

LAWS OF MALAYSIA

Act 726

SUSTAINABLE ENERGY DEVELOPMENT AUTHORITY ACT 2011

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SUSTAINABLE ENERGY DEVELOPMENT AUTHORITY ACT 2011

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LAWS OF MALAYSIA

Act 726

SUSTAINABLE ENERGY DEVELOPMENT AUTHORITY ACT 2011

An Act to provide for the establishment of the Sustainable Energy Development Authority Malaysia and to provide for its functions and powers and for related matters.

[ ]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Sustainable Energy Development Authority Act 2011.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates—

(a) for the coming into operation of this Act in different parts of Malaysia;

(b) for the coming into operation of different provisions or Parts of this Act; and

(c) for the coming into operation of different provisions of this Act in different parts of Malaysia.

Interpretation

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

"Government Entity" includes any ministry, department, office, agency, authority, commission, committee, board, council or other body, corporate or unincorporate, of the Federal Government, or of any State Government or local government, whether established under written law or otherwise;

"committee" means any committee established by the Authority under section 13;

"Chief Executive Officer" means the Chief Executive Officer appointed under subsection 22(1) and includes an employee of the Authority appointed under section 23 to act as the Chief Executive Officer;

"Fund" means the fund established under section 29;

"Renewable Energy Fund" has the meaning assigned to it in the Renewable Energy Act 2011 [*Act 725*];

"Minister" means the Minister charged with the responsibility for matters relating to the supply of electricity;

"Minister of Finance" means the Minister charged with the responsibility for finance;

"Chairman" means the Chairman of the Authority appointed under section 5;

"Authority" means the Sustainable Energy Development Authority Malaysia established under section 3;

"feed-in tariff system" has the meaning assigned to it in the Renewable Energy Act 2011;

"renewable energy" has the meaning assigned to it in the Renewable Energy Act 2011;

"sustainable energy" means energy which, in its generation, provision and use, is such that it meets the needs of the present without compromising the ability of future generations to meet their needs, and includes renewable energy;

"sustainable energy laws" means—

(a) this Act and any subsidiary legislation made under this Act;

(b) the Renewable Energy Act 2011 and any subsidiary legislation made under the Renewable Energy Act 2011; and

(c) any other legislation under which the Authority is to exercise any function, including any subsidiary legislation made under such legislation.

PART II

THE AUTHORITY

Establishment of the Authority

3. (1) A body corporate to be known as the Sustainable Energy Development Authority Malaysia is established.

(2) The Authority shall have perpetual succession and a common seal.

(3) The Authority may sue and be sued in its corporate name.

(4) Subject to and for the purposes of this Act, the Authority may, upon such terms as the Authority deems fit—

(a) enter into contracts;

(b) acquire, purchase, take, hold and enjoy movable and immovable property of every description; and

(c) convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest in the property vested in the Authority.

Common seal

4. (1) The Authority shall have a common seal which shall bear a device approved by the Authority and the seal may from time to time be broken, changed, altered and made anew as the Authority thinks fit.

(2) Until a seal is provided by the Authority, a stamp bearing the words "Sustainable Energy Development Authority Malaysia" may be used and shall be deemed to be the common seal of the Authority.

(3) The common seal shall be kept in the custody of the Chairman or any other person authorized by the Authority, and shall be authenticated by either the Chairman or such person as may be authorized by the Chairman in writing.

(4) All deeds, documents and other instruments purporting to be sealed with the seal and duly authenticated shall, until the contrary is proved, be deemed to have been validly executed.

(5) Any deed, document or other instrument which, if executed by a person not being a body corporate, is not required to be under seal may in like manner be executed by a member of the Authority or an employee of the Authority authorized in that behalf.

(6) The common seal of the Authority shall be officially and judicially noticed.

Membership of the Authority

5. (1) The Authority shall consist of—

(a) the following members who shall be appointed by the Minister:

(i) the Chairman;

(ii) not less than two but not more than four representatives of the Federal Government; and

(iii) not less than three but not more than five other members; and

(b) the Chief Executive Officer.

(2) The persons appointed under paragraph (1)*(a)* shall be persons who have experience and shown capacity and professionalism in matters relating to sustainable energy, finance, engineering, business or administration, or are otherwise suitable for appointment because of their special knowledge, experience or academic qualifications.

