



PARLIMEN MALAYSIA



RANG UNDANG-UNDANG

**Pemerbadanan (Kelayakan Pihak Berkuasa Perundangan
Negeri) (Pindaan) 1980**

DR.41/1980

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Akta Pemerbadanan (Kelayakan Pihak Berkuasa Perundangan Negeri) 1962.

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MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut:

1. (1) Akta ini bolehlah dinamakan Akta Pemerbadanan (Kelayakan Pihak Berkuasa Perundangan Negeri) (Pindaan) 1980.

(2) Seksyen 2 dan perenggan (a) seksyen 4 hendaklah disifatkan telah mula berkuatkuasa pada 15hb Mac 1974 dan perenggan (b) seksyen 4 hendaklah disifatkan telah mula berkuatkuasa pada 1hb Ogos 1971.

2. Seksyen 3 Akta Pemerbadanan (Kelayakan Pihak Berkuasa Perundangan Negeri) 1962, yang dalam Akta ini disebut "Akta ibu", adalah dipinda dengan memasukkan perkataan-perkataan "of agricultural development or housing development or" selepas perkataan "purpose" yang terdapat dalam proviso.

3. Seksyen 3A Akta ibu adalah dipinda dengan memasukkan perkataan-perkataan "of agricultural development or housing development or" selepas perkataan "purpose" yang terdapat dalamnya.

Tajuk
ringkas
dan mula
berkuat-
kuasa.

Pindaan
bagi
seksyen 3.
15/62.

Pindaan
bagi
seksyen 3A.

Pindaan
bagi Jadual
Pertama.

4. Jadual Pertama kepada Akta ibu adalah dipinda—

(a) dengan memasukkan selepas sahaja butiran 12 butiran 13 dan 14 baru yang berikut:

“13. Agricultural Development.
14. Housing Development.”; dan

(b) dengan menambah selepas sahaja butiran 14 butiran 15 baru yang berikut:

“15. Water Supply.”.

Pindaan
bagi Jadual
Kedua.

5. Jadual Kedua kepada Akta ibu adalah dipinda dengan menggantikannya dengan yang berikut:

“
SECOND SCHEDULE

(Sections 3 and 7)

Special provisions relating to the incorporation of any person or body for the purpose of agricultural development or housing development or development of urban or rural areas.

Interpretation.

1. In this Schedule, “corporation” means a corporation established under section 3 for the purpose of agricultural development or housing development or development of urban or rural areas.

Arrangements
to be first
made between
the State and
the Federation
prior to any
incorporation.

2. No corporation shall be established by any State unless arrangements shall have been made between the State and the Federation in relation to the establishment thereof.

Minister's
direction,
performance
of Federal
functions and
authority.

3. A State law establishing any corporation shall provide for the corporation to be subject to any direction of the Minister and may provide—

(a) for the performance of any functions of an authority of the Federation by the corporation; and

(b) for the executive authority of the Federation to extend to such corporation.

Additional
duties and
powers of a
corporation.

4. In addition to the functions and duties imposed upon any corporation by the law establishing it, the corporation may undertake such other functions and duties and administer and expend such monies for such purposes as the State or any statutory authority, after approval by the Federation, may assign to it and in so doing the corporation shall be deemed to be fulfilling the purposes of the law establishing the corporation.

Membership.

5. (1) There shall be appointed by the Minister three representatives of the Federal Government as members of the corporation.

(2) Subject to subparagraph (1) the law establishing the corporation may provide for the appointment of any number of other members not exceeding nine:

Provided that where the other members exceed six in the case of appointments made before the coming into effect of this subparagraph such members shall continue to be members until their terms of appointment expire or for not longer than one year from the date of the coming into effect of this subparagraph, whichever period comes soonest.

(3) A member of the corporation other than those mentioned in subparagraph (1) and any member appointed by virtue of his office, shall unless he sooner resigns or his appointment is revoked, hold office for a term not exceeding two years and shall be eligible for reappointment:

Provided that if a member resigns or his appointment is sooner revoked another person may be appointed to replace him for the remainder of the term of the member replaced.

6. The Chairman of the corporation shall not be the Chief Chairman. Executive of the corporation.

7. (1) The following persons shall be disqualified from being appointed or being members of the corporation:

Disqualification of membership.

- (a) a person who is of unsound mind or is otherwise incapable of performing his duties;
- (b) a bankrupt;
- (c) a person who has been found guilty of an offence involving fraud, dishonesty or moral turpitude.

(2) A member of the corporation shall vacate his office if he fails to attend three consecutive meetings of the corporation without the permission in writing of the person charged with the responsibility for the general administration of the corporation or if he becomes disqualified under subparagraph (1).

