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Act 538

TOWN PLANNERS ACT 1995

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TOWN PLANNERS ACT 1995

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LAWS OF MALAYSIA

Act 538

TOWN PLANNERS ACT 1995

An Act to provide for the registration of Town Planners and for purposes connected therewith.

[1 January 1996]

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. This Act may be cited as the Town Planners Act 1995 and shall come into force on 1 January 1996.

Interpretation

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

“Board” means the Board of Town Planners established under section 3;

“body corporate practising as a Town Planner” means a body corporate incorporated under the Companies Act 1965 [*Act 125*] which has been issued with a permit to practise as a Town Planner;

“certificate of registration” means a certificate issued under subsection 17(1) and includes a duplicate certificate of registration issued under subsection 17(2);

“certificate of temporary registration” means a certificate issued under subsection 18(4) and includes a duplicate certificate of temporary registration issued under subsection 18(5);

“committee” means a committee appointed under section 10;

“member” means a member of the Board appointed under section 4 and includes the Chairman of the Board;

“Minister” means the Minister for the time being charged with the responsibility for matters relating to town and country planning;

“permit” means a permit issued under subsection 23(1) and includes a duplicate permit issued under subsection 23(2);

“Persatuan Pegawai Perancang Bandar dan Desa” means the association formed by Town Planners employed in the public sector;

“Pertubuhan Perancang Malaysia” includes an institute, a body or a society succeeding it and approved by the Minister;

“prescribed” means prescribed by rules made under section 50;

“profession” means the town planning profession;

“public authority” has the meaning assigned to it in the Federal Constitution;

“Register” means the Register of Town Planners referred to in section 11;

“registered Graduate Town Planner” means a person registered under subsection 15(1);

“registered Town Planner” means a person registered under subsection 15(3);

“Registrar” means the Registrar of Town Planners appointed under subsection 12(1).

PART II

THE BOARD OF TOWN PLANNERS

Establishment of the Board

3. (1) There shall be established a board to be known as the “Board of Town Planners” which shall be a body corporate having perpetual succession and a common seal.

(2) The Board may sue and be sued in its corporate name.

(3) Subject to and for the purposes of this Act, the Board may—

(a) enter into contracts; and

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

(4) The Board may convey, assign, surrender and yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, movable or immovable property vested in the Board—

(a) upon such terms as the Board thinks fit; and

(b) subject to any written law affecting the same.

Membership of the Board

4. (1) The Board shall consist of the following members:

(a) a Chairman;

(b) the President of the Pertubuhan Perancang Malaysia;

(c) the President of the Persatuan Pegawai Perancang Bandar dan Desa;

(d) seven members being Town Planners from a nomination list submitted by the Pertubuhan Perancang Malaysia of whom shall be—

(i) three Town Planners who are in the service of public authority;

(ii) three Town Planners who have been in private practice for at least ten years in Malaysia; and

- (iii) one Town Planner who is in the employment of any university or institution of higher learning and who is engaged in the teaching of town and country planning or town and regional planning;
 - (e) one member on the nomination of the Board of Architects from among members of that Board established under the Architects Act 1967 [Act 117];
 - (f) one member on the nomination of the Board of Engineers from among members of that Board established under the Registration of Engineers Act 1967 [Act 138]; and
 - (g) one member on the nomination of the Board of Surveyors from among members of that Board established under the Licensed Land Surveyors Act 1958 [Act 458].
- (2) The Chairman and other members of the Board under paragraphs (d) to (g)—
- (a) shall be appointed by the Minister for a term not exceeding three years;
 - (b) unless he sooner resigns or his appointment is sooner revoked, shall hold office for the period as specified in the instrument appointing him;
 - (c) shall be eligible for reappointment upon expiry of his term of office but shall not be appointed for more than three consecutive terms; and
 - (d) may, at any time, resign his office by letter addressed to the Minister.
- (3) The provisions of the Schedule shall apply to the Board.

Termination of appointment

5. The appointment of an appointed member of the Board shall terminate—
- (a) on his death; or
 - (b) if he resigns his office by letter addressed to the Minister.

