

PART II  
ADMINISTRATION

Appoint-  
ment of  
Licensing  
Officers.

3. (1) The State Authority may, by notification in the *Gazette*, appoint so many Licensing Officers as it may deem necessary for the purpose of carrying into effect the provisions of this Enactment.

(2) A notification of an appointment under subsection (1) shall specify the area or district in which the Licensing Officer may exercise the powers and perform the functions conferred or imposed upon him under this Enactment or any regulations.

Power of  
State  
Authority to  
issue  
directions.

4. The State Authority may from time to time give any Licensing Officer directions of a general character, and not inconsistent with the provisions of this Enactment, as to the exercise of the powers and discretion conferred upon the Licensing Officer by this Enactment or any regulations and the Licensing Officer shall give effect to all such directions.

Authoriza-  
tion.

5. A Licensing Officer may authorize in writing any public officer or any officer or employee of any local authority to exercise the functions of an authorized person under this Enactment.

PART III  
LICENSING

Entertain-  
ment  
without  
licence  
prohibited.

6. (1) No person shall provide entertainment at any place unless a Licensing Officer has granted—

(a) a licence to provide such entertainment; and

(b) a licence to provide entertainment at that place.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both and, in the case of a second or subsequent conviction, to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

7. (1) No person shall—

Prohibition  
against sale  
of tickets,  
etc., for  
entertain-  
ment  
without  
licence.

(a) give, distribute, sell or offer for sale any ticket for admission to, or invite any person to attend, any entertainment or cause to be made such gift, distribution, sale, offer or invitation; or

(b) in any other manner advertise or publicise or cause to be advertised or publicised any entertainment to be provided in any place,

unless a licence has been granted in respect of such entertainment and place.

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

8. (1) An application for a licence shall be made in the prescribed form and shall be submitted to the Licensing Officer.

Application  
for a licence.

(2) For the purpose of considering an application for a licence, the Licensing Officer may require the applicant to furnish to him such additional information as he may require.

(3) Without prejudice to subsection (2), for the purpose of considering an application for a licence to provide entertainment, the Licensing Officer may require the applicant to give him the script, if any, and such information as he may specify relating to the following matters—

(a) particulars of persons concerned in the promotion of the entertainment and the interests represented by those persons;

(b) particulars of the persons who have been invited or agreed to participate in the entertainment or have participated in the entertainment and the interests represented by those persons; and

(c) the purpose to which any profits from the entertainment are intended to be or have been applied.

(4) For the purpose of this section, the expression "script", in relation to a performance of a play, means the text of the play (whether expressed in words or in musical or other notation) together with any stage or other directions for its performance, whether contained in a single document or not.

Grant of  
licence.

9. (1) A Licensing Officer may in his discretion grant a licence or refuse to grant a licence applied for under section 8.

(2) A licence in respect of any place shall not be granted in any local authority area unless the applicant produces—

(a) a licence issued by the local authority; or

(b) a written approval by the local authority,

permitting the use of such place as a place of entertainment.

Licence  
fees.

10. (1) Notwithstanding section 9, a licence may only be issued after the payment by the applicant of the prescribed fees.

(2) The Licensing Officer shall pay all fees collected under subsection (1) into the State Consolidated Fund.

Conditions  
or  
restrictions.

11. (1) Every licence shall be subject to any condition or restriction imposed by the Licensing Officer.

(2) Any licensee who breaches any condition or restriction shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Duration of  
licence.

12. A licence shall be valid for such period as the Licensing Officer may determine but shall not exceed one year.

Licence not  
renewable as  
of right.

13. A licence shall not be renewable as of right and an application to renew a licence shall be treated as an application under section 8 for a licence.

14. (1) Every licensee shall display at all times at a conspicuous place in the place of entertainment— Licence to be exhibited.

(a) the licence in respect of the place of entertainment; and

(b) the licence in respect of the entertainment provided at the place of entertainment.