Temporary exercise of functions of the Chairman

6. The Minister may appoint temporarily any member of the Authority, other than the Chief Executive Officer, to act as the Chairman for the period when—

(a) the office of the Chairman is vacant;

(b) the Chairman is absent from duty or from Malaysia; or

(c) the Chairman is, for any other reason, unable to perform the duties of his office.

Schedule

7. (1) The provisions of the Schedule shall apply to members of the Authority.

(2) The Minister may amend the Schedule by order published in the *Gazette*.

Approval to hold other offices

8. A member of the Authority shall not, while holding such office, hold any other office or employment, whether remunerated or not, without the Minister's prior written approval.

Tenure of office

9. (1) Subject to such conditions as may be specified in his instrument of appointment, a member of the Authority shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding two years and is eligible for reappointment for a maximum period of three consecutive terms.

(2) This section shall not apply to the Chief Executive Officer.

Remuneration and allowances

10. (1) The Chairman shall be paid such remuneration and allowances as the Minister may determine.

(2) All other members of the Authority shall be paid allowances at such rates as the Minister may determine.

(3) This section shall not apply to the Chief Executive Officer.

Revocation of appointment and resignation

11. (1) The Minister may, at any time, revoke the appointment of any member of the Authority, other than the Chief Executive Officer.

(2) A member of the Authority, other than the Chief Executive Officer, may at any time resign by giving notice in writing to the Minister.

Vacation of office

12. (1) The office of a member of the Authority shall be vacated—

(a) if he dies;

(b) if there has been proved against him, or he has been convicted on, a charge in respect of—

(i) an offence involving fraud, dishonesty or moral turpitude;

(ii) an offence under any law relating to corruption or under section 45; or

(iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;

(c) if he becomes a bankrupt;

(d) if he is of unsound mind or is otherwise incapable of discharging his duties;

(e) in the case of the Chairman, if he absents himself from three consecutive meetings of the Authority without leave of the Minister;

(f) in the case of a member of the Authority other than the Chairman, if he absents himself from three consecutive meetings of the Authority without leave of the Chairman;

(g) if his resignation is accepted by the Minister; or

(h) if his appointment is revoked by the Minister.

(2) Where any person ceases to be a member of the Authority by reason of any of the provisions of this Act, another person shall be appointed in his place in accordance with the provisions applying.

Committees

13. (1) The Authority may establish any committee as it considers necessary or expedient to assist it in the performance of its functions.

(2) The Authority may elect any of its members to be the chairman of a committee.

(3) The Authority may appoint any person to be a member of any committee.

(4) A member of a committee shall hold office on such conditions and for such term as may be specified in his letter of appointment and is eligible for reappointment.

(5) The Authority may revoke the appointment of any member of a committee.

(6) A member of a committee may at any time resign by giving notice in writing to the chairman of the committee.

(7) A committee may regulate its own procedure.

(8) A committee shall be subject to, and act in accordance with, any direction given to it by the Authority.

(9) The Authority may at any time discontinue or alter the constitution of a committee.

(10) Meetings of a committee shall be held at such times and places as the chairman of the committee may determine.

(11) A committee shall cause—

(a) minutes of all its meetings to be signed, maintained and kept in proper form; and

(b) copies of the minutes of all its meetings to be submitted to the Authority as soon as practicable.

(12) Any minutes made of a meeting of a committee shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.

(13) Every meeting of a committee in respect of the proceedings of which minutes have been made in accordance with subsections (11) and (12) shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

(14) A committee may invite any person to attend any of its meetings, for the purpose of advising it on any matter under discussion, but that person shall not be entitled to vote at the meeting.

(15) Members of a committee or any person invited to attend any meeting of a committee may be paid such allowances and other expenses as the Authority may determine.

(16) No act done or proceedings taken under this Act shall be questioned on the ground of—

(a) any vacancy in the membership of, or any defect in the constitution of, a committee; or

(b) any omission, defect or an irregularity not affecting the merit of the case.

Disclosure of interest

14. (1) Any member of the Authority or any committee established under section 13 who has or acquires a direct or indirect interest whether by himself, a member of his family or his associate in relation to any matter under discussion by the Authority or committee shall disclose to the Authority or committee, as the case may be, the fact of his interest and the nature of that interest.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Authority or committee, as the case may be, in which the matter is discussed and, after the disclosure, the member—

(a) shall not be present or take part in any discussion or decision of the Authority or committee, as the case may be, about the matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Authority or committee, as the case may be,

when the matter is discussed or decided upon.

