



LAWS OF MALAYSIA

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Act 341

FIRE SERVICES ACT 1988

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SECOND SCHEDULE

LAWS OF MALAYSIA**Act 341****FIRE SERVICES ACT 1988**

An Act to make necessary provision for the effective and efficient functioning of the Fire Services Department, for the protection of persons and property from fire risks and for purposes connected therewith.

*[Throughout Malaysia
—1 January 1989, P.U. (B) 701/1988]*

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**PRELIMINARY****Short title and commencement**

1. (1) This Act may be cited as the Fire Services Act 1988.

(2) This Act shall come into operation on a date to be appointed by the Minister by notification in the *Gazette*; and different dates may be appointed for the coming into operation of this Act, or of different provisions of this Act, in Peninsular Malaysia, the State of Sabah, and the State of Sarawak respectively.

Interpretation

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

“authorized officer” means the Director General and any Fire Officer or Auxiliary Fire Officer authorized by the Director General in writing to act under the provisions of this Act;

“Auxiliary Fire Officer” means an Auxiliary Fire Officer appointed under section 4;

“calamity” means an occurrence by which life or property is or is likely to be endangered;

“closing order” means an order made under section 13 that prohibits such use of any premises as is specified in the order, the use of which may materially increase the likelihood of a fire or the danger to life or property resulting from the outbreak of a fire in or on the premises or other premises;

“Committee” means the Fire Services Department Welfare Fund Committee established under section 48A;

“contravention” includes failure to comply, and “contravene” has a corresponding meaning;

“court” means a court of a Magistrate of the First Class;

“designated premises” means premises the use, size, or location, of which has been designated under section 27 for the purpose of issuance of a fire certificate;

“Director” includes a State Director;

“Director General” means the Director General of Fire Services appointed pursuant to subsection 3(2);

“fire certificate” means a fire certificate issued by the Director General under subsection 29(4);

“fire-fighting equipment or fire safety installation” means any equipment or installation for—

- (a) extinguishing, fighting, preventing, or limiting a fire;
- (b) giving warning of a fire;
- (c) providing access to any premises or place or to any part thereof for the purpose of extinguishing, fighting, preventing, or limiting a fire;
- (d) providing emergency power supply in the event of normal power failure;

- (e) providing emergency lighting for purposes of escape from buildings;
- (f) giving direction towards an escape route or place of refuge; or
- (g) providing adequate, safe egress for the purpose of evacuation or exit of occupants in the event of fire;

“fire-hazard” means —

- (a) any unlawful alteration to any building such as might render escape from any part thereof in the event of a fire materially more difficult or less easy than it would be if the alteration had not been made;
- (b) the overcrowding of any place of public entertainment or public gathering such as might render escape from any part thereof in the event of a fire difficult;
- (c) any removal or absence from any building of any fire- fighting equipment or fire safety installation that is required by law to be provided in the building;
- (d) the presence within or outside any building of any fire-fighting equipment or fire safety installation or any facility, installed in accordance with the requirement of any written law or as required by the Fire Services Department, that is not in efficient working order;
- (e) inadequate means of exit from any part of a building to any place, whether within or outside the building, that provides safety to persons in the event of a fire; or
- (f) any other matter or circumstance that materially increases the likelihood of a fire or the danger to life or property that would result from the outbreak of a fire, or that would materially hamper the Fire Services Department in the discharge of its duties in the event of a fire;

“Fire Officer” means a person employed in the Fire Services Department to perform duties in the performance of which he is required or permitted to wear a uniform;

“Fund” means the Fire Services Department Welfare Fund established under section 48;

“notice” means a notice in writing;

“owner”, in relation to any premises, means—

- (a) the registered proprietor of the premises;
- (b) if the registered proprietor of the premises cannot be traced, his agent or trustee;
- (c) if the registered proprietor of the premises is dead, his legal personal representative;
- (d) if none of the persons mentioned in paragraphs (a), (b) and (c) exists, the person who for the time being is receiving the rent of the premises, whether on his own account or as an agent or trustee of another person or as a receiver, or who would be receiving the rent if the premises were let;

“premises” includes messuages, houses, buildings or part of a building, lands, tenements, easements and hereditaments of any tenure, whether open or enclosed, whether built on or not, whether public or private, and whether maintained or not under statutory authority;

“prescribed” means prescribed by regulations made under this Act;

“Senior Fire Officer” means a Fire Officer of any rank from and including that of Director General down to and including that of Assistant Superintendent;

“special duty” means any duty or service rendered by any authorized officer, other than fire-fighting or emergency duties, as authorized by the Director General under section 50;

“State” includes the Federal Territory;

“State Director” means a Director of Fire Services appointed for a State pursuant to subsection 3(3);

“this Act” includes regulations and other subsidiary legislation made under this Act;

“vessel” includes every kind of steam or sailing vessel, hulk, junk, boat, sampan or any kind of raft used for the conveyance of persons or things by water or for storage;

“water authority” means any person or body who is authorized or required under any written law to supply water and to levy charges for such supply.

PART II

ADMINISTRATION

The Fire Services Department and its officers

3. (1) There shall be a Fire Services Department of the Federation.

(2) There shall be a Director General of Fire Services and such number of Deputy Directors General of Fire Services, Assistant Directors General of Fire Services, Directors of Fire Services, and other Senior Fire Officers and Fire Officers as may be necessary for the effective and efficient functioning of the Department.

(3) There shall be a Director of Fire Services for each of the States of Malaysia.

(4) The appointment of the Director General and of every Deputy Director General, Assistant Director General, and Director shall be notified in the *Gazette*.

(5) Every Fire Officer shall be subject to the control and direction of the Director General.

(6) The ranks of Fire Officers and Auxiliary Fire Officers are as set out in the Second Schedule.

Appointment of Auxiliary Fire Officers

4. (1) The Director General may, with the concurrence of the Minister, appoint such number of Auxiliary Fire Officers for each State on such terms and conditions as may be prescribed.