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

15. (1) A Licensing Officer may, before granting a licence under this Enactment, require any person to furnish security, not exceeding twenty thousand ringgit, in such form as the Licensing Officer may determine to ensure due compliance with any condition or restriction of the licence and the provisions of this Enactment or any regulations. Security.

(2) A Licensing Officer may, after giving the licensee opportunity to be heard, forfeit the security in whole or in part if the Licensing Officer is satisfied that there has been a breach of any condition or restriction of the licence or a contravention of any provision of this Enactment or any regulations.

(3) Notwithstanding subsection (2), the forfeiture of any security or any part thereof under that subsection shall not be construed so as to preclude the prosecution of any person for breaching any condition or restriction of a licence or contravening any provision of this Enactment or any regulations.

(4) The Licensing Officer shall pay any security forfeited under subsection (2) into the State Consolidated Fund.

16. (1) A Licensing Officer may at any time by notice in writing served in accordance with subsections (2) and (3) revoke a licence— Revocation of licence.

- (a) if there has been a breach of any condition or restriction of the licence or a contravention of any provision of this Enactment or any regulations or any written law relating to a local authority;
- (b) if there has been any breach of the peace, obstruction, annoyance or injury to the residents in the locality of the place of entertainment in respect of which the licence was issued; or
- (c) if, in the opinion of the Licensing Officer any performance therein is of dangerous, indecent or immoral nature, or is likely to endanger human life or to cause grievous hurt to any person.

(2) Every notice of revocation of a licence shall be served by—

(a) affixing a copy of the notice at the place of entertainment; and

(b) serving a copy of the notice—

(i) on the person who appears to have the care and management of the place of entertainment; and

(ii) on the licensee if the person referred to in subparagraph (i) is not the licensee.

(3) If a notice of revocation of a licence cannot be served in accordance with subparagraph (2)(b)(ii), the Licensing Officer may send the notice by registered post to the licensee at the address provided in the application form for the licence; and every notice sent by registered post in accordance with this subsection shall be deemed to have been duly served in accordance and in compliance with the requirements of this section.

(4) Upon the cancellation of a licence of an amusement park under this section the licences of all places of entertainment situated therein shall be deemed to be cancelled.

(5) The revocation of a licence shall not be construed so as to preclude the prosecution of any person for breaching any condition or restriction of the licence or contravening any provision of this Enactment or any regulations.

17. (1) Any person who is aggrieved by—

Appeal.

(a) the decision of a Licensing Officer under section 9 refusing to grant him a licence;

(b) any condition or restriction imposed by a Licensing Officer under subsection 11(1);

(c) the forfeiture of security under subsection 15(2); or

(d) the revocation of his licence under subsection 16(1),

may, within thirty days from the date he is notified in writing of the decision, condition, restriction, forfeiture or revocation, appeal to the State Authority.

(2) Every appeal to the State Authority shall be addressed to the Clerk of the State Executive Council.

(3) The State Authority may confirm or set aside the decision of the Licensing Officer and the decision of the State Authority shall be final and conclusive and shall not be questioned or be capable of being questioned in any court.

PART IV  
POWERS OF INVESTIGATION, ARREST, SEIZURE,  
FORFEITURE, ETC.

18. (1) Any police officer not below the rank of Inspector, or any authorized person, may, without warrant and for the purpose of ascertaining whether the conditions or restrictions

Power to  
enter and  
investigate.

of a licence or the provisions of this Enactment or any regulations are being complied with—

- (a) enter any place of entertainment; and
- (b) carry out any investigation at such place of entertainment.

(2) For the purpose of an investigation under subsection (1), the police officer or authorized person referred to in that subsection may—

- (a) inspect the place of entertainment; and
- (b) require any person to produce such articles, books, accounts, tickets or other documents or things or to furnish such information as that police officer or authorized person may consider necessary.

(3) Any police officer or authorized person purporting to exercise any powers under this section shall on demand by any person show his written authority to exercise such powers.