Revocation of appointment

6. The Minister may revoke the appointment of an appointed member of the Board—

- (a) if his conduct, whether in connection with his duties as a member of the Board or otherwise, has been such as to bring discredit on the Board;
- (b) if he has become incapable of properly carrying out his duties as a member of the Board;
- (c) 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 a law relating to corruption;
 - (iii) an offence under this Act; or
 - (iv) any other offence punishable with imprisonment for more than two years;
- (d) if he becomes a bankrupt;
- (e) if he has been found or declared to be of unsound mind or has otherwise become incapable of managing his affairs;
- (f) if he absents himself from three consecutive meetings of the Board without obtaining leave in writing from the Chairman of the Board;
- (g) if his registration has been cancelled or become null and void; or
- (h) if his name has been removed from the Register.

Filling of vacancy

7. Where an appointed member ceases to be a member of the Board, the Minister may appoint another person to fill the vacancy for the remainder of the term for which the vacating member was appointed.

Functions of the Board

8. The functions of the Board shall be—

- (a) to keep and maintain the Register;
- (b) to approve or refuse applications for registration under this Act;
- (c) to prescribe the scale of fees to be charged by registered Town Planners for professional advice given and service rendered by it;
- (d) to determine ethics of the profession;
- (e) to regulate conduct of the profession;
- (f) to hear and determine itself or appoint a committee or an arbitrator to hear and determine disputes relating to—
 - (i) professional conduct; and
 - (ii) professional ethics,of registered Town Planners and registered Graduate Town Planners;
- (g) to represent the profession in any matter in which it may be necessary or expedient;
- (h) to examine, report and make recommendations upon current legislation and any other matter affecting the profession to—
 - (i) the government;
 - (ii) a public authority; or
 - (iii) an institute, a body or a society for the time being representing the profession;
- (i) to appoint a panel, if so required, to conduct examinations for admission to the profession consisting of—
 - (i) a member of the Board; and
 - (ii) Town Planners as the Board may determine;
- (j) to appoint a person to represent it on a body or panel of examiners which may be appointed by an institute, a body or a society for the time being representing the profession;

- (k) to make recommendations to the relevant authority in relation to any examinations for qualification for admission to the profession;
- (l) to appoint members of the Board to sit on a board, committee or body formed for any purpose affecting the profession; and
- (m) to appoint members of the Board to sit on the board of another professional body as may be necessary.

Power to borrow

- 9.** The Board may, with the approval of the Minister and upon such terms and conditions as he may determine, borrow such sums as the Board may require—
- (a) for discharging its functions; and
 - (b) for meeting its obligations.

Committees

- 10.** (1) The Board may appoint committees as it thinks expedient—
- (a) to advise it on matters concerning its functions, powers and duties;
 - (b) for the proper discharge of its functions, exercise of its powers and performance of its duties;
 - (c) for any purpose arising out of or connected with its functions, powers and duties; or
 - (d) to carry out its functions, powers or duties as it may determine or delegate except in relation to its powers under section 50.
- (2) There shall be appointed to a committee at least one member of the Board and any other person as the Board thinks fit.
- (3) Members of a committee shall be paid such allowance as the Board may determine.
- (4) The Board may, at any time, discontinue or alter the constitution of a committee.

(5) Subject to this Act and directions given by the Board a committee may regulate its own procedure.

(6) A committee shall conform to directions given to it by the Board.

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

(8) A person invited under subsection (7) shall be paid such fee as the Board may determine.

(9) A committee shall cause—

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

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

PART III

REGISTRATION OF TOWN PLANNERS

Register

11. (1) The Register of Town Planners shall be in two sections as follows:

(a) Section A — which shall contain the names, business addresses and other particulars of registered Town Planners; and

(b) Section B — which shall contain the names, addresses and other particulars of registered Graduate Town Planners.

(2) The Register shall be kept and maintained at the office of the Board and shall be accessible for public inspection.

(3) No amendment or alteration shall be made to the Register without the prior approval of the Board.

- (4) In the event—
- (a) an order is made by the Disciplinary Committee under section 33;
 - (b) of the occurrence of any of the circumstances rendering a registration null and void under section 35;
 - (c) of a removal from the Register under section 36;
 - (d) of a reinstatement into the Register under section 38; or
 - (e) of the—
 - (i) occurrence of any other circumstances; or
 - (ii) making of any other decision or order including in respect of an appeal made under this Act,affecting the registration of a registered Town Planner or registered Graduate Town Planner,

the Board shall cause an entry to be made in the Register accordingly.

