



LAWS OF MALAYSIA

REPRINT

Act 385

LAND CONSERVATION ACT 1960

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LAND CONSERVATION ACT 1960

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LAWS OF MALAYSIA

Act 385

LAND CONSERVATION ACT 1960

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LAWS OF MALAYSIA**Act 385****LAND CONSERVATION ACT 1960**

An Act relating to the conservation of hill land and the protection of soil from erosion and the inroad of silt.

[5 May 1960]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I**INTRODUCTORY****Short title and application**

1. (1) This Act may be cited as the Land Conservation Act 1960.

* (2) This Act shall not come into operation in any State until it has been adopted by a law made by the Legislature of that State pursuant to Clause (3) of Article 76 of the Constitution.

Interpretation

2. (1) In this Act, unless the context otherwise requires—

“hill land” means any land declared to be hill land in accordance with section 3;

“Land Administrator” has the same meaning assigned thereto in the National Land Code [*Act 56 of 1965*];

*NOTE—Adoption of this Act by States under subsection 1(2)—see Appendix.

“owner” means the person for the time being receiving the rent of land in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or as receiver, or who would receive the rent if the land were let to a tenant, but does not include the Government of Malaysia or the Government of any State in Malaysia;

“occupier” means the person in occupation of land in connection with which the word is used, or having the charge, management or control thereof, either on his own account or as agent of another person, and includes a lessee of land, a person occupying land consequent upon an approved application, an approved occupant in the State of Johore, and any person occupying land under section 9 of the *Lands Ordinance of the Straits Settlements [*S.S. Cap. 113*];

“Registrar” has the same meaning assigned thereto in the National Land Code;

“short-term crops” means any crops which normally complete their life cycle within two years after planting, and includes pineapples, bananas and derris.

(2) Nothing in this Act contained—

- (a) refers to land held under mining lease or other mining title;
- (b) shall in any manner whatsoever affect the rights of the Yang di-Pertuan Agong or of the Government or of the Ruler or Yang di-Pertua Negeri or of the Government of any State.

PART II

CONTROL OF HILL LAND

Declaration of hill land

3. The Ruler in Council or the Yang di-Pertua Negeri in Council of a State may, by notification in the *Gazette*, declare any area or class or description of land in the State to be hill land for the purposes of this Act.

*NOTE—Lands Ordinance of the Straits Settlements [*S.S. Cap. 113*] has since been repealed by National Land Code [*Act 56 of 1965*]-see section 438 of Act 56 of 1965.

Entry of declaration on the register

4. The Land Administrator shall, upon the making of any declaration under section 3 cause to be presented to the Registrar a memorandum containing a complete list of all the lands affected by such declaration, and the Registrar shall note in the register against all such lands the fact that such declaration has been made.

Prohibition of short-term crops except under permit

5. No person shall plant any hill land with short-term crops:

Provided that the Land Administrator may issue an annual permit to plant specified short-term crops to any applicant who satisfies him that such cultivation will not cause appreciable soil erosion, and in such permit may prescribe the area of the land and the terms and conditions under which such cultivation is permitted.

Restrictions on clearing and cultivation of hill land

6. (1) No person shall clear any hill land or interfere with, destroy or remove any trees, plants, undergrowth, weeds, grass or vegetation on or from any hill land:

Provided that it shall be lawful for the Land Administrator, on the application of the owner or occupier of any hill land, to authorize by permit in writing under his hand, subject to such terms and conditions and to such extent and in such manner as may be specified in such permit—

- (a) the clearing of such hill land for the purpose of cultivation;
- (b) the clearing or weeding of such hill land under lawful cultivation.

(2) Any person who fails to comply with any terms or conditions prescribed in a permit issued under subsection (1) shall be deemed to have contravened this Act.

(3) Whenever the Land Administrator declines to issue a permit under this section in terms acceptable to the applicant he shall, on being requested so to do by the applicant, forthwith issue to him a certificate under his hand setting forth the nature of the permit asked for and the grounds of such refusal and the date of issue of such certificate.

Appeal

7. (1) Any applicant aggrieved by the refusal of the Land Administrator to issue a permit under section 6 in terms acceptable to such applicant may, within fifteen days of the issue of the Land Administrator's certificate under subsection 6(3), or within such further time as the Ruler in Council or the Yang di-Pertua Negeri in Council, as the case may be, may in any case allow, appeal to the Ruler in Council or the Yang di-Pertua Negeri in Council, against such refusal and the Ruler in Council or the Yang di-Pertua Negeri in Council, after hearing such person, or in his absence, as the Ruler in Council or the Yang di-Pertua Negeri in Council shall think fit, may confirm such refusal or order the Land Administrator to issue such permit with or without modifications.