(2) Auxiliary Fire Officers shall not be paid any remuneration other than such allowances as the Minister may, with the concurrence of the Minister of Finance, prescribe.

(3) Auxiliary Fire Officers shall be subject to the immediate control and direction of the respective State Directors.

(4) An Auxiliary Fire Officer shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

Duties of Fire Services Department

5. (1) The duties of the Fire Services Department shall include—

(a) the taking of lawful measures for—

- (i) extinguishing, fighting, preventing, and controlling fires;
- (ii) protecting life and property in the event of a fire;
- (iii) securing the provision, maintenance, and proper regulation of fire-escapes; and
- (iv) securing the provision of adequate means of exit in the event of fire from all designated premises;

(b) the making of investigations into the cause, origin, and circumstances of fires; and

(c) performing humanitarian services, including the protection of life and property in any calamity.

(2) The Fire Services Department may, in addition to its duties under subsection (1), perform such other duties as may be imposed on it by law or as the Minister may direct it to perform.

Uniform and identification card

6. (1) Every Fire Officer and Auxiliary Fire Officer shall be issued with uniform and rank markings as may be prescribed by the Minister.

(2) Every Fire Officer and Auxiliary Fire Officer shall be issued with an identification card in the prescribed form.

Exercise of powers and performance of duties

7. (1) The powers and duties of the Director General under subsections 4(1), 22(1), sections 29, 35A, 46 and 50 may, subject to the control and direction of the Director General, be exercised or performed by a State Director, but the exercise or performance by a State Director of those powers and duties shall be confined to the State for which he is appointed unless the Director General, by notification in the *Gazette*, extends his jurisdiction generally in respect of those powers and duties or any of them to some other State or States or part thereof.

(2) Subject to the provisions of subsection (1) and subject to such conditions or restrictions as the Director General thinks fit, the Director General may, in writing, delegate the exercise of any of his powers or the performance of any of his duties under this Act to any Fire Officer, and where the Director General acts under this subsection, he shall specify the territorial limits and the duration of the delegated jurisdiction.

(3) The exercise of powers or the performance of duties delegated under subsection (2) shall be subject to the control and direction of the Director General.

PART III**ABATEMENT OF FIRE-HAZARD****Fire-hazard abatement notice**

8. (1) The Director General, if satisfied of the existence in any premises of any fire-hazard, may serve—

- (a) on the person by reason of whose act, default, or sufferance the fire-hazard arose or continues, if he is the occupier of the premises at the time the notice is to be served; or
- (b) if the person by reason of whose act, default, or sufferance the fire-hazard arose or continues is not the occupier of the premises at the time the notice is to be served or is not known, on the owner of the premises; or
- (c) if the owner of the premises cannot readily be ascertained or found or is absent from Malaysia, on the occupier of

the premises, regardless of whether he is the person by reason of whose act, default, or sufferance the fire-hazard arose or continues,

a fire-hazard abatement notice in Form A in the First Schedule, requiring him to abate the fire-hazard within the period specified in the notice, and to do all such things as may be necessary for that purpose; and the notice may, if the Director General thinks fit, specify any work to be executed for that purpose.

(2) If the Director General considers that the fire-hazard is likely to recur, he may also, by the fire-hazard abatement notice under subsection (1) or by a subsequent fire-hazard abatement notice in Form B in the First Schedule, require the person on whom the notice is served to do whatever is necessary for preventing the recurrence of the fire-hazard to which the notice relates and, if the Director General thinks it desirable, specify any works to be executed for that purpose; and a notice containing such a requirement may be served notwithstanding that the fire-hazard to which it relates may for the time being have been abated.

Power of Director General to abate fire-hazard in vacant or unoccupied premises

9. Where the premises in which the fire-hazard exists are vacant or unoccupied, the Director General may, by force if necessary, using the means at his disposal, abate the fire-hazard and do whatever is necessary to prevent a recurrence thereof.

Offence of failing to comply with fire-hazard abatement notice

10. Any person who fails to comply with any requirement of a fire-hazard abatement notice served on him pursuant to section 8 within the time specified in the notice, whether or not an order under section 13 has been made in respect of him, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both and shall also be liable to a further fine of one hundred ringgit for each day during which the offence is continued after the conviction.

Power of Director General to abate fire-hazard on non-compliance with fire-hazard abatement notice

11. Where a fire-hazard abatement notice has been served on any person pursuant to section 8, and if that person fails to comply with any of the requirements of the notice within the time specified therein, the Director General may cause to be carried out in the premises such work as appears to him to be necessary to abate the fire-hazard and to prevent a recurrence thereof.

Power of Director General to abate fire-hazard in cases of urgency

12. If the Director General is satisfied that any fire-hazard existing in any premises—

- (a) constitutes an immediate and substantial danger of fire in the premises; or
- (b) is likely, if a fire breaks out in the premises, to increase substantially the risk to life or property that would normally arise in the event of a fire,

the Director General may cause to be carried out in the premises such work as appears to him to be necessary to abate the fire hazard and to prevent a recurrence thereof.

Closing order

13. (1) Where a fire-hazard abatement notice has been served on any person, if—

- (a) that person fails to comply with any of the requirements of the notice within the time specified therein; and
- (b) the fire-hazard, although abated since the service of the notice, is, in the opinion of the Director General, likely to recur in the same premises,

and the Director General is of the opinion that it is necessary to prohibit any use of the premises that may materially increase the likelihood of a fire or the danger to life or property resulting from the outbreak of a fire in or on the premises or other premises, the Director General may, by way of a complaint, apply to a court for a closing order.

(2) Upon receipt of a complaint and an application for a closing order under subsection (1), the court shall serve a notice in Form C in the First Schedule on the owner or occupier of the premises, or on both, calling on them to show cause why a closing order should not be made; and if cause is not shown by either the owner or occupier or both, the court may make such an order.

(3) A closing order shall be in Form D in the First Schedule and shall be served on both the owner and occupier of the premises in question.

(4) Upon the application by the owner or occupier of premises, or upon being informed by the Director General, the court, if satisfied that the premises in respect of which a closing order is in force have been rendered suitable for the use specified in the order, may revoke the closing order.