Appointment and duties of Registrar

12. (1) The Minister shall appoint a Registrar of Town Planners who shall be under the general direction and supervision of the Board.

- (2) The Registrar shall—
- (a) sign all certificates of registration, certificates of temporary registration and permits;
 - (b) subject to subsection 11(3), record all entries required to be made in the Register;
 - (c) as soon as practicable after 1 January each year, publish in the *Gazette* a list of the names and addresses of all registered Town Planners and registered Graduate Town Planners;
 - (d) from time to time, publish in the *Gazette* a list of the names and addresses of registered Town Planners and registered Graduate Town Planners—
 - (i) added to;
 - (ii) removed from; or
 - (iii) reinstated into,the Register; and

(e) publish in at least two local newspapers, one in the national language and one in any other language, the names and addresses of registered Town Planners and registered Graduate Town Planners—

- (i) removed from; and
- (ii) reinstated into,

the Register within thirty days of the removal or reinstatement.

(3) In any proceedings, a list published in the *Gazette* under paragraphs (2)(c) and (d) shall be *prima facie* proof that the registered Town Planner and registered Graduate Town Planner whose name appears in the list—

- (a) is a registered Town Planner or registered Graduate Town Planner;
 - (b) has been removed from the Register; or
 - (c) has been reinstated into the Register,
- as the case may be.

(4) The Registrar may annually publish and offer for sale copies of the Register.

Entitlement

13. (1) Every registered Town Planner shall be entitled to—

- (a) prepare development plans such as structure plans and local plans for the purposes of the Town and Country Planning Act 1976 [Act 172];
- (b) carry out urban, rural and regional development planning studies, and feasibility and environmental impact assessment studies relating to land use; and
- (c) prepare and submit applications for planning permission, subdivisional layouts, drawings and planning reports to any person or public authority for the purposes of developing any land.

(2) Nothing contained in this section shall affect the entitlement of any other person under any other written law to do any of the things under paragraphs (1)(a), (b) and (c).

Restrictions on unregistered persons and registered Graduate Town Planners

- 14.** (1) No person shall unless he is a registered Town Planner—
- (a) use the title “registered Town Planner” or any title in any language which may be reasonably construed to imply that he is a registered Town Planner;
 - (b) use or display any sign, board, card or other device representing or implying that he is a registered Town Planner; or
 - (c) be entitled to recover in any court any fee, charge or remuneration for professional advice given or service rendered by it.

(2) Notwithstanding subsection (1), a registered Graduate Town Planner may, with the approval of the Board, take up employment as a Town Planner.

Qualification for registration

- 15.** (1) A person who holds—
- (a) the qualification required for Graduate Membership of the Pertubuhan Perancang Malaysia; or
 - (b) such other qualification as the Board considers to be equivalent to it,

shall be entitled, on application made by him, to be registered under Section B of the Register as a registered Graduate Town Planner.

(2) A registered Graduate Town Planner shall be required to obtain such practical experience as the Board may prescribe after consulting the Minister and the Pertubuhan Perancang Malaysia, in order to be entitled to apply for registration as a registered Town Planner.

(3) The following persons shall be entitled, on application made by him, to be registered under Section A of the Register as registered Town Planners:

- (a) any person who—
 - (i) is a registered Graduate Town Planner; and
 - (ii) has obtained the practical experience as prescribed under subsection (2); and
- (b) any person who, on 1 January 1996, is a Corporate Member of the Pertubuhan Perancang Malaysia.

(4) Notwithstanding subsection (3), a person shall not be entitled to be registered as a registered Town Planner unless at the time of the application for registration—

- (a) he is a citizen or a permanent resident of Malaysia;
- (b) he is residing in Malaysia; and
- (c) he has been residing in Malaysia for a period of not less than six months prior to the date of the application.

(5) Any person—

- (a) whose name has been removed from the Register under paragraph 36(b); and
- (b) who has not applied for reinstatement into the Register within five years from the date of the removal,

shall be entitled, on application made by him, to be registered under Section A of the Register.

(6) No person shall be entitled to be registered as a registered Town Planner or a registered Graduate Town Planner if at any time prior to his registration there exists any of the circumstances which would have rendered his registration null and void under section 35.

