



LAWS OF SARAWAK

REPRINT

Chapter 61

INTERPRETATION ORDINANCE, 2005

Incorporating all amendments up to 30th June, 2010

PREPARED AND PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, SARAWAK
UNDER THE AUTHORITY OF THE REVISION OF LAWS ORDINANCE, 1992
2010

INTERPRETATION ORDINANCE, 2005

Date Passed by Dewan Undangan Negeri	14th June, 2005
Date of Assent	28th June, 2005
Date of Publication in <i>Gazette</i> ...	1st July, 2005

Enacted in 2005

1st Reprint in 2007

Sarawak Lawnet

LAWS OF SARAWAK
Chapter 61
INTERPRETATION ORDINANCE, 2005

ARRANGEMENT OF SECTIONS

PART I

APPLICATION AND GENERAL
PROVISIONS OF INTERPRETATION

Section

1. Short title
2. Application
3.
 - (1) Interpretation of certain words and expressions
 - (2) Definition
 - (3) Reference to Government property
 - (4) Provisions for gender and number
 - (5) Meaning of service by post
 - (6) (a) Reference to time (b) Reference to a.m. and p.m.
 - (7) The Sovereign
 - (8) Straits Settlements
 - (9) Federated Malay States, Malaya or Federation
 - (10) Restyling of designation of public office or officer
 - (11) Public officers
 - (12) Expression denoting distance
 - (13) Computation of time
 - (14) Provision where no time prescribed
 - (15) Written law, when binding on the Government
 - (16) Reference to written law in any enactment

Section

- (17) Forms
- (18) Exercise of powers in special cases

PART II

GENERAL PROVISIONS REGARDING ORDINANCES, *ETC.*

- 4. Ordinances
- 5. Sections and Schedules
- 6. Mode of citing Ordinances
- 7. (1) Construction in an Ordinance of references to sections, *etc.*
(2) Construction in a section of reference to subsections and paragraphs
(3) Construction to apply to subsidiary legislation
(4) Special provision in shoulder notes
- 8. Coming into operation of written law
- 9. Regard be had to the purpose of an Ordinance
- 10. Repeal and substitution, and their effects
- 11. Effect of repeal generally
- 12. Repeal of written laws
- 13. Reference to amended and re-enacted provisions

PART III

SUBSIDIARY LEGISLATION AND INSTRUMENTS

- 14. Subsidiary legislation:
 - (a) Powers included in authority to make subsidiary legislation
 - (b) To include reduction of fees, *etc.*
 - (c) Subsidiary legislation has same force and effect as if contained in law under which made
 - (d) Where subsidiary legislation requires approval
 - (e) Power to make subsidiary legislation for special as well as general purposes

- (f) Reference to written law, Act of Parliament or Imperial Parliament or Order in Council includes reference to legislation made under it
- (g) Reference to “the Ordinance” in subsidiary legislation *Section*
- 15. Construction of general penalties provision regarding subsidiary legislation
- 16. Extent of power to make subsidiary legislation or instruments or perform acts of a similar nature
- 17. Publication of subsidiary legislation and instruments
- 18. Signification of orders of the Yang di-Pertua Negeri and Majlis Mesyuarat Kerajaan Negeri
- 19. Signification of orders, *etc.*, of the Chief Minister, a Minister or the State Secretary
- 20. Exercise of statutory power between enactment and commencement of written law
- 21. Avoidance of subsidiary legislation in case of inconsistency with Ordinance

PART IV

POWERS AND APPOINTMENTS

- 22. Construction of provisions as to exercise of powers and duties
- 23. Power to appoint includes power to dismiss
- 24. Construction of enabling words
- 25. Appointment of officers by name or office
- 26. Relation back of appointments
- 27. Power of Yang di-Pertua Negeri to provide for execution of duties of public officer during temporary absence or inability
- 28. Power to appoint to substantive office not vacant
- 29. Effect of defining office to include deputy or assistant
- 30. Power of majority and person presiding
- 31. Powers of a board, *etc.*, not affected by vacancy, *etc.*
- 32. Presumption in favour of lawful exercise of power

PART V
DELEGATION OF POWERS

Section

33. Delegation under sections 34 and 35 to be published in the *Gazette*
34. Power of Yang di-Pertua Negeri or Majlis Mesyuarat Kerajaan Negeri to delegate powers and duties
35. Delegation of powers of Chief Minister, *etc.*
36. Savings
37. Delegation not to preclude exercise of powers by officer delegating those powers

PART VI
PENAL PROVISIONS

38. Attempt to commit an offence to be deemed an offence
39. Contravention of condition in licence, permit, *etc.*, an offence
40. A reference to an offence to include attempts, abetments, conspiracies and where applicable the offence provided for by section 39
41. Imposition of a penalty not a bar to civil action
42. Provisions as to offences under two or more laws
43. Punishment for misdemeanours and other contraventions in absence of specific provision
44. Method of prescribing penalties and cumulative penalties
45. Penalties prescribed to be maximum penalties
46. Disposal of fines and penalties
47. Disposal of forfeits
48. Remission of penalties

PART VII
MISCELLANEOUS

Section

49. Power of the Yang di-Pertua Negeri to appoint public officer as such to serve on board and to appoint chairman
50. Evidence of signature of Yang di-Pertua Negeri, Attorney General, State Attorney General or Public Prosecutor to fiat, *etc.*
51. *Ex officio* proceedings not to abate on death, *etc.*
52. *Gazette* to be evidence of matters in it
53. Act for which payment is required need not be performed till payment be made
54. Fees or charges may be prescribed and may be reduced, varied, remitted or refunded
55. Administrative appeals
56. Citation of imperial statutes
57. Modification of Acts of the United Kingdom and Orders in Council extended or applied to Sarawak
58. Construction of references in written law to Acts of Parliament of the United Kingdom or of the Imperial Parliament and Orders in Council and legislation enacted under them
59. Use of electronic means or medium
60. General amendment
61. Repeal and saving
62. Removal of difficulties

SCHEDULE — Races which are indigenous to Sarawak

Sarawak LawNet

LAWS OF SARAWAK

Chapter 61

INTERPRETATION ORDINANCE, 2005

An Ordinance to repeal the Interpretation Ordinance [Cap. 1 (1958 Ed.)] and to replace it with a new Ordinance to make better provision for the construction, application, interpretation and publication of the law, and for incidental and connected matters.

[1st July, 2005]

Enacted by the Legislature of Sarawak—

PART I

**APPLICATION AND GENERAL
PROVISIONS OF INTERPRETATION**

Short title

1. This Ordinance may be cited as the Interpretation Ordinance, 2005.

Application

2.—(1) Except where the contrary intention appears, the provisions of this Ordinance shall apply to this Ordinance and to any written law now or after this in force made by competent authority in Sarawak and to any instrument made or issued under it.

(2) This Ordinance shall be binding on the Government.