Power to  
close place  
of entertain-  
ment.

19. (1) Any police officer not below the rank of Inspector or any authorized person exercising powers under section 18 may, without prejudice to the further exercise of the powers conferred on him by that section, forthwith take such steps as he may consider necessary to close a place of entertainment if he is satisfied that—

- (a) there is a breach of any condition or restriction of a licence; or
- (b) the entertainment provided therein is in contravention of any of the provisions of this Enactment or any regulations.

(2) For the purpose of this section "to close" means to render or to cause the said place of entertainment not to be operated as a place of entertainment.

(3) No compensation shall be payable for any loss or damage occasioned by the summary closing of any place of entertainment under this section.

20. Any police officer not below the rank of Inspector or any authorized person may require any person whom he reasonably believes to have committed an offence under this Enactment or any regulations to give his name, identity card number and address. Power to demand particulars.

21. (1) Any police officer not below the rank of Inspector or any authorized person may arrest without warrant any person whom he reasonable believes to have committed an offence under sections 6, 7, 11 or 28 of this Enactment. Arrest.

(2) Any person arrested under subsection (1) shall be taken to the nearest police station and shall be brought before the Court within twenty-four-hours of the arrest.

22. (1) If any Magistrate, on written information and after such inquiry as he thinks necessary, has reason to believe that— Search.

(a) an offence under this Enactment or any regulations has or is being committed in any place; or

(b) any evidence or thing necessary for the investigation of any offence under this Enactment or any regulations can be found at any place,

he may by warrant under his hand authorize any police officer not below the rank of Inspector, or any authorized person, named in the warrant, with or without such assistance as may be needed by such police officer or authorized person, to enter and search that place.

(2) Notwithstanding subsection (1), if any police officer not below the rank of Inspector or any authorized person has reasonable ground to believe that—



(a) an offence under this Enactment or any regulations has or is being committed at any place; and

(b) by reason of any delay in obtaining a search warrant the purpose of the search is likely to be frustrated,

the police officer or authorized person may, with or without assistance, enter such place and may search such place and any person whom he reasonably believes to be concerned in the management or promotion of any entertainment or to be a servant or agent of the promoter or proprietor of the place of entertainment.

(3) No female person shall be searched under this section except by a female person.

Seizure.

23. (1) Any police officer not below the rank of Inspector or any authorized person exercising powers under section 18 or 22 may seize any document or thing which he reasonably believes to have a bearing on, or can furnish evidence of, the commission of an offence under this Enactment or any regulations.

(2) A police officer or an authorized person who seizes any document or thing at any place under subsection (1) shall prepare a list of documents and things seized and forthwith deliver a copy signed by him to the occupant or proprietor of the place, or to his servant or agent, present at such place.

Forfeiture.

24. All documents or things seized under this Enactment may be forfeited.

Forfeiture if there is prosecution.

25. (1) If there be prosecution involving any document or thing seized under this Enactment, the forfeiture or release of any such document or thing may only be made on the order of the Court before which the prosecution has been held.

(2) Notwithstanding subsection (1), if it is proved to the satisfaction of the Court that—

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- (a) an offence against any provision of this Enactment or any regulations has been committed; and
- (b) any document or thing is the subject-matter of or has been used in the commission of the offence,

the Court shall forfeit the document or thing notwithstanding that no person has been convicted of such offence.

(3) All documents or things forfeited under this section shall be delivered to the Licensing Officer and shall be disposed of in accordance with the directions of the Licensing Officer.

26. (1) If there be no prosecution involving any document or thing seized under this Enactment, the document or thing shall be taken and deemed to be forfeited on the expiration of a period of one calendar month from the date of the seizure unless a claim thereto is made before the expiration of such period in the manner set out in subsection (2).

Forfeiture if there is no prosecution.

(2) Any person asserting that he is the owner of any document or thing seized under this Enactment and that the document or thing is not liable to be forfeited may, either personally or by his agent authorized in writing, give notice in writing to the Licensing Officer that he claims the document or thing seized.

