THE
SARAWAK GOVERNMENT GAZETTE
PART II
Published by Authority

Vol. LXIII 31st December, 2008 No. 39

Swk. L. N. 108

THE NATURAL RESOURCES AND ENVIRONMENT ORDINANCE

THE NATURAL RESOURCES AND ENVIRONMENT (AUDIT) RULES, 2008

(Made under section 18(*q*))

In exercise of the powers conferred by section 18(*q*) of the Natural Resources and Environment Ordinance *[Cap. 84 (1958 Ed.)]*, the Majlis Mesyuarat Kerajaan Negeri has made the following Rules:

Citation and commencement

1. These Rules may be cited as the **Natural Resources and Environment (Audit) Rules, 2008**, and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2. In these Rules—

"audit report" means a report prepared by an environmental auditor for submission to the Controller under rule 13;

"Board" means the Natural Resources and Environment Board established under section 3 of the Ordinance;

"Controller" means the person appointed pursuant to section 3(9) of the Ordinance, and includes a Deputy Controller;

"environmental audit" means a periodic, systematic, documented and objective evaluation to determine—

(*a*) the compliance status of any order, directive, conditions of approval or any requirement issued or made by the Board;

(*b*) the environmental management system and its compliance; and

(*c*) any risk, that may be caused to the environment in regard to the use, exploitation or development of any of the natural resources of the State;

"environmental expert" means a person with the requisite knowledge and experience in the field of environmental management for a period of ten years and above;

"environmental management system" means a system or process comprising of an organizational structure with its responsibilities, procedures, practices and control for the overall management and protection of the environment;

"environmental risk" means any risk, hazard or chances of bad consequences that may be brought upon the environment;

"environmental risk assessment" means the examination of risks that may be caused to the environment or that threaten ecosystems, animals and people in regard to the use, exploitation or development of any of the natural resources of the State which includes human health risk assessments, ecological or ecotoxicological risk assessments;

"occupier" means any person in actual occupation of land and, in case of land reserved or allocated for the use of a native community, includes the headman of the particular native community for the village or longhouse;

"Ordinance" means the Natural Resources and Environment Ordinance *[Cap. 84 (1958 Ed.)]*;

"owner" means the person in whose name the title to any land is registered, and includes any person, other than the Government, who receives or is entitled to receive the rent or profits of any land whether on his own account or on behalf of himself and others or as agent;

"Panel" means a Panel appointed under rule 4;

"prescribed activities" means any of the activities specified in the First Schedule of the Natural Resources and Environment (Prescribed Activities) Order, 1994; *[Swk. L.N. 45/94]*;

"Register" means a Register of appointed environmental auditors maintained by the Controller under rule 9.

Requirement of environmental audit

3. Subject to these Rules, an environmental audit may be carried out in respect of the following:

(*a*) where prescribed activities as numerated in the First Schedule to the Natural Resources and Environment (Prescribed Activities) Order, 1994 *[Swk. L.N. 45/94]*, are carried out;

(*b*) where there are reasonable grounds to suspect non-compliance with the approval or permit conditions, directives or orders issued by the Controller;

(*c*) for the purpose of determining the effectiveness of the environmental management systems; and

(*d*) for the purpose of assessing environmental risks caused by development activities or by the exploitation or utilization of the natural resources.

Establishment of Panel

4—(1) The Board shall appoint a Panel to assess application for appointment as an environmental auditor against the requirements as set out in rule 6 and in accordance with the assessment process or method as may be specified by the Controller.

(2) The Panel shall be chaired by an environmental expert and shall consist of three other members to be appointed from among officers of the Board who have relevant qualifications and work experience.

Application for appointment as environmental auditor

5—(1) An application to be appointed as an environmental auditor must be forwarded to the Controller in such form as may be prescribed by the Controller.

(2) Only qualified applicants will be called to undergo the assessment process referred to under rule 4(1).

(3) The Panel shall make a recommendation to the Controller regarding the appointment of each successful applicant.

Appointment of environmental auditor

6.—(1) The Controller may, after considering the recommendation of the Panel—

(*a*) appoint any person to be an environmental auditor, and issue him a letter of appointment for an initial period not exceeding two years; and

(*b*) pay, subject to such terms and conditions, a fee of two thousand ringgit (RM2,000.00) per annum or any other amount to be approved by the Board from time to time.

(2) The requirements for appointment as an environmental auditor are—

(*a*) a tertiary qualification in a relevant discipline awarded by a recognized tertiary institution;

(*b*) a good understanding of relevant provisions of the Ordinance and its subsidiary legislation, associated statutory policies, regulations and guidelines;

(*c*) experience in forming and managing multi-disciplinary teams, which contain the appropriate balance of expertise for complex assessments;

(*d*) a thorough understanding of the principles of and methods for conducting environmental audits; and

(*e*) experience and expertise of at least five years relating to environmental assessment in a public or private sector.

(3) An application for renewal of appointment of environmental auditor may be made in such form as may be prescribed by the Controller, subject to such conditions as may be imposed. The fee for renewal of appointment shall be RM2,000.00 per annum.