Interpretation of certain words and expressions

3.—(1) The following words and expressions shall have the meanings respectively assigned to them:

“act”, used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to omissions;

“Administrative Appeals Rules” means the rules having effect under section 55;

“affray” means a disturbance of the public peace resulting from two or more persons fighting in a public place;

“amend” includes repeal, add to or vary and the doing of all or two or more of those things simultaneously or by the same instrument;

“commencement”, used with reference to any written law, means the date upon which that written law comes into operation;

“common law” means the common law of England applicable to Sarawak by virtue of the Civil Law Act 1956 [*Act 67*];

“Commonwealth” means collectively the Commonwealth countries, any part of Her Britannic Majesty’s dominions not being a Commonwealth country, and territory under the protection of a Commonwealth country and any territory administered by the government of a Commonwealth country under the trusteeship system of the United Nations;

“Commonwealth country” has the meaning assigned to it in the Federal Constitution;

“consular officer” means a consul-general, consul, vice-consul, consular agent, and any person authorized to discharge the duties of consul-general, consul, vice-consul or consular agent;

“contravene”, in relation to any requirement or condition prescribed in any written law, or in any permit, licence or authority granted under any written law, includes a failure to comply with that requirement or condition;

“Court of Appeal” means the Court of Appeal established by Article 121(1B) of the Federal Constitution;

“Crown Agents” means the person acting in England as the Crown Agents for Oversea Governments and Administrations, or any of them;

“definition” means the interpretation given by any written law to words or expressions;

“dependant Commonwealth territory” means any territory for the international relations of which any Member of the Commonwealth is responsible;

“Dewan Undangan Negeri” means the Legislature of the State of Sarawak established by Article 13 of the State Constitution;

“District Officer” or “Officer-in-Charge of a District” means an officer appointed to be District Officer, and includes an officer temporarily discharging the duties of a District Officer;

“enactment” means any provision, made by competent authority in the United Kingdom prior to Malaysia Day, or Sarawak, having the force of law in Sarawak;

“export” means to take or cause to be taken out of Sarawak;

“Federal Court” means the Federal Court, formerly known as the Supreme Court, established by Article 121(2) of the Federal Constitution;

“Federation”, when used in relation to a time on or after Malaysia Day, means Malaysia or the Federation of Malaysia;

“financial year” means the twelve months ending on the 31st December in any year;

“Gazette” or “Government Gazette” means the *Gazette* published in electronic or other form by the order of the Government under the Written Law (Simplified Publication) Ordinance [*Cap. 35*], and includes Parts of it, any Supplement to it or *Extraordinary Gazette* so published;

[*Am. Cap. A139.*]

“Government” or “State Government” means the Government of the State of Sarawak;

“Government Printer” means any printer authorized by the Majlis Mesyuarat Kerajaan Negeri by notification in the *Gazette*, to print Ordinances, subsidiary legislation, official publications, notifications and other official documents of the Government;

“High Court” means the High Court in Sabah and Sarawak, formerly known as the High Court in Borneo, established by Article 121(1)(b) of the Federal Constitution;

“immovable property” includes land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth, but does not include minerals;

“import” means to bring or cause to be brought into Sarawak by land, sea or air;

“instrument” includes any publication in the *Gazette*, whether or not that publication merely purports to publish the doing of an act or the occurrence of a fact or event, or otherwise conveys or purports to convey information;

“Judge” means a Judge of the High Court in Sabah and Sarawak, and includes the Chief Judge of that Court and, where applicable, also includes any Judge of the Court of Appeal or the Federal Court;

“land” includes land covered by water and all buildings and things attached to the land;

“legally qualified medical practitioner” or “duly qualified medical practitioner”, or any words importing that a person is recognized by any written law to be a medical practitioner or a member of the medical profession, means a person registered under the Medical Act 1971 [*Act 50*];

“Magistrate” means a person appointed to be a magistrate under the Subordinate Courts Act 1948 [*Act 92*];

“Majlis Mesyuarat Kerajaan Negeri” means the body constituted under Article 6(1) of the State Constitution to advise the Yang di-Pertua Negeri in the exercise of his functions;

“Malaysia Day” means 16th September, 1963;

“man” means a male human being of any age;

“Member of the Commonwealth” means any Commonwealth Country;

“Minister” means the Chief Minister or any other member of the Majlis Mesyuarat Kerajaan Negeri to whom responsibility for the matter in question has been assigned;

“month” means calendar month according to the Gregorian calendar;

“movable property” means property of every description except immovable property;

“native” means a citizen of Malaysia of any race which is now considered to be indigenous to Sarawak as set out in the Schedule;

“notice” and “notification” have the like meaning;

“oath”, “swear” or “affidavit” includes affirmation, declaration, affirming and declaring in the case of persons allowed by law to affirm or declare instead of swearing;

“offence” means any act or omission punishable under any written law in force;

“Order”, in respect of legislation prior to the first day of July, 1946, means a law enacted by His Highness the Rajah, or enacted by His Highness the Tuan Muda with the authority of His Highness the Rajah, or enacted by the Officer Administering the Government by and with the advice of the Committee of Administration, or enacted by his Highness the Rajah with the advice and consent of the former Council Negri;

“Order in Council” means an Order made by Her Britannic Majesty in Her Privy Council;

“Ordinance” means a law enacted by the Legislature of Sarawak, and includes an Order where it was enacted prior to the first day of July, 1946;

“or”, “other” or “otherwise” shall be construed disjunctively and not as implying similarity, unless the word “similar” or some other word of like meaning is added;

“Parliament” means the Federal Parliament or the Parliament of Malaysia; and, prior to Malaysia Day, meant Parliament of the United Kingdom or “Imperial Parliament”;

“person” or “party” includes any company or association or body of persons, corporate or unincorporate, and this interpretation shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation;

“power” includes privilege, authority and discretion;

“prescribed” or “provided”, when used with reference to any written law, means prescribed or provided by or under such written law, or by or under its subsidiary legislation or its instrument;

“prison” includes any place or building or portion of a building set apart for the purpose of a prison under the Prison Act 1995 [*Act 537*];

“probate officer” means any person vested with authority under any written law to grant letters of administration or probate or to authenticate any similar instrument issued by a competent authority outside Sarawak for the administration of the affairs of the estate of a deceased person;

“property” includes—

(a) money, goods, choses in action, land and every description of property, whether real or personal; and

(b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a);

“public” includes any class of the public or any community;

“public body” means any executive, legislative or municipal council, any Government department or undertaking, any local or public authority or undertaking, any board, commission, committee or other body, whether paid or unpaid, which is vested with or is performing, whether permanently or temporarily, duties of a public nature;

“public nuisance” means any act which causes any common injury, danger or annoyance to the public, or to the people in general who dwell or occupy property in the neighbourhood, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right, whether or not that act causes some convenience or advantage;

“public office” means any office or employment the holding or discharging of which by a person would constitute him a public officer;

“public officer” or “public servant” means any person holding any appointment or discharging the duties of any office the emoluments of which are wholly or in part derived from the revenues of Sarawak and any employee or member of a public body, whether temporary or permanent and whether paid or unpaid;

“public place” includes every public highway, street, road, square, court, alley, lane, bridleway, footway, parade, wharf, jetty, quay, bridge, public garden or open space, and every theatre, place of public entertainment of any kind, or other place of general resort, admission to which is obtained by payment, or to which the public have access;

“Public Seal” means the Public Seal of the State of Sarawak;

“registered”, used with reference to a document, means registered under the written law applicable to the registration of that document;

“Registrar of the High Court” means the Registrar appointed under section 10 of the Courts of Judicature Act 1964 [**Act 91**], and includes a Deputy or Assistant Registrar;

“regulations” includes rules, rules of court and bylaws;

“repeal” includes rescind, revoke, cancel or replace;

“Resident” means the officer-in-charge of the administrative area known as a Division but, in any place in which no Resident exercises jurisdiction, includes an officer authorized by the State Secretary to discharge the functions of Resident in that place;

“rules of court” means, when used in relation to any court, rules made by the authority having power to make rules and orders regulating the practice and procedure of that court;

“Sarawak” means the State of Sarawak, and includes Sarawak waters;

“Sarawak waters” or “waters of the State” means all waters whether navigable or not included within Sarawak and shall be deemed to include territorial waters;

“sell” includes exchange and barter;

“sign” includes in the case of a person unable to write the making of a mark or the affixing of his thumbprint, and a digital signature as described in the Digital Signature Act 1997 [**Act 562**];

“State” means the State of Sarawak;