(3) A member of the Authority or committee who fails to disclose his interest as required under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(4) No act or proceedings of the Authority or committee shall be invalidated on the ground that any member of the Authority or committee has contravened this section.

(5) For the purpose of this section—

"a member of his family", in relation to a member of the Authority or a committee, includes—

(a) his spouse;

(b) his parent, including a parent of his spouse;

(c) his child, including an adopted child or stepchild;

(d) his brother or sister, including a brother or sister of his spouse; and

(e) a spouse of his child, brother or sister; and

"associate", in relation to a member of the Authority or a committee, means—

(a) a person who is a nominee or an employee of the member;

(b) a firm of which the member or any nominee of his is a partner;

(c) a partner of the member;

(d) a trustee of a trust under which the member or a member of his family is a beneficiary; or

(e) any corporation within the meaning of the Companies Act 1965 [*Act 125*] of which the member or any nominee of his or a member of the member's family is a director or has a substantial shareholding in the corporation.

Part III

FUNCTIONS AND POWERS OF THE AUTHORITY

Functions of the Authority

15. The Authority shall have all the functions conferred on it under the sustainable energy laws and shall also have the following functions:

(a) to advise the Minister and relevant Government Entities on all matters relating to sustainable energy, including recommendations on policies, laws and actions to be applied to promote sustainable energy;

(b) to promote and implement the national policy objectives for renewable energy;

(c) to promote, stimulate, facilitate and develop sustainable energy;

(d) to implement, manage, monitor and review the feed-in tariff system, including to carry out investigations, collect, record and maintain data, information and statistics concerning the feed-in tariff system and to provide such data, information and statistics to the Minister as he may from time to time require;

(e) to implement sustainable energy laws and to recommend reform to such laws to the Federal Government;

(f) to promote private sector investment in the sustainable energy sector, including to recommend to the relevant Government Entities incentives in relation to taxes, customs and excise duties and other fiscal incentives applicable to such investment;

(g) to carry out or arrange for the conduct of researches, assessments, studies and advisory services, collate, analyse and publish information, statistics and factors influencing or relevant to the development of sustainable energy, and to disseminate such relevant information, statistics and factors to Government Entities, the public and investors or potential investors investing in sustainable energy;

(h) to conduct, promote and support, in such manner as the Authority deems fit, research and innovation activities relating to sustainable energy;

(i) to conduct, promote and support, in such manner as the Authority deems fit, training or other programmes relating to the development of human resources and capacity building in the sustainable energy sector;

(j) to implement measures to promote public participation and to improve public awareness on matters relating to sustainable energy;

(k) to act as a focal point to assist the Minister on—

(i) matters relating to sustainable energy; and

(ii) climate change matters relating to energy; and

(l) to carry out any other function conferred by or under any sustainable energy law and to perform any other functions that are supplemental, incidental, or consequential to any of the functions specified in this section.

Powers of the Authority

16. (1) The Authority shall have the power to do all things necessary or expedient for or in connection with the performance of its functions under the sustainable energy laws.

(2) Without prejudice to the generality of subsection (1), the powers of the Authority shall include power—

(a) to carry on all activities which appears to the Authority to be requisite, advantageous or convenient for or in connection with the performance of its functions;

(b) to co-operate or act in association with any Government Entity, any company or corporation, or any body or person, whether local or foreign;

(c) to directly or indirectly approach, liaise with, and disseminate relevant information to, any investor or potential investor or any financier or potential financier, whether local or foreign, in order to promote investment and the development of financing initiatives in the sustainable energy sector in Malaysia;

(d) to appoint such agents, experts or consultants as it may deem fit for the purpose of performing its functions;

(e) to impose fees, costs or any other charges as it deems fit for services rendered by it;

(f) to formulate and implement human resource development and funding and co-operation programmes for the proper and effective performance of its functions;

(g) to grant loans and scholarships to employees of the Authority for such purposes as may be approved by the Minister; and

(h) to do anything incidental to any of its functions and powers.