(5) Any person who without reasonable excuse knowingly contravenes a closing order shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both and shall also be liable to a further fine of one hundred ringgit for each day during which the offence is continued after the conviction.

Appeals against closing order or refusal to make closing order

14. (1) Any owner or occupier who is dissatisfied with the closing order made under subsection 13(2) may, within ten days of the making of the order, appeal to the High Court.

(2) Where the court refuses to make a closing order the Director General may, within ten days of the decision of the court, appeal to the High Court against the decision.

(3) An appeal against a closing order shall not operate as a stay of execution, but the court may, on application and on sufficient cause being shown, grant stay of execution on such terms as it may think fit.

Disposal of property removed by Director General

15. (1) The Director General, in abating or doing what is necessary to prevent the recurrence of a fire-hazard, may remove any property which would directly cause a fire-hazard.

(2) Any property removed under subsection (1) may be taken into the custody of the Director General for a period not exceeding seven days within which time the owner shall have the right to claim such property upon payment of expenses incurred by the Director General.

(3) Upon the failure of the owner to make a claim, the Director General may apply to the court for an order for the sale or disposal of such property.

(4) The money arising from the sale of any property may be retained by the Director General and applied in payment of the expenses incurred by him in connection with the abatement, or the prevention of the recurrence, of the fire-hazard, and the surplus, if any, shall be paid to the owner of the property.

Recovery of expenses incurred in carrying out work under section 11

16. The expenses incurred by the Director General in carrying out any work under section 11 shall be a debt due to the Government and shall be recoverable in court from the person on whom the fire-hazard abatement notice was served.

Recovery of expenses incurred in carrying out work under section 12

17. (1) The expenses incurred by the Director General in carrying out any work under section 12 shall be a debt due to the Government and shall be recoverable in a court—

- (a) from the person by reason of whose act, default, or sufferance the fire-hazard arose or continued, if he was the occupier of the premises at the time the work was commenced;
- (b) if the person by reason of whose act, default, or sufferance the fire-hazard arose or continued was not the occupier of the premises at the time the work was commenced or is not known, from the owner of the premises; or
- (c) if the owner of the premises cannot readily be ascertained or found or is absent from Malaysia, from the occupier

of the premises at the time the work was commenced, regardless of whether he is the person by reason of whose act, default, or sufferance the fire hazard arose or continued.

(2) Nothing in this section shall be construed as affecting any right that the person from whom expenses may be recovered under subsection (1) may have to any contribution, indemnity, or damages from any other person.

Powers of Fire Officers on occasion of fire

- 18.** (1) On the occasion of a fire, a Fire Officer may—
- (a) take such measures as appear to him to be necessary or expedient for the protection of life and property;
 - (b) remove any person interfering by his presence or actions with the operations of the Fire Services Department;
 - (c) enter, break into or through, and take possession of or demolish, or cause to be taken possession of or demolished, any premises, place, or thing for the purpose of putting an end to the fire, or protecting the premises, place, or thing from the fire, or for rescuing any person or thing;
 - (d) close any street near the site of the fire or control the traffic or crowd in any such street;
 - (e) use any convenient supply of water.

(2) The powers conferred by subsection (1) may, to such extent as may be necessary, be exercised where a fire is reasonably believed to have broken out or to have occurred.

Powers of Fire Officers in emergencies not involving fire

19. On the occasion of an emergency not involving fire or the risk of fire, the powers referred to in section 18 shall be exercised by any Fire Officer if he is of the opinion that lives or property are in imminent danger.

Protection of Fire Officers and Auxiliary Fire Officers

20. No Fire Officer or Auxiliary Fire Officer acting *bona fide* under powers conferred by this Act shall be liable to any action

for damages for any act done or omitted to be done by him in connection with his duties on the occasion of a fire or any calamity.

Loss by fire to include damage resulting from fire-fighting

21. Any damage or loss suffered in consequence of any action taken or thing done by a Fire Officer or Auxiliary Fire Officer in the exercise of his powers or the performance of his duties on the occasion of a fire, in order to put an end to the fire or to check its progress, shall, notwithstanding the terms of any contract of insurance against fire or the provisions of any law, be regarded as loss by fire for the purposes of the contract.

PART IV

WATER AND FIRE HYDRANTS

Storage of water in premises for fire-fighting purposes

22. (1) The Director General may, for the purpose of ensuring that there is adequate storage of water at suitable locations on the premises, issue such directions to any person in control, or the owner, of such premises, to provide facilities and water supply for fire fighting purposes:

Provided that this subsection shall not apply to a water authority.

(2) Any direction issued under subsection (1) shall be made in writing and shall be binding on the person to whom the direction is given.

(3) Any person who fails to comply with any direction given under subsection (1) shall be guilty of an offence.

Notice of works affecting fire hydrants

23. (1) No person, other than a water authority and its agents, shall commence or carry out, or authorize or direct the commencement or carrying out of, any works that affect any fire hydrant or the flow of water to it unless written notice of the proposals or intention to carry out such works had been given by him to the appropriate State Director at least seven days before the works are commenced:

Provided that in cases of emergency, where it is not practicable for the notice to be given within the requisite time, this provision shall be deemed to have been complied with if the notice is given as soon as possible after the event.

(2) All fire hydrants shall be rendered in good working condition upon the completion of any works carried out by any person under subsection (1).

(3) Any works in or around the vicinity of a fire hydrant affecting access to the fire hydrant, the position of the fire hydrant in relation to the existing edge of the road, or alignment of the outlet to the level of the road, shall be deemed to be works affecting a fire hydrant.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence.

Duty of water authority to notify the State Director of any action affecting the flow of water to a fire hydrant

24. Where a water authority decides to take any action or do any act or carry out any work that will or is likely to reduce or stop the flow of water to any fire hydrant, it shall be the duty of the water authority to notify the appropriate State Director in writing of such decision as soon as possible after it is made.