“State Constitution” means the Constitution of the State of Sarawak as contained in Schedule 2 of the Sabah, Sarawak and Singapore (State Constitutions) Order in Council 1963 [**S.I. No. 1493 of 1963**] and published as *Gazette* Notification No. G.N.S. 163 in Part II of the Sarawak Government *Gazette* dated 6th September, 1963;

“State river” means any river within the territory of the State from its mouth, to be delineated by a line drawn across the river joining the coastlines on both sides thereof, up to its source, and includes the waters in the river and its banks, and any of its

tributaries, and any creek, stream and watercourse within the State;

“State Secretary” means a person appointed under Article 11 of the Constitution of the State to hold that office, and includes any person temporarily discharging the duties of the office of State Secretary;

“statutory declaration”, if made—

(a) in Malaysia, means a declaration under the Statutory Declarations Act 1960 [*Act 13*];

(b) in any part of the Commonwealth outside Malaysia, means a declaration made before a justice of the peace, notary public or other person having authority on it under any legal provision for the time being in force in that part to take or receive a declaration; and

(c) in any other place outside Malaysia, means a declaration before a Consular Officer of the Government of Malaysia or the United Kingdom or person having authority under any law for the time being in force to take or receive a declaration;

“street” or “road” includes any highway, street, road, bridge, thoroughfare, parade, square, court, alley, lane, bridleway, footway, passage, or open place whether situate on land leased from the State or not, used or frequented by the public, or to which the public have, or are permitted to have, access;

“subsidiary legislation” means any regulation, order, Proclamation, or other instrument made under any written law and having legislative effect;

“territorial waters” means such part of the sea adjacent to the coast of Sarawak as is deemed by international law to constitute the territorial waters of Sarawak;

“territory of the State” means all areas within the boundaries of the State which comprised the territory of Sarawak immediately before Malaysia Day, and includes, by virtue of the Sarawak (Alteration of Boundaries) Order in Council, 1954 [*Vol. VI, p. 1025*], the continental shelf being the seabed and its subsoil which lies beneath the high seas contiguous to the territorial waters of Sarawak;

“treaty” means a treaty, convention or agreement made with a foreign state, together with protocols or declarations attached to it, or independent of it but referring to it;

“trust territory” means a territory administered by the Government of any part of the Commonwealth under the trusteeship system of the United Nations;

“United Kingdom” means Great Britain and Northern Ireland;

“will” includes any testamentary instrument;

“woman” means a female human being of any age;

“words” includes figures and symbols;

“writing” or “printing” includes typewriting, lithography, photography and every other mode of representing words or figures in a visible form, electronic storage or transmission or any other method of recording information or fixing information in a form capable of being preserved; but, in the case of a book, “printing” does not include writing or typing; nothing in this definition shall be taken to apply to signatures;

“written law” includes—

(a) the Constitution of the State of Sarawak and its subsidiary legislation;

(b) all Ordinances enacted by the Legislature of Sarawak and their subsidiary legislation having legislative effect;

(c) Acts of Parliament of Malaysia and their subsidiary legislation which are in force in the State; and

(d) any other legislative enactments or legislative instruments (including Acts of Parliament of the United Kingdom of Great Britain and Northern Ireland and Orders in Council and their other subsidiary legislation) which are applicable to Sarawak;

“Yang di-Pertua Negeri” means the Yang di-Pertua Negeri of the State of Sarawak appointed by the Yang di-Pertuan Agong under Article 1(1) of the State Constitution and shall, in the exercise of his functions, act in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a member of it acting under the general authority of the Majlis, except as otherwise provided by the Federal Constitution or by the State Constitution, and includes any person appointed under Article 1(3) of the State Constitution to exercise temporarily the functions of the Yang di-Pertua Negeri;

“year” means a year according to the Gregorian calendar;

“years of age” or words of a like meaning, when used in reference to the age of any person, means years according to English reckoning.

Definition

(2) Whenever a definition has been given by this or any other written law to words or expressions, that definition and all grammatical variations and cognate expressions shall, unless there is something in the subject or context inconsistent with that construction, have the meaning assigned to it whenever it is used in that written law or in any of its subsidiary legislation.

Reference to Government property

(3) Whenever any reference is made in any written law to property and the expressions used in relation to it imply that that property is owned by, or belongs to, the Government, or convey a similar meaning, that reference shall be deemed to refer to such of the property of the Government of the description mentioned as has by or

with the consent of Yang di-Pertua Negeri, express or implied, been appropriated to the use of the Government.

Provisions for gender and number

- (4) (a) Words importing the masculine gender include females.
- (b) Words in the singular include the plural and *vice versa*.

Meaning of service by post

(5) Where any written law authorizes or requires any document to be served by post, whether the expression “serve”, “give”, “send” or any other expression is used the service shall be deemed to be effected by properly addressing, preparing and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Reference to time

(6) (a) Whenever any expression of time occurs in any written law or instrument, the time referred to shall be held to be standard time.

Reference to a.m. and p.m.

(b) The expression “a.m.” indicates the period between midnight and the following noon; and the expression “p.m.” indicates the period between noon and the following midnight and where two such expressions occur conjunctively in relation to any specified hours, or in conjunction with the words “sunset” or “sunrise”, they shall be construed as relating to a consecutive period of time.

The Sovereign

(7) Reference to the Sovereign or to the Crown in respect of time prior to Malaysia Day, shall be construed as a reference to the Sovereign for the time being; and the expression “Her Majesty” or “His Majesty” shall be construed as a reference to the Sovereign of the United Kingdom.

Straits Settlements

(8) Reference to the Straits Settlements shall be construed as a reference to Singapore.

Federated Malay States, Malaya or Federation

(9) (a) Reference to the Federated Malay States or to Malaya or to the Federation in respect of time prior to Malaysia Day shall be construed as a reference to the Federation of Malaya.

(b) Reference to the Federation in respect of a time on or after Malaysia Day shall be construed as a reference to Malaysia.

Restyling of designation of public office or officer

(10) Whenever the Yang di-Pertua Negeri, by notification signified in the *Gazette*, directs that the style of any public office of the State, or of one or more State officers holding the same public office, be changed, a reference to that office, officer or officers in any written law or instrument shall be construed as a reference to that office, officer or officers as so restyled.

Public officers

(11) Where a reference is made in any written law to any public officer by the term designating his office, the term shall include the officer executing the duties of the office, or any part of those duties.

Expression denoting distance

(12) Any word or expression denoting distance shall denote distance measured in a straight line on a horizontal plane.

Computation of time

(13) In computing time for the purposes of any enactment—

(a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;

(b) if the last day of the period is a Sunday or a public holiday (which days are in this subsection referred to as excluded days), the period shall include the next following day, not being an excluded day;

(c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act of proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day; and

(d) where any act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of time.

Provision where no time prescribed

(14) A prescribed act or thing shall, if no time is prescribed, be done with all convenient speed and as often as the prescribed occasion arises.

Written law, when binding on the Government

(15) No written law shall be binding on the Government unless it appears expressly or by necessary implication that the Government shall be bound by it.

Reference to enactment or Ordinance in any written law

(16) A reference in any written law to any enactment or Ordinance shall be deemed to include reference to any subsidiary legislation made under the enactment or Ordinance, as the case may be, to which such reference is made.

[Sub. Cap. A139.]

Forms

(17) Whenever forms are prescribed under any written law slight deviations from them, not affecting the substance and not calculated to mislead, shall not invalidate them.

Exercise of powers in special cases

(18) Where any power or duty is by or under any written law vested in the holder of any public office and either—

(a) that office has been abolished; or

(b) no person has been appointed to discharge the functions of that office,

those powers and duties may be discharged—

(i) in the case of making subsidiary legislation, by the Majlis Mesyuarat Kerajaan Negeri; and

(ii) in any other case, by the holder of such other public office as the Yang di-Pertua Negeri may by order direct.