Application for registration

16. An application for registration under section 15 shall be made to the Board in the prescribed form and manner and accompanied by the prescribed fee.

Certificate of registration

17. (1) The Registrar shall issue to an applicant whose application for registration has been approved by the Board, a certificate of registration in the prescribed form upon receipt of the prescribed fee.

(2) A registered Town Planner or registered Graduate Town Planner who has lost his certificate of registration shall be issued with a duplicate certificate of registration on application made by him and payment of the prescribed fee.

(3) A certificate of registration shall—

- (a) expire on 31 December of the year in which it is issued; and
- (b) be renewable annually upon payment of the prescribed fee.

Temporary registration of foreign Town Planners

18. (1) The Board may, on application made by him in the prescribed form and manner and payment of the prescribed fee, approve the temporary registration as a registered Town Planner of a foreign Town Planner who is a consultant to a project—

- (a) wholly financed by a foreign government; or
- (b) implemented under a bilateral arrangement between governments.

(2) A foreign Town Planner may be considered for temporary registration if he satisfies the Board that—

- (a) he possesses the necessary qualification which is recognized for the practice of town planning in the country where he normally practises;
- (b) he possesses the necessary expertise; and
- (c) his physical presence is required in Malaysia for not less than one hundred and eighty days in one calendar year or he is a resident representative of the foreign component of a joint venture.

(3) The Board may approve a temporary registration for a period not exceeding one calendar year and may, on application, renew such temporary registration as it thinks fit.

(4) The Registrar shall issue a certificate of temporary registration in the prescribed form to a foreign Town Planner whose application for temporary registration has been approved by the Board upon receipt of the prescribed fee.

(5) A foreign Town Planner who has lost his certificate of temporary registration shall be issued with a duplicate certificate of temporary registration on application made by him and payment of the prescribed fee.

(6) A foreign Town Planner who is dissatisfied with the decision of the Board rejecting his application for temporary registration or its renewal may, within twenty one days of being notified of the rejection, appeal to the Minister.

(7) The decision of the Minister on an appeal under subsection (6) shall be final and shall not be subject to appeal.

(8) For the purpose of this section, “foreign Town Planner” means a Town Planner who is not a citizen or permanent resident of Malaysia.

Notification of change of address

19. Every registered Town Planner, registered Graduate Town Planner and foreign Town Planner shall notify the Registrar of any change in his business address or correspondence address, as the case may be, within fourteen days of the change.

PART IV

TOWN PLANNING PRACTICE BY BODIES CORPORATE

Composition of body corporate which may practise as Town Planner

20. The Board may issue a permit to a body corporate for it to practise as a Town Planner if—

(a) the board of directors of the body corporate consists—

(i) entirely of individual persons who are registered Town Planners;

- (ii) of a majority of individual persons who are registered Town Planners, and other individual persons who are Professional Engineers, Quantity Surveyors, Land Surveyors or Architects registered under any written law relating to the registration of such professions; or
 - (iii) of a majority of individual persons who are registered Town Planners, and other individual persons belonging to a profession allied to the practice of town planning approved by the Board; and
- (b) all the shares of the body corporate are either held by the persons mentioned in subparagraph (a)(i), (a)(ii) or (a)(iii) and that the registered Town Planners—
- (i) have a controlling interest; and
 - (ii) hold such percentage of the voting shares in the body corporate as may be prescribed by the Board.

Body corporate practising as Town Planner

- 21.** A body corporate practising as a Town Planner—
- (a) may use the title “registered Town Planner” or any title in any language which may be reasonably construed to imply that it is a body corporate practising as a Town Planner;
 - (b) may use or display any sign, board, card or other device representing or implying that it is a body corporate practising as a Town Planner; and
 - (c) shall be entitled to recover in any court any fee, charge or remuneration for professional advice given or service rendered by it.

Application for permit

- 22.** An application by a body corporate for a permit to practise as a Town Planner shall be made to the Board in the prescribed form and manner and accompanied by the prescribed fee.

Permit

23. (1) The Registrar shall issue to a body corporate, where its application to practise as a Town Planner is approved by the Board, a permit in the prescribed form upon receipt of the prescribed fee.

(2) A body corporate practising as a Town Planner which has lost its permit shall be issued with a duplicate permit on application and payment of the prescribed fee.

