

THE SARAWAK RIVERS ORDINANCE, 1993
THE SARAWAK RIVERS (CLEANLINESS) REGULATIONS, 1993
[Swk. L.N. 123/93]

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THE SARAWAK RIVERS ORDINANCE, 1993
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[Swk. L.N. 123/93]

In exercise of the powers conferred by section 38 and read with section 12(2) of the Sarawak Rivers Ordinance, 1993 *[Cap. 4]*, the Minister has, with the approval of the Yang di-Pertua Negeri, made the following Regulations:

PART I
INTRODUCTION

Citation, commencement and application

1. These Regulations may be cited as the **Sarawak Rivers (Cleanliness) Regulations, 1993**, and shall come into force on the 1st day of November, 1993.

(2) These Regulations shall not apply to any of the following discharges or disposals:

(a) a discharge which is made by way of a public sewer or public drain approved by the Controller; or

(b) a discharge or disposal made by, or with the consent of, the Controller for the purpose of carrying out reclamation or river works or providing moorings or aids to navigation.

Interpretation

2. In these Regulations—

“Controller” shall have the same meaning as assigned to it in the Ordinance;

“effluent” means any pollutants, sewage, toxic substances, oily bilge water, industrial effluent or waste, and other liquid waste matters or substances of whatever nature;

“local authority” means—

(a) any local authority constituted under the Local Authorities Ordinance 1993 *[Cap. 20]*;

(b) the Bintulu Development Authority established under the Bintulu Development Authority Ordinance, 1978 *[Ord. No. 1/78]*;

(c) the Council of the City of Kuching South deemed to be established under the Local Authorities Ordinance, 1996 *[Cap. 20]*;

(d) the Commissioner of the City of Kuching North established under the City of Kuching North Ordinance, 1988 [*Cap. 49*];

“log” means any timber or sago log, wood, plank, sawn timber, tree trunk or any other forms of timber;

“oil” includes crude petroleum, petroleum or chemical products, diesel pollutants and any other inflammable solvents;

“Ordinance” means the Sarawak Rivers Ordinance, 1993 [*Cap. 4*];

“premises” includes any building, factory, dwelling house, out-house or structure;

“private land” means land owned by any person, other than the Government of the State or Government of the Federation or a statutory body established by the State;

“refuse” include any human or animal waste, rubbish materials, pollutants, sawdust, log and other solid matters;

“river” means a river within the meaning of the Ordinance;

“sanitary appliance” means a water closet or other prescribed apparatus or appliance (except a sink, bath or shower bath) which is designed to prevent any human or animal waste matter or pollutant from passing from a vessel onto the waters of a river;

“sewage” means any liquid waste or waste water containing animal or vegetable matter or by-product in suspension or in solution and includes liquid containing chemicals in solution;

“sewer” means any pipeline, channel, drain or outlet with their appurtenances designed for or intended to be used to convey effluent, sewage or refuse;

“vessel” shall have the same meaning as assigned to it in the Ordinance;

“wharf” means any wharf, pier, harbour, jetty, or other structures on or abutting a river for the loading and unloading of goods or for the embarkation and disembarkation of passengers and includes a private wharf.

PART II
DISCHARGE OF EFFLUENTS FROM VESSELS, *ETC.*

Duty of owner or master of vessel, wharf and passenger landing terminals

3.—(1) The owner or master of every vessel on any river shall have on board such vessel—

- (a) bins and other receptacles for the collection of refuse;
- (b) urinals, containers and other sanitary appliances for the collection, disposal or treatment of human waste; and
- (c) adequate toilet facilities for passengers and crew of the vessel.

(2) The owner, occupier and any person having control of a wharf or passenger landing terminal shall—

- (a) provide bins and other receptacles for the collection of refuse; and
- (b) ensure that no refuse and effluent is swept or washed off such wharf or landing terminal directly into the river.

Prohibition of discharge of refuse from vessel into a river

4.—(1) The discharge or disposal by or from any vessel of any refuse or effluent in concentrations greater than those specified as parameter limits in the Environmental Quality (Sewage and Industrial Effluents) Regulations 1979 *[P.U. (A) 12/1979]*, into the waters of any river is prohibited, except with the written permission of the Controller.

(2) Refuse disposal service may be provided by the Controller to vessels anchoring, berthing or mooring in the river. Where such service is provided to vessels, refuse disposal charges shall be levied on such vessels. The charges payable are prescribed in the Schedule.

Special permission for discharge

5.—(1) In giving his permission for such discharge or disposal of any refuse or effluent under regulation 4 or 9, the Controller may—

- (a) specify the place where such disposal or discharge may take place;
- (b) the nature and composition of the refuse or effluent that may be discharged or disposed; and
- (c) the maximum quantity of such discharge or disposal.