8. (1) The quorum of the corporation at any meeting shall be at least half of the members of the corporation with at least one member being a representative of the Federal Government being present except that the quorum shall be at least two-thirds with at least one member being a representative of the Federal Government being present where the meeting deliberates or decides on matters referred to in subparagraphs 1 (a) to 1 (d) of paragraph 14.

Quorum and procedure of meetings.

(2) If on any question to be determined by the corporation there is an equality of votes, the person presiding at such meeting shall have a casting vote.

(3) Subject to subparagraphs (1) and (2), the corporation may determine its own procedure.

Conflict of interest.

9. (1) No member of the corporation shall have (and if he has, he shall forthwith cease to be such a member) any interest, directly or indirectly, personally or through relatives, financial or otherwise in any scheme, project, enterprise or contract undertaken or which is proposed to be undertaken by the corporation or in any matter under discussion by the corporation.

(2) Subparagraph (1) shall not apply to a member in respect of his interest in a company or other body to which he has been nominated by the corporation to be its representative and where such corporation or other body is under the control or partial control of the corporation.

Improper use of information.

10. An officer or servant of a corporation shall not make use of any information acquired by virtue of his position as an officer or servant of the corporation to gain directly or indirectly an improper advantage for himself or for any other person or to cause detriment to the corporation.

Establishment of the Fund.

11. There shall be established in respect of the corporation a Fund, hereinafter referred to as the "Fund", to be administered and controlled by the corporation—

- (a) into which shall be paid any Federal or State grant, all borrowings and all receipts of the corporation; and
- (b) from which shall be defrayed all expenses of the corporation incurred, and all payments required to be made by the corporation under the law establishing such corporation.

Federal grant.

12. The Federation may grant monies to a corporation for the purposes of it carrying out its functions and duties.

Unexpended assets.

13. The assets of the corporation may, in so far as they are not required to be expended by the corporation, be invested in such manner as may be approved by the Minister of Finance.

Investment and borrowing.

14. (1) No corporation shall, without the prior written consent of the Minister of Finance unless he gives a general or specific direction on the matter—

- (a) establish or promote the establishment or expansion of companies or other bodies to carry on activities either under the control or partial control of the corporation itself or independently;
- (b) give financial assistance to any company, other statutory authority, any body or person by the taking up of shares or debentures or by way of any loan, advance, grant or otherwise;
- (c) purchase, underwrite or otherwise acquire any stock and shares in any public or private company; or
- (d) borrow money or enter into any guarantee involving financial liability.

(2) Where the corporation exercises its power under subparagraph 1 (a) or where it already has control or partial control of a company or other body the members of the management of the company or other body shall comprise not less than one member or one officer of the corporation.

(3) In giving any consent under subparagraph (1) the Minister of Finance may impose such terms and conditions as he may deem fit.

(4) No statutory authority shall be established by a corporation either under the law establishing the corporation or under any other law.

15. (1) The expenses of the corporation shall be defrayed out of monies in the Fund in accordance with such estimates as may be authorised in subparagraph (2).

Expenditure
and
preparation
of estimates.

(2) Before the beginning of July each year the corporation shall submit to the Menteri Besar or Chief Minister an estimate of the expenses for the following year in such form and with such particulars as the Menteri Besar or Chief Minister may require; and the Menteri Besar or Chief Minister shall before the beginning of September of each year notify the corporation of the amount authorised for each description of expenditure.

(3) The corporation may at any time submit to the Menteri Besar or Chief Minister a supplementary estimate for any one year and the Menteri Besar or Chief Minister may allow the whole or any part of the additional expenditure included therein.

16. (1) The board of the corporation shall cause to be kept proper accounts and other records of the corporation's transactions and affairs in accordance with generally accepted accounting principles and shall do all things necessary to ensure that all incomes are properly accounted for and that all expenditures out of its Fund, including payments in respect of salaries, remuneration and other monetary benefits to members of the corporation and its employees, are properly authorised and that adequate control is maintained over the assets, or in the custody of, the corporation and over the incurring of any liability by the corporation.

Keeping of
accounts.

(2) The Minister of Finance may make regulations as may be necessary to accomplish the objective of subparagraph (1) and for ensuring proper financial management and control system and practices within corporations and in addition he may make regulations concerning—

(a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all revenue, loan, trust and other moneys and all bonds, debentures and other securities howsoever raised or received by or an account of corporations and the guidance of all persons concerned therein;

- (b) the designation of accounting officers of corporations and their accountability for ensuring that the funds and assets of such corporations are placed under their control at all times and that the funds are expended prudently, economically and with the utmost concern for value received;
- (c) the more effectual recording, examination and inspection of all receipts and expenditure and of the keeping of all necessary books and accounts by corporations;
- (d) the forms of all books, returns and documents whatever required under this Schedule or regulations made hereunder;
- (e) the purchase, safe custody, issue, sale, or other disposal or writing off of chattels or other property of corporations and the proper accounting for any stock-taking of such chattels and property;
- (f) the preparation of estimates of revenue and expenditure by corporations.