(3) A permit shall—

- (a) expire on 31 December of the year in which it is issued; and
- (b) be renewable annually upon payment of the prescribed fee.

Notification of change in composition and address

24. A body corporate practising as a Town Planner shall notify the Board—

- (a) of any change in the composition of its board of directors or its shareholders in a report containing full particulars of the change, within thirty days of the change; and
- (b) of any change in its business address, within fourteen days of the change.

Board may cancel permit

25. The Board may cancel the permit issued to a body corporate if the Board finds that—

- (a) the body corporate or any of its directors or shareholders has or have breached or failed to comply with or carry out any of the terms, conditions or restrictions imposed by the Board;
- (b) the composition of the board of directors of the body corporate is no longer in compliance with paragraph 20(a);
- (c) the shareholding of the body corporate is no longer in compliance with paragraph 20(b);
- (d) the body corporate has breached the requirement of section 24;

- (e) a director or shareholder of the body corporate, whether he is a registered Town Planner or not—
 - (i) is guilty of;
 - (ii) has committed;
 - (iii) is a party to; or
 - (iv) has contributed to,any of the acts or things set out in subsection 34(1); or
- (f) there exists any of the circumstances under section 35 relating to a director or shareholder of the body corporate, whether he is a registered Town Planner or not.

Hearing to be conducted and right to be heard to be accorded

26. (1) The Board shall not cancel the permit issued to a body corporate unless—

- (a) there has been a hearing of the complaint against the body corporate or any of its directors or shareholders who has or have caused or contributed or been a party to the complaint; and
- (b) an opportunity to be heard—
 - (i) either by a representative appointed in writing or by counsel in the case of a body corporate; or
 - (ii) either personally or by counsel in the case of a director or shareholder,

has been given to the body corporate, director or shareholder, as the case may be.

(2) The hearing under subsection (1) shall be conducted by at least two-thirds of the total number of members of the Board.

(3) Where the complaint is based on paragraph 25(e) or (f), the Board shall not cancel the permit if, on the date of hearing, the body corporate satisfies the Board that—

- (a) the director or shareholder who—
 - (i) is guilty of;
 - (ii) has committed;

- (iii) is a party to; or
- (iv) has contributed to,

the act or thing as forms the grounds of complaint has ceased to be its director or shareholder;

- (b) notwithstanding paragraph (a), the composition of its board of directors and shareholders is in compliance with section 20; and
- (c) no other director or shareholder, otherwise than by being its director or shareholder at the material date, was in any way a party to, or connected with, the act or thing which forms the grounds of complaint.

Cessation of practice

27. (1) Upon the Board cancelling its permit, the body corporate shall cease to practise as a Town Planner.

(2) The body corporate shall however be entitled to recover in any court any fee, charge or remuneration for professional advice given or service rendered by it where the advice was given or the service was rendered prior to the date of receipt of the notice from the Board cancelling its permit.

Surrender of permit

28. A body corporate practising as a Town Planner shall surrender to the Board the permit issued to it, within fourteen days of notification to it by registered post of the cancellation.

Board may issue fresh permit

29. (1) The Board may issue a fresh permit to a body corporate, the permit of which has been cancelled, on application by the body corporate if the Board is satisfied that—

- (a) the reason which led to the cancellation no longer exists; and
- (b) the composition of the board of directors and shareholders of the body corporate, at the time of the application, is in compliance with section 20.

(2) In issuing a fresh permit the Board may impose additional terms, conditions and restrictions as it thinks fit.

Appeal against refusal, conditions and cancellation not allowed

30. There shall be no appeal against—

- (a) the refusal of the Board to issue a permit to a body corporate to practise as a Town Planner;
- (b) any term, condition or restriction imposed by the Board on a permit; and
- (c) the cancellation of a permit.

PART V

REPRIMAND, SUSPENSION, CANCELLATION,
REMOVAL AND REINSTATEMENT

Appointment and powers of Investigation and Disciplinary Committees

31. The Board shall appoint—

- (a) an Investigation Committee, comprising three members of the Board, to investigate into a complaint made against a registered Town Planner or registered Graduate Town Planner; and
- (b) a Disciplinary Committee, comprising five members of the Board not being members of the Investigation Committee, to inquire into a complaint referred to it by the Investigation Committee.

