

LAWS OF MALAYSIA

ACT 260

HYDROGEN CYANIDE (FUMIGATION) ACT 1953 (REVISED-1981)

First enacted : 1953 (Ordinance No. 22 of 1953)
Date of coming into operation : 30 April 1953
Revised up to : 1981 (Act 260 w.e.f. 24th December 1981)

ARRANGEMENT OF SECTIONS

Section 1. Short title and application.

- (1) This Act may be cited as the **Hydrogen Cyanide (Fumigation) Act 1953**.
- (2) This Act shall apply to West Malaysia only.

Section 2. Interpretation.

In this Act unless the context otherwise requires-

"Registrar" means any Registrar, Deputy Registrar, Senior Assistant Registrar or Assistant Registrar of the High Court;

*"West Malaysia" has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*], and includes the Federal Territory of Kuala Lumpur and Labuan.

[*P.U. (A) 217/85*]

*All references to "West Malaysia" shall be construed as references to "Peninsular Malaysia"-see Interpretation (Amendment) Act 1997 [*Act A996*], s. 5(2).

Section 3. Power to make regulations.

- (1) With a view to protecting persons from danger in connection with the fumigation of premises and articles (including any ship or vehicle) with hydrogen cyanide, the Minister may make regulations with respect to such fumigation and, without prejudice to the generality of the foregoing provisions, the regulations may-
 - (a) regulate the manner in which the hydrogen cyanide is to be generated and require the admixture therewith of any substance;
 - (b) prohibit the carrying out of any such fumigation except by or under the supervision of persons having such training or experience as may be specified in the regulations and by such number of persons as may be so specified;
 - (c) prohibit the carrying out of any such fumigation except by persons licensed to carry out the same;
 - (d) regulate the issue, suspension or cancellation of licences for the carrying out of any such fumigation and the terms and conditions subject to which they may be issued and

the fees to be charged therefor;

(e) regulate the disposal of the residues of any substances used in the fumigation;

(f) for the purpose of preventing injurious effects resulting from such fumigation, impose temporary restrictions upon the use of any premises or article, and require such tests as may be specified in the regulations to be carried out after such fumigation.

(2) Regulations made under this section shall not apply to any such fumigation carried out in the open air.

(3) If any person contravenes or fails to comply with any regulation made under this section he shall, on conviction, be liable in respect of each offence to a fine of five hundred ringgit.

Section 4. Notice to be given of accidents resulting from fumigation.

(1) Whenever any accident which occasions loss of human life or personal injury occurs as the result of the fumigation of any premises or article, the person by whom, or by whose agent, the fumigation was carried out shall forthwith send or cause to be sent to the Minister notice of the accident and of the loss of human life or personal injury.

(2) Every such person as aforesaid who fails to comply with this section shall, on conviction, be liable to a fine of two hundred ringgit.

Section 5. Inquiry into accidents.

The Minister may direct an inquiry to be made by such person as he may appoint into the cause of any accident of which notice is required by this Act to be given to the Minister, and where it appears to the Minister either before or after the commencement of any such inquiry, that a more formal investigation of the accident and of the causes and circumstances thereof, is expedient, he may by order direct a formal investigation to be held, and with respect to inquiries and investigations made or held under this Act the following provisions shall have effect:

(a) the Minister may, by the same or any subsequent order, appoint any person or persons possessing legal or special knowledge to assist in holding a formal investigation, or may direct such Magistrate or other person or persons as may be named in the order to hold such an investigation with the assistance of any assessor or assessors named in the order;

(b) the persons holding any formal investigation (in this section referred to as the court) shall hold it in open court in such manner and under such conditions as they think most effectual for ascertaining the causes and circumstances of the accident, and for enabling them to make the report in this section mentioned;

(c) the court shall have for the purpose of the investigation all the powers of a Magistrate's Court when acting as a court in hearing information for offences against this Act, and in addition the following powers, namely-

(i) they may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose;