PART II

GENERAL PROVISIONS REGARDING ORDINANCES, ETC.

Ordinances

4.—(1) Every Ordinance shall be a public Ordinance, and shall be judicially noticed as such.

(2) The absence of any provision for the date of commencement in an Ordinance shall imply a provision that that Ordinance shall come into operation upon the date of publication in the *Gazette*.

(3) Where the *Gazette* is published in more than one form, the date of publication of the *Gazette* shall be deemed to be the date the *Gazette* is first published in any form.

[Ins. Cap. A139.]

Sections and Schedules

5.—(1) Every section of an Ordinance shall have effect as a substantive enactment without introductory words.

(2) Every Schedule, Table or other annexure to any written law shall, together with any notes to it, be construed and have effect as part of it.

Mode of citing Ordinances

6. Any Ordinance may for all purposes be cited by its short title:

Provided that any Ordinance may also be cited by its number among the Ordinances of the year in which it was made, or by any chapter number given to it under section 17 of the Revision of Laws Ordinance, 1992 [*Cap. 1*].

Construction in an Ordinance of references to sections, etc.

7.—(1) Where in any Ordinance there is a reference to a section, Part, Chapter or Schedule by number or letter only, and not in conjunction with the title or series number of an Ordinance, that reference shall be construed as a reference to the section, Part, Chapter or Schedule of that number or letter contained in the Ordinance in which that reference occurs.

Construction in a section of reference to subsections and paragraphs

(2) Where in any section of any Ordinance there is a reference to a subsection, paragraph or subparagraph by number or letter only, and not in conjunction with the number of any section of that or of any other Ordinance, that reference shall be construed as a reference to the subsection, paragraph or subparagraph of that number or letter contained in the section in which that reference occurs.

Construction to apply to subsidiary legislation

(3) This section shall, with suitable modification, apply to subsidiary legislation, and to instruments issued under it.

Special provision in shoulder notes

(4) This section shall not apply to shoulder notes contained in an amending Ordinance or in any written law which amends another written law and, in such case, references to a Part, section or other division which does not contain a reference to the written law of which that Part, section or other division forms part shall be deemed

to refer to the Principal Ordinance or other written law which is being amended.

Coming into operation of written law

8.—(1) Any written law which is expressed to come into operation on a particular day shall come into operation on the expiration of the previous day.

(2) Subsection (1) shall apply also to the day proclaimed, notified or otherwise appointed as the day as from which any written law shall come into force, and the expression “otherwise appointed” shall include the provision for commencement made by section 4(2) and by sections 17 and 20.

(3) Where a written law is published in more than one form, the date of coming into operation of the written law shall be deemed to be the date the *Gazette* is first published in any form.

[Ins. Cap. A139.]

Regard be had to the purpose of an Ordinance

9. In the interpretation of a provision of an Ordinance, a construction that would promote the purpose or object underlying the Ordinance (whether that purpose or object is expressly stated in the Ordinance or not) shall be preferred to a construction that would not promote that purpose or object.

Repeal and substitution, and their effect

10.—(1) Whenever any written law repeals another written law and substitutes other provisions for it, the written law so repealed shall remain in force until the substituted provisions come into operation.

(2) Whenever any written law is declared to be made by way of replacement of or substitution for another or re-enacts another, with or without modification, the subsidiary legislation and instruments made or deemed to be made or prescribed by or under the earlier written law shall remain in force so far as they are not inconsistent with such later written law or any instrument made and prescribed under it, and be deemed for all purposes, including penalties, to have been made or prescribed by it and to be liable to amendment by or under it.

Effect of repeal generally

11. The repeal of any written law shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect;

(b) affect the previous operation of any written law so repealed, or anything duly done or suffered under any written law so repealed;

(c) affect any right, power, obligation, restriction or liability acquired, accrued, imposed or incurred under any written law so repealed;

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any written law so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, power, obligation, restriction, liability, penalty, forfeiture or punishment as mentioned in paragraphs (c) and (d); and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such restriction, penalty, forfeiture or punishment may be imposed, as if the repealing written law had not been passed.

Repeal of written laws

12. Whenever any written law which repeals any earlier written law is itself repealed, that last repeal shall not be construed as reviving the written law previously repealed.

Reference to amended and re-enacted provisions

13.—(1) Any written law which amends another written law shall be read and construed as one with the written law so amended, and the amended written law may, in the amending written law, be referred to as the Principal written law.

(2) A reference in any written law to the provisions of another written law shall include a reference to any written law amending that other written law or replacing it with or without modification.

PART III

SUBSIDIARY LEGISLATION AND INSTRUMENTS

Subsidiary legislation

14. The following provisions shall apply to subsidiary legislation:

Powers included in authority to make subsidiary legislation

(a) authority to make subsidiary legislation shall include—

(i) authority to provide that a contravention of it shall be punishable by such fine, not exceeding fifty thousand ringgit, and with imprisonment for such term, not exceeding three years, as may be specified in the subsidiary legislation;

(ii) authority to amend any forms prescribed by the law under which the subsidiary legislation was made; and

(iii) authority to prescribe new forms for its purpose and for the purpose of the subsidiary legislation;

To include reduction of fees, etc.

(b) authority to provide for fees and charges shall include authority to provide for the reduction, waiver or refund of them, either generally or in any particular event or case or class of cases, or in the discretion of any person;

Subsidiary legislation has same force and effect as if contained in law under which made

(c) subsidiary legislation shall have the same force and effect and be as binding and shall be construed for all purposes as if it had been contained in the law under which it was made;

Where subsidiary legislation requires approval

(d) whenever any written law provides that the subsidiary legislation shall be subject to the approval of the Dewan Undangan Negeri or of any other authority, or contains words to the like effect then—

(i) the subsidiary legislation shall be submitted for the approval of that authority;

(ii) that authority shall have power to amend or disapprove the whole or any part of the subsidiary legislation and may, if it disapproves of it either in whole or in part, require further subsidiary legislation to be submitted for approval;

(iii) a statement by the approving authority, purporting to be made under the provision of that written law by which approval is required, that specified subsidiary legislation has been made with the approval of that authority shall, until the contrary is proved, be evidence that the subsidiary legislation was duly made and the requisite approval duly obtained;

(iv) where the approving authority is the Yang di-Pertua Negeri or an authority outside Sarawak, a statement by the person authorized to make the subsidiary legislation that that legislation is or has been made with the approval of the Yang di-Pertua Negeri or such other authority shall, until the contrary is proved, be evidence that that approval has been duly obtained;

(v) subparagraphs (iii) and (iv) shall apply whether or not the power to amend conferred by subparagraph (ii) has been exercised and, if the statement appears in a publication authorized by that written law,

whether or not publication has been made in the *Gazette*; and it shall not be necessary to specify in what respect the subsidiary legislation originally submitted has been amended; and

(vi) the expression “the approving authority” shall include a person authorized by section 18, 19 or otherwise to signify on behalf of the authority that its approval has been given; and the expression “the person authorized to make the subsidiary legislation” shall include any person authorized to signify the exercise of the power to make subsidiary legislation vested in such first mentioned person;

Power to make subsidiary legislation for special as well as general purposes

(e) authority to make subsidiary legislation for any general purpose, and also for any special purpose incidental to it, shall not be construed so as to derogate from the powers conferred with reference to the general purpose;

Reference to written law, Act of Parliament or Imperial Parliament or Order in Council includes reference to legislation made under it

(f) a reference in a written law to another written law shall include reference to any subsidiary legislation made under it; and a reference in a written law to an Act of Parliament or the Imperial Parliament or to an Order in Council shall include reference to any enactment made under it;

Reference to “the Ordinance” in subsidiary legislation

(g) a reference in the subsidiary legislation to “the Ordinance” shall be read as meaning the Ordinance under the authority of which the subsidiary legislation was made.