Suspension of registration pending investigation

32. (1) The Board may, if it thinks fit, suspend the registration of a registered Town Planner or registered Graduate Town Planner for a period not exceeding six months pending an investigation by the Investigation Committee under paragraph 31(a).

(2) During the period of suspension the registered Town Planner or Registered Graduate Town Planner shall not exercise any of the rights or privileges accorded to him under this Act.

Order of Disciplinary Committee

33. The Disciplinary Committee may order any one or any combination of two or more of the following:

- (a) the issuance of a written reprimand;
- (b) the imposition of a fine not exceeding five thousand ringgit;
- (c) suspension for a period not exceeding one year;
- (d) cancellation of registration.

Circumstances under which Disciplinary Committee may make order

34. (1) An order under section 33 may be made against a registered Town Planner or registered Graduate Town Planner under any of the following circumstances:

- (a) if he offers or accepts a commission which in the opinion of the Disciplinary Committee is an illicit commission;
- (b) if whilst acting in his professional capacity, he at the same time and without disclosing the fact to his client—
 - (i) is a director of or substantial shareholder in or agent for a contracting company, firm or business; or
 - (ii) has a financial interest in the company, firm or business with which he deals on behalf of his client;
- (c) if his registration has been obtained by fraud or misrepresentation;
- (d) if he is found guilty by the Disciplinary Committee of an act or conduct which in the opinion of the Disciplinary Committee is infamous or disgraceful;
- (e) if he is found by the Disciplinary Committee to have contravened or failed to comply with any provision of this Act;
- (f) if he fails to carry out or observe any term, condition or restriction imposed by the Board on his registration;

(g) if he—

- (i) procures;
- (ii) causes the procurement of; or
- (iii) is in any way a party to procuring,

a permit for a body corporate of which he is a director or shareholder, by fraud or misrepresentation;

(h) if he, as a director or shareholder of a body corporate practising as a Town Planner—

- (i) conceals;
- (ii) causes the concealing of; or
- (iii) is in any way a party to the concealing of,

the existence of any fact or circumstances from the Board which, if known, would entitle the Board to cancel its permit;

(i) if he, in his capacity as a director or shareholder of a body corporate practising as a Town Planner—

- (i) contravenes;
- (ii) causes the contravention of;
- (iii) is in any way a party to the contravention of;
- (iv) fails to carry out; or
- (v) fails to observe,

the term, condition or restriction of the permit;

(j) if he causes or permits or suffers a body corporate of which he is a director or shareholder—

- (i) to practise as a Town Planner prior to the issuance of a permit; or
- (ii) to continue to practise as a Town Planner after the Board has cancelled its permit.

(2) An opportunity to be heard either personally or by counsel shall be given to the registered Town Planner or registered Graduate Town Planner against whom the Disciplinary Committee intends to make an order, before the order is made.

Registration to be null and void under certain circumstances

35. The registration of a registered Town Planner or registered Graduate Town Planner shall be null and void under any of the following circumstances:

- (a) 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 a law relating to corruption;
 - (iii) an offence under this Act; or
 - (iv) any other offence punishable with imprisonment for more than two years;
- (b) if his qualification under section 15 has been withdrawn or cancelled by the authority through which it was acquired or by which it was awarded;
- (c) if he has been found or declared to be of unsound mind or has otherwise become incapable of performing his professional duty; or
- (d) if he becomes a bankrupt.

Removal from Register

36. There shall be removed from the Register the name and other particulars of a registered Town Planner or registered Graduate Town Planner—

- (a) who has died;
- (b) who has failed to renew his registration within three months of its expiry;
- (c) who has failed to pay the fine imposed on him under paragraph 33(b);
- (d) whose practice has been suspended under paragraph 33(c);
- (e) whose registration has been cancelled under paragraph 33(d); or
- (f) whose registration is null and void under section 35.

Surrender of certificate of registration

37. A person whose name has been removed from the Register shall surrender to the Board the certificate of registration issued to him, within fourteen days of notification to him by registered post of the removal.

Reinstatement into the Register

38. (1) A person whose name has been removed from the Register under an order of the Disciplinary Committee shall as soon as practicable be reinstated into the Register, if his appeal is allowed.