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- (b) the nature and composition of the refuse or effluent that may be discharged or disposed; and
- (c) the maximum quantity of such discharge or disposal.

(2) The Controller may give such permission either unconditionally or subject to such terms and conditions as he deems fit to impose.

Prohibition of spillage and discharge into river

6. No effluent containing grease or oil in concentration in excess of 100 milligrams per litre of effluent shall be discharged or allowed to escape from any vessel, or allowed to run off any wharf, into any river.

Action to be taken where accidental spillage or discharge occurs

7.—(1) In the event of any accidental spillage or discharge of any oil or other pollutants into the waters of any river by any vessel or from any wharf or premises along any river, the Controller may serve upon the owner or master of such vessel, or the owner or occupier of such wharf or premises, as the case may be, a notice in writing requiring such owner, master or occupier to take all reasonable measures to cleanse, contain or abate such spillage or discharge or to recover all such oil and other pollutants from the river.

(2) If the owner or master of such vessel, or the owner or occupier of such wharf or premises, fails to comply with the notice within the time stipulated therein, the Controller shall cause to be made an estimate of—

- (a) damage caused to aquatic life and plants by such spillage or discharge;
- (b) the costs and expenses incurred or which are likely to be incurred by the Board for containing or removing the oil or pollutants from the waters of the river,

and forward such estimate to the owner or master of the vessel, or the owner or occupier of the wharf or premises.

(3) The Controller may require such owner, master or occupier to pay to him the sum estimated by him in paragraph (2) and may, on receipt of such sum, defray the same towards compensation to any person or party who has sustained loss or damage as a result of such accidental spillage or discharge and towards the costs of containing or removing the oil or pollutants from the waters of the river.

(4) The Controller may require such owner, master or occupier to provide security, in such form as may be acceptable to the Board, up to the amount of the estimate referred to in paragraph (2), for containing or removing the oil or pollutants from the waters of the river.

(5) The Board may, by order, deduct the costs and expenses for containing or removing the oil or pollutants from the waters of the river, and the damage caused to aquatic life and plants as a result of such spillage or discharge from the sum paid under paragraph (3) or enforce payment of such costs or expenses and damage through realisation of the security furnished under paragraph (4).

Construction of drain, sewer or toilet facility

8.—(1) As from the date of coming into force of these Regulations, and subject to regulation 9, no public or private sewer, drain, toilet or bath facility shall be so constructed as to result in or cause any effluent, sewage or refuse to be discharged directly into the waters of any river.

(2) Any existing public or private sewer, drain, toilet or bath facility that is located or constructed on the banks of any river, which discharges any effluent, sewage or refuse into the waters of the river so as to cause a condition which is hazardous to public health, fish, aquatic life or plants, the Controller may serve upon the owner or any person responsible for such sewer, drain, toilet or bath facility a notice in writing requiring the owner or person to remove, dismantle, demolish or alter the position thereof within the time specified in the notice so as to prevent the discharge of any effluent, sewage or refuse directly into the river.

(3) In the event that the owner or person served with the notice under paragraph (2) shall fail or neglect to comply therewith within the time stipulated therein, or within such further time as the Controller may allow, the Board may direct the sewer, drain, toilet or bath facility to be removed, dismantled, demolished or diverted and the costs and expenses so incurred by the Board shall be recovered from the owner or person served with the notice under paragraph (2).

Permit

9.—(1) The Board may, on the application of any local authority or any owner of land adjoining any river, permit any sewer or drain to be so constructed as to enable sewage and other liquid substances to be discharged into the river.

(2) Before granting such permission, the Board may impose such conditions, regarding the treatment of any sewage or other liquid substances that may be discharged into the river and the point for such discharge.

Power of Board to issue directions

10. Where the Board is of the opinion that any sewer, pipe, drain or refuse outlet is so located that it discharges untreated effluent or refuse directly into the waters of the rivers so as to cause danger to public health, fish, aquatic life or plants, the Board may by order direct the owner or occupier of the land on which such sewer, pipe, drain or outlet is located to—

- (a) redirect the discharge of such effluent or refuse to other places;
- (b) treat such effluent or refuse before they are discharged into the river; or
- (c) take such necessary measures as the Board deems necessary so as to remove the danger caused to public health, fish, aquatic life and plants.

Penalty

11. Any person who fails to comply with the order made under regulation 10 shall be guilty of an offence: Penalty, a fine of two thousand ringgit and imprisonment for two years.