Additional functions of the Authority

17. (1) In addition to the duties imposed on and powers vested in the Authority by this Act, the Authority may undertake such other functions, exercise such other powers and expend such other moneys for such purposes as the Federal Government may assign or give to it, and in so doing the Authority shall be deemed to be fulfilling the purposes of this Act and the provisions of this Act shall apply to the Authority in respect of the undertaking of such functions, the exercise of such powers and the expending of such moneys.

(2) The money expended for such purposes under subsection (1) shall be kept separate and apart from those of the Fund and the Renewable Energy Fund pursuant to the Renewable Energy Act 2011.

Delegation of the Authority's functions and powers

18. (1) The Authority may, in writing, delegate any of its functions and powers, other than its power to borrow money, to raise loans or to make subsidiary legislation, to—

(a) the Chairman;

(b) a member of the Authority;

(c) a committee; or

(d) an employee of the Authority.

(2) Without prejudice to subsection (1) and other provisions of this Act, the Authority may delegate to a member of the Authority or a committee or an employee of the Authority, authority to sanction expenditure from the Fund or any other moneys vested in and under the control of the Authority up to such limit as the Authority shall specify.

(3) A member of the Authority or a committee or an employee, as the case may be, delegated with such function or power shall be bound to observe and have regard to all conditions and restrictions imposed by the Authority and all requirements, procedures and matters specified by the Authority.

(4) Any function or power delegated under this section shall be performed and exercised in the name and on behalf of the Authority.

(5) A delegation under this section shall not preclude the Authority itself from performing or exercising at any time any of the delegated functions or powers.

Direction by Minister

19. (1) The Authority shall be responsible to the Minister.

(2) The Minister may give to the Authority directions of a general character, consistent with the provisions of the sustainable energy laws, relating to the performance of the functions and powers of the Authority and the Authority shall give effect to such directions.

Returns, reports, accounts and information

20. (1) The Authority shall furnish to the Minister, and any public authority as may be specified by the Minister, such returns, reports, accounts and information with respect to its activities and finances as the Minister may, from time to time, require or direct.

(2) Without prejudice to the generality of subsection (1), the Authority shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister and, if so directed by the Minister, to any other public authority a report dealing with the activities of the Authority during the preceding financial year.

(3) The returns, reports, accounts and information shall be in such form and shall contain such information relating to the proceedings and policy of the Authority and any other matters as the Minister may, from time to time, specify.

Authority may establish and participate in bodies corporate

21. The Authority may, from time to time, with the approval of the Minister and the concurrence of the Minister of Finance, establish and participate in any body corporate by such name as the Authority may determine to carry out and have the charge, conduct and management on behalf of the Authority of any project, scheme or enterprise as may be determined by the Authority in the performance of its functions or in the exercise of its powers.

Part IV

EMPLOYEES OF THE AUTHORITY

Chief Executive Officer

22. (1) The Minister shall appoint a Chief Executive Officer on such terms and conditions, and who shall be paid such remuneration and allowances, as he thinks desirable.

(2) The person appointed as the Chief Executive Officer under subsection (1) shall be a person who, in the opinion of the Minister, has experience and shown capacity and professionalism in matters relating to sustainable energy, finance, engineering, business or administration, or are otherwise suitable for appointment because of their special knowledge, experience or academic qualifications.

(3) The Chief Executive Officer shall be responsible for the overall administration and management of the functions and the day-to-day affairs of the Authority.

(4) The Chief Executive Officer shall have general control of the employees of the Authority.

(5) The Chief Executive Officer shall perform such other duties as the Authority may, from time to time, direct.

(6) In discharging his duties, the Chief Executive Officer shall act under the general authority and direction of the Authority.

(7) The Chief Executive Officer shall be an employee of the Authority.

Temporary exercise of functions of Chief Executive Officer

23. The Minister may appoint any employee of the Authority to act as the Chief Executive Officer during any period when—

(a) the office of the Chief Executive Officer is vacant;

(b) the Chief Executive Officer is absent from duty or from Malaysia; or

(c) the Chief Executive Officer is, for any other reason, unable to perform the duties of his office.

Appointment of employees of the Authority

24. The Authority may, from time to time, employ such number of employees as the Authority thinks desirable and necessary and upon such terms and conditions as it considers appropriate.