(2) A person whose name has been removed from the Register for failure to renew his registration shall as soon as practicable be reinstated into the Register—

- (a) after he has notified the Registrar of his desire to be reinstated within five years of the removal; and
- (b) upon payment of the prescribed fee.

PART VI

APPEAL

Appeal Board

39. For the purpose of this Part, there shall be established an Appeal Board consisting of—

- (a) a Judge of the High Court or a former Judge of the High Court, as the Chairman, who shall be appointed by the Yang di-Pertuan Agong after consultation with the Chief Justice; and
- (b) two other persons appointed by the Yang di-Pertuan Agong.

Tenure of office and allowance of members of Appeal Board

40. A member of the Appeal Board shall—

- (a) unless he sooner resigns his office or his appointment is sooner revoked hold office for the period as specified in the instrument appointing him;

- (b) be eligible for reappointment; and
- (c) be paid such allowance as the Minister may determine.

Procedure of Appeal Board

41. The Appeal Board shall at its discretion determine its own procedure.

Appeal

- 42.** Except as otherwise provided under this Act a person—
- (a) who has been refused registration by the Board;
 - (b) who has been registered but is dissatisfied with any term, condition or restriction imposed by the Board;
 - (c) who is dissatisfied with an order made by the Disciplinary Committee; or
 - (d) whose name has been removed from the Register,

may appeal to the Appeal Board within thirty days of being notified of the matter appealed against.

Procedure of appeal

43. (1) A notice of appeal shall be made to the Appeal Board.

(2) On receiving the notice of appeal the Chairman of the Appeal Board or, in his absence, the member delegated by him so to do shall cause the Board to prepare and send to the Appeal Board—

- (a) the records or a summary of the records of the proceedings of the Board; and
- (b) the grounds of the decision of the Board,

on the matter appealed against.

(3) On receiving the records or a summary of the records and the grounds of the decision of the Board, the Chairman of the Appeal Board shall convene a sitting of the Appeal Board to hear the appeal.

(4) An opportunity to be heard either personally or by counsel shall be given by the Appeal Board to an appellant.

(5) The Appeal Board after hearing the appeal may confirm, reverse or vary the decision of the Board.

(6) The decision of the Appeal Board shall be final.

(7) The Board shall forthwith give effect to an order made by the Appeal Board.

PART VII

OFFENCES

Offences

44. (1) A person commits an offence if he—

(a) procures or causes the procurement of a certificate of registration, certificate of temporary registration or permit by—

(i) making or causing to be made; or

(ii) producing or causing to be produced, a false or fraudulent declaration, certificate, application or representation;

(b) makes or causes to be made a falsification in the Register;

(c) forges, alters or counterfeits a certificate of registration, certificate of temporary registration or permit;

(d) uses a forged, altered or counterfeited certificate of registration, certificate of temporary registration or permit;

(e) personates a registered Town Planner, registered Graduate Town Planner, foreign Town Planner or a director or shareholder of a body corporate practising as a Town Planner;

(f) buys or fraudulently obtains—

(i) a certificate of registration or certificate of temporary registration issued to another person; or

(ii) a permit issued to a body corporate of which he is neither a director nor shareholder; or

(g) sells, assigns or transfers—

- (i) a certificate of registration or certificate of temporary registration issued to him; or
- (ii) a permit issued to a body corporate of which he is a director or shareholder.

(2) A person who is guilty of an offence under this section shall, on conviction—

- (a) be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both; and
- (b) in the case of a continuing offence, be liable to a fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

General penalty

45. A person who contravenes or fails to comply with any of the provisions of this Act shall be guilty of an offence and where no penalty is expressly provided shall, on conviction—

- (a) be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both; and
- (b) in the case of a continuing offence, be liable to a fine not exceeding five hundred ringgit for every day or part of a day during which the offence continues after conviction.

Offences by body corporate

46. Where an offence under this Act has been committed by a body corporate, a person who at the time of the commission of the offence is a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such capacity shall, as well as the body corporate, be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he took reasonable precautions to prevent its commission.

Conduct of prosecution

47. Prosecution for an offence under this Act shall not be instituted or conducted except with the consent in writing of the Public Prosecutor.