(2) Every such appeal shall be by notice in writing signed by the appellant or his advocate and solicitor and shall be delivered to the Land Administrator, who shall forthwith transmit such notice to the State Secretary, together with a copy of the certificate issued under subsection 6(3).

(3) In deciding any such appeal it shall be lawful for the Ruler in Council or the Yang di-Pertua Negeri in Council to receive and take into consideration any signed statement or report of any person as to the condition of the land in question and the desirability or otherwise of the issue of a permit therefor.

(4) The order of the Ruler in Council or the Yang di-Pertua Negeri in Council under this section shall be final and no Court shall call in question any such order.

Acquisition of hill land

8. Whenever it appears desirable to the Ruler in Council or the Yang di-Pertua Negeri in Council, as the case may be, to acquire any hill land for the purpose of preventing soil erosion it shall be lawful for the Ruler in Council or the Yang di-Pertua Negeri in Council to direct that such hill land be acquired either by private treaty or under the Land Acquisition Act 1960 [Act 486]; and for the purpose of that Act the land to be acquired shall be deemed to be required for a public purpose.

Power to require statements as to persons interested

9. (1) The Land Administrator may by order in writing require the owner or occupier of any hill land to deliver to him within a time to be specified in the order, being not less than fifteen days from the service thereof, a statement in writing containing to the best of his knowledge and ability the name and address of every person who possesses or has possessed within one year preceding the date of service of the order any interest in the land or any part thereof, whether as co-owner, mortgagee, lessee, sub-lessee, tenant, squatter or otherwise, and the nature of any such interest.

(2) Every such order shall be personally served on the owner or occupier, as the case may be.

(3) Every owner or occupier required to deliver a statement under this section shall be legally bound to do so within the meaning of sections 176 and 177 of the Penal Code [*Act 574*].

Enforcement of terms and conditions of permits

10. (1) Whenever any owner or occupier of hill land fails to comply with any term or condition imposed by a permit issued under section 5 or 6 the Land Administrator, or any person authorized by him in writing generally or specially in that behalf, may enter upon such hill land with such assistants and things as are necessary, and may perform and do thereon and therein all acts and things required to conform with the terms and conditions of such permit, and the cost thereof shall be recoverable from such owner or occupier; and the amount of such cost may be reported to the Court of a Magistrate and recovered in the same manner as if it were a fine imposed by such Court, notwithstanding that such amount may be in excess of the ordinary jurisdiction of such Court.

(2) Nothing in this section shall affect the liability of any person to prosecution and punishment under section 18.

PART III

CONTROL OF SILT AND EROSION

Notice to show cause against order

11. Whenever it appears to a Land Administrator on grounds to be recorded by him in writing with reference to land owned by any person—

- (a) that earth, mud, silt, gravel or stone from such land has caused or is likely to cause damage to other land, whether alienated or not, or to any watercourse, whether natural or artificial, or has interfered or is likely to interfere with the due cultivation of other land, whether alienated or not; or
- (b) that by reason of the steepness of the slope of such land, damage has been or is likely to be caused to such land by erosion or displacement of earth, mud, silt, gravel or stone upon or from such land,

the Land Administrator may, by notice served on the owner or occupier of such land, require him to show cause, at a time and place to be stated in such notice, why an order should not be made under this Act prohibiting him from doing, or requiring him to do, any act or thing which may under section 14 be prohibited or required to be done.

Appearance to show cause

12. Any owner or occupier of land who is required to show cause why an order under section 11 should not be made in respect of such land may attend and show cause either in person, or by his agent duly authorized by power of attorney in that behalf, or by an advocate and solicitor or, with the permission of the Land Administrator, by any other person.

Procedure on appearance

13. (1) If an owner or occupier of land who is required to show cause as aforesaid attends in person, or by any representative referred to in section 12, at the time and place stated in the notice, the Land Administrator shall—

- (a) inform such owner or occupier or representative, as the case may be, of the grounds on which the notice was issued;

- (b) in the presence of such owner or occupier or representative, make any enquiry and take and record any evidence which the Land Administrator thinks necessary as to the facts and circumstances of the case;
- (c) hear and record the statement (if any) of such owner or occupier or representative; and
- (d) take and record the evidence of all persons attending at the instance of such owner or occupier or representative whom such owner or occupier or representative desires to examine.

(2) For the purpose of carrying out this section the Land Administrator shall have the same powers of summoning and enforcing the attendance of witnesses and of compelling the production of documents and of adjourning proceedings from time to time as the Court of a Magistrate has in civil suits.