Conditions of service

25. The Authority may, with the approval of the Minister, determine the conditions of service of its employees.

Payment of retirement benefits, *etc.*

26. The Authority may make any arrangements for the payment to its employees and their dependants of such retirement benefits, medical benefits, pensions, gratuities and other allowances as the Authority may determine.

Loans, scholarships and advances

27. The Authority may grant loans, scholarships and advances to its employees for such purposes and on such terms as the Authority may determine.

Authority may adopt regulations, *etc.*

28. The Authority may, with the approval of the Minister, adopt with such modifications as it deems fit any regulations, rules, policies, circulars and directives enacted or issued by the Federal Government in relation to any matter under this Part.

Part V

FINANCE

Sustainable Energy Development Authority Fund

29. (1) A fund to be known as the "Sustainable Energy Development Authority Fund" is established and shall be administered and controlled by the Authority.

(2) The Fund shall consist of—

(a) such sums as may be provided by the Parliament for the purposes of this Act from time to time;

(b) all or any part of the fees, costs, levies, contributions and other charges imposed by or payable to the Authority under the sustainable energy laws;

(c) all moneys derived as income from investments by the Authority;

(d) all moneys derived from the sale, disposal, lease or hire, or any other dealing with, any property, mortgage, charge or debenture vested in or acquired by the Authority;

(e) all moneys earned from consultancy and advisory services and any other services provided by the Authority;

(f) sums borrowed by the Authority under section 33;

(g) such sums as may be paid to the Authority from time to time for loans made by the Authority;

(h) all moneys earned by the operation of any project, scheme or enterprise financed from the Fund;

(i) all donations and contributions received from within or outside Malaysia;

(j) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions, powers and duties; and

(k) all other moneys lawfully received by the Authority.

(3) Notwithstanding paragraph (2)*(b)*, the moneys referred to in that paragraph which are in excess of the financial requirement of the Authority for the performance of its functions may be paid into the Federal Consolidated Fund.

Expenditure to be charged on the Fund

30. The Fund shall be expended for the purposes of—

(a) paying any expenditure lawfully incurred by the Authority but excluding expenditure to be paid from the Renewable Energy Fund pursuant to the Renewable Energy Act 2011;

(b) paying for the remuneration, allowances and other expenses of the members of the Authority, members of the committees and employees of the Authority, including the granting of loans, scholarships and advances, retirement benefits, medical benefits, pensions, gratuities and other allowances;

(c) paying any other expenses, costs or expenditure in relation to the procurement of goods and services, including the engagement of consultants, legal fees and costs and other fees and costs properly incurred or accepted by the Authority in the performance of its functions or the exercise of its powers under the sustainable energy laws, but excluding expenditure to be paid from the Renewable Energy Fund pursuant to the Renewable Energy Act 2011;

(d) purchasing or hiring plant, equipment, machinery and materials, acquiring land and other assets, and erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers under the sustainable energy laws;

(e) repaying any moneys borrowed under section 33 and the interest due on the borrowed moneys;

(f) investment under section 34; and

(g) generally paying any expenses for carrying into effect the provisions of this Act.

Conservation of the Fund

31. It shall be the duty of the Authority to conserve the Fund by so performing its functions and exercising its powers under this Act to secure that the total revenues of the Authority are sufficient to meet all sums properly chargeable to its revenue account, including depreciation and interest on capital, taking one year with another.

Bank accounts

32. The Authority shall open and maintain an account or accounts with such banks in Malaysia as the Authority thinks fit, and every account shall be operated in such manner as may be authorized by the Authority for such purpose from time to time.

Power to borrow

33. The Authority may, from time to time, borrow in such form and on such terms as may be approved by the Minister with the concurrence of the Minister of Finance, any money required by the Authority for meeting any of its obligations or discharging any of its duties.

Investment

34. The moneys of the Authority shall, in so far as they are not immediately required to be expended by the Authority under this Act, be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

Limitation on contracts

35. The Authority shall not, without the approval of the Minister and the concurrence of the Minister of Finance, enter into any contract under which the Authority is to pay or receive an amount exceeding ten million ringgit.