Conduct of civil proceeding

48. The Board may appoint an advocate and solicitor to institute and conduct any civil proceeding on its behalf.

PART VIII

GENERAL

Act or omission done in good faith

49. No action or suit shall be instituted or maintained in any court against—

- (a) the Board;
- (b) a member of the Board;
- (c) a committee;
- (d) a member of a committee; or
- (e) a person authorized to act for or on behalf of the Board or a committee,

for any act or omission done in good faith in the discharge of its or his powers and duties under this Act.

Rules

50. The Board may, with the approval of the Minister, make rules, which shall be published in the *Gazette*, generally as may be necessary or expedient—

- (a) for the purpose of carrying out or giving effect to this Act; and
- (b) for prescribing anything required by this Act to be prescribed.

Registered Town Planners, registered Graduate Town Planners, etc., subject to this Act

51. Every registered Town Planner, registered Graduate Town Planner, foreign Town Planner and body corporate practising as a Town Planner shall be subject to this Act.

Savings as to right of Government

52. Nothing in this Act contained shall apply to anything done or omitted to be done by or under the authority of the Federal Government or the Government of any State.

SCHEDULE

[Subsection 4(3)]

Meetings

1. (1) The Board shall meet at least twice a year at a place as may be appointed by the Chairman.

(2) The Chairman shall preside at a meeting of the Board and in his absence the members of the Board shall elect one of their number to preside over the meeting.

(3) The quorum of a meeting of the Board shall be four.

(4) If on a question to be determined by the Board there is an equality of votes, the Chairman or, where the Chairman is absent, the member presiding over that meeting shall have a casting vote.

Allowance

2. Members of the Board shall be paid such allowance as the Minister may determine.

Board may invite others to meetings

3. (1) The Board may invite any person to attend a meeting or deliberation of the Board for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting or deliberation.

(2) A person invited under subparagraph (1) shall be paid such fee as the Board may determine.

Minutes

4. (1) The Board shall cause minutes of all its meetings to be maintained and kept in a proper form.

(2) Minutes made of meetings of the Board shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.

(3) Every meeting of the Board in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Disclosure of interest

5. (1) A member of the Board having, directly or indirectly, by himself or his partner—

(a) an interest in a company or undertaking with which the Board proposes to make a contract; or

(b) an interest in a contract or matter under discussion by the Board,

shall disclose to the Board the fact of his interest and its nature.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the Board and, unless specifically authorized by the Chairman, such member shall take no part in the deliberation or decision of the Board relating to the contract or matter.

Validity of acts and proceedings

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

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

(b) a contravention by a member of the Board of paragraph 5; or

(c) an omission, a defect or an irregularity not affecting the merit of the case.

Common seal

7. (1) The Board shall have a common seal which shall bear a device approved by the Board.

(2) The common seal may from time to time be broken, changed, altered and made anew as to the Board thinks fit.

(3) The common seal shall be kept in the custody of the Chairman of the Board and shall be authenticated by the Chairman or a member of the Board acting in the absence of the Chairman.

(4) All deeds, documents and other instruments purporting to be sealed with the common seal and authenticated as in subparagraph (3) shall be deemed to have been validly executed, until the contrary is shown.

(5) A deed, a document or an instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the Board.

(6) A deed, a document or an instrument mentioned in subparagraph (5) may be executed on behalf of the Board by a member of the Board generally or specially authorized by the Board in that behalf.

(7) The common seal of the Board shall be officially and judicially noticed.

Application of money

8. (1) Money received by the Board whether from fees payable under this Act or otherwise shall be applied by the Board—

(a) in the first place to defraying the expenses of registration and other expenses for the administration of this Act including any expenses of the Board that may be allowed under this Act; and

(b) thereafter to the promotion and advancement of the profession of town and country planning.

(2) Money that is not immediately required by the Board may be invested in such trustee securities as the Board may from time to time determine after consultation with the Minister.

Procedure

9. Subject to this Act the Board shall at its discretion determine its own procedure.

Member of the Board to devote time to the business of the Board

10. Every member of the Board shall devote such time to the business of the Board as is necessary to discharge his duties effectively.

LAWS OF MALAYSIA
Act 538
TOWN PLANNERS ACT 1995

LIST OF AMENDMENTS

Amending law	Short title	In force from
	– NIL –	

LAWS OF MALAYSIA
Act 538
TOWN PLANNERS ACT 1995

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
	- NIL -	