Powers to make orders and nature of orders

14. (1) If an owner or occupier of land who is required to show cause as aforesaid fails without reasonable excuse (to be allowed by the Land Administrator) to attend in person or by any representative referred to in section 12 at the time and place mentioned in the notice, or, having so attended, fails to show cause to the satisfaction of the Land Administrator why an order in respect of the land referred to in the notice should not be made, the Land Administrator may—

- (a) make an order in writing under his hand prohibiting, either absolutely or to such extent as may be prescribed in the order, interference with or destruction or removal of any trees, plants, undergrowth, weeds or grass within or from such parts of the said land as are specified in the order;
- (b) with the sanction of the State Secretary, make an order in writing under his hand requiring the making on the said land of drains and watercourses, and the construction thereon of dams and retaining walls, of such character and dimensions and in such positions as are specified in the order;
- (c) with the sanction of the State Secretary, make an order in writing under his hand requiring the doing on or in respect of the said land of any act or thing which appears

to the Land Administrator likely to prevent, and prohibiting the doing on or in respect of the said land of any act or thing which appears to the Land Administrator likely to facilitate the passage of earth, mud, silt, sand, gravel or stone from the said land to other land, whether owned by any person or not, or to any river, canal or drain.

(2) Any order made under this section may prescribe the time within which any work, act or thing required by such order to be made or done shall be completed.

Variation and revocation of orders

15. (1) Any order made under section 14 may be varied or revoked by the Land Administrator by writing under his hand:

Provided that—

- (i) no such order or part thereof made with the sanction of the State Secretary shall be varied or revoked save with the sanction of the State Secretary;
- (ii) no such order shall be varied so as to prohibit or require anything not authorized by section 14 to be prohibited or required;
- (iii) the sanction of the State Secretary shall be required for any variation of such an order which, if contained in an original order under section 14, would require the sanction of the State Secretary;
- (iv) no such order shall, except with the express consent of the owner or occupier of the land in respect whereof the order was made, or of some person duly empowered so to consent on behalf of the owner or occupier, be varied unless reasonable opportunity shall first have been given to such owner or occupier to show cause why the order should not be varied.

(2) Such notice shall refer to the subsisting order and to the date whereon the same was made and shall contain particulars of the manner in which the same is proposed to be varied.

(3) After service of such notice the procedure prescribed by sections 12 and 13 shall, subject to necessary modifications, apply; and the provisions of this Act applicable to an order made under section 14 shall apply also to any such order as varied under this section.

Operation of orders

16. Subject to the judgment of the High Court, every order made under section 14 shall after service thereof upon the owner or occupier of the land in respect whereof the same is made be, so long as the same remains unrevoked, binding upon all persons who are from time to time registered as owner or occupier of such land and upon all persons who are from time to time in lawful occupation thereof.

Appeal

17. (1) Every order under section 14 or part thereof which is—

- (a) mandatory, and where the cost of the work ordered to be done does not exceed two thousand ringgit; or
- (b) prohibitory,

shall be final and there shall be no appeal therefrom.

(2) Subject to subsection (1) an appeal shall lie to the High Court from any order made under section 14:

Provided that—

- (a) no such appeal shall be brought after the expiration of fourteen days from the time when the order appealed against was made;
- (b) the obligation to comply with an order made under section 14 shall not be affected by the fact of an appeal having been preferred against the order, but the High Court may for sufficient cause suspend the obligation.

(3) The procedure governing such appeals to the High Court shall be the same as for appeals to the High Court from decisions of subordinate courts in civil matters:

Provided that the decision of the High Court shall be final and there shall be no appeal therefrom.

Penalty

18. (1) Any person who without reasonable excuse fails to comply with any order made under, or any provision of this Act, requiring him to do or prohibiting him from doing any act or thing shall be liable to a fine of not exceeding five thousand ringgit and in default of payment thereof to imprisonment for a term which may, subject to section 283 of the Criminal Procedure Code [*Act 593*], as the circumstances may require, extend to six months.

(2) Notwithstanding anything in any other written law, any penalty authorized by this section may be imposed by a Court of a Magistrate of the First Class.

Maintenance of work

19. Where any drain, watercourse, dam, wall or other work has in pursuance of an order under section 14 been made on any land, all persons who are from time to time registered as owners or occupiers of such land shall, so long as such order remains unrevoked, at his or their own expense maintain such work in good and efficient order to the satisfaction of the Land Administrator.

Record of orders in the register

20. (1) Where by virtue of an order made under section 14 any prohibition or requirement is under this Act imposed on an owner or occupier of land, the Land Administrator may certify under his hand and official seal the terms of the order and the particulars of the document or documents of title under which such land is held, and the Registrar having custody of the register wherein the title to such land is recorded shall on production to him of such certificate enter in the said register a memorandum of the making of such order and shall file such certificate.