Financial procedure

36. Subject to this Act and the approval of the Minister, the Authority shall determine its own financial procedure.

Financial year

37. The financial year of the Authority shall begin on 1 January and end on 31 December of each year.

Accounts and reports

38. (1) The Authority shall cause proper accounts of the Fund and reports of its activities to be kept and shall, as soon as practicable after the end of each financial year, cause to be prepared for that financial year—

(a) a statement of accounts of the Authority which shall include the balance sheet and account of income and expenditure; and

(b) a reports of its activities.

(2) The Authority shall, as soon as possible, send a copy of the statement of accounts certified by the auditors, a copy of the auditors' report and a copy of the reports of its activities to the Minister and the Minister shall cause the same to be laid before both Houses of Parliament.

(3) The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Authority.

Part VI

GENERAL

Restriction on the use of the symbol or representation of the Authority

39. (1) The Authority shall have the exclusive right to the use of such symbol or representation as the Authority may select or create and thereafter to display or exhibit such symbol or representation in connection with its activities or affairs.

(2) The symbol or representation selected or created by the Authority shall be published in the *Gazette*.

(3) Any person who uses a symbol or representation of the Authority or any resemblance thereof, or creates any symbol or representation which refers to the Authority so as to deceive or cause confusion, or to be likely to deceive or to cause confusion, commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Offence for unauthorized modification of information in the Authority's custody

40. (1) A person who does any act which he knows will cause unauthorized modification of any information, statistic or other data, whether in electronic form or otherwise, in the possession, custody or control of the Authority, commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit.

(2) A person who, with the intention of causing injury as defined in the Penal Code [*Act 574*], does any act which he knows will cause unauthorized modification of any information, statistic or other data, whether in electronic form or otherwise, in the possession, custody or control of the Authority, commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(3) For the purposes of this section—

(a) it is immaterial that the act in question is not directed at—

(i) any particular information, statistic or data;

(ii) information, statistic or data of any kind; or

(iii) any information, statistic or data held in any particular location;

(b) it is immaterial whether an unauthorized modification is, or is intended to be, permanent or merely temporary; and

(c) a modification of any information, statistic or data takes place if—

(i) such information, statistic or data is altered or erased;

(ii) any new information, statistic or data is introduced or added to such information, statistic or data; or

(iii) any event occurs which impairs the ability of the Authority to have access to such information, statistic or data, and includes any act that contributes towards causing such a modification.

Prosecution

41. No prosecution shall be instituted for any offence under this Act without the consent in writing of the Public Prosecutor.

Public servant

42. All members of the Authority and of any committee, and employees or agents of the Authority, while discharging their duties under this Act as such members, employees or agents, shall be deemed to be public servants within the meaning of the Penal Code.

Protection against suits and legal proceedings

43. No action, suit, prosecution or other proceedings shall lie or be brought, instituted or maintained in any court against—

(a) the Minister;

(b) the Authority;

(c) any member of the Authority, any member of a committee, or any employee or agent of the Authority; or

(d) any other person lawfully acting on behalf of the Authority,

in respect of any act, neglect or default done or committed by him or it, in good faith or any omission omitted by him or it in good faith in such capacity.

Public Authorities Protection Act 1948

44. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Authority or against a member of the Authority, a member of a committee, and an employee or agent of the Authority in respect of any act, neglect or default done or committed by it or him in good faith or any omission by it or him in good faith, in such capacity.

Obligation of secrecy

45. (1) Except for any of the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law or where otherwise authorized by the Authority—

(a) no member of the Authority or any of its committees or any employee or agent of the Authority or any person

attending any meeting of the Authority or any of its committees, whether during or after his tenure of office or employment, shall disclose any information obtained by him in the course of his duties and which is not published in pursuance of the sustainable energy laws; and

(b) no other person who has by any means access to any information or document relating to the affairs of the Authority shall disclose such information or document.

(2) Any person contravening subsection (1) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand ringgit or to both.

Representation in civil proceedings

46. Notwithstanding any other written law—

(a) in any civil proceedings by or against the Authority; or

(b) in any other civil proceedings in which the Authority is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any person authorized by the Authority for that purpose may, on behalf of the Authority, institute such proceedings or appear in such proceedings and may make all appearances and applications and do all acts in respect of the proceedings on behalf of the Authority.

Power to make regulations

47. The Minister may make regulations as may be expedient or necessary for giving full effect or the better carrying out of the provisions of the Act.