Construction of general penalties provision regarding subsidiary legislation

15.—(1) A provision in any written law to the effect that any breach or contravention of subsidiary legislation made or deemed to

be made, or taking effect, by virtue of that written law shall constitute an offence, or prescribing punishment for breach or contravention of that subsidiary legislation, shall be deemed to include power to prescribe by that subsidiary legislation that the contravention of any particular provision in it shall or shall not constitute an offence, and to include power to prescribe by that subsidiary legislation punishment for it not exceeding that so prescribed in that written law for breach or contravention of that subsidiary legislation:

Provided that except in so far as the power deemed by this subsection to be included in that provision is exercised, that provision shall be construed and take effect as if no such power had been conferred.

(2) (a) This section shall apply to any written law coming into operation prior to the 23rd day of May, 1953, notwithstanding any contrary expression in that written law.

(b) This section shall apply to any written law coming into operation after the 23rd day of May, 1953, unless the operation of this section is expressly excluded.

Extent of power to make subsidiary legislation or instruments or perform acts of a similar nature

16. Whenever by or under any written law power is given to the Majlis Mesyuarat Kerajaan Negeri, the Yang di-Pertua Negeri or any public officer or body or other authority (in this section referred to as “the authority empowered”) to make subsidiary legislation or to make, issue or approve any order, Proclamation, instrument, declaration, direction, instruction, notification, register or list, it shall include the power of amending or suspending that subsidiary legislation, order, Proclamation, instrument, declaration, direction, instruction, notification, register or list, or withdrawing its approval, in the same manner as it was made, approved or issued, and shall, notwithstanding the absence of any express provision in any Ordinance or other written law, where that Ordinance or other written law empowers any person to make subsidiary legislation, include the power of declaring the date (including a date prior to that upon which

it is so declared) as from which it shall have or be deemed to have had effect, the period of its operation and of substituting another for it:

Provided that—

(a) the power of declaring the date of commencement shall not be deemed to include power to appoint a date of commencement prior to the commencement of the written law conferring the power and, if, pursuant to that power, a date of commencement for any subsidiary legislation is appointed which is prior to the date of publication of that subsidiary legislation, no person shall be found guilty of an offence committed prior to the date of publication unless it is proved to the court having cognizance of that offence that that person was, at the time that he committed the act constituting the offence with which he is charged, aware that that act had been constituted an offence under that subsidiary legislation;

(b) where any Ordinance is to come into operation on a day to be fixed by Proclamation, notification or other instrument, the power to issue that Proclamation, notification or other instrument, shall not include, except in the case of and for the purpose of correcting any mistake in it, the power of amending or suspending it; and

(c) where the authority empowered has been replaced wholly or partially by another authority, the power conferred upon the original authority may be exercised by such other authority concerning all matters or things which it is empowered to do as if it were the original authority.

Publication of subsidiary legislation and instruments

17.—(1) Power to make subsidiary legislation shall, unless another method of publication is authorized, be deemed to include a direction to publish it in the *Gazette* and, without prejudice to section 16, a direction that it shall come into operation on the date of its publication.

(2) If the particular form or manner of publication of any legislation or instrument has not been provided for then without prejudice to subsection (1) and to any form or manner which may be deemed sufficient it shall be deemed to be duly published if it is published in such form or manner as the Minister shall direct.

(3) Without prejudice to subsection (1), a provision in any written law that subsidiary legislation of any description shall be made or published in the *Gazette* shall not be deemed to prohibit the making of any such subsidiary legislation otherwise than in the *Gazette*, and that provision shall be deemed to have been complied with if, after that subsidiary legislation has been made, the fact that that subsidiary legislation has been made and its contents are published, by signification or otherwise, in the *Gazette*.

(4) Without prejudice to subsection (6), subsection (3) shall apply to instruments not constituting subsidiary legislation with the modification that it shall suffice to publish the purport of it.

(5) The expression “notification in the *Gazette*” shall not import a duty to execute any formal instrument or to use any words denoting notification, but shall nevertheless import a direction to effect publication in the *Gazette* in an appropriate manner.

(6) Nothing in the definition of “instrument” as read with this section shall import either a duty or direction to execute any formal instrument, unless that duty is otherwise required or a direction to publish the fact that an instrument has been made, unless that is in fact the case.

Signification of orders of the Yang di-Pertua Negeri and Majlis Mesyuarat Kerajaan Negeri

18.—(1) Whenever any Ordinance confers upon the Yang di-Pertua Negeri or the Majlis Mesyuarat Kerajaan Negeri power to make subsidiary legislation, give any directions, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty or exercise any other power, it shall be sufficient if the exercise of that power be signified—

(a) in the case of the Yang di-Pertua Negeri, under the hand of any member of the Majlis Mesyuarat Kerajaan Negeri; and

(b) in the case of the Majlis Mesyuarat Kerajaan Negeri under the hand of the Clerk to the Majlis Mesyuarat Kerajaan Negeri.

(2) Subsection (1) shall not apply to the power of the Yang di-Pertua Negeri to issue any Warrant or Proclamation, which shall be made or issued only under the hand of the Yang di-Pertua Negeri himself.

Signification of orders, etc., of the Chief Minister, a Minister or the State Secretary

19. Whenever, either directly under any Ordinance or by delegation under section 34, any power is conferred upon the Chief Minister, a Minister or the State Secretary to make any order, regulation or instrument or to make any appointment or give any direction, it shall be sufficient for that order, regulation, instrument, appointment or direction to be signified—

(a) in the case of the Chief Minister, under the hand of the State Secretary or his deputy or such other officer in the Chief Minister's Office as may be specifically authorized by the Chief Minister for such purpose;

(b) in the case of a Minister, other than the Chief Minister, under the hand of the Permanent Secretary or any Principal Assistant Secretary to the Ministry for which the Minister is responsible; and

(c) in the case of the State Secretary, under the hand of any Deputy State Secretary or any officer not below the rank of Director in the Chief Minister's Office.

Exercise of statutory power between enactment and commencement of written law

20. Whenever any written law which is not to come into operation immediately on the passing or making of it confers power—

(a) to make subsidiary legislation;

(b) to issue any instrument;

(c) to prescribe forms; or

(d) to do any other act or thing whatever,

that power may be exercised, for the purpose of making the written law effective upon its coming into operation at any time after the written law is passed or made:

Provided that, except in so far as it may be necessary or expedient for the purpose of the establishment of any office or the appointment of any officer under it, nothing in this section shall be deemed to authorize the bringing into effect of any such subsidiary legislation, instrument or form prior to the date of the commencement of the written law conferring the power.

Avoidance of subsidiary legislation in case of inconsistency with Ordinance

21.—(1) Any subsidiary legislation that is inconsistent with an Ordinance (including the Ordinance under which the subsidiary legislation was made) shall be void to the extent of the inconsistency.

(2) For the purposes of subsection (1), any subsidiary legislation made under an Ordinance is not inconsistent with that Ordinance or any other Ordinance merely by reason of the absence in the Ordinance under which it is made of any provision relating to the commencement, application, operation, interpretation or construction of the subsidiary legislation or to any other matter in connection with that subsidiary legislation if provisions relating to the commencement, application, operation, interpretation or construction of, or other matter in connection with, subsidiary legislation generally are contained in this Ordinance.

PART IV

POWERS AND APPOINTMENTS

Construction of provisions as to exercise of powers and duties

22.—(1) Whenever any written law confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Whenever any written law confers a power or imposes a duty on the holder of an office as such, then, the power may be exercised and the duty shall be performed by the holder of the office for the time being, or by a person duly appointed to act for him.