(3) On receipt of a notice under subsection (2), the Licensing Officer may direct that the document or thing be released or that the matter be referred to a Magistrate.

(4) A Magistrate to whom reference is made under subsection (3) shall issue a summons requiring—

- (a) the person claiming that he is the owner of the document or thing seized; and
- (b) the person from whom the document or thing was seized,

to appear before him on the day appointed in the summons.

(5) On the day appointed under subsection (4), and upon due service of the summons on each of the persons referred to in paragraphs (4)(a) and (4)(b) being proved, the Magistrate shall proceed to the examination of the matter, notwithstanding the non-appearance of any of such persons.

(6) If upon the conclusion of the examination under subsection (5) in respect of a document or thing, the Magistrate is satisfied that—

(a) an offence against any provision of this Enactment or any regulations has been committed; and

(b) such document or thing is the subject-matter of or has been used in the commission of the offence,

the Magistrate shall order the forfeiture of the document or thing; but if the Magistrate is not so satisfied, he shall order that the document or thing be released and delivered to the person who, in his opinion, has a right to such document or thing.

Powers of  
police  
officer  
unaffected.  
F.M.S. Cap.  
6.

27. Nothing in this Part shall be deemed to affect the powers of a police officer under the Criminal Procedure Code.

#### PART V

#### OFFENCES AND PROSECUTION

Obstruction. 28. Any person who—

(a) obstructs any police officer or authorized person who is lawfully exercising any powers conferred on him by or under this Enactment or any regulations;

(b) upon being required by such police officer or authorized person to produce any articles, books, accounts, tickets or other documents or things which

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are or ought to be in the ordinary course of business in his power to produce, delays in producing them to such police officer or authorized person;

- (c) upon being required by such police officer or authorized person to furnish any information, refuses to furnish such information or furnishes false or misleading information; or
- (d) obstructs the seizure of any document or other thing under section 23, or the closure of any place of entertainment under section 19,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years or to both.

29. (1) No person shall sell, or offer or exhibit or have in his possession for sale, or solicit for the purchase of, any ticket authorizing or purporting to authorize admission to any place of entertainment except at a box-office, booth, turnstile or counter appointed by the proprietor or manager of that place or by the organizer of the entertainment held therein.

Restriction  
on  
unauthorized  
sale of  
tickets.

(2) Any 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 or to imprisonment for a term not exceeding two years or to both.

30. Any person who is guilty of an offence under this Enactment or any regulations for which no penalty is expressly provided shall on conviction be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding one year or to both.

General  
penalty.

31. (1) Where an offence under this Enactment or any regulations has been committed by a body of persons, whether corporate or unincorporate, any person who at the time of the

Liability of  
director, etc.

commission of such offence was the director, manager or secretary, or was otherwise responsible for the management of, the body of persons, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that—

- (a) the offence was committed without his consent or connivance; and
- (b) he exercised such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his function in that capacity and to all circumstances.

(2) Any person who would have been guilty of an offence if anything had been done or omitted by him personally shall be guilty of the offence and liable to the same penalty if such thing had been done or omitted by his partner, agent or servant in the course of partnership business or in the course of his employment, as the case may be, unless he proves that—

- (a) the offence was committed without his knowledge or consent; and
- (b) he took all reasonable precautions to prevent the doing of or omission to do such thing.

(3) Nothing in subsection (2) shall relieve a partner, an agent or a servant mentioned in that subsection from liability to prosecution.

Conduct of  
prosecution.

32. Prosecution in respect of offences committed against this Enactment or any regulations may be conducted by any person authorised in writing by the Public Prosecutor.

Compound-  
ing of  
offences.

33. (1) A Licensing Officer may compound any offence under this Enactment or any regulations which is prescribed to be a compoundable offence by accepting from the person

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reasonably suspected of having committed such offence a sum of money not exceeding fifty per centum of the maximum fine with which such offence is punishable.

