Ordinance in that behalf in the execution of its duties or in the discharge of its functions under section 5.

Power to make advances

28. The Government may, upon the recommendations of the Minister, make advances to the Board, either by way of grant or by way of loan, or partly by grant and partly by loan, and upon such terms and subject to such conditions as the Government may think fit for the purpose of assisting the Board to perform any function which it is empowered to perform by virtue of this Ordinance.

PART VI

GENERAL

Public Authorities Protection

29. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the members of the Board or against any officer, employee or agent of the Board in respect of any act, neglect or default done or committed by them in such capacity.

Powers of Marine Officers and Police Officers

30. Subject to such limitations as the Minister may prescribe, all Marine Officers, Police Officers or any other person specially appointed by the Board under section 10 shall have and may exercise such duties and powers as may be determined by the Controller for the purposes of this Ordinance and regulations made thereunder.

Conduct of prosecution and legal representation

31.—(1) The prosecution of any offence under this Ordinance or its regulations shall be conducted by the Public Prosecutor or any person duly authorized by him under section 377(b) of the Criminal Procedure Code [*Act 593*].

(2) In any suit, action or proceedings of a civil nature, before any court, tribunal or arbitrator, the Board may be represented by—

- (a) the State Attorney General or any State Legal Officer authorized by him; or
- (b) an advocate appointed by the Board; or
- (c) any officer of the Board duly authorized in writing by the Controller.

[Sub. Cap. A80.]

Power of arrest

32.—(1) A Riverine Transport Officer or any other officer authorized in writing by the Controller or any police officer may arrest without warrant—

- (a) any person reasonably suspected to have committed an offence against this Ordinance or its regulations; or
- (b) any person who refuses to give his name and address when it is requested for or if there is reason to doubt the accuracy of the name and the address given; or
- (c) any person who refuses or fails to produce his identification card when it is requested for or if there is reason to doubt the authenticity of the identification card produced.

(2) A person arrested under this section shall be taken to a police station and shall be brought before a court within twenty-four hours unless, in respect of a person arrested under subsection (1)(b), his name and address are sooner ascertained, whereupon he shall then be released on bail.

[Sub. Cap. A80.]

Miscellaneous prohibitions

33 —(1) It shall not be lawful—

(a) to build or commence the building of any wharf, pier, jetty or other structures in any port or river to which this Ordinance applies, except on plans recommended and/or approved by the Controller and authorized by the Board;

(b) to excavate or fill, or in any manner alter or modify the course, location, condition of any navigable river to which this Ordinance applies, unless the work has been recommended by the Controller and authorized by the Board;

(c) to tie up or anchor vessels or other crafts in any port or river to which this Ordinance applies in such a manner as to prevent or obstruct the passage of other vessels or crafts;

(d) to voluntarily or carelessly sink, or permit or cause to be sunk, vessels or other crafts in any river;

(e) to float loose timber and logs in rivers actually navigated by vessels to which this Ordinance applies in such manner as to obstruct, impede or endanger navigation; and

(f) to dump into any river to which this Ordinance applies the carcass of any animal or bird, dredgings, earth, garbage, pollutant and other refuse materials of every kind or description.

(2) Any person who contravenes subsection (1) shall be guilty of an offence: Penalty, imprisonment for two years and a fine of five thousand ringgit.

Penalty

34 —(1) If any person takes any vessel in any river to which this Ordinance applies without having first registered the vessel and without having obtained a permit in accordance with section 15, he shall be guilty of an offence: Penalty, imprisonment for two years and a fine of five thousand ringgit.

(2) If passengers or cargo are carried upon any vessel in excess of the numbers or quantity stated in the permit of such vessel the owner and the master thereof shall each be guilty of an offence: Penalty, imprisonment for two years and a fine of five thousand ringgit.

(3) Any person committing a breach of any provisions of this Ordinance or any regulations made thereunder or upon a contravention of any of the conditions of a permit issued under this Ordinance shall be guilty of an offence and, where no special penalty is prescribed, be liable in the case of a first conviction, to a fine of two thousand ringgit, and in the case of a second or subsequent conviction, to a fine of five thousand ringgit and to imprisonment for two years.

(4) Upon conviction of the holder of a permit issued under this Ordinance in respect of an offence under section 33(1)(b), the Court may on its own motion order the forfeiture of any vessel, goods or any other property or thing which it has reason to believe was used or is being used in the commission of that offence.

(5) When the trial of an offence under section 33(1)(b) is concluded, any vessel, goods, property or thing that has been forfeited under subsection (4) shall be disposed of as the Court may order.

Exemption

35 —(1) Subject to subsection (2), all vessels using any river to which this Ordinance applies shall be subject to the provisions of this Ordinance and of the regulations made thereunder.

(2) Nothing in this Ordinance shall apply to—

(a) vessels navigable by oars, paddles or poles; or

(b) any vessel exempted by the Minister by Order under subsection (3).

(3) The Minister may by Order exempt any vessel or class of vessels from the operation of this Ordinance or any regulations made thereunder or any part thereof.