Power to appoint includes power to dismiss

23. Whenever any written law confers upon any person or authority a power to make appointments to any office or place, the power shall be construed as including a power to dismiss or suspend any person appointed and to appoint another person temporarily in the place of any person so suspended, or in place of any sick or absent holder of that office or place:

Provided that, where the power of that person or authority to make that appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, that power of dismissal shall only be exercisable upon the recommendation or subject to the approval or consent of that other person or authority.

Construction of enabling words

24.—(1) Whenever any written law, either expressly or by necessary implication, confers on any person power to do or enforce the doing of any act or thing, all these powers shall be understood to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

(2) Without prejudice to the generality of subsection (1)—

(a) a power to provide for, prohibit, control or regulate any matter includes power to provide for that matter by the licensing of it and power to prohibit acts by which the prohibitions, control or regulations affecting that matter might be evaded;

(b) a power to grant a licence, permit, authority, approval or exemption includes power to impose reasonable conditions subject to which that licence, permit, authority, approval or exemption may be granted;

(c) a power to approve any person or thing includes power to withdraw its approval; and

(d) a power to give directions includes power to couch them in the form of prohibitions.

(3) Without prejudice to the generality of subsection (1), whenever in any written law one of the following expressions:

(a) “as the Yang di-Pertua Negeri may appoint”; or

(b) “as the Yang di-Pertua Negeri may direct”; or

(c) “as may be designated by the Yang di-Pertua Negeri”;
or

(d) any similar expression,

appears and no power is expressly conferred upon the Yang di-Pertua Negeri to make the appointment, give the direction or make a designation, as the case may be, that power shall nevertheless be deemed to be conferred by necessary implication.

(4) Subsection (3) shall have effect in relation to the Majlis Mesyuarat Kerajaan Negeri, a public body, public officer or other person as it has effect in relation to the Yang di-Pertua Negeri, and shall have effect in respect of any instrument or other matter as it has effect in respect of appointments or directions.

(5) Without prejudice to the generality of subsection (1), whenever in any written law power is expressly or impliedly conferred on the Yang di-Pertua Negeri, a public body or public officer to make any Proclamation, warrant, order, instrument or appointment, or to give any direction, approval or notice, and it does not expressly appear what effect any such making or giving shall have, the instrument or document made or executed pursuant to that power shall, if lawfully made in conformity with the power so conferred, have effect nevertheless according to its tenor.

Appointment of officers by name or office

25. Whenever by or under any written law the Yang di-Pertua Negeri, the Majlis Mesyuarat Kerajaan Negeri or any public officer or body is empowered to appoint or name a person to have and exercise any powers or discharge any duties, the power may be lawfully exercised either by appointing a person by name, or by directing that the person for the time being holding a designated office shall have and exercise those powers and discharge those duties.

Relation back of appointments

26. Any appointment may be declared to have effect as from the date upon which the appointee in fact commenced to exercise the powers and discharge the duties of his appointment, not being a date earlier than the commencement of the written law under which the appointment is made.

Power of Yang di-Pertua Negeri to provide for execution of duties of public officer during temporary absence or inability

27.—(1) (a) Whenever by or under any written law any powers are conferred or any duties are imposed upon a public officer, then, if, during any period, owing to absence or inability to act from illness or any other cause, that public officer is unable to exercise the powers or perform the duties of his office in any place under his jurisdiction or control, those powers shall be had and may be exercised, and those duties shall be discharged, in such place by a person named by, or by a public officer holding the office designated by, the direction of the Yang di-Pertua Negeri, subject to such conditions, exceptions and qualifications as the Yang di-Pertua Negeri may direct.

(b) Any such direction may be given in anticipation of any absence or inability occurring, in which case it shall be notified by the Minister in the *Gazette* or, if given subsequent to it, may relate back to the commencement of that inability or absence and shall be so notified upon the termination of any period of absence or inability.

(2) Whenever by or under any written law any powers are conferred or any duties are imposed upon a public officer and a new

post is subsequently created in the same department, the emoluments of which are no less than those of that public officer, the Yang di-Pertua Negeri may by notification in the *Gazette* direct that those powers and duties or any of them shall be exercised by any holder of the post so created, and either to the exclusion of the first named public officer or otherwise.

Power to appoint to substantive office not vacant

28. Notwithstanding the provisions of any written law constituting an office, when the substantive holder of that office is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to the same office; and, upon any such appointment, all rights, powers, functions and duties of the office shall vest in the person so appointed to the exclusion of the holder of that office on leave of absence pending relinquishment of office, but without prejudice to section 22(2) or to any provision enabling an acting appointment to be made, or enabling a person other than the holder of an office to exercise and discharge temporarily the powers and duties of that office or some of them.

Effect of defining office to include deputy or assistant

29. Whenever an office is defined as including a deputy or assistant or other public officer, then, subject to any instructions of the Yang di-Pertua Negeri, that deputy or assistant or other officer shall—

(a) during the absence or inability to act of the holder of that office, unless and until the vacancy is filled, whether temporarily or otherwise, exercise the powers vested in and discharge the duties to be discharged by him; and

(b) notwithstanding that the holder or other person discharging the duties of that office is present and able to act, exercise such powers and discharge such duties as such holder or other person may delegate.

Power of majority and person presiding

30.—(1) Whenever by any written law a power is conferred or a duty imposed on a body or number of persons consisting of, or being

not less than, three, that power may be exercised or duty discharged in the name of that body or number of persons by a majority of those persons.

(2) Whenever that body is assembled, the chairman or other member presiding shall have a casting as well as a deliberative vote.

(3) The exercise of any power vested in that body or number of persons may be signified either by the chairman, president or other person presiding at the meeting or other deliberation at which that power was exercised or at which, as the case may be, authority to exercise it was conferred, or by any person from time to time authorized by such body or persons to signify the exercise of that power.

Powers of a board, etc., not affected by vacancy, etc.

31. Where by or under any Ordinance, any board, commission, committee or similar body, whether corporate or unincorporate, is established then, unless the contrary intention appears, the powers of that board, commission, committee or similar body shall not be affected by—

(a) any vacancy in its membership;

(b) the fact that it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member of it; or

(c) the fact that there was any minor irregularity in the convening of any meeting of it.

Presumption in favour of lawful exercise of power

32. Whenever by virtue of any written law power is conferred on the Yang di-Pertua Negeri, the Majlis Mesyuarat Kerajaan Negeri or any public officer to make any subsidiary legislation, or to make any instrument or to exercise any power, and the written law conferring the power prescribes conditions, whether objective or subjective, subject to the observance, performance or existence of which any such power may be exercised, a statement in the instrument exercising the power that the subsidiary legislation or

instrument is made, or the power exercised, in exercise of, or pursuant to, the power conferred by that written law, or a statement to the like effect, shall, if that statement includes reference to the provision of that written law where those conditions are prescribed, be deemed to include a statement that the conditions precedent to the making of the subsidiary legislation or instrument, or to the exercise of the power, have been duly fulfilled.

PART V
DELEGATION OF POWERS

Delegation under sections 34 and 35 to be published in the *Gazette*

33. Any delegation made in exercise of the powers conferred by this Part shall be published in the *Gazette*.

Power of Yang di-Pertua Negeri or Majlis Mesyuarat Kerajaan Negeri to delegate powers and duties

34. Where by any written law the Yang di-Pertua Negeri or the Majlis Mesyuarat Kerajaan Negeri is empowered to exercise any powers or perform any duties, the Yang di-Pertua Negeri or the Majlis may, subject to section 36, by notification in the *Gazette*, delegate subject to such conditions and restrictions as may be prescribed in such notification the exercise of such powers or the performance of such duties to any Minister or to any public officer or person described by name or office.