(2) Upon the acceptance of the sum of money mentioned in subsection (1) in respect of an offence from the person referred to in that subsection, no further proceedings shall be taken against such person in respect of that offence and any document or thing seized in connection with the offence shall be released, subject to such terms and conditions as may be imposed by the Licensing Officer compounding the offence.

(3) The Licensing Officer shall pay all sums of money accepted under subsection (1) into—

- (a) the State Consolidated Fund; or
- (b) if so directed by the State Authority, the fund of any local authority or any other fund.

PART VI  
MISCELLANEOUS

34. The State Authority may in its discretion exempt— Exemption.

- (a) any entertainment or class of entertainment; or
- (b) any place of entertainment or class of place of entertainment,

from any provision of this Enactment or any regulations if the entertainment is intended exclusively for religious, educational, recreational, social, welfare or charitable purposes and not for pecuniary profit.

35. (1) The State Authority may make regulations for the Regulations.  
purpose of prescribing anything required by this Enactment to

be prescribed and for the better carrying out of the provisions of this Enactment.

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

- (a) prohibiting or regulating any type of entertainment or the use of any type of appliance or equipment or device at any place of entertainment;
- (b) requiring sufficient exits, ventilation, light, fire-prevention measures, sanitary facilities and other reasonable public amenities at places of entertainment;
- (c) regulating the conduct of actors, singers and other entertainers, the scripts, performances, costumes and props used in any entertainment;
- (d) securing the decent and orderly behaviour of persons visiting any place of entertainment;
- (e) prescribing measures which must be taken by the licensee of a place of entertainment for the safety of persons present at the place of entertainment, including prohibiting the taking into such place of anything which may endanger persons or property;
- (f) prescribing the types of offences that may be compounded and the procedures for the compounding of such offences;
- (g) prescribing such fees as may be necessary for the purposes of this Enactment;
- (h) prescribing the forms for the application for licences and the forms of licences to be issued under this Enactment.

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(2) Regulations made under this section may provide that any act or omission in contravention of any provision of such regulations shall be an offence and that any person convicted of such offence shall be liable to a fine or to imprisonment or to both, but such penalty shall not exceed—

(a) in the case of a fine, two thousand ringgit; and

(b) in the case of a term of imprisonment, one year.

36. (1) Subject to subsection (2), upon the coming into force of this Enactment, the Theatres and Places of Public Amusement Enactment 1958 (after this referred to as the "repealed Enactment") shall cease to be in force and shall be deemed to have been repealed in the State of Penang. Repeal.  
Pg. En. 10/  
1958.

(2) Notwithstanding subsection (1)—

(a) nothing contained in this Enactment shall affect any person's liability from being prosecuted or punished under the repealed Enactment for any offence committed under the repealed Enactment before the coming into force of this Enactment;

(b) any proceedings under the repealed Enactment pending before the coming into force of this Enactment shall be continued under the repealed Enactment as if this Enactment had not been enacted;

(c) any rules made by the Governor-in-Council under section 11 of the repealed Enactment shall continue to be in force to the extent that it is not inconsistent with or substituted by the provision of this Enactment, until those rules are revoked or replaced expressly or impliedly by rules made by the State Authority under section 35 of this Enactment;



- (d) any licence issued under the repealed Enactment shall continue to be in force and have effect until the end of the period for which it was granted, but shall be subject to the provisions of this Enactment and any regulations and may be revoked under and in accordance with this Enactment;
- (e) any appointment or authorization made under the repealed Enactment shall continue to be in force and have effect as if it had been made under this Enactment, until revoked or superseded under this Enactment.

Passed in the State Legislative Assembly on the 10th day of June, 1998.

AHMAD JAMIL BIN HASHIM,  
*Clerk of the Legislative Assembly,*  
*Penang*

[PSUK/PP/007.1.5 Jld. 5.]