Cancellation or suspension of permit

36. The Controller may at any time cancel or suspend for such period as he may deem fit any permit issued in respect of any vessel if there has been a breach of any of the conditions or restrictions of the permit or a contravention of any of the provisions of this Ordinance or its regulations by either the owner or master of the vessel:

Provided that before a decision is made to cancel or suspend a permit, the Controller shall give the holder of the permit an opportunity to make representations in writing to him as to why the permit shall not be cancelled or suspended, as the case may be.

[Sub. Cap. A80.]

Delegation of powers of the Board

37. The Board may, with the prior approval of the Minister, delegate to any local authority, statutory body, public officer, person or body of persons the exercise of any power or the discharge of any duty which by the provisions of this Ordinance or any regulations made thereunder is required to be exercised or discharged by the Board.

Regulations

38.—(1) The Majlis Mesyuarat Kerajaan Negeri may, make regulations—

[Am. Cap. A127.]

(a) to regulate the speed of vessels between any definite points or in any definite rivers or watercourse;

(b) to regulate the navigation, movement and anchorage of vessels in rivers declared under section 11;

(c) to regulate traffic and obstruction on any river declared under section 11 and relieving congestion and providing for the safety of vessels using the river;

(d) to prevent erosion and damage to river banks;

(e) to prevent collisions involving vessels in any river declared under section 11;

(f) to prohibit the use of certain rivers or watercourse by vessels having more than a certain draught;

(g) to restrict and control any class or description of vessels from operating in certain rivers or watercourse and to restrict the area within which any class or description of vessel may ply in the river or watercourse.

(h) to prescribe the lights to be shown by vessels at night;

(i) to prescribe the manner in which vessels shall be loaded and the precautions to be taken for ensuring the safety of passengers;

(j) to prescribe the conditions subject to which, and the times at which, goods or passengers may be loaded or taken onto or out from vessels;

(k) to provide for the precedence to be observed as between traffic proceeding in the same direction or in opposite direction or when crossing in a river;

(l) to prescribe for the conduct of passengers boarding, travelling in or alighting from vessels and of intending passengers waiting to board a vessel;

(m) to prescribe landing places, wharves, jetties or ports, and to prohibit the use of any landing places, wharves, jetties or ports not so prescribed;

(n) to regulate the towing or drawing of vessels by other vessels and the manner of attachment;

(o) to fix the maximum fares that may be charged for passengers or freight;

(p) to prescribe for the establishment of an inquiry committee to investigate accidents or casualties occurring to vessels in any river or watercourse;

(q) to prescribe forms;

(r) to impose and collect a riverine traffic fee or such other charges as the Board may under this Ordinance impose, to levy surcharge or penalties for non-payment or late payment of such fees or charges, and matters incidental thereto;

[Sub. Cap. A127.]

(s) to prescribe for a Riverine Traffic Code;

(t) to prescribe any matter which by this Ordinance is intended to be prescribed;

(u) to operate and maintain any barrage or shiplock, and to regulate and control the passage of vessels through such barrage or shiplock, and to impose fees or tolls on such vessels passing through the same;

(v) generally to protect and improve the navigability of any river or watercourse;

(w) to provide for the proper enforcement of such regulations and the penalties for contravening any of the provisions thereof, which may extend—

(i) in the case of a first offence, to imprisonment for a term not exceeding two years and a fine not exceeding ten thousand ringgit; and

(ii) in the case of a second or subsequent offence, to imprisonment for a term not exceeding four years and a fine not exceeding twenty thousand ringgit;

(x) to provide for the offences under this Ordinance or regulations made thereunder which may be compounded by the Board, the persons who may compound, the limit of the sum of money to be collected by the Board for compounding such offences and the procedure and forms to be complied with in compounding.

[Am. Cap. A46; Am Cap. A80.]

(2) Until regulations relating to the control of traffic by water in ports and harbours or on rivers and in the foreshores within the State and other matters connected therewith have been made under subsection (1), the provisions contained in the Merchant Shipping (Ports and Rivers) Regulations, 1961 [*G.N.S. 43/1961*], shall, in so far as they are not inconsistent with this Ordinance, apply to vessels operating in such areas, subject to such modifications and adaptations as may be necessary, and in particular reference to “Port Officer” shall be deemed to include “Riverine Transport Officer”.

LAWS OF SARAWAK

Chapter 4

SARAWAK RIVERS ORDINANCE, 1993

LIST OF AMENDMENTS

Amending law	Short title	In force from
Swk. L.N. 121/93	Date of Commencement of the Ordinance	1.10.1993
Cap. A46	Sarawak Rivers (Amendment) Ordinance, 1977	1.12.1997
Cap. A80	Sarawak Rivers (Amendment) Ordinance, 2000 [Date of commencement for the whole Amendment Ordinance except section 3 — section 3 —	15.7.2001; 20.4.2000]
Cap. A105	Sarawak Rivers (Amendment) Ordinance, 2003	1.1.2004
Cap. A127	Sarawak Rivers (Amendment) Ordinance, 2006	1.1.2007