Delegation of powers of Chief Minister, etc.

35. Whenever by any written law the Chief Minister, a Minister or the State Secretary, either so described or as one of a class of persons, is empowered to exercise any power or perform any duty, he may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, delegate the exercise of that power, or the performance of that duty, to any person or to any public body.

Savings

36. Nothing in section 34 or 35 shall authorize delegation of any power to make subsidiary legislation, issue warrants or Proclamations or to hear any appeal.

Delegation not to preclude exercise of powers by officer delegating those powers

37. Whenever, by this Part or by any written law, the Yang di-Pertua Negeri, the Majlis Mesyuarat Kerajaan Negeri, or any public officer or body or any person is empowered to delegate the exercise of any of the powers or the performance of any of the duties vested in him under that written law—

(a) no delegation made under it shall preclude the Yang di-Pertua Negeri, the Majlis Mesyuarat Kerajaan Negeri or such public officer or body or such person, as the case may be, from exercising or performing at any time any of the powers or duties so delegated; and

(b) delegation may be conditional, qualified or limited in such manner as the person or body, with whose approval the delegation is required to be made, may approve, and, if there is no such person or body, in such manner as the person or body delegating may think fit.

PART VI

PENAL PROVISIONS

Attempt to commit an offence to be deemed an offence

38. A provision which constitutes an offence shall be deemed to provide also that an attempt to commit that offence shall be an offence against that provision, punishable as if the offence itself had been committed.

Contravention of condition in licence, permit, etc., an offence

39. If by virtue of any written law it is an offence to do any act or thing without a licence, permit, approval, or other authority, the contravention of any condition to which any such licence, permit, approval or other authority has lawfully been made subject shall itself be an offence, punishable in like manner and with the like penalties as the offence first mentioned.

A reference to an offence to include attempts, abetments, conspiracies and where applicable the offence provided for by section 39

40.—(1) Whenever by any written law a power is conferred or a duty is imposed which is to be exercised or performed consequential upon a conviction of an offence, or in relation to a person who is detained in custody for that offence, or a reference is otherwise made to that offence, then, that power or duty or that reference shall be deemed to be also exercisable, performable or referable to, as the case may be—

- (a) an attempt to commit that offence;
- (b) an abetment of that offence;
- (c) a conspiracy to commit that offence; and
- (d) if the offence is of a character as is mentioned in the first part of section 39, the offence referred to in the latter part of that section.

(2) Subsection (1) shall apply to powers of imposing pecuniary penalties and of forfeiture, seizure and search, and to powers and discretions to cancel, suspend or refuse to issue any licence, permit or other authorization, but nothing in this section shall apply to any offence for which a sentence of death may be imposed, or be deemed to authorize the imposition of any sentence of imprisonment otherwise than in default of payment of any pecuniary penalty which may be imposed by virtue of this section.

Imposition of a penalty not a bar to civil action

41. The imposition of a penalty by or under any written law shall not relieve any person from liability to answer for damages to a person injured.

Provisions as to offences under two or more laws

42. Whenever any act or omission constitutes an offence under two or more written laws, or under a written law and under any other law which applies to Sarawak, the offender shall be liable to be prosecuted and punished under either or any of those laws, or under such other law, but shall not be liable to be punished twice for the same offence.

Punishment for misdemeanours and other contraventions in absence of specific provision

43.—(1) Where any enactment creates an offence which is expressed to be a misdemeanour and there is no express provision applicable in Sarawak regarding jurisdiction to try the offence or the penalty for it, a Sessions Court shall have jurisdiction and the penalty shall be imprisonment for seven years and a fine.

(2) Subject to subsection (3), a contravention of a written law which has not expressly been declared to be an offence shall constitute an offence: Penalty, in the case of an Ordinance, imprisonment for five years or a fine of one hundred thousand ringgit or both, and, in the case of subsidiary legislation, imprisonment for three months or a fine of fifty thousand ringgit or both.

(3) Subsection (2) shall not apply—

(a) if some other remedy is provided by the relevant law;

(b) without prejudice to disciplinary proceedings in respect of it, if the contravention consists merely of the dereliction of a duty imposed on an officer in the Government Service; or

(c) to a breach of any law which contains any provision declaring which breaches shall constitute offences.

(4) The penalties provided by subsection (2) shall be applicable also if a contravention of a written law has been declared to be an offence but no provision has been made for the punishment of it.

Method of prescribing penalties and cumulative penalties

44. Whenever in or by virtue of any written law more than one penalty is prescribed for an offence, the use of the word “and” shall signify that the penalties may be inflicted alternatively or cumulatively:

Provided that, without prejudice to the foregoing or to section 45, the use of the word “penalty” in a provision of any written law shall, if no offence is specified, be deemed to prescribe that a contravention of the provision in which the word appears is an offence punishable by penalties not exceeding those specified immediately after the word “penalty”.

Penalties prescribed to be maximum penalties

45. Whenever in or by virtue of any written law a penalty, whether of fine or imprisonment, is prescribed for an offence the same shall imply—

(a) that that offence shall be punishable upon conviction by a penalty not exceeding the penalty prescribed; and

(b) if the amount of the fine is unspecified, that that offence shall, without prejudice to any provision of law against excessive and unreasonable fines and assessments, be punishable by a fine of any amount.

Disposal of fines and penalties

46. Any fine or penalty imposed by or under the authority of any written law shall be paid into the State Consolidated Fund:

Provided that the Yang di-Pertua Negeri may direct the payment to any aggrieved person, or to any person whose information or evidence has led to the conviction of the offender or to the recovery of the fine or penalty, of such proportion of the fine or penalty as he may think fit.

Disposal of forfeits

47. Whenever under any written law any movable property is adjudged by any court or other authority to be forfeited, it shall be forfeited to the Government, and the net proceeds of it, if it is ordered by competent authority to be sold, shall be paid into the State Consolidated Fund.

Remission of penalties

48. It shall be lawful for the Yang di-Pertua Negeri to remit, in whole or in part, any sum of money which, under any written law may be imposed as a penalty or forfeiture on a convicted offender, although that money may be in whole or in part payable to some party other than the Government, and to order the discharge of any person who may be imprisoned for non-payment of any sum of money so imposed.

PART VII

MISCELLANEOUS

Power of the Yang di-Pertua Negeri to appoint public officer as such to serve on board and to appoint chairman

49. Whenever under the provisions of any written law power is given to the Yang di-Pertua Negeri to appoint any person or persons to be a chairman or member of any board, commission, committee or similar body, it shall be lawful for the Yang di-Pertua Negeri so to appoint, by his official designation, any public officer, and, on that appointment and until that appointment shall be cancelled or otherwise determined, the person for the time being filling the office in question shall be the chairman or a member of that board, commission, committee or similar body.

Evidence of signature of Yang di-Pertua Negeri, Attorney General, State Attorney General or Public Prosecutor to fiat, etc.

50. Whenever the fiat, authorization or sanction of the Yang di-Pertua Negeri, the Attorney General, the State Attorney General,

the Public Prosecutor or of any public officer is necessary before any prosecution or action is commenced, or for any purpose whatever in connection with any proceeding, any document purporting to bear the fiat, authorization or sanction of the Yang di-Pertua Negeri, the Attorney General, the State Attorney-General, the Public Prosecutor or such public officer, as the case may be, shall, until the contrary is proved, be received as evidence in any proceeding without proof being given that the signature to that fiat, authorization or sanction is that of the Yang di-Pertua Negeri, the Attorney General, the State Attorney General, the Public Prosecutor or such public officer.

Ex officio proceedings not to abate on death, etc.

51. Any civil or criminal proceedings taken by or against any person in virtue of his office shall not be discontinued or abated by his death, resignation, or absence or removal from office, but may be carried on by or against, as the case may be, the person appointed to perform the duties of the office.