Discharge of effluent on land adjoining rivers

12. No person shall discharge or cause or permit the discharge of any effluent in concentrations greater than those specified as parameter limits in the Environmental Quality (Sewage and Industrial Effluents) Regulations 1979 [*P.U(A) 12/79*]—

- (a) in or on any soil or surface of any land adjoining any river; or
- (b) into a public or private drain or sewer,

if such discharge is likely to result in such effluent flowing or entering into the waters of a river.

Point of discharge

13.—(1) The Board, in consultation with the Minister and any local authority having jurisdiction in the area concerned, shall determine the point or points of discharge of effluent or sewage into—

- (a) any river; or
- (b) any stream, drain or sewer whose water discharges into a river.

(2) The position and design of the outlet of any point or points of discharge of effluent or sewage shall not, upon the determination of the Board under paragraph (1), be altered or changed without the prior written approval of the Board.

Inspection facilities

14. The Board may, when granting any permission to any person to discharge any effluent or sewage into a river or any stream, drain or sewer which leads onto a river, require such person to provide and instal such sampling test points or points, inspection facilities, flow metres and recording or other apparatus, as the Board may require or deem necessary.

PART III

PROHIBITED DISCHARGES

Deposit of effluent, refuse or rubbish prohibited

15. No person shall leave, deposit, throw or discard any effluent, refuse or rubbish of any kind or description into any river or on the banks of any river.

Collection of unwanted effluent, refuse or rubbish

16. —(1) Any person who has in any river or the banks thereof any effluent, refuse or rubbish which he intends to discard or throw away shall notify the Controller.

(2) The Controller shall arrange for the collection and disposal of any such effluent, refuse or rubbish upon the payment by such person of such fees as may be fixed by the Board to cover the costs and expenses of such collection and disposal.

(3) The powers of the Controller under these Regulations shall include power to join with any local authority, or the power to arrange with any other person or body of persons, to provide reception facilities for the collection and disposal of such effluent, refuse or rubbish, and into which owners of land abutting the river may discharge or dispose any effluent, refuse or rubbish.

(4) The Board, in co-operation with any local authority, may designate any place in any river or the bank thereof, for the collection or storage of such discarded or unwanted effluent, refuse or rubbish and for the eventual disposal thereof.

Owner to remove boats, canoes or logs from river

17. —(1) The Board may by order direct the owner of any abandoned or discarded boats, canoes or logs on a river or the banks thereof, to remove or retrieve the same.

(2) Any person who fails to comply with such order shall be guilty of an offence.

(3) Where there is a failure, refusal or neglect by the owner served with the order under paragraph (1) to comply therewith, the Board may remove the abandoned or discarded boats, canoes or logs and recover the costs or expenses thereby incurred from the owner. Such costs or expenses may be recovered by the Board as a civil debt.

(4)(a) For the purpose of this regulation, the following persons shall be presumed until the contrary is proved, to be the owner of any log found on a river or the bank thereof:

- (i) any person whose property mark is found on such log;
- (ii) the owner, occupier or operator of any sawmill, log pond, timber yard or factory which is within a distance of fifty metres from the place where the log is found lying on a river or the banks thereof; or
- (iii) if it is established that the log originates from any forest area covered by a licence or permit issued by the Director of Forests, the holder of such licence or permit or any of his agent, contractor or subcontractor.

(b) The term “property mark” in this regulation shall have the same meaning as assigned to it by the Forests Ordinance [*Cap. 126 (1958 Ed.)*].

Power of Board to dispose boats, canoes or logs

18. Any boats, canoes or logs removed by the Board from any river or the banks thereof pursuant to the provisions of regulation 17(3) shall belong to the Board, who shall be entitled to dispose of or otherwise deal with the same in such manner as the Board deems fit.

Duty to retrieve or salvage log

19.—(1) Where as a result of any accident or collision or for any reason or cause, any log which forms part of a river raft, shall be lost, submerged or sank in water, it shall be the duty of the owner of such log or the master of the vessel towing such raft to retrieve or salvage such log from the river.

(2) Where there has been non-compliance with paragraph (1), the Controller may engage such person as he deems fit and proper to retrieve and salvage such log, and charge the full costs and expenses thereby incurred to the owner of such log or the owner or master of the vessel that tows the log. Such costs and expenses may be recovered by the Board as a civil debt.

(3) The Board shall have a lien over any such log recovered or retrieved pursuant to paragraph (2) and shall be entitled in the exercise of such rights as a lien holder to sell or dispose of such log in order to recover the costs and expenses incurred in the salvage or retrieval of the log.