Power to fix fire hydrant location plates

25. (1) Upon giving seven days' notice in writing to the owner of any property situated in the vicinity of a fire hydrant, the Director General may cause a plate indicating the location of the fire hydrant to be fixed to such part of the property as, in the opinion of the Director General, is best suited to indicate such location.

(2) Any person who refuses to allow the fixing of any such plate as is referred to in subsection (1) or obstructs any person in the course of the fixing thereof or removes or defaces any such plate after it has been fixed shall be guilty of an offence.

Concealment and misuse of fire hydrants

26. Any person who covers up, encloses, or conceals any fire hydrant so as to render its location difficult to ascertain, or tampers with any fire hydrant, or uses a fire hydrant other than for fire fighting purposes shall be guilty of an offence.

PART V

FIRE CERTIFICATE

Power of Director General to determine and designate particular uses, size, or location, of premises

27. (1) The Director General may by order published in the *Gazette* determine and designate particular uses, size, or location, of premises for the purpose of issuance of a fire certificate under this Act.

(2) Where a part of any premises constitutes designated premises any other part of the said premises shall be treated as forming part of the designated premises.

Requirement of fire certificate

28. (1) Every designated premises shall require a fire certificate.

(2) A fire certificate shall be renewable annually.

(3) Subsection (1) shall not apply to premises appropriated to, and used solely or mainly for, public religious worship, or premises consisting of or comprised in a house that is occupied as a single private dwelling:

Provided that if in the opinion of the Director General there exists in the premises mentioned in this subsection any fire hazard, the Director General may require such premises to be subject to periodic inspection and any necessary direction may be issued to the owner of such premises for due compliance of the provisions of this Act.

Application for, and issue of, fire certificate

29. (1) An application for a fire certificate in respect of any designated premises shall be made to the Director General in the prescribed form.

(2) On receipt of an application for a fire certificate in respect of any designated premises the Director General may require the applicant, within a specified time, to furnish him with such plans of the premises and any other relevant particulars as he may specify.

(3) If the applicant fails to furnish the required plans and the relevant particulars within the specified time, the application shall be deemed to have been withdrawn.

(4) Where an application for a fire certificate has been duly made, the Director General shall cause to be carried out an inspection of the designated premises, and on being satisfied that there exists adequate life safety, fire prevention, fire protection and fire-fighting facilities, as the case may be, in relation to the use of the designated premises, the Director General shall issue a fire certificate in respect of the premises subject to such conditions as he thinks fit to impose or which may be prescribed.

(5) Where the Director General, after causing to be carried out under subsection (4) an inspection of the relevant premises, is not satisfied that there exists such adequate facilities in relation to the use of the designated premises as aforesaid, he shall, by notice served on the applicant, inform him of the requirements to be complied with within a specified time before the fire certificate can be issued to the applicant.

(6) In this section, “applicant” means the owner, occupier or the person having the overall management of the designated premises.

Form of fire certificate

30. Every fire certificate issued in respect of any designated premises shall be in the prescribed form.

Prescribing of fees for the issue of fire certificate

31. The Director General may prescribe the fees payable for the issue of a fire certificate and the charges for the inspection of any designated premises for which the certificate is issued.

Change of conditions affecting adequacy of life safety facilities, etc.

32. (1) So long as a fire certificate is in force in respect of any premises, the Director General may cause any part of the relevant premises to be inspected at any reasonable time for the purposes of ascertaining whether there has been a change of conditions by reason of which the life safety, fire prevention, fire protection and fire-fighting facilities have become inadequate in relation to any use of the premises covered by the certificate.

(2) Where the occupier of any designated premises proposes to make a material change to the premises while a fire certificate is in force in respect thereof, he shall, before the carrying out of the proposals is begun, give notice of the proposals to the Director General; and if the carrying out of the proposals is begun without such notice having been given the occupier shall be guilty of an offence.

(3) If the Director General is satisfied, as regards any premises with respect to which a notice under subsection (2) has been given to him, that the carrying out of the proposals notified would result in any of the facilities mentioned in subsection (1) becoming inadequate in relation to any use of the premises covered by the relevant fire certificate, the Director General may by notice served on the occupier inform him of the steps that would have to be taken to prevent the facilities in question from becoming inadequate in the event of the proposals being carried out, and if those steps are duly taken in connection with the carrying out of the proposals, the Director General shall amend the fire certificate or, on the payment of the prescribed fee, issue a new one.

(4) If the Director General is satisfied, as regards any premises with respect to which a fire certificate is in force, that any of the facilities mentioned in subsection (1) have, in consequence of a change of conditions, become inadequate in relation to any use of the premises covered by the certificate, the Director General may by notice served on the occupier—

- (a) inform him of that fact and direct him to take such steps as the Director General considers appropriate to make the facilities in question adequate; and
- (b) notify him that if those steps are not taken, the fire certificate may be cancelled,

and if those steps are duly taken shall, if necessary, amend the fire certificate or, on the payment of the prescribed fee, issue a new one.

(5) Any person who fails to comply with the direction given by the Director General under paragraph (4)(a) shall be guilty of an offence.

Offence in relation to fire certificate

33. Where there is no fire certificate in force in respect of any designated premises the owner of the premises shall be guilty of an offence.

Rights of appeal

34. Any person who is aggrieved—

- (a) by the refusal of the Director General to issue a fire certificate under subsection 29(4);
- (b) by the conditions imposed by the Director General on a fire certificate issued to him; or
- (c) by any decision made by the Director General under subsection 32(3) or (4),

may, within twenty-one days of the notification of such refusal or decision, appeal in writing to the Minister, whose decision thereon shall be final.

Court's power to prohibit or restrict use of certain premises

35. (1) If the Director General is satisfied with regard to any premises, whether designated or not, that the risk to persons or property in case of fire is so serious that, until steps have been taken to reduce the risk to a reasonable level, the use of the premises ought to be prohibited or restricted, the Director General may, by way of a complaint, apply to a court for a prohibitory order.