Power to employ

48. The Authority may employ and pay agents, technical and financial advisers, including advocates and solicitors, bankers, consultants and other persons, to transact any business or to do any act required to be transacted or done in the performance of its functions, the exercise of its powers or the discharge of its duties or for the better carrying into effect the purposes of this Act.

Things done in anticipation of the enactment of this Act

49. All acts and things done on behalf of the Authority in preparation for or in anticipation of the enactment of this Act and any expenditure incurred in relation thereto shall be deemed to have been authorized under this Act, provided that the acts and things done are consistent with the general intention and purposes of this Act, and all rights and obligations acquired or incurred as a result of the doing of those acts or things including any expenditure incurred in relation thereto shall upon the coming into operation of this Act be deemed to be the rights and obligations of the Authority.

SCHEDULE

[Subsection 7(1)]

Meetings

1. (1) The Authority is to hold as many meetings as are necessary for the efficient performance of its functions and such meetings shall be held at such times and places as the Chairman may determine, provided that the Chairman shall not allow more than two months to lapse between meetings.

(2) The Chairman shall call for a meeting if requested to do so in writing by the Minister or by at least four members of the Authority.

(3) The Chairman shall preside at a meeting of the Authority.

(4) The Chairman and four other members of the Authority shall form a quorum at any meeting of the Authority.

(5) Every member present at a meeting of the Authority shall be entitled to one vote.

(6) If on any question to be determined by the Authority there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

(7) Any member may request for the holding of or participation in any meeting of the Authority by means of instantaneous telecommunication device such as telephone, video conferencing or other electronic means of audio or audio-visual communications. The contemporaneous linking together by such instantaneous telecommunication device of a number of members sufficient to constitute a quorum, although the members are not present together in one place at the time of the conference, shall constitute a duly convened and constituted meeting of the Authority, provided that—

(a) the Chairman has approved the holding of or participation in such meeting by means of instantaneous telecommunication device;

(b) all the members have received notice of such meeting and the means by which the meeting will be conducted;

(c) each of the members taking part in the meeting by the instantaneous telecommunication device must be able to hear each of the other members taking part at the commencement and for the duration of the meeting; and

(d) at the commencement of the meeting and prior to the voting on any resolution, each member must acknowledge his presence for the purpose of the meeting to all of the other members taking part.

Authority may invite others to meetings

2. (1) The Authority may invite any other person to attend any meeting or discussion of the Authority for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the meeting or discussion.

(2) Any person invited to attend any meeting or discussion of the Authority under subparagraph (1) may be paid such allowances and other expenses as the Authority may determine.

Resolutions without meetings

3. (1) A resolution is taken to have been passed at a meeting of the Authority if—

(a) all members of the Authority have been informed of the proposed resolution, or reasonable efforts have been made to inform all members of the Authority of the proposed resolution; and

(b) without meeting, all of the members of the Authority indicate agreement with the resolution in accordance with the method determined by the Authority under subparagraph (2).

(2) Subparagraph (1) applies only if the Authority—

(a) decides that the subparagraph applies; and

(b) decides the method by which members of the Authority are to indicate agreement with the resolutions.

Minutes

4. (1) The Authority and every committee shall cause minutes of all their meetings to be maintained and kept in proper form.

(2) A committee shall cause copies of the minutes of all its meetings to be signed and submitted to the Authority as soon as practicable.

(3) Any minutes made of meetings of the Authority or a committee, if duly signed, shall be admissible in evidence in all legal proceedings without further proof.

(4) Every meeting of the Authority or committee in respect of the proceedings of which minutes have been made in accordance with subparagraphs (1) and (2) shall be deemed to have been duly convened and held and all members at the meeting to have been duly qualified to act.

Procedure

5. Subject to this Act, the Authority may regulate its own procedure.

Validity of acts and proceedings

6. No act done or proceedings taken under this Act shall be questioned on the ground of—

(a) any vacancy in the membership of, or any defect in the constitution of, the Authority; or

(b) any omission, defect or irregularity not affecting the merits of the case.

Member of the Authority to devote time to business of the Authority

7. Every member of the Authority shall devote such time to the business of the Authority as may be necessary to discharge his duties effectively.

DICETAK OLEH
PERCETAKAN NASIONAL MALAYSIA BERHAD,
KUALA LUMPUR
BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA