



LAWS OF MALAYSIA

ONLINE VERSION OF UPDATED
TEXT OF REPRINT

Act 520

LEMBAGA PEMBANGUNAN INDUSTRI PEMBINAAN MALAYSIA ACT 1994

As at 1 October 2015

**LEMBAGA PEMBANGUNAN INDUSTRI
PEMBINAAN MALAYSIA ACT 1994**

Date of Royal Assent	...	...	...	24 June 1994
Date of publication in the <i>Gazette</i>	...	...	...	7 July 1994
Latest amendment made by Act A1407 which came into operation on	...	...	...	1 June 2015

PREVIOUS REPRINTS

<i>First Reprint</i>	...	...	...	2002
<i>Second Reprint</i>	...	...	...	2006

LAWS OF MALAYSIA**Act 520****LEMBAGA PEMBANGUNAN INDUSTRI PEMBINAAN
MALAYSIA ACT 1994**

ARRANGEMENT OF SECTIONS

PART I**PRELIMINARY**

Section

1. Short title, commencement and application
2. Interpretation

PART II**THE LEMBAGA**

3. The Lembaga
4. Functions of the Lembaga
5. Membership of the Lembaga
6. Public servants
7. Power of the Minister to give directions
8. Returns, reports, accounts and information
9. Power of the Lembaga to establish committees

PART III**CHAIRMAN, OFFICER, SERVANTS**

10. The Chairman

Section

11. Chief Executive
12. Appointment of officers and servants of the Lembaga
13. Regulations with respect to conditions of service
14. Regulations with respect to discipline

PART IV

FINANCE

15. The Fund
16. Conservation of the Fund
17. Expenditure to be charged on the Fund
18. Expenditure and preparation of estimates
19. Statutory Bodies (Accounts and Annual Reports) Act 1980 to apply

PART V

OTHER POWERS OF THE LEMBAGA

20. Power to borrow
21. Power to grant loans
22. Investment
23. Power to employ or appoint
24. Delegation of Lembaga's functions and powers

PART VI

REGISTRATION AND ACCREDITATION OF CONTRACTORS

25. Registration of contractors
- 25A. Accreditation of contractors
26. Register
27. Notice to require particulars
28. Penalty for failure to comply with notice

Section

- 29. Penalty for carrying out construction works without being registered
- 30. Notice to stop construction works
- 31. Contractors are subject to this Act

PART VII

REGISTRATION, ACCREDITATION, CERTIFICATION AND TRAINING OF
CONSTRUCTION PERSONNEL

- 32. Interpretation
- 33. Registration of construction personnel
- 33A. Accreditation and certification of construction site supervisor and skilled construction worker
- 33B. Training institution, *etc.*

PART VIIA

STANDARDS AND CODES OF PRACTICE
IN THE CONSTRUCTION INDUSTRY

- 33C. Lembaga to certify construction materials
- 33D. Dealing with non-certified construction materials
- 33E. Notice by the Lembaga for person dealing with non-certified construction materials
- 33F. Codes of practice for the construction industry

PART VIII

LEVY

- 34. Imposition of levy
- 34A. Levy payable as civil debt due to the Lembaga

PART VIII A

DUTY OF CONTRACTOR

Section

- 34B. Duty of contractor
- 34C. Breach of duty by contractor
- 34D. Death caused by breach of duty of contractor
- 34E. Duty of person who manages or controls construction site

PART IX

ENFORCEMENT AND INVESTIGATION

- 35. Authorization of officers
- 35A. Power of investigation
- 35B. Authority card
- 35C. Search and seizure with warrant
- 35D. Search and seizure without warrant
- 35E. Examination or testing of seized construction materials, *etc.*
- 35F. Appointment of analyst
- 35G. Certificate of analysis
- 35H. Power to enter premises, *etc.*
- 35I. Search of person
- 35J. Access to computerized data
- 35K. Warrant admissible notwithstanding defects
- 35L. List of things seized
- 35M. Power to require attendance of person acquainted with case
- 35N. Examination of person acquainted with case
- 35O. Admissibility of statement in evidence
- 35P. Sale and disposal of seized material
- 35Q. Seized construction material, *etc.*, liable to forfeiture
- 35R. Release of things seized
- 35S. Cost of holding equipment, *etc.*, seized
- 35T. No cost or damages arising from seizure to be recoverable

Section

- 35u. Obstruction
- 35v. Power of police
- 35w. Additional powers

PART X

GENERAL

- 36. Obligation of secrecy
- 37. Power to make regulations
- 38. Conduct of prosecution
- 38A. Appearance for the Lembaga in civil proceedings
- 38B. Protection to the Lembaga, *etc.*
- 38c. Compounding of offences
- 39. General penalty
- 39A. Offences by body corporate, *etc.*
- 40. Power to exempt
- 41. Transitional and saving provision

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

FOURTH SCHEDULE

LAWS OF MALAYSIA**Act 520****LEMBAGA PEMBANGUNAN INDUSTRI
PEMBINAAN MALAYSIA ACT 1994**

An Act to establish the Lembaga Pembangunan Industri Pembinaan Malaysia and to provide for its function relating to the construction industry and for matters connected therewith.

*[Part I, II, III, IV, V, IX & s. 37, 38, 39 and 40 of Part X—
1 December 1994, P.U. (B) 534/1994;
Part VI & ss. 41(1) of Part X—
20 July 1995, P.U. (B) 339/1995;
Part VIII & ss. 41(2) of Part X—
1 October 1995, P.U. (B) 457/1995;
Part VII— 1 July 1999, P.U. (B) 227/1999]*

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, commencement and application**

1. (1) This Act may be cited as the Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) This Act shall apply throughout Malaysia; however the Minister may by order suspend the operation of the whole or any of the provisions of this Act in any part of Malaysia.

Interpretation

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

“accreditation” means a procedure by which the Lembaga or any person authorized by it gives formal recognition that a body or person is competent to carry out a specific task relating to the construction industry;

“this Act” includes any subsidiary legislation made under this Act;

“member” means a member of the Lembaga including the Chairman;

“construction material” means any type, size and nature of material, initial, temporary, intermediate or finished, whether manufactured locally or imported used for the purposes of construction industry;

“building” means any permanent or temporary building or structure including any house, hut, shed or roofed enclosure, whether used for the purpose of human habitation or otherwise, and also any wall, roof, fence, platform, staging, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, landing-stage, road or bridge, or any structure support or foundation connected to the foregoing and any other erection, as the Minister may, by order published in the *Gazette*, declare to be a building;

“deal” means to handle, use, manufacture, supply, market, transfer, sell or buy, whether wholesale or retail, import or export;

“construction industry” means the industry related to construction works, including design, manufacturing, technology, material and workmanship and services for purposes of construction;

“training institution” means an institute, a place or premise providing training and other related activity for construction personnel;

“construction works” means the construction, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling, or demolition of—

- (a) any building, erection, edifice, structure, wall, fence or chimney, whether constructed wholly or partly above or below ground level;
- (b) any road, harbour works, railway, cableway, canal or aerodrome;
- (c) any drainage, irrigation or river control works;
- (d) any electrical, mechanical, water, gas, petrochemical or telecommunication works; or
- (e) any bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive, shaft, tunnel or reclamation works,

and includes—

- (A) any works which form an important and integral part of or are preparatory to or temporary for the works described in paragraphs (a) to (e), including site clearance, soil investigation and improvement, earth-moving, excavation, laying of foundation, site restoration and landscaping; or
- (B) procurement of construction materials, equipment or workers, necessarily required for any work described in paragraphs (a) to (e);

“Chief Executive” means the Chief Executive appointed under section 11;

“codes of practice” means any code, guideline, standard, rule, specification or approved practice of the Lembaga;

“contractor” means a person who carries out or completes or undertakes to carry out or complete any construction works;

“registered contractor” means a contractor registered in accordance with this Act;

“Fund” means the fund established under section 15;

“training” includes preparing or undergoing certain process to upgrade a person’s skill and knowledge in relation to construction industry;

“Lembaga” means the Lembaga Pembangunan Industri Pembinaan Malaysia established under section 3;

“Minister” means the Minister for the time being charged with the responsibility for matters relating to works;

“construction workmanship” means the technique, method or process of construction, which includes the end product of the construction works;

“authorized officer” means—

(a) an officer of the Lembaga authorized under section 35; or

(b) a police officer not below the rank of Inspector under section 35v;

“general construction worker” means any employee or class of employee who is not skilled and who is engaged in manual work;

“skilled construction worker” means any employee possessing the accepted level of skill, knowledge, qualification and experience of one or more of the trades as determined by the Lembaga and listed in the Third Schedule;

“semi-skilled construction worker” means any employee possessing the accepted level of skill, knowledge, qualification and experience of one or more of the trades as determined by the Lembaga;

“certification” means a procedure by which the Lembaga or any person authorized by it gives written assurance that a process, practice or service conforms with specified requirements;

“Chairman” means the Chairman of the Lembaga appointed under section 5;

“Manager” means any officer of the Lembaga who holds the position equivalent to Grade 41 and above in the Government service;

“construction project manager” means any employee possessing the accepted level of skill, knowledge and experience as may be determined and who is assigned to the construction site or any other such place to organize, plan, control and co-ordinate the construction works from the inception to completion;

“construction site supervisor” means any employee possessing the accepted level of skill, knowledge and experience who is assigned to a construction site or any other such place to supervise the construction works;

“construction personnel” means—

- (a) general construction workers;
- (b) semi-skilled construction workers;
- (c) skilled construction workers;
- (d) construction site supervisors;
- (e) construction project managers; and
- (f) any other employee in construction industry as may be determined by the Lembaga;

“registered construction personnel” means a construction personnel registered or certified in accordance with this Act;

“Industrialised Building System or IBS” means the technique of construction whereby components are manufactured in a controlled environment, either at site or off-site and subsequently transported, positioned and assembled into construction works;

“standards” has the same meaning as that assigned to it in the Standards of Malaysia Act 1996 [*Act 549*] and the National Skills Development Act 2006 [*Act 652*]; and

“company” has the same meaning as that assigned to “corporation” under subsection 4(1) of the Companies Act 1965 [*Act 125*].

(2) For the purpose of this Act, any person who has been awarded or executed any contract for construction works, or has undertaken to carry out, manage or complete any construction works, or has carried out, managed or completed any construction works shall be deemed to be a contractor unless proven otherwise.

PART II

THE LEMBAGA

The Lembaga

3. There is hereby established a body corporate by the name of “Lembaga Pembangunan Industri Pembinaan Malaysia”, which may be referred to for all purposes by the acronym “CIDB”, and which shall have perpetual succession and a common seal, which may sue and be sued in its corporate name and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may 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 therein vested in the Lembaga upon such terms as it deems fit.

Functions of the Lembaga

4. (1) The functions of the Lembaga shall be—
- (a) to promote and stimulate the development, improvement and expansion of the construction industry;
 - (b) to advise and make recommendations to the Federal Government and the State Government on matters affecting or connected with the construction industry;
 - (c) to promote, stimulate and undertake research into any matter relating to the construction industry;
 - (d) to promote, stimulate and assist in the export of service relating to the construction industry;
 - (e) to provide consultancy and advisory services with respect to the construction industry;
 - (f) to promote and encourage quality assurance in the construction industry;
 - (g) to regulate the conformance of standards for construction workmanship and materials;
 - (h) to obtain, publish, initiate and maintain information relating to the construction industry including the establishment of a construction industry information system;
 - (i) to provide, promote, review and coordinate training in the construction industry;
 - (j) to register and accredit contractors, to impose any conditions of registration and accreditation of the contractors and to revoke, suspend or reinstate the registration and accreditation;

- (k) to register, accredit and certify construction personnel and to revoke, suspend or reinstate the registration, accreditation and certification of such construction personnel;
- (l) to regulate the implementation for quality and safe construction works;
- (m) to regulate the implementation of Industrialised Building System in the construction industry; and
- (n) to attend to any complaint or report made in relation to any failure of construction works or completed construction works which affects public safety and take appropriate actions to address it.

(2) The Lembaga shall have the power to do all things expedient or reasonably necessary for, or incidental to, the performance of its functions and, in particular, but without prejudice to the generality of the foregoing—

- (a) to carry on all activities, particularly activities relating to the construction industry, the carrying on whereof appears to it to be requisite, advantageous or convenient for or in connection with the performance of its functions;
- (b) to give formal recognition and written assurance including awarding certificate for the purpose of certification;
- (c) with the approval of the Minister and Minister of Finance—
 - (i) to enter into any partnership, joint venture, privatization programme, scheme, enterprise, undertaking or any other form of co-operation or arrangement for the sharing of profits or carry on its activities in association with, or otherwise, any person, public authority or Government;
 - (ii) to acquire shares or securities in any public authority, corporation or other body and to dispose of or hold such shares or securities;

- (iii) to establish a corporation by such name as the Lembaga thinks fit to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Lembaga either under the control or partial control of the Lembaga;
 - (iv) to establish or promote the establishment of companies under the Companies Act 1965 and to carry out or engage and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Lembaga either under the control or partial control of the Lembaga;
- (d) to provide financial assistance in the form of loans or otherwise to persons engaged in the construction industry for the purpose of promoting the said industry and provide any guarantees on their behalf;
- (e) to commission any person or body to carry out research or development, or both, relating to the construction industry;
- (f) to impose fees or any other charges as it deems fit for giving effect to any of its functions or powers;
- (g) to receive or to pay in consideration of any services that may be rendered by it or any person rendering the service, such commissions or payments as may be agreed upon with any person; and
- (h) to do such other things as it deems fit to enable it to carry out its functions and powers effectively.
- (3) The Second Schedule shall apply to every corporation established by the Lembaga under subparagraph (2)(c)(iii).
- (4) Subject to section 7, it shall be the responsibility of the Lembaga in performing its functions under this Act to ensure that the

functions are performed in such manner as shall be in furtherance of the policy of the Government for the time being in force and in particular relating to the construction industry.

Membership of the Lembaga

5. (1) The Lembaga shall consist of the following members:

- (a) a Chairman;
- (b) six representatives from the private sector; and
- (c) four representatives who shall hold office in the public services,

who shall be appointed by the Minister.

(2) The provisions of the First Schedule shall apply to the Lembaga.

Public servants

6. All members, officers and servants of the Lembaga, while discharging their duties as such members, officers and servants, shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

Power of the Minister to give directions

7. The Lembaga shall be responsible to the Minister, and the Minister may, from time to time, give directions not inconsistent with this Act and the Lembaga shall, as soon as possible, give effect to all such directions.

Returns, reports, accounts and information

8. (1) The Lembaga shall furnish to the Minister, and such public authority as may be directed by the Minister, such returns, accounts and information with respect to its property and activities as the Minister may, from time to time, require or direct.

(2) Without prejudice to the generality of subsection (1), the Lembaga 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 Lembaga during the preceding financial year and the report shall be in such form and shall contain such information relating to the proceedings and policy of the Lembaga as the Minister may, from time to time, specify.

Power of the Lembaga to establish committees

9. (1) The Lembaga may establish such committees as it considers necessary or expedient to assist it in the performance of its functions under this Act.

(2) The Lembaga may appoint any suitable person to be a member of any committee established under subsection (1).

(3) A committee established under this section may elect any of its members to be chairman and may regulate its own procedure and, in the exercise of its powers under this subsection, such committee shall be subject to and act in accordance with any direction given to it by the Lembaga.

(4) Any meeting of a committee established under this section shall be held at such time and place as the chairman of the committee may, subject to subsection (3), determine.

(5) A committee may invite any person to attend any of its meetings for the purpose of advising it on any matter under discussion

provided that the person so invited shall not be entitled to vote at any such meeting.

(6) The members of a committee established under this section and any person invited under subsection (5) to attend any meeting of a committee may be paid such allowances as the Lembaga may determine.

PART III

CHAIRMAN, OFFICER, SERVANTS

The Chairman

10. (1) Without prejudice to the other provisions of this Act, the Chairman shall perform such duties as the Minister may, from time to time, determine.

(2) If the Chairman is temporarily absent from Malaysia or incapacitated through illness or for any other good reason is unable to perform his duties, the Minister shall appoint any member of the Lembaga to carry out the duties of the Chairman.

Chief Executive

11. (1) The Lembaga may, with the approval of the Minister, appoint a person, designated as “Chief Executive” to be the principal executive officer and vest him with such powers and impose upon him such duties as may be determined by the Lembaga.

(2) The Chief Executive shall be responsible for the proper administration and management of the functions and affairs of the Lembaga.

(3) The Chief Executive shall have general control of the other officers and servants of the Lembaga.

(4) The Chief Executive shall perform such further duties as the Lembaga may from time to time direct.

(5) If the Chief Executive is temporarily absent from Malaysia or is incapacitated through illness or for any other good reason is unable to perform his duties, the Lembaga may direct any other officer to carry out his duties.

Appointment of officers and servants of the Lembaga

12. (1) Subject to any regulations made under section 13, the Lembaga may appoint on such terms and conditions as it may think desirable such officers and servants as may be necessary for carrying out the purposes of this Act.

(2) No person shall be eligible for employment as an officer or servant of the Lembaga if he has, directly or indirectly, by himself or his partner, any share or interest in any contract or proposed contract with, for or on behalf of the Lembaga.

Regulations with respect to conditions of service

13. The Lembaga may, from time to time, with the approval of the Minister, make regulations with respect to the conditions of service of its officers and servants.

Regulations with respect to discipline

14. (1) The Lembaga may, from time to time, with the approval of the Minister, make regulations with respect to the discipline of its officers and servants.

(2) The regulations made under this section may include provisions for—

(a) the interdiction with reduction in salary or in other remuneration; or

(b) the suspension without salary or other remuneration,

of an officer or servant of the Lembaga during the pendency of disciplinary proceedings against him.

(3) The regulations made under this section shall create such disciplinary offences and provide for such disciplinary punishments as the Lembaga may deem appropriate, and the punishments so provided may extend to dismissal or reduction in rank.

(4) The regulations made under this section may, in prescribing the procedure for disciplinary proceedings, provide for an opportunity for representations to be made by the person against whom the disciplinary proceedings are taken before a decision is arrived at by the Lembaga on the disciplinary charge laid against such person.

PART IV

FINANCE

The Fund

15. (1) There is hereby established, for the purposes of this Act, a fund to be administered and controlled by the Lembaga.

(2) The Fund shall consist of—

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

(b) moneys earned from the consultancy and advisory services provided by the Lembaga;

(c) moneys earned by the operation of the construction industry information system;

- (d) moneys earned or arising from any property, investments, mortgages, charges or debentures acquired by or vested in the Lembaga;
- (e) any property, investments, mortgages, charges or debentures acquired by or vested in the Lembaga;
- (f) sums borrowed by the Lembaga for the purpose of meeting any of its obligations or discharging any of its duties;
- (g) moneys earned from the registration, accreditation, certification and training of contractors and construction personnel under this Act;
- (h) moneys collected by way of levy under section 34 of this Act;
- (ha) moneys collected and received under section 38c; and
- (i) all other sums or property which may in any manner become payable to or vested in the Lembaga in respect of any matter incidental to its functions, powers and duties.

Conservation of the Fund

16. It shall be the duty of the Lembaga to conserve the Fund by so performing, exercising and discharging its functions, powers and duties under this Act as to secure that the total revenues of the Lembaga are, subject to any directions given by the Minister, sufficient to meet all sums properly chargeable to its revenue account, including depreciation and interest on capital, taking one year with another.

Expenditure to be charged on the Fund

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

- (a) paying any expenditure lawfully incurred by the Lembaga, including legal fees and costs and other fees and costs and the remuneration of officers and servants appointed and employed by the Lembaga, including superannuation allowances;
- (b) paying any other expenses, costs or expenditure properly incurred or accepted by the Lembaga in the performance of its functions and powers under section 4;
- (c) repaying any moneys borrowed under this Act and the interest due thereon; and
- (d) generally, paying any expenses for carrying into effect this Act.

Expenditure and preparation of estimates

18. (1) The expenditure of the Lembaga up to such amount as may be authorized by the Minister for any one year shall be defrayed out of the Fund.

(2) Before the beginning of each year, the Lembaga shall submit to the Minister an estimate of the expenditure for the following year in such form and containing such particulars as the Minister may direct, and the Minister shall, before the beginning of the following year, notify the Lembaga of the amount authorized for expenditure generally or of the amounts authorized for each description of expenditure.

(3) The Lembaga may at any time submit to the Minister a supplementary estimate for any one year and the Minister may allow the whole or any part of the additional expenditure included therein.

(4) The Minister may direct the Lembaga to submit a copy of the estimate or supplementary estimate, as the case may be, to such other public authority as may be specified in the direction.

Statutory Bodies (Accounts and Annual Reports) Act 1980 to apply

19. The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Lembaga and any corporation established under this Act.

PART V

OTHER POWERS OF THE LEMBAGA

Power to borrow

20. (1) The Lembaga may, from time to time, with the approval of the Minister and Minister of Finance, borrow, at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise as the Minister and Minister of Finance may approve, any sums required by the Lembaga for meeting any of its obligations or discharging any of its duties.

(2) The Lembaga may, from time to time, with the approval of the Minister and Minister of Finance, borrow money by the issue of bonds, debentures or stocks of such class and value and upon such terms as it may, with the approval of the Minister and Minister of Finance, deem expedient, for all or any of the following purposes:

- (a) the provision of working capital;
- (b) the performance of the functions, the exercise of the powers and the discharge of the duties of the Lembaga under this Act;
- (c) the performance of such additional functions as may be undertaken by the Lembaga under this Act;
- (d) the redemption of any shares or stocks which it is required or entitled to redeem; and

- (e) any other expenditure properly chargeable to capital account.

Power to grant loans

21. In the performance of its functions, the exercise of its power or the discharge of its duties, the Lembaga may, with the approval of the Minister and Minister of Finance, grant loans, and such loans may be granted subject to such terms and conditions as the Lembaga may, with the approval of the Minister and Minister of Finance, think fit to impose in any particular case.

Investment

22. The assets of the Lembaga shall, in so far as they are not required to be expended by the Lembaga under this Act, be invested in such manner as the Minister and Minister of Finance may approve.

Power to employ or appoint

23. The Lembaga may employ or appoint and pay agents and technical advisers, including advocates and solicitors, bankers, fund managers, stockbrokers, surveyors, valuers 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.

Delegation of Lembaga's functions and powers

24. (1) The Lembaga may, subject to such conditions, limitations or restrictions as it thinks fit to impose, delegate any of its functions and powers, except the power to borrow money, to grant loans, to invest, to make regulations, or powers as stipulated under paragraph 4(2)(c) to—

- (a) any member of the Lembaga;

- (b) any committee established by the Lembaga; or
- (c) any officer or servant of the Lembaga,

and any function or power so delegated may be performed, exercised or discharged by the member, committee, officer or servant, as the case may be, in the name and on behalf of the Lembaga.

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

PART VI

REGISTRATION AND ACCREDITATION OF CONTRACTORS

Registration of contractors

25. (1) No person shall carry out or complete, undertake to carry out or complete any construction work or hold himself out as a contractor, unless he is registered with the Lembaga and holds a valid certificate of registration issued by the Lembaga under this Act.

(2) Every certificate of registration shall be in the prescribed manner and form.

(3) The Lembaga may, for the purpose of the registration of contractors, impose such conditions as it thinks fit.

(4) The Lembaga may suspend, revoke, reinstate or refuse any registration of any person under this Act.

(5) A person aggrieved by the decision of the Lembaga made under subsection (4) may, within thirty days after the date the decision of the Lembaga was communicated to him, appeal to the Minister in writing against the decision and the decision made by the Minister shall be final.

Accreditation of contractors

25A. (1) The Lembaga may accredit contractors in the form and manner prescribed under regulations made under this Act.

(2) The Lembaga may, for the purpose of the accreditation of contractors, impose such conditions as it thinks fit.

Register

26. The Lembaga shall keep and maintain a Register of the registered and accredited contractors under this Act.

Notice to require particulars

27. (1) For the purpose of carrying out its functions under section 4, the Lembaga may by notice in the prescribed form require any person to disclose and furnish any particulars which are within the person's knowledge, or which he is able to obtain, relating to the construction industry or anything required under the Act in such manner and form as the Lembaga may specify.

(2) The notice under subsection (1) may be served by delivering it by way of personal service or by registered post.

(3) A notice may require the information to be disclosed and furnished at specific times or within specific intervals.

(4) The Lembaga shall not require any person to supply information under this section which will disclose any trade secret.

Penalty for failure to comply with notice

28. A person who—

- (a) fails to comply with the requirements of a notice issued under section 27; or

- (b) knowingly or recklessly furnishes or causes to be furnished any false particulars on any matter specified in the notice issued under section 27,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred ringgit and, in the case of a continuing offence, to a fine not exceeding five hundred ringgit for every day or part of a day during which the offence continues after conviction.

Penalty for carrying out construction works without being registered

29. Any person who contravenes subsection 25(1) shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than one hundred thousand ringgit.

Notice to stop construction works

30. (1) Where the Lembaga finds that construction works are being carried out or completed, or undertaken to be carried out or completed by any person who is not registered with the Lembaga under this Act, the Lembaga shall by notice in writing served on him require him to abstain from commencing or proceeding with the construction works or from undertaking to carry out or complete the construction works, with or without conditions.

(1A) Where the Lembaga finds that construction works are being carried out or completed, or undertaken to be carried out or completed by a registered contractor in contravention of any provision of this Act, the Lembaga may, by notice in writing served on him, require him to abstain from commencing or proceeding with the construction works or undertaking to carry out or complete the construction works, with or without conditions.

(2) A person who fails to comply with the requirements of the notice under subsection (1) or subsection (1A) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five

thousand ringgit and in the case of a continuing offence, to a fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

Contractors are subject to this Act

31. Every contractor, whether registered under this Act or not, shall be subject to this Act.

PART VII

REGISTRATION, ACCREDITATION, CERTIFICATION AND TRAINING OF CONSTRUCTION PERSONNEL

Interpretation

32. For the purposes of this Part, “trades” means the trades or occupation normally associated with skilled construction workers.

Registration of construction personnel

33. (1) A person shall not be involved or engaged or undertake to be involved or engaged as a construction personnel unless he is registered with the Lembaga and holds a valid certificate of registration issued by the Lembaga under this Act.

(2) Subsection (1) shall not apply to any construction personnel who has a professional qualification and is registered under any written law.

(3) The Lembaga shall keep and maintain a Register which shall contain the names, addresses, trades, skills and other particulars of registered construction personnel.

(4) A person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

Accreditation and certification of construction site supervisor and skilled construction worker

33A. (1) No construction site supervisor or skilled construction worker shall be involved or engaged, or undertake to be involved or engaged as a construction site supervisor or skilled construction worker unless he is accredited and certified by the Lembaga and holds a valid certificate issued by the Lembaga under this Act.

(2) For the purpose of this Act, skilled construction workers are those specified in the Third Schedule.

(3) The Minister may, by order published in the *Gazette*, amend the Third Schedule.

(4) The Lembaga shall keep and maintain a Register which shall contain the names, addresses, trades, skills and other particulars of accredited and certified construction site supervisors and skilled construction workers.

(5) A person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

(6) Any person who engages a construction site supervisor or skilled construction worker who is not accredited and certified by the Lembaga to carry out any construction work shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

Training institution, etc.

33B. The Lembaga, for the purpose of training, accreditation and certification of construction personnel may—

(a) establish, promote and accredit training institutions;

- (b) establish a body to carry out evaluation or assessment or to conduct examination of the training institutions;
- (c) establish a body to develop, monitor and modify the curriculum as to the courses of studies, standards and training programmes offered by the training institutions;
- (d) give formal recognition and written assurances including awarding certificates or any other qualifications to the training institutions;
- (e) suspend or revoke the accreditation of training institutions for contravening or failing to comply with the conditions of accreditation; and
- (f) do any other things which the Lembaga deems expedient or necessary for the purposes of this Part.

PART VIIA

STANDARDS AND CODES OF PRACTICE IN THE CONSTRUCTION INDUSTRY

Lembaga to certify construction materials

33c. (1) The Lembaga shall, in the manner determined by the Lembaga, certify the construction materials used in the construction industry and specified in the Fourth Schedule in accordance with the standards specified in that Schedule.

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

(3) The Lembaga may keep and maintain a Register of the details and record of all certified construction materials.

(4) The Lembaga may, for the purpose of certification under subsection (1), impose any condition as it thinks fit.

(5) The Lembaga may suspend, revoke, reinstate or refuse the certification in circumstances as may be determined by the Lembaga.

Dealing with non-certified construction materials

33D. (1) A person shall not deal or undertake to deal, whether directly or indirectly, with the construction materials specified in the Fourth Schedule unless the construction materials have been certified by the Lembaga.

(2) Any person who deals or undertakes to deal with the construction materials specified in the Fourth Schedule without the certification of the Lembaga shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than five hundred thousand ringgit.

Notice by the Lembaga for person dealing with non-certified construction materials

33E. (1) Where any construction material which is not certified in accordance with this Act is dealt with or is undertaken to be dealt with or will be dealt with by any person, the Lembaga may, by notice in the prescribed form, serve on such person requiring him to abstain from commencing or proceeding with, engaging in or being involved in or undertaking to be engaged or involved in, dealing with the non-certified construction material.

(2) Any person who fails to comply with the requirements of the notice under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and in the case of a continuing offence, to a fine not exceeding five hundred ringgit for every day or part of a day during which the offence continues after conviction.

Codes of practice for the construction industry

33F. The Lembaga or any other body authorized by law may, from time to time, formulate, develop, revise and approve any code of practice which is suitable and necessary for the construction industry.

PART VIII

LEVY

Imposition of levy

34. (1) Every contractor shall declare and submit to the Lembaga, in the manner as may be prescribed by the Lembaga, any contract which he has been awarded on any construction works.

(2) For every contract referred to in subsection (1), whether stamped or not, having a contract sum of above five hundred thousand ringgit, the contractor shall be liable to pay to the Lembaga a levy at the rate of a quarter per centum of the contract sum.

(3) Every contractor shall disclose fully to the Lembaga all the facts and circumstances affecting his liability to pay the levy.

(4) The Lembaga shall notify the contractor of the amount of levy to be paid within such period as it may prescribe and such notification by the Lembaga shall be *prima facie* evidence as to the amount of levy to be paid by the contractor.

(5) The Minister may, by order published in the *Gazette*, vary the rate of levy specified in subsection (2).

(6) In the case where there are more than one contractor who are parties to a contract referred to in subsection (1), each and every such contractor are jointly and severally liable to pay the levy, unless otherwise proven to the contrary to the satisfaction of the Lembaga.

(7) Where the Lembaga has reason to believe that any condition in any contract referred to in subsection (1) has the direct or indirect effect of—

- (a) altering the contract sum subjected to levy which is payable or which would otherwise have been payable;
- (b) relieving any person from any liability which has arisen or which would otherwise have arisen to pay the levy;
- (c) evading or avoiding any duty or liability which is imposed or would otherwise have been imposed on any person by this Act; or
- (d) hindering or preventing the operation of this Act in any respect,

the Lembaga may, without prejudice to such validity as it may have in any other respect or for any purpose, disregard or vary such condition and make such adjustments as it thinks fit, with a view to counteracting the whole or any part of such direct or indirect effect of such condition in the contract.

(8) In exercising its powers under subsection (7), the Lembaga may—

- (a) treat the total value of any construction works or any part of it to be the value of the contract sum;
- (b) make such computation or amendment of any value of any construction works or contract as may be necessary to revise any person's liability to pay the levy or impose any liability to pay the levy on any person in accordance with its exercise of those powers; and
- (c) make such amendments as may be necessary to revise any person's liability to pay the levy or impose any liability to pay the levy on any person in accordance with its exercise of those powers.

(9) Where a contractor fails to pay any levy due within the prescribed period by the Lembaga, the contractor shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or four times the amount of such levy payable, whichever is higher.

(10) A contractor who contravenes subsection (1) or (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Levy payable as civil debt due to the Lembaga

34A. Notwithstanding any other written law, the amount of any levy payable under this Part shall be recoverable as a civil debt due to the Lembaga.

PART VIIIA

DUTY OF CONTRACTOR

Duty of contractor

34B. (1) A contractor undertaking any construction works shall—

- (a) notify and submit to the Lembaga any information and documents, including any supporting documents relating to the construction works, whether new or otherwise, in accordance with this Act;
- (b) ensure the construction works are carried out in accordance with the provisions of this Act, any regulations, terms and conditions imposed by the Lembaga and any other written law; and
- (c) ensure the safety of the building and the construction works whether during or post construction works.

(2) For the purpose of this section, “shall ensure the safety of building and the construction works” means ensuring that any building or construction works are being carried out or have been carried out in such manner as—

- (a) not causing or threatening to cause a risk of injury to any person or damage to any property; or
- (b) not causing or threatening to cause a total or partial collapse of—
 - (i) the building in respect of which the construction works are being carried out or have been carried out; or
 - (ii) any other building, road or natural formation which is opposite, parallel, adjacent or in close proximity to any part of the building or construction works.

Breach of duty by contractor

34c. (1) If the Lembaga is of the opinion that a contractor has breached any of his duties under subsection 34B(1), the Lembaga may do either one or all of the following:

- (a) engage a qualified person or a specialist to carry out such investigations and tests as may be necessary and to advise the Lembaga on all matters relating to the safety of the building in respect of which the construction works are being carried out or have been carried out;
- (b) impose on the contractor, all or any of the directives in subsection (2);
- (c) impose a penalty not exceeding five hundred thousand ringgit on the contractor.

(2) The Lembaga may, for the purpose of public safety or preventing any situation referred to in subsection 34B(2), issue a

written directive to the contractor of the construction works, for the contractor—

- (a) to immediately stop the construction works;
- (b) to carry out or cause to be carried out at the contractor's cost such inspection as the Lembaga may specify;
- (c) to execute or cause to be executed at the contractor's cost such construction works as the Lembaga may specify;
- (d) to demolish or cause to be demolished at the contractor's cost the defective building, or any failure or other event occurring in respect of which the construction works are being carried out or have been carried out or any part thereof, and to remove any debris resulting from the demolition; or
- (e) to revoke or suspend registration of the contractor granted under this Act.

(3) If any contractor fails to comply with the directive issued by the Lembaga under this section within the time specified, the Lembaga may execute the directive in such manner as the Lembaga thinks fit and recover in a court of competent jurisdiction, as a debt due to the Lembaga, all expenses reasonably incurred by the Lembaga in doing so from the contractor.

(4) Without prejudice to the right of the Lembaga to exercise its powers under subsection (3), any contractor who without reasonable cause, fails to comply with any directive issued to him under subsection (2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit and in respect of a continuing failure to comply, an additional fine not exceeding ten thousand ringgit for every day or part of a day during which the offence continues after conviction.

(5) Any contractor to whom a directive under subsection (2) has been issued, while the directive is in force, shall display a copy of the directive at every entrance to the building to which the directive

relates, and such copy shall be displayed in a way that it can be easily read by people outside the building.

(6) Any contractor who contravenes subsection (5) shall be guilty of an offence under this Act.

(7) The Lembaga may order the contractor of the construction works mentioned in subsection (1) to pay or reimburse the Lembaga, all or part of the expenses incurred by the Lembaga in engaging a qualified person or a specialist under paragraph (1)(a) and if the contractor fails to pay the amount payable, the Lembaga may recover in a court of competent jurisdiction, as a debt due to the Lembaga, so much of the amount payable by the contractor.

Death caused by breach of duty of contractor

34d. (1) Any contractor who breaches his duty under paragraph 34b(1)(c), and which breach results in death, shall be guilty of 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 two years or to both.

(2) Section 34c shall apply to this section except paragraph 34c(1)(c).

(3) An offence under this section shall be a seizable offence for the purpose of the Criminal Procedure Code [Act 593].

Duty of person who manages or controls construction site

34e. (1) Any person having the right and power to manage or control any construction site shall have the duty to ensure, so far as is reasonably practicable, that the construction site and the means of entering and leaving such construction site are safe and not harmful to health.

(2) The duty under subsection (1) shall apply only in relation to matters over which the person has the right and power to manage or control.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

PART IX

ENFORCEMENT AND INVESTIGATION

Authorization of officers

35. The Chairman may, in writing, authorize any officer of the Lembaga to exercise the powers of enforcement under this Act.

Power of investigation

35A. (1) An authorized officer shall have all the powers necessary to carry out an investigation under this Act.

(2) Upon completion of his investigation, the authorized officer shall immediately give all information relating to the commission of any offence to an officer in charge of a police station and a police officer may, by warrant, arrest any person who may have committed an offence under this Act or any regulations made thereunder.

Authority card

35B. (1) The Chairman shall issue to each authorized officer an authority card which shall be signed by the Chairman.

(2) Whenever such officer exercises any of the power under this Act, he shall, on demand produce to the person against whom the

power is being exercised the authority card issued to him under subsection (1).

Search and seizure with warrant

35c. (1) If it appears to a Magistrate, upon written information on oath and after such enquiry as the Magistrate considers necessary that there is reasonable cause to believe that—

- (a) any premise or construction site has been used or is about to be used for; or
- (b) there is in any premise or construction site, evidence necessary to the conduct of an investigation into,

the commission of an offence under this Act or any regulations or rules made under this Act, the Magistrate may issue a warrant authorizing an authorized officer named therein, at any reasonable time by day or by night and with or without assistance to enter the premise or construction site and if need by force.

(2) Without affecting the generality of subsection (1), the warrant issued by the Magistrate may authorize the authorized officer to—

- (a) search and seize any construction material, equipment, instrument, book, record, document, computerized document, article or other thing that is reasonably believed to furnish evidence of the commission of such offence;
- (b) take samples of any construction material or thing found in the premise or construction site for the purposes of ascertaining, by testing or otherwise, whether the offence has been committed;
- (c) make copies of or take extracts from any book, record, document, computerized document, article or other thing found in the premise or construction site; and

(d) direct that the premise or construction site or any part thereof or anything therein, shall be left undisturbed, whether generally or in particular, by affixing a seal.

(3) An authorized officer entering any premise or construction site under this section may take with him such other person and equipment as may appear to him to be necessary.

(4) An authorized officer may, in exercise of his powers under this section, if necessary—

(a) break open any outer or inner door of the premises or construction site or any obstruction to the premises or construction site in order to effect entry into the premise or construction site;

(b) to remove by force any obstruction to entry, search, seizure or removal as the authorized officer is empowered to effect under this section; and

(c) to detain any person in the premise or construction site until the search has been completed.

(5) Where, by reason of its nature, size or amount, it is not practical to remove any construction material, equipment, instrument, book, record, document, computerized document, article or other thing seized under this section, the authorized officer shall, by any means, seal the construction material, equipment, instrument, book, record, document, computerized document, article or other thing in the premise or construction site in which it is found.

Search and seizure without warrant

35D. An authorized officer, upon information received, who has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 35c —

(a) the investigation would be adversely affected;

- (b) the object of entry is likely to be frustrated;
- (c) any construction material, equipment, instrument, book, record, document, computerized document, article or other thing that is reasonably believed to furnish evidence of the commission of such offence sought may be removed or interfered with; or
- (d) the evidence sought may be tampered with or destroyed,

may exercise in respect of the premise or construction site, all the powers referred to in section 35c in as full and ample manner as if he were authorized to do so by a warrant issued under that section.

Examination or testing of seized construction materials, etc.

35E. (1) When it is necessary to test any construction materials or any other thing seized in the premises or construction site under this Act, it shall be sufficient to test only a sample not exceeding five per centum in value or weight of the construction materials or any other things found in the premise or construction site.

(2) The court shall presume that the construction materials or any other thing found in the premise or construction site are of the same nature, quantity and quality as those seized.

Appointment of analyst

35F. The Lembaga may appoint any qualified person to be an analyst for the purposes of carrying out an analysis on any construction materials or any other thing and to certify its condition, type, method of manufacturing, quality, standard and grade.

Certificate of analysis

35G. (1) A certificate of analysis signed by an analyst shall, on production by the Lembaga in any trial under this Act, be sufficient evidence of the facts stated in the certificate unless the accused requires that the analyst be called as a witness, in which case he shall give written notice to the Lembaga not less than three clear days before the commencement of the trial.

(2) Where the Lembaga intends to give in evidence any certificate referred to in subsection (1), it shall deliver a copy of such certificate to the accused not less than ten clear days before the commencement of the trial.

Power to enter premises, etc.

35H. Notwithstanding sections 35C and 35D, an authorized officer may at any time enter any premise or construction site for the purpose of—

- (a) inspecting any construction material, equipment, instrument, book, record, document, computerized document, article or other thing as the authorized officer considers necessary;
- (b) verifying the accuracy of records or statements of information given to an authorized officer or to the Lembaga;
or
- (c) collecting samples required under this Act.

Search of person

35I. A person shall not be searched except by another person of the same gender, and such search shall be conducted with strict regard to decency.

Access to computerized data

35j. (1) An authorized officer conducting a search under this Act shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purpose of this section, access shall be provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerized data.

Warrant admissible notwithstanding defects

35k. A search warrant issued under this Act shall be valid and enforceable notwithstanding any defect, mistake or omission therein or in the application for the warrant and any construction material, equipment, instrument, book, record, document, computerized document, article or other thing found in the premise or construction site under the warrant shall be admissible as evidence in any proceedings under this Act.

List of things seized

35l. (1) Where any seizure is made under this Part, an authorized officer shall prepare a list of construction materials, equipment, instrument, books, records, documents, computerized documents, articles or other thing seized and of the premise or construction site in which these are found and shall sign the list.

(2) A copy of the list prepared in accordance with subsection (1) shall be delivered immediately to the occupier of the premises or construction site where the construction material, equipment, instrument, book, record, document, computerized document, article or other thing is found or to his agent or servant at the premise or construction site.

(3) Where the premise or construction site is unoccupied, the authorized officer shall, whenever possible, post a list of everything seized conspicuously on the premise or construction site.

Power to require attendance of person acquainted with case

35M. (1) An authorized officer making an investigation under this Act may by order in writing require the attendance before himself of any person who appears to the authorized officer to be acquainted with the facts and circumstances of the case, and such person shall attend as required.

(2) If any person refuses to attend as so required, the authorized officer may report such refusal to a Magistrate who shall issue a summons to secure the attendance of such person as may be required by the order made under subsection (1).

Examination of person acquainted with case

35N. (1) An authorized officer making an investigation under this Act may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) The person examined under subsection (1) shall be legally bound to answer all questions relating to such case put to him by the authorized officer, but 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 the questions.

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

(5) A statement made by any person under this section shall, wherever possible, be reduced into writing and signed by the person making it or affixed with his thumbprint, as the case may be—

- (a) after it has been read to him in the language in which he made it; and
- (b) after he has been given an opportunity to make any correction he may wish.

Admissibility of statement in evidence

35o. (1) If any person is charged with an offence under this Act, any statement, whether the statement amounts to a confession or not or whether it is oral or in writing, made at any time, whether before or after the person is arrested and whether in the course of an investigation under this Act or not and whether or not wholly or partly in answer to questions, by that person to or in the hearing of an authorized officer or other person, shall be admissible in evidence at his trial and, if the person charged tenders himself as witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) A statement made under subsection (1) shall not be admissible or used—

- (a) if the making of the statement appears to the court to have been caused by an inducement, threat or promise having reference to the charge against such person proceeding from a person in authority and sufficient, in the opinion of the court, to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him; or
- (b) in the case of a statement made by the person after his arrest, unless the court is satisfied that he was cautioned in the following words or words to the like effect:

“It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence.”.

(3) A statement made by a person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of his not having been cautioned if he had been cautioned as soon as possible after that.

(4) Notwithstanding anything to the contrary contained in any written law, a person accused of an offence to which subsection (1) applies shall not be bound to answer any question relating to the case after any caution as referred to in paragraph (2)(b) had been administered to him.

Sale and disposal of seized material

35P. (1) The Chairman may, at any time, direct that any construction material seized under this Act be sold and the proceeds of the sale be held while waiting for the result of any prosecution under this Act where—

- (a) the construction material is of a perishable nature or easily deteriorates in quality;
- (b) the custody of the construction material involves unreasonable expense and inconvenience;
- (c) there is a lack or absence of adequate or proper facilities for the storage of the construction material; or
- (d) the construction material is believed to cause an obstruction or is hazardous to the public.

(2) Notwithstanding subsection (1), where an analyst certifies, or if the results of tests as certified by an analyst proves, that the construction material tested by him is not in good condition, the authorized officer may keep it in custody or, if no prosecution is

instituted in respect of the construction material, cause it to be disposed of in the manner determined by the Chairman.

Seized construction material, etc., liable to forfeiture

35Q. (1) Any construction material or the proceeds of sale thereof, or any equipment, instrument, book, record, document, computerized document, article or other thing seized in exercise of any power conferred under this Act shall be liable to forfeiture.

(2) Any construction material or the proceeds of sale thereof, or any equipment, instrument, book, record, document, computerized document, article or other thing forfeited or taken and deemed to be forfeited under this Part shall be the property of the Lembaga.

Release of things seized

35R. (1) If any construction material, equipment, instrument, book, record, document, computerized document, article or other thing has been seized under this Act, the authorized officer who effected the seizure may, at any time after that, release it seized to the person as he determines to be lawfully entitled to it if he is satisfied that it is not otherwise required for the purpose of any proceedings under this Act or for the purpose of any prosecution under any other written law, and in such event neither the authorized officer effecting the seizure, nor the Government, the Lembaga or any person acting on behalf of the Government or the Lembaga shall be liable to any proceedings by any person if the seizure and the release had been effected in good faith.

(2) A record in writing shall be made by the authorized officer effecting the release under subsection (1) specifying in detail the circumstances of and the reason for the release and a copy of the record shall be sent to the Public Prosecutor and to the Inspector-General of Police within seven days of the release.

Cost of holding equipment, etc., seized

35s. Where any construction material, equipment, instrument, book, record, document, computerized document, article or any other thing seized under this Act or its subsidiary legislation is held in the custody of the Government or the Lembaga pending completion of any proceedings in respect of an offence under this Act or its subsidiary legislation, the cost of holding in custody shall, in the event of any person being found to have committed an offence, be a debt due to the Government by such person and shall be recoverable accordingly.

No cost or damages arising from seizure to be recoverable

35t. A person shall not, in any proceedings before any court in respect of any construction material, equipment, instrument, book, record, document, computerized document, article or other thing seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Obstruction

35u. A person who—

- (a) assaults, delays, impedes, hinders or obstructs an authorized officer in effecting any entrance which he is entitled to effect under this Act or any of its regulations in the execution of any duty imposed or power conferred by this Act;
- (b) breaks any seal that has been affixed by an authorized officer on any place;
- (c) fails to comply with any lawful demand of an authorized officer in the execution of his duty under this Act;
- (d) fails, refuses or neglects to give any information which may be reasonably required by an authorized officer; or

- (e) without reasonable excuse fails to produce any construction material, equipment, instrument, book, record, document, computerized document, article or other thing required by an authorized officer,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Power of police

35v. Any police officer not below the rank of Inspector may exercise all the powers of enforcement under this Act.

Additional powers

35w. An authorized officer shall, for the purposes of the execution of this Act, have powers to do all or any of the following:

- (a) require the production of records, accounts, computerized data and documents kept by a contractor or other person and to inspect, examine and to download from them, make copies of them or take extracts from them;
- (b) require the production of any identification document from any person in relation to any case or offence under this Act;
- (c) make such inquiry as may be necessary to ascertain whether the provisions of this Act have been complied with.

PART X

GENERAL

Obligation of secrecy

36. (1) Except for any of the purposes of this Act or for the purpose of any civil or criminal proceedings under any written law, no member, officer or servant of the Lembaga shall disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.

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

Power to make regulations

37. (1) The Lembaga may, with the approval of the Minister, make such regulations as may be expedient or necessary for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made for—

- (a) prescribing the conditions, manner, forms, types, grades and procedures for the registration, accreditation or certification of contractors and construction personnel and the suspension, revocation, reinstatement or refusal of the registration, accreditation or certification of the contractors and construction personnel;
- (b) prescribing the manner, forms and procedures for the collection of levy;
- (c) prescribing the form and manner of service of any notice required under this Act;

- (d) prescribing the fees and charges to be paid in respect of any matter required for the purposes of this Act;
- (e) prescribing the conditions, manner, forms, types, grades and the determination of standard of skills and competency of construction personnel;
- (f) prescribing the responsibilities and control of members, officers and servants of the Lembaga;
- (g) prescribing the manner in which and the terms and conditions on which loans may be granted by the Lembaga under section 21;
- (h) providing generally for the performance of the functions, the exercise of the powers and discharge of duties of the Lembaga under the provisions of this Act;
- (i) prescribing the forms, methods and procedures for compounding of offences;
- (j) obtaining, initiating and maintaining information relating to the construction industry;
- (k) prescribing the mechanism of appeal of any decision of the Lembaga to the Minister and may provide that the decision of the Minister shall be final and conclusive;
- (l) prescribing the circumstances applicable to any person in respect of any transitional period upon the commencement of any regulations made under this Act;
- (m) regulating and enforcing standards in the construction industry including the manner, forms and procedures;
- (n) prescribing the manner, forms, types and grades in relation to certification of construction materials and construction workmanship;

(o) prescribing the conditions and requirements for the implementation of Industrialised Building System in the construction industry; and

(p) any other matter generally to give effect to the provisions of this Act.

(3) Any regulation made under subsection (2) may provide that any act or omission in contravention of such regulation to be an offence and may provide for penalty of a fine not exceeding ten thousand ringgit.

Conduct of prosecution

38. (1) No prosecution for any offence under this Act shall be instituted except with the consent in writing of the Public Prosecutor.

(2) Any officer of the Lembaga authorized by the Public Prosecutor may conduct the prosecution of any offence under this Act.

Appearance for the Lembaga in civil proceedings

38A. Notwithstanding the provisions of any written law, in any civil proceedings by or against the Lembaga—

(a) any officer of the Lembaga or any public officer authorized by the Chairman; or

(b) any member of the Malaysian Bar,

may on behalf of the Lembaga, conduct such proceedings and may make and do all appearances, acts and applications in respect of such proceedings.

Protection to the Lembaga, etc.

38B. (1) No action shall be brought, instituted or maintained in any court, against the Lembaga or its members, officers, servants or agents for anything done or omitted to be done by the Lembaga or its members, officers, servants or agents in good faith without negligence and done in exercise of any powers or performance of any duty under this Act.

(2) The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Lembaga or its members, officers, servants or agents in respect of any act, negligence or default done by the Lembaga or its members, officers, servants or agents in such capacity.

Compounding of offences

38C. (1) The Lembaga may prescribe any offence under this Act as an offence which may be compounded.

(2) The Lembaga, with the consent of the Public Prosecutor in writing, may at any time before a charge is being instituted compound any of the offences prescribed under subsection (1) as an offence which may be compounded by accepting from the person reasonably suspected of having committed the offence a sum of money not exceeding fifty per centum of the maximum fine and in the case where there is a minimum fine, a sum of money not exceeding fifty per centum of the maximum fine but not less than the minimum fine provided to which the person would have been liable if he had been convicted of the offence, within such time as may be specified in his written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Lembaga may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by the Lembaga, subject to such terms and conditions as it thinks fit.

(5) All sums of money received by the Lembaga under subsection (2) shall be paid into and form part of the Fund under Part IV of the Act.

General penalty

39. Any person who by any act or omission contravenes any provision under this Act or any regulations made thereunder shall be guilty of an offence and where no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

Offences by body corporate, etc.

39A. (1) Where a body corporate, firm, society or other body of persons commits an offence under this Act, any person who at the time of the commission of the offence was a director, manager, secretary, or other similar officer of the body corporate, firm, society or other body of persons or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate, firm, society or other body of persons or was assisting in such management—

- (a) may be charged severally or jointly in the same proceedings with the body corporate, firm, society or other body of persons; and
- (b) where the body corporate, firm, society or other body of persons is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—

- (i) that the offence was committed without his knowledge, consent or connivance; and
- (ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where any person would be liable under this Act to any punishment or penalty for any act, omission, negligence or default, he shall be liable to the same punishment or penalty for every such act, omission, negligence or default of any employee or agent of his, or of the employee of such agent, if such act, omission, negligence or default was committed—

- (a) by his employee in the course of his employment;
- (b) by the agent when acting on his behalf; or
- (c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent acting on behalf of the person.

Power to exempt

40. (1) The Minister may by order published in the *Gazette* exempt, subject to such conditions as he may think fit to impose, any person or class of persons from all or any of the provisions of this Act for any good reason which is consistent with the purpose of this Act.

(2) The Minister may at any time by order published in the *Gazette* revoke any order made under subsection (1) if he is satisfied that the exemption should no longer be granted.

Transitional and saving provision

41. (1) Any person who immediately before the date of commencement of this Act was carrying out any construction works

may continue to do so during the period of twelve months from the commencement of this Act:

Provided that during that period such person shall as soon as practicable make an application for registration as a contractor or for accreditation, certification and registration as a skilled construction worker or construction site supervisor.

(2) Any contractor who is carrying out any construction works pursuant to a contract executed before the date of commencement of this Act shall be exempted from the payment of any levy under section 34.

FIRST SCHEDULE

[Subsection 5(2)]

PROVISIONS APPLICABLE TO THE LEMBAGA

Appointment, revocation and resignation

1. (1) Subject to such conditions as may be specified in his instrument of appointment, a member of the Lembaga shall hold office for a term not exceeding two years and is eligible for reappointment.

(2) The appointment of any member may at any time be revoked by the Minister without assigning any reason therefor.

(3) A member may at any time resign his office by letter addressed to the Minister.

(4) Every member shall devote such time to the business of the Lembaga as is necessary to discharge his duties effectively.

Vacation of office

2. (1) The office of a member of the Lembaga 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 36; 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 bankrupt;
- (d) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) if he absents himself from three consecutive meetings of the Lembaga without leave of the Lembaga;
- (f) if his resignation is accepted by the Minister; or
- (g) if his appointment is revoked by the Minister.

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

Remuneration or allowance

3. There may be paid to members of the Lembaga or any person (not being an officer or servant of the Lembaga who is within the ambit of the provisions of this Act relating to the terms and conditions of service applicable to his case) such remuneration or allowance as the Minister may determine.

Meetings

4. (1) The Lembaga shall meet at least once in every two months.

(2) The quorum of the Lembaga shall be seven.

(3) Subject to the provisions of this Act, the Lembaga shall determine its own procedure.

Lembaga may invite others to meetings

5. The Lembaga may invite or request any person (not being a member of the Lembaga) to attend any meeting or deliberation of the Lembaga for the purpose of advising it on any matter under discussion but any person so attending shall have no right to vote at the said meeting or deliberation.

Common seal

6. (1) The Lembaga shall have a common seal which shall bear such device as the Lembaga shall approve and such seal may from time to time be broken, changed, altered or made anew as the Lembaga may think fit.

(2) Until a seal is provided by the Lembaga, a stamp bearing the words “Lembaga Pembangunan Industri Pembinaan Malaysia” may be used and shall be deemed to be the common seal of the Lembaga.

(3) The common seal shall be kept in the custody of the Chairman or such other person as may be authorized by the Lembaga, and shall be authenticated by the Chairman or such authorized person or by any officer authorized by either of them in writing; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid shall, until the contrary is proved be deemed to have been validly executed:

Provided that any document or 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 Lembaga; and any such document or instrument may be executed on behalf of the Lembaga by any officer or servant of the Lembaga generally or specially authorized by the Lembaga in that behalf.

(4) The common seal of the Lembaga shall be officially and judicially noticed.

Disclosure of interest

7. A member of the Lembaga having, directly or indirectly, by himself or his partner, an interest in any company or undertaking with which the Lembaga proposes to make a contract or having an interest in any such contract or in any matter under discussion by the Lembaga shall disclose to the Lembaga the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Lembaga and, unless specifically authorized thereto by the Chairman, such member shall take no part in the deliberation or decision of the Lembaga relating to the contract or matter.

Minutes

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

(2) Any minutes made of meetings of the Lembaga shall, if duly signed, be admissible in evidence in all legal proceedings without further proof and every meeting of the Lembaga 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.

Validity of acts and proceedings

9. No act done or proceeding 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 Lembaga;
- (b) the contravention by any member of the Lembaga of the provisions of paragraph 7; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

SECOND SCHEDULE

[Subsection 24(2)]

PROVISIONS APPLICABLE TO A CORPORATION ESTABLISHED
BY THE LEMBAGA

Power of the Lembaga to make regulations in respect of corporation

1. The Lembaga shall, with the approval of the Minister, on or before the date on which any corporation is established under section 24, make regulations in respect of such corporation defining—

- (a) the purposes and objects for which the corporation is established;
- (b) the rights, powers, duties and functions of the corporation;
- (c) the system of management thereof; and

- (d) the relations between the corporation and the Lembaga and the Lembaga's rights of control over such corporation.

Limitation on power to establish corporation

2. Nothing in paragraph 1 shall be deemed to authorize the Lembaga to make regulations to establish any corporation for any purpose or object more extensive in scope than the purposes or objects for which the Lembaga has been constituted or to confer on any corporation any right, duty, power or function which is not within the rights, duties, powers or functions of the Lembaga under this Act.

Effect of regulations

3. Subject to the provisions of this Act and of any regulations made under section 38, any regulations made under paragraph 1 shall be binding on the corporation in respect of which they were made and shall have effect for all purposes as if they had been enacted in this Act.

Amendment of regulations

4. The Lembaga may at any time, with the approval of the Minister, amend, revoke or add to any regulations made under paragraph 1 in respect of any corporation.

Register of corporations

5. The Lembaga shall keep a register in the prescribed form of all corporations established by it under section 24 and such register, together with copies of all regulations made under paragraphs 1 and 4, shall be open to public inspection at such place or places and at such time as it may prescribe.

Winding up

6. (1) The Lembaga may, with the approval of the Minister, by order published in the *Gazette*, direct that any corporation established by it be wound up and dissolved.

(2) Upon the dissolution of any corporation under this paragraph the assets of the corporation after discharging all its liabilities shall be transferred to and shall vest in the Lembaga.

(3) The winding up of a corporation under this paragraph shall be conducted in such manner as the Lembaga may prescribe.

Corporation to be bodies corporate

7. Every corporation established under section 24 shall be a body corporate by such name as the Lembaga shall give to it and shall have perpetual succession, and a common seal and may sue and be sued in such name and, for the purpose of carrying into effect the project, scheme or enterprise for which it has been established, may enter into contracts and may hold and deal in or with any immovable or movable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Act and subject to such restrictions or limitations as may be prescribed by the Lembaga in each case.

Common seal of corporations

8. (1) Every corporation shall have a common seal which shall bear such device as the corporation, with the approval of the Lembaga, may approve and such seal may from time to time be broken, changed, altered or made anew as the corporation, with the approval of the Lembaga, may think fit.

(2) Until a seal is provided by the corporation, a stamp bearing the name of the corporation encircling the letters "LIPM" may be used and shall be deemed to be the common seal of the corporation.

(3) The common seal shall be kept in the custody of such person as may be authorized by the corporation, and shall be authenticated by such person; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any document or 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 on behalf of the corporation by any officer or servant of the corporation generally or specially authorized by the corporation in that behalf.

(4) The common seal of every corporation shall be officially and judicially noticed.

THIRD SCHEDULE

[Section 2 and subsection 33A(2)]

SKILLED CONSTRUCTION WORKERS

1. Building Air-condition Installer
2. Industrial Air-condition Installer
3. Bar-bender
4. Block-layer
5. Bricklayer
6. Carpenter
7. Ceiling Fixer
8. Chargetman (Registered with *Suruhanjaya Tenaga*)
9. Concrete Pumping Equipment Operator
10. Concretor
11. Crawler Crane Operator
12. Drain-layer
13. Draughtsman—Civil and Structural Works
14. Draughtsman—Mechanical and Engineering Works
15. Draughtsman—Architectural Works
16. Drywall Installer
17. Excavator Operator
18. Fire Fighting Installer
19. Formworker
20. Gas Pipe Fitter—Industrial
21. Gas Pipe Fitter—Building
22. Glazier
23. Ironmonger
24. Joiner
25. Landscaper—Soft
26. Landscaper—Hard
27. Metalworker
28. Mobile Elevating Work Platform Operator

29. Painter
 30. Paviour
 31. Piling Rigger
 32. Plasterer
 33. Plumber—Building
 34. Plumber—Water Reticulation
 35. Roofer
 36. Retro-fitting
 37. Sanitary Fitter
 38. Scaffolder
 39. Sign Maker
 40. Soil Investigation Plant Operator
 41. Specialized Equipment Installer
 42. Steel Structure Fabricator
 43. Stone (Rubble) Mason
 44. Slinging and Rigging Operator
 45. Tiler
 46. Timber Structures Erector
 47. Tower Crane Operator
 48. Waterproof Works Worker
 49. Welder
 50. Wireman (Registered with *Suruhanjaya Tenaga*)
 51. Site Supervisor—Architectural and Building Works
 52. Site Supervisor—Building Services
 53. Site Supervisor—Civil and Infrastructure Works
 54. Site Supervisor—Electrical Works
 55. Site Supervisor—General
 56. Site Supervisor—Maintenance Works
 57. Site Supervisor—Mechanical Works
 58. Site Supervisor—Structural Works
 59. Site Supervisor—Safety
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FOURTH SCHEDULE

[Subsection 33C(1)]

STANDARDS FOR CERTIFICATION OF CONSTRUCTION MATERIAL

<i>No.</i>	<i>Types of construction material</i>	<i>Approved standard by the Lembaga</i>
1.	Sanitary wares (ceramic)	
	(a) Wash basin	MS 147:2001 : Specification for Quality of Vitreous China Sanitary Appliances
	(b) Water closet pan without flushing cistern	MS 147:2001 and MS 1522:2007 Specification for Vitreous China Water Closet Pans
	(c) Water closet with flushing cisterns	MS 147:2001, MS 1522:2007 and MS 795:2002
	(d) Bidets and urinals pedestal	MS 147:2001
	(e) Flushing cisterns equipped with mechanism	MS 147:2001 and MS 795:2002
	(f) Flushing cisterns not equipped with mechanism	MS 147:2001
	(g) Plastic flushing cisterns	MS 795:2002
2.	Ceramic tiles	MS ISO 13006:2003
3.	Steel frame scaffoldings	MS 1462:1999
4.	Vitrified clay pipes and fitting and pipe joints for drains and sewers	MS 1061:Part 2:2008
5.	Cold reduced mild steel wire for reinforcement of concrete	MS 144:2006

<i>No.</i>	<i>Types of construction material</i>	<i>Approved standard by the Lembaga</i>
6.	Steel welded fabric for reinforcement of concrete	MS 145:2006
7.	Portland cement	
	(a) White Portland cement	MS 888:1991
	(b) Ordinary and rapid hardening Portland cement	MS 522:Part 1:2007
	(c) Sulfate resisting Portland cement	MS 1037:1986
	(d) Pulverised fuel ash Portland cement	MS 1227:2003
	(e) Blast furnace Portland cement	MS 1389:1995
8.	Hydraulic Cement	
	(a) Pozzolonic pulverized fuel ash cement	MS 1520:2001
	(b) High slag blast furnace cement	MS 1388:1995
	(c) Masonry cement	MS 794:2010
9.	Hot rolled steel bars for reinforcement of concrete	MS 146:2006
10.	Prefabricated timber roof truss system	CIS 5
11.	Hot rolled non alloy structural steel sections	MS 1490:2001
12.	Precast concrete piles for foundation	MS 1314:Part 1-6:2004
13.	Steel wire ropes for lifts	MS ISO 4344:2004

<i>No.</i>	<i>Types of construction material</i>	<i>Approved standard by the Lembaga</i>
14.	Specification for steel frame scaffoldings	MS 1462:1999
15.	Iron and steel products	
	(a) Specification for low carbon steel wire rods	MS 1092:1987
	(b) Specification for high carbon steel wire rods	MS 1093:1987
	(c) Specification for low carbon steel wires	MS 1137:2009
	(d) Specification for uncoated seven-wire stress-relieved strand for pre-stressed concrete	MS 1138:Parts 1-4:2007
	(e) Specification for galvanized low carbon steel wire for armoring cables	MS 1239-1:2009
	Insulation materials	
16.	(a) Specification for mineral fibre thermal insulation material	MS 1020:2010
	Float glass	
17.	(a) Specification for float and polished plate float glass	MS 1138:Part 1-4:2007
18.	MS 1064 : 2001 GUIDE TO MODULAR COORDINATION IN BUILDING	
	(a) Stairs and stairs opening	MS 1064:Part 3:2001
	(b) Door sets	MS 1064:Part 4:2001
	(c) Window sets	MS 1064:Part 5:2001

<i>No.</i>	<i>Types of construction material</i>	<i>Approved standard by the Lembaga</i>
(d)	Rigid flat sheets	MS 1064:Part 6:2001
(e)	Tiles	MS 1064:Part 7:2001
(f)	Masonry, bricks and blocks	MS 1064:Part 8:2001
(g)	Cabinets	MS 1064:Part 9:2001
(h)	Reinforced concrete components	MS 1064:Part 10:2001

LAWS OF MALAYSIA**Act 520****LEMBAGA PEMBANGUNAN INDUSTRI PEMBINAAN
MALAYSIA ACT 1994****LIST OF AMENDMENTS**

Amending law	Short title	In force from
P.U. (A) 274/1999	Lembaga Pembangunan Industri Pembinaan Malaysia (Amendment of Third Schedule) Order 1999	01-07-1999
Act A1407	Lembaga Pembangunan Industri Pembinaan Malaysia (Amendment) Act 2011	01-06-2015

LAWS OF MALAYSIA**Act 520****LEMBAGA PEMBANGUNAN INDUSTRI PEMBINAAN
MALAYSIA ACT 1994****LIST OF AMENDMENTS**

Section	Amending authority	In force from
2	Act A1407	01-06-2015
3	Act A1407	01-06-2015
4	Act A1407	01-06-2015
11	Act A1407	01-06-2015
15	Act A1407	01-06-2015
20-24	Act A1407	01-06-2015
Part VI	Act A1407	01-06-2015
25	Act A1407	01-06-2015
25A	Act A1407	01-06-2015
26	Act A1407	01-06-2015
27	Act A1407	01-06-2015
29-31	Act A1407	01-06-2015
Part VII	Act A1407	01-06-2015
32	Act A1407	01-06-2015
33	Act A1407	01-06-2015

Section	Amending Authority	In force from
33A	Act A1407	01-06-2015
33B	Act A1407	01-06-2015
Part VIIA	Act A1407	01-06-2015
33C	Act A1407	01-06-2015
33D	Act A1407	01-06-2015
33E	Act A1407	01-06-2015
33F	Act A1407	01-06-2015
34	Act A1407	01-06-2015
34A	Act A1407	01-06-2015
Part VIIIA	Act A1407	01-06-2015
34B	Act A1407	01-06-2015
34C	Act A1407	01-06-2015
34D	Act A1407	01-06-2015
34E	Act A1407	01-06-2015
Part IX	Act A1407	01-06-2015
35	Act A1407	01-06-2015
35A-35W	Act A1407	01-06-2015
37-38	Act A1407	01-06-2015
38A-38C	Act A1407	01-06-2015
39A	Act A1407	01-06-2015
40	Act A1407	01-06-2015
Third Schedule	Act A1407	01-06-2015

*Lembaga Pembangunan Industri
Pembinaan Malaysia*

73

Section	Amending Authority	In force from
Fourth Schedule	Act A1407	01-06-2015
Third Schedule	P.U. (A) 274/1999	01-07-1999