(2) Upon receipt of a complaint and an application for a prohibitory order under subsection (1), the court shall serve a notice in Form E in the First Schedule on the owner or occupier

of the premises, or on both, calling on them to show cause why a prohibitory order should not be made; and if cause is not shown by either the owner or occupier or both, the court may make such an order prohibiting or restricting the use of the said premises.

(3) A prohibitory order shall be in Form F in the First Schedule and shall be served on both the owner and occupier of the premises in question.

(4) Upon the application by the owner or occupier of the premises for revocation of the prohibitory order or upon being informed by the Director General that the risks have been reduced to a reasonable level, the court, if satisfied that the premises in respect of which a prohibitory order is in force would not pose any serious risk to person or property in case of fire, may revoke the prohibitory order.

(5) Any person who without reasonable excuse knowingly contravenes a prohibitory order shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both and shall also be liable to a further fine of one hundred ringgit for each day during which the offence is continued after the conviction.

Power of Director General to order activity to cease in cases of urgency

35A. (1) Notwithstanding any of the provisions of this Act, where the Director General is satisfied that—

- (a) any continued activity in any premises would constitute an immediate danger of fire prejudicial to the safety of life or property; and
- (b) the delay in applying for and obtaining a prohibitory order under subsection 35(2) would substantially increase the risk to such life or property,

he may, by order, direct the owner or occupier of the premises to cease such activity.

(2) An order to cease activity shall be in Form G and shall be served on both the owner and occupier of the premises.

(3) Any person who fails to comply with an order of the Director General made under subsection (1) shall be guilty of an offence.

Appeal against order of Director General to cease activity

35B. (1) An owner or occupier who is dissatisfied with an order to cease activity made by the Director General under subsection 35A(1) may, within ten days of the making of the order, appeal to the High Court.

(2) An appeal against an order to cease activity shall not operate as a stay of execution, but the court may, on application and on sufficient cause being shown, grant a stay of execution on such terms as it may think fit.

Appeals against prohibitory order or refusal to make prohibitory order

36. (1) Any owner or occupier who is dissatisfied with the prohibitory order made under subsection 35(2) may, within ten days of the making of the order, appeal to the High Court.

(2) Where the court refuses to make a prohibitory order the Director General may, within ten days of the decision of the court, appeal to the High Court.

(3) An appeal against a prohibitory order shall not operate as a stay of execution, but the court may, on application and on sufficient cause being shown, grant stay of execution on such terms as it may think fit.

PART VI

ENFORCEMENT

Enforcement of Act

37. It shall be the duty of the Director General to enforce the provisions of this Act.

Power of entry

38. (1) An authorized officer may, together with such other persons as the officer thinks necessary, enter any premises for the purpose of—

- (a) ascertaining whether there is, or has been, on or in connection with the premises, any contravention of any provision of this Act;
- (b) obtaining such information concerning the premises as is required for fire-fighting purposes, including the water supplies available to or at the premises and the means of access to such water supplies;
- (c) ascertaining whether there exists any fire-hazard in or affecting the premises;
- (d) making any enquiry which he considers necessary in relation to any matter within the provisions of this Act; or
- (e) exercising any power or performing any duty of the Director General under any other written law, for the exercise or performance of which no power of entry is given by such law.

(2) No private dwelling shall be entered by virtue of this section between the hours of seven in the evening and seven in the morning.

(3) Before entering any premises by virtue of this section, an authorized officer shall display to the occupant thereof, if any, his identification card and, in the case of an authorized officer other than the Director General, the written authorization of the Director General and it shall be lawful for the occupant of the premises to deny entry to an authorized officer or to eject him from the premises if, on demand by the occupant, he fails or refuses to produce the said identification card, and, as the case may be, authorization.

(4) An authorized officer shall leave any vacant or unoccupied premises that he has entered by virtue of this section as effectively secured against trespassers as he found them to be at the time of entry.

Restriction on disclosure of information

39. Any person who discloses, otherwise than in the performance of his duty or for the purpose of any legal proceedings, including an arbitration, or for the purpose of a report at any such proceedings, any information obtained by him in relation to any manufacturing process or any trade, in the course of exercising powers conferred upon him by this section shall be guilty of an offence.

Power to arrest without warrant

40. (1) Any authorized officer may without warrant arrest any person—

- (a) found committing an offence under section 47; or
- (b) whom he reasonably suspects to have committed any other offence under this Act if the person refuses to furnish his name and address or furnishes an address out of Malaysia or there are reasonable grounds for believing that he has furnished a false name and address or that he is likely to abscond.

(2) Where any person has been arrested pursuant to subsection (1) by an authorized officer, the officer making the arrest shall comply with section 28 of the Criminal Procedure Code [*Act 593*] as if he were a police officer.

Power of investigation

41. (1) Any authorized officer shall have the power to investigate the commission of any offence under this Act.

(2) Every person required by an authorized officer to give information or produce any document or other article relating to the commission of such offence which is in the person's power to give shall be legally bound to give the information or to produce the document or other article.

Power to require attendance of witnesses

42. (1) An authorized officer making an investigation under section 41 may by order in writing require the attendance before himself

of any person who appears to the officer to be acquainted with the circumstances of the case, and such person shall attend as so required.

(2) If any such person fails to attend as so required, such officer may report such failure to a Magistrate who may thereupon in his discretion issue a warrant to secure the attendance of such person as required by such order aforesaid.

(3) A person attending as required under subsection (1) shall be entitled to be paid the reasonable travelling and subsistence expenses incurred by him; and it shall be lawful for the Director General to pay such expenses.

Examination of witnesses

43. (1) An authorized officer making an investigation under section 41 may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer:

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

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

(4) An authorized officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb-print, as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish.

Conduct of prosecution

44. Every authorized officer shall have the authority to appear in court and conduct any prosecution in respect of any offence under this Act.

PART VII

ENQUIRIES INTO FIRES

Enquiries into fires

45. (1) The Minister may appoint any person or persons to hold an enquiry into the cause and circumstances of any fire and the action taken to fight or extinguish the fire and to report on such cause, circumstances, and action and make recommendations, on the basis of the findings in the enquiry, as to the steps to be taken to prevent the outbreak of, and to improve the method of fighting or extinguishing, fires generally.