(ii) they may by summons under their hands require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for the said purpose require to be furnished to them answers or returns

to such inquiries as they think fit to make;

(iii) they may require the production of all books, papers and documents which they consider important for the said purpose;

(iv) they may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination;

(d) persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before the High Court, and in case of dispute as to the amount to be allowed, the dispute shall be referred by the Court to the Registrar who, on request under the hands of the members of the court, shall ascertain and certify the proper amount of the expenses;

(e) if any person without reasonable excuse (proof whereof shall lie on him) fails, after having had the expenses, if any, to which he is entitled tendered to him, to comply with any summons or requisition of the court holding an investigation under this Act, or prevents or impedes the court in the execution of their duty, he shall, on conviction, be liable to a fine of one hundred ringgit, or, in the case of a failure to comply with a requisition for furnishing any return or producing any document, to a fine of one hundred ringgit, for every day on which the failure occurs or continues;

(f) the person appointed to make an inquiry into any accident and the court holding an investigation of any accident under this section shall make a report to the Minister stating the causes of the accident and all the circumstances attending it, and containing any observations thereon or on the evidence or on any matters arising out of the inquiry or investigation which he or they think right to include in the report, and the Minister shall cause every report so made to him to be made public in such manner as he thinks expedient.

Section 6. Inquiry or inquest on deaths from accidents.

(1) Where a Magistrate holds an inquiry or inquest upon the body of any person whose death may have been caused by any accident of which notice is required by this Act to be given to the Minister, the Magistrate shall adjourn the inquiry or inquest unless some person on behalf of the Minister is present to watch the proceedings:

Provided that, if the accident has not occasioned the death of more than one person, and the Magistrate has sent to the Minister notice of the time and place of holding the inquiry or inquest not less than forty eight hours before the time of the holding thereof, it shall not be imperative on him to adjourn the inquiry or inquest in pursuance of this section if the Magistrate think it unnecessary that he should do so.

(2) The Magistrate before adjournment may take evidence to identify the body and may order the interment thereof.

(3) The Magistrate, at least four days before holding the adjourned inquiry or inquest, shall send to the Minister notice in writing of the time and place of holding the adjourned inquiry or inquest.

(4) A person appearing on behalf of the Minister shall be at liberty at any such inquiry or inquest as aforesaid to examine any witness, subject nevertheless to the order of the Magistrate on points of law.

(5) Where at any inquiry or inquest there is given evidence of any neglect having caused or contributed to an accident, the Magistrate shall, if no person retained on behalf of the Minister is present at the inquiry or inquest, send to the Minister notice in writing of the neglect.

[Am. P.U. (A) 196/82.]

Section 7. Power to apply the Act to fumigations with other gases.

The Minister may by order apply the provisions of this Act or such of those provisions as may be specified in the order to fumigation with any substance other than hydrogen cyanide in like manner as they apply to fumigation with hydrogen cyanide subject to such adaptations, if any, as may be necessary having regard to the nature of the said substance.

LIST OF AMENDMENTS

<i>Particulars under section 7(ii) and (iii) of the Revision of Laws Act 1968 (Act 1)</i>	<i>Amending law</i>	<i>Short title</i>	<i>In force from</i>
	L.N. 371/55	Members of the Federal Government (Change of Style and Title) Order 1955	4-8-1955
	L.N. 332/58	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13-11-1958
	Act 91	Courts of Judicature Act 1964	16-3-1964
	Act 23/67	Interpretation Act 1967	18-5-1967
	Act 160	Malaysian Currency (Ringgit) Act 1975	29-8-1975
	Act A324	Criminal Procedure Code (Amendment and Extension) Act 1976	10-1-1976
	P.U. (A) 196/82	Revision of Laws (Hydrogen Cyanide (Fumigation) Act 1953) Order 1982	24-12-1981
	P.U. (A) 217/85	Federal Territory of Labuan [Modification of Hydrogen Cyanide (Fumigation) Act] Order 1985	16-4-1984