Mining activities

20. —(1) The owner or operator of any mine and any person who carries on mining activities on any land adjoining any river shall—

(a) ensure that effluent discharged from his land into any river shall not contain chemicals deleterious to animal, vegetable or aquatic life, exceeding the amount prescribed under section 66 of the Mining Ordinance [*Cap. 83 (1958 Ed.)*] or any regulations made thereunder; and

(b) no drain carrying effluent from any mining area for discharge into a river shall be constructed without the permission in writing of the Controller.

(2) The Controller shall have the right to enter any land on which such mines or mining activities are carried out, to inspect and satisfy himself that there are adequate facilities or devices installed by the owner or operator of such mines or mining activities to treat all water used in connection with mining activities to a level that would not be injurious to human or aquatic life, before the discharge of such water onto the river.

(3) For the purpose of this regulation, “mining activities” include any form of prospecting or processing of minerals, the washing of mineral ore, tailings or the manufacture of any products from such minerals, ore or tailings.

PART IV

MEASURES TO MAINTAIN CLEANLINESS IN RIVERS

General duty

21. It shall be the duty of the Board, all persons and the owners or masters of all vessels using any river to—

(a) take all necessary measures to maintain and keep the river clean and to prevent any unauthorized and indiscriminate discharge of effluent, sewage or refuse into the river;

(b) forbid or stop anyone from discharging or disposing any refuse and other waste material into the river or the banks thereof; and

(c) prevent the accumulation of refuse in the river or the banks thereof.

Direction to owner of land

22. —(1) The Board may, by notice in writing, require the owner of any land abutting the river to—

(a) remove, lower or trim to the satisfaction of the Board, any tree, shrub or hedge on the bank of any river;

(b) remove any dilapidated fence, structure or material on the bank of any river, which is likely to fall into such river;

(c) build any wall to prevent the erosion of the bank of any river or the unmitigated discharge or flow of mud, rock material or other debris into the waters of a river;

(d) stop the use of any chemical, implement or plant in the execution of any works on the river or the bank thereof which cause pollution of the waters of the river or endanger any plant or aquatic life on such river; and

(e) stop the erection of any structure or premises in the river or the banks thereof or, where any existing structure or premises is, in the opinion of the Board, the source or likely to be the source of the discharge of any refuse, sewage or effluent into the river, to require its removal or demolition thereof.

(2) Any person who fails to comply with a notice served on him by the Board pursuant to paragraph (1) shall be guilty of an offence: Penalty, a fine of two thousand ringgit.

PART V

MISCELLANEOUS

Methods of analysis

23. For the purposes of these Regulations, the effluent or refuse discharged into a river shall be analysed in accordance with—

(a) the “Standard Methods for the Examination of Water and Waste Water” published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation of the United States; or

(b) the “Analysis of Raw, Potable and Waste Waters” published by the Department of the Environment of the United Kingdom; or

(c) such other methods as the Board in consultation with the Director, Department of Environment, Sarawak, thinks fit and proper to adopt.

Service of notice

24. —(1) The service of any notice required to be served under these Regulations may be effected by—

(a) personally delivering the same to the person to whom such notice to be addressed;

(b) affixing the same on the land, vessel, wharf or passenger landing terminal; or

(c) sending the same by registered post to the last known address of the person to whom the notice is directed.

(2) If service of any notice is to be effected by registered post, the notice shall be deemed to have been served on the day after the posting of such notice.

Appeal

25.—(1) Any person affected by any decision, ruling or order of the Controller or the Board made pursuant to any of these Regulations (except any decision regarding an offence under these Regulations) may appeal to the Minister within 21 days after the making of such decision, ruling or order or within such extended period as the Minister, in his discretion, may allow.

(2) The decision of the Minister in regard to any such appeal shall be final and shall not be questioned in any Court.

Saving of prosecution under other written laws

26. Nothing in these Regulations shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under these Regulations or from being liable under that law to any other or higher punishment or penalty than that prescribed under or by these Regulations:

Provided that no person shall be punished twice for the same offence.

Exemption

27. The Controller, with the approval of the Board, may, either permanently or for such period or periods, as he thinks fit, exempt any person or premises or vessels or any class of persons or premises or vessels from any of the provisions of these Regulations.

SCHEDULE

(Regulation 4(2))

REFUSE DISPOSAL CHARGES

	<i>Per day or part thereof</i>
1. For vessel at anchor in an anchorage area	RM60.00
2. From vessels berthing alongside a wharf or a passenger landing terminal	RM30.00

[Sub. Swk. L. N. 31/97.]

Made by the Minister and approved by the Yang di-Pertua Negeri this 7th day of September, 1993.

TAN SRI DATUK AMAR DR. WONG SOON KAI,
*Deputy Chief Minister and
Minister for Infrastructure Development*