(2) Sections 8, 9, 11, 12, 13, 14, 15, 19, 21 and 22 of the Commissions of Enquiry Act 1950 [*Act 119*] shall, with the necessary modifications and to such extent as may be applicable, apply to an enquiry under subsection (1) and to any person holding the enquiry as if the enquiry and the person were respectively an enquiry and a Commissioner under that Act.

Taking possession of premises and other property damaged or destroyed by fire

46. (1) Where, as a result of a fire, any premises or part of any premises is rendered uninhabitable, the Director General may, at any time within seven days after the occurrence of the fire, take possession of the premises or part thereof and any other property or thing damaged, or the remains of any other property or thing destroyed, by the fire, and may retain possession of such premises, part, property, or thing for a period not exceeding thirty days after taking possession thereof, unless within that period a person or persons have been appointed to hold an enquiry under section 45, in which case the Director General may continue to retain possession of the premises, part, property or thing until the completion of the enquiry.

(2) Where possession of any premises or a part of any premises has been taken by the Director General under subsection (1), the Director General may, wherever necessary, cause a barrier or barriers to be put up around the premises or part thereof.

(3) The Director General shall thereafter post up notices, in such positions that a person approaching the premises or part from any direction will be able to notice one of the notices by the time he reaches any or any part of the barriers, informing the public that possession of the premises or part has been taken by the Fire Services Department and that entry into the premises or part is prohibited.

Unauthorized presence in premises possession whereof has been taken under section 46

47. Any person who, without the permission of a Fire Officer, enters or remains in any premises or part of any premises, possession whereof has been taken by the Director General under section 46, shall be guilty of an offence.

PART VIII

WELFARE FUND

Establishment of Fund

48. (1) There shall be established a fund to be known as the “Fire Services Department Welfare Fund” which shall be operated as a Trust Account within the Federal Consolidated Fund.

(2) The Fund shall consist of—

- (a) all fines inflicted upon Fire Officers in any disciplinary proceedings;
- (b) one-half of the sums paid for the services of Fire Officers detailed to do special duty under section 50 and for the use of equipment furnished therefor;
- (c) all sums of moneys and other property offered to Fire Officers and forfeited by an order of court;

- (d) donations or reward offered to the Fund or to individual members of the Fire Services Department respectively and accepted by the Director General;
- (e) income arising from the disposal of property or investments purchased or arising from the moneys of the Fund;
- (f) all sums of moneys or benefit derived from the sponsoring of seminars or other events; and
- (g) all sums of moneys contributed by the Government.

Fire Services Department Welfare Fund Committee

48A. (1) There shall be established a Fire Services Department Welfare Fund Committee which shall have the control of the Fund.

(2) The Committee shall consist of the following members:

- (a) the Director General as Chairman;
- (b) two Senior Fire Officers to be appointed by the Minister;
and
- (c) two public officers to be appointed by the Minister.

(3) No meeting of the Committee shall be held in the absence of the Director General.

(4) The quorum for meetings of the Committee shall be three.

(5) Subject to this Act, the Committee shall have power to regulate its proceedings.

Moneys for Fund to be raised only with consent

48B. (1) No person shall carry on any activity to raise moneys for the Fund without the prior written consent of the Committee.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

Administration and application of Fund

49. The Fund shall be administered in accordance with regulations made under this Act, and applied—

(a) in recompensing Fire Officers for extra or special services rendered by them;

(b) for the purpose of—

(i) procuring comforts, convenience and other benefits, which are not chargeable to public revenue, for;
or

(ii) granting loans to,

Fire Officers, former Fire Officers who have retired on pension, gratuity or other allowance or persons who were wholly or partially dependent on deceased Fire Officers or former Fire Officers at the time of their death.

PART IX

MISCELLANEOUS

Special duty and expenses thereof

50. (1) On the application of any person, the Director General may, if he thinks fit, detail any authorized officer to do special duty in, upon or about any premises, vessel, vehicle, aircraft or any moveable structures specified by the applicant and, for that purpose, furnish such equipment as he may deem necessary.

(2) The applicant shall pay to the Director General for the services of any authorized officer so detailed and for the use of equipment so furnished such fees as may be prescribed.

Interfering with Fire Officers in execution of his duty

51. Any person who wilfully abuses, assaults, disturbs, hinders, obstructs, or interferes with any Fire Officer or Auxiliary Fire Officer acting in the execution of his duty or any other person assisting the Fire Services Department under specific directions of the officer-in-charge shall be guilty of an offence.

Failure to comply with direction

52. Any person who fails to comply with any direction given by an authorized officer carrying out his duty under this Act shall be guilty of an offence.

Unauthorized wearing of uniform

53. Any person who, not being a Fire Officer or an Auxiliary Fire Officer, wears without the permission of the Director General any uniform of the Fire Services Department or any dress which bears the distinctive marks of, or which is likely to be mistaken for, any such uniform shall be guilty of an offence.

Falsification of documents, false statements, etc.

54. Any person who—

- (a) with intent to deceive, makes or forges a fire certificate or has in his possession an unauthorized fire certificate;
- (b) on the application of a fire certificate, makes any statement or gives any information that he knows to be false in a material particular or recklessly makes any statement or gives any information that is so false;
- (c) in purported compliance with any obligation to give information under this Act, gives any information that he knows to be false in a material particular or recklessly gives any information that is so false; or
- (d) makes in any register, book, notice, or other document required under this Act to be kept, served, or given, any entry that he knows to be false in a material particular,

shall be guilty of an offence.

Offences in respect of fire alarm

55. Any person who damages, conceals, activates or deactivates any fire alarm without reasonable excuse shall be guilty of an offence.

Giving of false report of fire

56. Any person who wilfully gives or causes to be given a false report of fire or other calamity shall be guilty of an offence.