(3) Regulations made under subparagraph (2) may be made applicable to corporations generally or to any particular class or category of corporations or to any particular corporation.

**Investigation
of accounts.**

17. (1) The Minister or Minister of Finance may at any time direct such person as he may appoint to make an investigation of the books, accounts and transactions of a corporation.

(2) Such corporation shall afford such person access to its books, accounts and documents and shall give such information as may be required by the person to conduct the investigations:

Provided that the books, accounts and documents shall not be required to be produced at such times and at such places as shall interfere with the proper conduct of the normal daily business of the corporation.

**Financial year
and audited
accounts.**

18. (1) The corporation shall have a financial year beginning on 1st January.

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

(3) The corporation shall within 6 months after the end of each financial year have its accounts audited and transmitted to the Minister together with a copy of any observations made by the Auditor-General or the auditor appointed under subparagraph (2) on any statement or on the accounts of the corporation and a copy of the annual report referred to in paragraph 19.

(4) The Menteri Besar or Chief Minister shall cause a copy of every such statement together with a copy of any observations made by the Auditor-General or the auditor appointed under subparagraph (2) on any statement or on the accounts of the corporation and a copy of the annual report referred to in subparagraph (3) and paragraph 19 to be laid on the table of the next meeting of the Legislature of the State.

19. The corporation shall not later than 30th June after each financial year cause to be made and transmitted to the Minister and the Menteri-menteri Besar or Chief Ministers, a report dealing with the activities of the corporation during the preceding year. Annual report.

20. (1) The Minister may, after consultation with the Menteri-menteri Besar and Chief Ministers, make regulations for the better carrying out of the provisions of this Schedule including the prescribing of a code of conduct and matters of discipline. Power to make regulations.

(2) The corporation may, with the approval of the Minister after his consultation with the Menteri Besar or Chief Minister, make regulations for the better carrying out of the provisions of the law establishing such corporation provided they are not inconsistent with the provisions of this Schedule.

(3) The law establishing the corporation may provide for the power of the State Authority to make rules for any other purposes not inconsistent with the provisions of this Schedule.

21. The law establishing a corporation may make other provisions not inconsistent with the provisions of this Schedule. State law may make other provisions.

22. A corporation shall be exempt from the payment of stamp duty under the Stamp Ordinance 1949. Exemption from stamp duty. 54/49.

23. Upon the dissolution of a corporation, the assets of such corporation shall, after payment of all liabilities, be disposed of in such manner as the Minister may after consultation with the State Authority determine.”. Dissolution of the corporation.

HURAIAN

Rang Undang-undang ini bertujuan meminda Akta Pemerbadanan (Kelayakan Pihak Berkuasa Perundangan Negeri) 1962 untuk membolehkan enakmen-enakmen negeri yang menubuhkan perbadanan berhubung dengan kemajuan pertanian, pembangunan perumahan dan bekalan air boleh dengan sepatutnya termasuk di bawah kuasa-kuasa membolehkan yang ditetapkan oleh Akta bagi Pihak-pihak Berkuasa Perundangan Negeri. *Fasal 4* bertujuan mencapai maksud ini dengan menambah kemajuan pertanian, pembangunan perumahan dan bekalan air masing-masing sebagai butiran 13, 14 dan 15 kepada dua belas butiran yang sedia ada dalam Jadual Pertama kepada Akta. *Fasal 1 (2)* bertujuan membuat kuasa memboleh ini berkuatkuasa kebelakangan.

Peluang juga diambil untuk mengemaskinikan peruntukan-peruntukan khas yang terdapat dalam Jadual Kedua kepada Akta berhubung dengan pemerbadanan mana-mana orang atau kumpulan bagi maksud pembangunan kawasan-kawasan bandar atau luar bandar. *Fasal 5* bertujuan mencapai maksud ini dengan menggantikan Jadual Kedua yang sedia ada dengan Jadual yang kemaskini. *Fasal 2* bertujuan memperluaskan peruntukan-peruntukan Jadual Kedua kepada pemerbadanan mana-mana orang atau kumpulan bagi maksud kemajuan pertanian atau pembangunan perumahan dan perluasan itu hendaklah dikuatkuasa kebelakangan mengikut *fasal 1* (2) dan *fasal 3*.

IMPLIKASI KEWANGAN

Rang Undang-undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U²) 998.]