(2) Where any order of the making whereof a memorandum has been entered under subsection (1) is varied or revoked or is affected by a judgment of the High Court, such variation or revocation or the effect of such judgment may in like manner be certified and a memorandum thereof entered in the register and the certificate thereof filled.

PART IV

GENERAL

Power to cause effect to be given to orders and recovery of cost

21. (1) If any person who is by any order made under this Act required to do any act or thing fails to comply with such requirements, the Land Administrator may cause such act or thing to be done by such persons and in such manner as he may direct, and the cost thereof shall be recoverable from the person making default as aforesaid by the Land Administrator in civil suit.

(2) Nothing in this section contained shall affect any liability of any person to prosecution and punishment under section 18.

Liability of owner or occupier for acts done on land

22. Where by this Act the doing of any act upon any land by any person is forbidden, any owner or occupier of such land who causes or permits such act to be done shall be deemed to have contravened this Act unless he proves that such act was done without his knowledge and consent and that he had taken all reasonable precautions against the doing of such act.

Service of notices and orders

23. Notices and orders issued and made in any State under this Act may be served in manner following, and such service shall be equivalent to personal service upon the person on whom service is to be effected:

- (a) if the person on whom service is to be effected be within such State, the notice or order may be delivered to him or left with some adult member of his family (other than a servant) residing with him within such State;
- (b) if the person on whom service is to be effected has an agent within such State duly authorized by power of attorney to accept service on his behalf, the notice or order may be delivered to such agent;
- (c) if service cannot be effected in the manner described in paragraph (a) or (b), the notice or order may be sent by registered post addressed to the person on whom service is to be effected at his address in any part of Malaysia;

- (d) where service is to be effected on a corporation, the notice or order may be—
- (i) left at the registered office (if any) of the corporation within such State;
 - (ii) delivered to any director, secretary or other principal officer of the corporation within such State, or to any person within such State duly authorized by power of attorney to accept service on behalf of the corporation, or to any person having, on behalf of the corporation, powers of control or management over the land to which the notice or order relates; or
 - (iii) sent by registered post addressed to the corporation at its principal office wherever situate; or
- (e) if service cannot be effected in accordance with the preceding paragraphs of this section, the notice or order may be put up in a conspicuous position on the land to which it relates.

Rules

24. The Ruler in Council or the Yang di-Pertua Negeri in Council, as the case may be, may make rules for carrying out the purposes of this Act.

Private suits not affected

25. Nothing in this Act contained shall debar any owner or occupier of land which is affected or likely to be affected by inroad of earth, mud, silt, sand, gravel or stone from other land from instituting any suit or proceedings in respect thereof or shall relieve any person of any liability to which he would have been subject if this Act had not been passed:

Provided that a person shall not be liable for any act or omission, or the consequences of any act or omission required by an order under this Act to be done or omitted by him.

Repeal

26. The Silt Control Enactment of the Federated Malay States [*F.M.S. Cap. 143*], the Hill Lands Ordinance 1937 of the Straits Settlements [*S.S. Ord. 44 of 1937*], Enactment No. 110 (Silt Control) of the State of Kedah [*Kedah No. En. 110*], the Prevention of Soil Erosion Enactment 1940 of the State of Kelantan [*Kelantan En. 23 of 1940*] and the Hill Lands Enactment 1951 of the State of Pahang [*Pahang En. 4 of 1951*] are hereby repealed:

Provided that—

- (a) any permit, order, sanction or prohibition made, given, granted or imposed or thing done under any of the written laws hereby repealed shall, in so far as the same is not inconsistent with the provisions of this Act, continue in force and have effect as if it had been made, given, granted or imposed under this Act; and
- (b) any register kept under any former written law hereby repealed shall be deemed part of the register to be kept under the corresponding provisions of this Act.

APPENDIX

Adoption of the Act by States—

Johore	En. 15 of 1960 (Am. Johore En. 5 of 1961)
Kedah	En. 13 of 1960
Kelantan	En. 6 of 1960
Malacca	En. 7 of 1960
Negeri Sembilan	En. 21 of 1960
Pahang	En. 13 of 1960
Penang	En. 4 of 1960
Perak	En. 6 of 1960
Perlis	En. 12 of 1960
Selangor	En. 7 of 1960
Terengganu	En. 9 of 1960

LAWS OF MALAYSIA

Act 385

LAND CONSERVATION ACT 1960

LIST OF AMENDMENTS

Amending law

Short title

In force from

– NIL –

LAWS OF MALAYSIA
Act 385
LAND CONSERVATION ACT 1960

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
	– NIL –	