Offences by body corporate

57. (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

General penalty

58. Any person guilty of an offence under this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Compounding of offences

59. (1) The Director General or any Fire Officer authorized by him in writing may compound any offence, which is prescribed to be a compoundable offence, by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding five hundred ringgit:

Provided that the Director General or the officer so authorized shall not exercise his powers under this section unless that person in writing admits that he has committed the offence and requests the Director General or such officer to deal with the offence under this section.

(2) On the payment of such sum of money the person reasonably suspected of having committed an offence, if in custody, shall be released and no further proceedings shall be taken against such person.

Power to apply Act to vessels and movable structures

60. The provisions of this Act shall apply, subject to such modifications as may be prescribed, to—

- (a) vessels remaining moored or on dry land for such periods or in such circumstances as may be prescribed; and
- (b) tents and other movable structures.

Service of notices and other documents

61. (1) A notice or other document may be served on a person or body for the purpose of this Act—

- (a) by delivering the notice or document to the person; or
- (b) by delivering the notice or document—
 - (i) at the person's usual or last known abode or place of business, to his servant or to an adult member of his family; or
 - (ii) at the body's registered office or usual or last known place of business, to its servant or agent; or
- (c) by leaving the notice or document in a cover addressed to the person or body—
 - (i) at the person's usual or last known abode or place of business; or
 - (ii) at the body's registered office or usual or last known place of business; or
- (d) by sending the notice or document by pre-paid registered post to the person or body—
 - (i) at the person's usual or last known abode or place of business; or
 - (ii) at the body's registered office or usual or last known place of business.

(2) If the name or the address of any owner or occupier of premises on whom any such notice or other document as aforesaid is to be served cannot after reasonable inquiry be ascertained by

the person seeking to serve it, the notice or document may be served by addressing it to the person on whom it is to be served by the description of “owner” or “occupier” of the premises (describing them) to which the notice or document relates, and by delivering it to some responsible person resident or appearing to be resident on the premises, or, if there is no such person to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

(3) A notice or document served by pre-paid registered post under paragraph (1)(d) shall be deemed to have been served at the time when the letter containing the notice or document would be delivered in the ordinary course of post; and it shall be sufficient proof of service that the letter was properly addressed in accordance with that paragraph and placed in the post; but where the letter is returned through the post undelivered, the notice or document shall not be deemed to have been served.

(4) In this section, “body” includes a body corporate or partnership.

Power to make regulations

62. (1) The Minister may make regulations for the better carrying out of the purposes and the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, for all or any of the following matters:

- (a) regulating the manufacture, sale, installation, testing, servicing, and recharging of fire-fighting equipment or fire safety installation;
- (b) prescribing the types, locations, and testing of fire fighting equipment or fire safety installation used in any premises;
- (c) regulating the establishment of fire-brigades in private organizations, educational institutions and voluntary organizations;
- (ca) regulating the establishment of voluntary fire-brigades;
- (d) regulating the establishment of fire safety organization in designated premises;
- (e) prescribing the uniforms, rank markings, identification cards and necessities to be supplied to Fire Officers and Auxiliary Fire Officers;

- (f) providing for all matters relating to Auxiliary Fire Officers, including their duties, powers, allowances and compensation;
- (g) prescribing the code of conduct of Fire Officers;
- (h) prohibiting, restricting, or controlling the burning by any person of forest, shrub, or other vegetation in any area;
- (i) regulating all matters relating to fire safety and fire precautions;
- (j) prohibiting, restricting, or controlling the burning of flammable materials;
- (k) regulating the transportation, use, handling, or storage of flammable materials;
- (l) prescribing the fees payable under the provisions of this Act;
- (m) prescribing matters that may be or are required to be prescribed;
- (n) prescribing the offences under this Act which may be compounded, the procedure to be followed and the forms to be used in compounding;
- (o) regulating the administration of the Fire Services Department Welfare Fund.

(2) The Minister may, in regulations made under subsection (1), prescribe penalties of a fine not exceeding one thousand ringgit or imprisonment for a term not exceeding six months or both for the contravention of any provision of such regulations and, in the case of a continuing offence, a sum not exceeding one hundred ringgit for each day during which such offence is continued after conviction.

Repeal

63. (1) Part X of the Local Government Act 1976 [*Act 171*] is repealed.

(2) The Fire Service Enactment of the State of Sabah [*En. 12 of 1971*] is repealed.

FIRST SCHEDULE

FIRE SERVICES ACT 1988

FORM A

[Subsection 8(1)]

FIRE-HAZARD ABATEMENT NOTICE

To.....
.....
.....

TAKE NOTICE that the Director General of Fire Services†, being satisfied of the existence in
(premises)

of a fire-hazard, being.....
(describe the fire-hazard)

do hereby, pursuant to subsection 8(1) of the Fire Services Act 1988, require you, within.....from the service of this notice, (1) to abate the fire-hazard, and for that purpose to
(specify the works to be executed)

and (2)* to do whatever is necessary for preventing the recurrence of the fire-hazard and for that purpose to
(specify the works to be executed)

TAKE NOTICE THAT if you fail to comply with any requirement of this notice within the time specified, you will be committing an offence for which, on conviction, you may be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both and to a further fine of one hundred ringgit for each day during which the offence is continued after conviction.

Dated the.....day of.....20.....

.....
(Director General of Fire Services)

†“or any Fire Officer to whom the Director General has delegated his power”.
* Delete if the need does not arise.

FIRE SERVICES ACT 1988

FORM B

[Subsection 8(2)]

SUBSEQUENT FIRE-HAZARD ABATEMENT NOTICE

To.....
.....
.....

TAKE NOTICE that the Director General of Fire Services†, being satisfied that the fire-hazard for the abatement of which a fire-hazard abatement notice dated the.....day of.....was served on you* [and which has since been abated] is likely to recur in
(premises)

do hereby, pursuant to subsection 8(2) of the Fire Services Act 1988, require you, within.....from the service of this notice, to do whatever is necessary for preventing the recurrence of the fire-hazard, and for that purpose to.....
(specify the works to be executed)

TAKE NOTICE that if you fail to comply with any requirement of this notice within the time specified, you will be committing an offence for which, on conviction, you may be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both and to a further fine of one hundred ringgit for each day during which the offence is continued after conviction.