Gazette to be evidence of matters in it

52. All printed copies of the *Gazette*, purporting to be published by authority and to be printed by the Government Printer, shall be admitted in evidence by all courts and in all legal proceedings whatever without any proof being given that those copies, were so published and printed, and shall, until the contrary is proved, be taken and accepted as evidence of the Proclamations, regulations, orders, appointments, notices and other publications printed in them, and of the matters and things contained or necessarily implied in any of them.

Act for which payment is required need not be performed till payment be made

53.—(1) Whenever any person, public officer, public department or local authority is required to do anything for which a fee is to be paid or a charge made under any written law or prescribed under section 54(2), that person, officer, responsible officer of the public department or authority may decline to do that thing until the fee is paid or payment be made and, where the precise amount of the payment to be made cannot be ascertained until the thing is done, until

there be paid such an amount as may be estimated to be the correct amount by the person, officer, responsible officer of the department or authority required to do that thing.

(2) Whenever a thing has been done for which an estimated amount shall have been paid, that amount shall be adjusted to the correct amount either by means of a further payment or by a refund of the amount overpaid.

Fees or charges may be prescribed and may be reduced, varied, remitted or refunded

54.—(1) Whenever any act requires to be done or a service performed by a public body or a public officer under or in connection with any written law, and no special provision is made by or under it for making a charge in respect of that act or service, the Majlis Mesyuarat Kerajaan Negeri may by order signified in the *Gazette* provide for the imposition of those fees or charges as it may consider proper.

(2) Except where expressly provided otherwise by any other written law, the Yang di-Pertua Negeri may by order—

(a) charge and prescribe fees and payments for any act, matter or thing done, or for any amenities, report, statistics or data provided or services performed, by any person, public officer, department of the Government, local authority or statutory body; and

(b) specify the persons by or to whom those fees shall be paid and payments made,

and the fees and payments received from them shall, except as otherwise provided in any written law, be paid into the State Consolidated Fund.

(3) Any fee or charge by or under subsection (1) or (2) made payable to the Government or to any public body, public officer or local authority, not being a fee or charge which is regulated by rules of court—

(a) may be reduced or varied by order of the Majlis Mesyuarat Kerajaan Negeri:

Provided that any variation of it shall not exceed the original figure; and

(b) may be remitted or refunded, in whole or in part in any particular case and on any special ground, by the Yang di-Pertua Negeri.

Administrative appeals

55.—(1) Notwithstanding section 34, whenever in any written law provision is made for an appeal other than by way of petition to the Majlis Mesyuarat Kerajaan Negeri—

(a) the Administrative Appeals Rules shall apply to the extent that specific provision is not contained in that written law;

(b) nothing in it shall be deemed to prevent any person from applying to the High Court for a *mandamus*, injunction, prohibition or any other order should he elect to do so, instead of appealing to the Majlis Mesyuarat Kerajaan Negeri, but no proceedings by way of *mandamus*, injunction, prohibition or other order shall be taken against the Majlis Mesyuarat Kerajaan Negeri in respect of such provision or provisions; and

(c) every order of the Majlis Mesyuarat Kerajaan Negeri on any appeal under those Rules shall be final and may be enforced by the High Court as if it had been an order of that Court.

(2) The Majlis Mesyuarat Kerajaan Negeri may, by order signified in the *Gazette*, amend the Administrative Appeals Rules [*Vol. VII, p. 5*].

Citation of imperial statutes

56. When any Act of Imperial Parliament is referred to, it shall be sufficient for all purposes to cite it by the short title cited in it or by the short title given to it by the Short Titles Act, 1896 [*59 and 60 Vict. c. 14*].

Modification of Acts of the United Kingdom and Orders in Council extended or applied to Sarawak

57.—(1) Whenever by any written law an Act of Parliament of the United Kingdom has been or is applied to Sarawak, including any statute of general application which applies by virtue of the Application of Laws Ordinance [*Cap. 2 (1958 Ed.)*], it shall be lawful for the Majlis Mesyuarat Kerajaan Negeri by regulations not inconsistent with any such written law to provide for such modifications as to names, localities, courts, officers, persons, moneys, penalties and otherwise as may be necessary to make it applicable to the circumstances of Sarawak and, if no such regulations are made or if there is any respect in which such regulations are silent, that Act shall nevertheless be deemed to apply with such modifications as may be necessary to make it applicable to the circumstances of Sarawak.

(2) (a) Without prejudice to subsection (1), in any case in which a statute of general application applies to Sarawak by virtue of the Application of Laws Ordinance [*Cap. 2 (1958 Ed.)*], a reference to a sum of money or part of it in pounds sterling shall be deemed to refer to ten times the equivalent number of ringgit, and a reference to a sum of money or part of it in shillings shall be deemed to refer to half the equivalent number of ringgit.

(b) For the purpose of this subsection “ringgit” means a ringgit in the currency of Malaysia.

Construction of references in written law to Acts of Parliament of the United Kingdom or of the Imperial Parliament and Orders in Council and legislation enacted under them

58.—(1) A reference in any written law or in any of its instrument to an Act of Parliament of the United Kingdom or of the Imperial Parliament or an Order in Council shall include a reference to that Act or Order as that Act or Order may from time to time be amended, and to any Act of Parliament of the United Kingdom or of the Imperial Parliament or Order in Council re-enacting with or without modification the provisions of that Act of Parliament of the United Kingdom or of the Imperial Parliament or Order in Council.

(2) Subsection (1) shall have effect in relation to regulations, rules or other provisions having legislative effect by virtue of any Act of Parliament or of Imperial Parliament or Order in Council as it has effect in relation to that Act or Order in Council.

Use of electronic means or medium

59. Where under any written law any information is permitted or required to be given or kept or maintained, and no means or medium is specified, that information may be given or kept or maintained by electronic means and on electronic medium if the identity of the person giving the information or the source of any information given by such means is capable of being determined or verified, and if sufficient precautionary measures have been applied to prevent unauthorized access to any information recorded or fixed by such means or on such medium.

General amendment

60. In any written law, any reference to the Interpretation Ordinance [*Cap. 1 (1958 Ed.)*] shall be construed as a reference to the Interpretation Ordinance, 2005 [*Cap. 61*].

Repeal and saving

61.—(1) The Interpretation Ordinance [*Cap. 1 (1958 Ed.)*] is repealed.

(2) Nothing in this Ordinance shall affect the past operation of, or anything done under, the repealed Ordinance.

Removal of difficulties

62. The Chief Minister may, by order published in the *Gazette*, make such provisions as he considers necessary and expedient for the purpose of removing any difficulties occasioned by the coming into force of this Ordinance, and such order may be made so as to have effect as from the date of commencement of this Ordinance.

SCHEDULE

(Section 3)

Races which are now considered to be indigenous to Sarawak and accordingly natives within the meaning of this Ordinance.

Bidayuhs or Land Dayaks

Bukitans

Bisayahs

Dusuns

Ibans or Sea Dayaks

Kadayans

Kelabits

Kayans

Kenyahs (including Sabups and Sipengs)

Kajangs (including Sekapans, Kejamans, Lahanans,
Punans, Tanjongs and Kanowits)

Lugats

Lisums

Malays

Melanaus

Muruts or Lun Bawang

Penans

Sians

Tagals

Tabuns

Ukits

And any admixture of these races with each other.

[List of Amendments]

50

CAP. 61

LAWS OF SARAWAK
Chapter 61
INTERPRETATION ORDINANCE, 2005

LIST OF AMENDMENTS

Amending Law		Short Title	In force from
Cap. A139	...	Interpretation (Amendment) Ordinance, 2008	1.8.2008