Suspension or revocation of appointment of an environmental auditor

7. The appointment of an environmental auditor under these Rules may be suspended or revoked by the Controller if—

(*a*) he has breached any of the terms and conditions stipulated in the letter of appointment;

(*b*) he has breached any of the duties and responsibilities as an environmental auditor as may be prescribed by the Board;

(*c*) he has committed any offence relating to fraud, corruption or dishonesty;

(*d*) he has been adjudged a bankrupt; or

(*e*) upon completion of a review under rule 10, the Controller is satisfied that the appointment of the environmental auditor should not be continued.

Order to carry out an environmental audit

8.—(1) The Controller may order or direct any person to carry out an environmental audit on any activity specified under rule 3.

(2) The Controller may by notice require an occupier or owner or developer of any land to carry out an environmental audit in total or for specific portions of the scope of an environmental audit, or for specific stages of any prescribed activity, and to submit a report thereof to the Controller at such times and in such manner as may be directed by him. The environmental audit shall be carried out by any environmental auditor registered with the Board under these Rules.

(3) Where any person fails to comply with the terms of any order or notice issued by the Controller under paragraph (1) or (2), the Controller may, after notifying the person concerned of such non-compliance, initiate and carry out an environmental audit either by himself or by any environmental auditor authorized by him. The environmental audit shall be completed within such period as may be specified by the Controller, and all costs thereby incurred shall be borne by the person concerned who had failed to comply with the order or notice.

Register of environmental auditors

9.—(1) The controller shall keep and maintain a current register of appointed environmental auditors under these Rules.

(2) The Register is open to inspection by any person upon payment of a fee of five ringgit.

Code of conduct and responsibilities of environmental auditors

10. The Controller may prescribe the responsibilities and code of conduct of environmental auditors for purposes of these Rules.

Audit to be carried out by environmental auditor

11.—(1) An environmental audit shall be carried out by an environmental auditor appointed by the Controller from among the list of environmental auditors registered under these Rules.

(2) The Controller shall determine with the environmental auditor on the scope, coverage and depth of the intended environmental audit to be carried out.

Audit to be carried out by appointed auditor

12.—(1) The environmental audit shall be carried out by auditor appointed by the Controller pursuant to rule 6.

(2) The Controller shall undertake to scope with the environmental auditor to determine the coverage and depth of the intended audit.

Submission of environmental audit report

13.—(1) The environmental auditor shall prepare and submit to the Controller the environmental audit report for assessment by the Controller, with a copy to the auditor.

(2) The environmental audit report shall be in the format as may be prescribed by the Controller.

Confidentiality of environmental audit report

14. The environmental audit report and associated notations shall not be made known to any other party without the written approval of the Controller.

Audit recommendations

15. For the purpose of effective and expeditious corrective actions—

(*a*) the environmental auditor shall submit audit recommendations in the format prescribed in the Schedule, to include proposed corrective or preventive or mitigative measures that shall be undertaken to eliminate, reduce, control or mitigate adverse impacts on the environment;

(*b*) the Controller shall direct the owner or occupier or developer to plan and implement any or all of the recommendations contained in the environmental audit report; and

(*c*) the Controller may thereafter issue directives as may be considered necessary to any person incidental to these Rules.

Audit fees

16. The owner or occupier or developer shall—

(*a*) bear all fees and costs for or incidental to the conduct of the environmental audit and submission of the environmental audit report; and

(*b*) deposit with the Controller the amount equivalent to the estimated cost of the audit.

Penalty

17.—(1) The owner or occupier or developer who fails to implement the audit recommendations within a time frame stipulated by the Controller shall be guilty of an offence: Penalty, a fine not exceeding fifty thousand ringgit and imprisonment not exceeding five years, and, in the case of a continuing offence, a further fine of one thousand ringgit for each day during which the offence continues.

(2) Any environmental auditor who submits the environmental audit report pursuant to rule 11 and/or rule 12 containing facts, data or information which he knows or has reason to believe is false or calculated to deceive the Controller, or any other person who provides facts, data or information for the audit which he knows or has reason to believe is false or calculated to deceive the Controller, shall be guilty of an offence: Penalty, a fine not exceeding fifty thousand ringgit and imprisonment not exceeding five years.

SCHEDULE

(Rules 15)

CORRECTIVE AND PREVENTIVE ACTION REPORT

PART A: AUDIT FINDING

[Note: To be submitted to the NREB within 30 days of audit report submission to the NREB.]

Audit Report Ref. No.: _____ Audit Finding Ref. No.: _____

Brief Audit Finding:

PART B: PROPOSED CORRECTIVE AND PREVENTIVE ACTION
(Add more lines as necessary)

Proposed completion date: Prepared by:

Actual completion date: Reported by:

[For NREB Use Only]

PART C: NREB VERIFICATION AND COMMENT

Completion: satisfactory/not satisfactory*

(Delete whichever is not applicable.)*

Verification comment:

Verification date: *Controller of Environmental Quality*

Made by the Majlis Mesyuarat Kerajaan Negeri this 9th day of October, 2008.

HAJJAH MASBAH HAJI ARIFFIN,
Clerk to Majlis Mesyuarat Kerajaan Negeri

(7)NREB/S/3-213(Vol IV)