Dated the.....day of.....20.....

.....
(Director General of Fire Services)

†“or any Fire Officer to whom the Director General has delegated his power”.
* Delete if the hazard has not been abated.

FIRE SERVICES ACT 1988

FORM C

[Subsection 13(2)]

NOTICE TO SHOW CAUSE

WHEREAS complaint has been received by me from.....
.....
(name and rank of Fire Officer)

that.....
(substance of the complaint received)

IT IS HEREBY ORDERED THAT.....
(respondent)

do attend at the Magistrate's Court at.....
on the day of, 20.....
at.....o'clock to show cause why a closing order should
not be made in respect of.....
(premises)

Given under my hand and the seal of the court, this.....day
of....., 20.....

(SEAL)

Magistrate

FIRE SERVICES ACT 1988

FORM D

[Subsection 13(3)]

CLOSING ORDER

WHEREAS the Director General of Fire Services †has, by way of a complaint,
applied to this court for a closing order in respect of.....
.....
(premises)

on the grounds.....
.....
.....
.....

AND WHEREAS.....
 the owner of the premises, and.....
 the occupier of the premises, have been served with a notice calling on them
 to show cause why a closing order should not be made* [and the said.....

 have/has failed to show cause, and the said.....
 have/has failed to appear to show cause]:

Now, on being satisfied that such use of the premises as is specified hereunder
 may materially increase the likelihood of a fire or other calamity or the danger
 to life or property resulting from the outbreak of a fire or the occurrence of
 any other calamity and that therefore it is necessary to prohibit such use, I, in
 pursuance of subsection 13(2) of the Fire Services Act 1988, do hereby prohibit
 the following use of the premises, that is to say.....

Given under my hand and the seal of the court this.....day
 of.....20.....

(SEAL)

Magistrate

† “or any Fire Officer to whom the Director General has delegated his power”.

* Modify as circumstances require.

FIRE SERVICES ACT 1988

FORM E

[Subsection 35(2)]

NOTICE TO SHOW CAUSE

WHEREAS complaint has been received by me from.....

.....
(name and rank of Fire Officer)

that.....

.....
(substance of the complaint received)

IT IS HEREBY ORDERED THAT.....

.....
(respondent)

do attend at the Magistrate’s Court at.....

on the.....day of....., 20.....

ato’clock to show cause why a prohibitory order should not be made
in respect of.....

.....
(premises)

Given under my hand and the seal of the court, this.....day
of....., 20.....

(SEAL)

Magistrate

FIRE SERVICES ACT 1988

FORM F

[Subsection 35(3)]

PROHIBITORY ORDER

WHEREAS the Director General of Fire Services †has, by way of a complaint,
applied to this court for a prohibitory order in respect of.....

.....
(premises)

on the grounds.....
.....
.....
.....

AND WHEREAS,
the owner of the premises, and....., the
occupier of the premises, have been served with a notice calling on them to
show cause why a prohibitory order should not be made* [and the said.....
.....
have/has failed to show cause, and the said.....
have/has failed to appear to show cause];

Now, on being satisfied that such use of the premises as is specified hereunder
would be a risk to person or property in case of fire and that therefore it is
necessary to prohibit such use, I, in pursuance of subsection 35(2) of the Fire
Services Act 1988, hereby *prohibit the use of the above-said premises/restrict
the use of the above-said premises, that is to say.....
.....
.....
.....

Given under my hand and the seal of the court, this.....day of....., .20.....

(SEAL)

Magistrate

†“ or any Fire Officer to whom the Director General has delegated his power”.
* Modify as circumstances require.

FIRE SERVICES ACT 1988

FORM G

[Subsection 35A(1)]

ORDER TO CEASE ACTIVITY

WHEREAS the Director General of Fire Services is satisfied that there is in respect of.....

.....
(premises)

an activity, namely.....and that any continuation of this activity would constitute an immediate danger of fire prejudicial to the safety of life and property;

AND WHEREAS the Director General of Fire Services is satisfied that any delay occasioned by an application for, and the obtaining of, a prohibitory order from the High Court would substantially increase the risk to such life or property:

NOW THEREFORE I, in pursuance of subsection 35A(1) of the Fire Services Act 1988, hereby order that the activity of.....

.....
in the above-said premises do cease forthwith.

Dated the.....day of 20.....

.....
(Director General of Fire Services)



SECOND SCHEDULE

[Subsections 3(6) and 3(7)]

[A] RANKS OF FIRE OFFICERS

Commissioner
Deputy Commissioner
Senior Assistant Commissioner
Assistant Commissioner
Senior Superintendent
Superintendent
Probationary Superintendent
Senior Assistant Superintendent
Assistant Superintendent
Probationary Assistant Superintendent
Fire Officer Grade I
Fire Officer Grade II
Fire Officer Grade III
Probationary Fire Officer Grade III
Chief Fireman
Senior Fireman
Fireman

[B] RANKS OF AUXILIARY FIRE OFFICERS

Fire Officer Grade III
Probationary Fire Officer Grade III
Chief Fireman
Senior Fireman
Fireman

LAWS OF MALAYSIA**Act 341****FIRE SERVICES ACT 1988**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A799	Fire Services (Amendment) Act 1991	12-04-1991
Act A879	Fire Services (Amendment) Act 1994	04-03-1994

LAWS OF MALAYSIA
Act 341
FIRE SERVICES ACT 1988

LIST OF SECTIONS AMENDED

Section	Amended authority	In force from
2	Act A799	12-04-1991
3	Act A879	04-03-1994
7	Act A879	04-03-1994
8	Act A879	04-03-1994
13	Act A879	04-03-1994
35A	Act A879	04-03-1994
35B	Act A879	04-03-1994
48	Act A799	12-04-1991
48A	Act A799	12-04-1991
48B	Act A879	04-03-1994
49	Act A799	12-04-1991
First Schedule	Act A879	04-03-1994
Second Schedule	Act A879	04-03-1994