

Water Services Industry Act

Introduction

The Water Services Industry Act 2006 (WSIA) which came into force on 1 January 2008 applies only in Peninsular Malaysia and Federal Territory of Labuan. It does not encroach nor affect the general application of existing laws on environmental quality and land matters and existing state powers over the water source.

With the establishment of SPAN and the enforcement of WSIA (Act 655) a focused and uniform approach in regulating the water services industry can now be realised. Following are some highlights of the changes with the enforcement of WSIA on 1 January 2008.

Cancellation and Transitional Provisions

Two major sets of existing legislations are cancelled upon the enactment of WSIA on 1 January 2008.

- 1) The Sewerage Services Act 1993 (Act 508) is repealed in respect of its application to Peninsular Malaysia and the Federal territories of Putrajaya and Labuan.
- 2) The State Water Supply Enactments are repealed in respect of its application in the states of Peninsular Malaysia and/or amended or replaced with new legislations. State Governments will need to make provisions regarding the management of water resources as this will remain to be under their jurisdiction.

Nonetheless, any subsidiary legislations made under the repealed legislation will remain in operation until revoked or replaced by any subsidiary legislation made under the WSIA, and shall be deemed for all purposes to have been made under the WSIA. This would include:

- existing rate and charges for water supply and sewerage services;
- technical and design standards;
- plan approval processes for new development;
- water contribution charges;
- contractors and plumber licenses;
- material approvals and etc.

Subsidiary Legislations Under WSIA

Three main subsidiary legislations have been introduced with the enforcement of the WSIA on 1 January 2008:

- 1) **Water Services Industry (Licensing) Regulations 2007** – prescribes all matters relating to the issuance of individual licenses and registration of class licenses granted under WSIA.
- 2) **Water Services Industry (Permit) Rules 2007** – issues rules on all matters relating to the issuance of permits granted under WSIA; and
- 3) **Water Services Industry (Licensing) (Exemption) Order 2007** – exempts a person from individual or class licensing requirement, by order of the Minister.

Licensing Regulations

Two types of licenses under WSIA are:

- 1) **Individual License** – the owners of a public water supply system or owners of a public sewerage system or those who operate a water supply system or sewerage system for the purpose of providing treated water or sewerage services to the public, application for the license shall be granted by the Minister upon recommendation by SPAN;
- 2) **Class License** – the owner of a private water supply system or private sewerage system or any part of the system or those who operate a private water supply system or a private sewerage system for the purpose of providing treated water or sewerage services to the owner or the occupier of a premise for their private use only, application for the license is made via **registration** and shall be approved by the Minister based on certain pre-determined general criteria.

For each type of the above, there are different categories of licenses to be issued as follows:

- **Facilities License** – for those who own a water supply system or sewerage system and/or any part of the systems; and
- **Services License** – for those who undertake, provide and/or make available any water supply services or sewerage services.

Transition to WSIA for Existing State Water Authorities

All existing state water departments and water boards which are still in the process of being corporatised (Pahang, Negeri Sembilan, Kedah, Perlis, Perak and Labuan) will be authorized under the WSIA to own or provide the services for a period of one year from the appointed date. Registration with SPAN must be made within three months after the appointed date and the final target date set by the Ministry of Energy, Water and Communications for corporatisation of services in these states is 30 June 2008.

Transition to WSIA for Existing Water Concession Agreement Holders

These operators shall only be authorised to operate the services for a period of three months from the appointed date unless a certified true copy of the agreement and supplementary agreement is lodged with SPAN, in which continuation of operation will then be allowed for two years after the appointed date.

Within a period of one year from the appointed date, these operators shall have to indicate whether they intend to apply for a license in substitution of authorisation. They are to commence renegotiation on the agreement with the Federal Government so as to address any national interest issues arising from the coming into operation of WSIA as provided for in Section 191(4) of WSIA. Those who choose not to migrate to a license shall continue to be authorized to operate subject to such condition as SPAN may require until expiry of the concession period. SPAN may however revoke a written authorisation or modify, vary or revoke the conditions of a written authorisation or impose further conditions on a written authorization, should the operator fail to comply with the conditions of the authorisation.

Transition to WSIA for Class License

In order to allow sufficient time for these operators to register for a class license to enable them to operate under the new Regulation, the **Exemption Order** for Class License will be issued by the Minister for a period of six months, i.e. until June 2008.

2006 (Act 655) Enforced

The Federal Government and State Governments who own water supply systems or sewerage systems or provide water supply

or sewerage services will be exempted from being licensed. However, they shall be required to comply with the obligations under

WSIA as if they were an individual licensee or class licensee.

Permits Rules and Certification

A separate permit shall be required by a person who intends to carry out any of the following works and the permit fees charged for new applications and renewals are as shown:

NO	TYPE OF FEES	CATEGORY OF PERMIT				
		IPA TYPE A (REFER TO NOTES) (PLUMBERS)	IPA TYPE B (REFER TO NOTES)	IPA TYPE C (REFER TO NOTES)	IPA TYPE D (REFER TO NOTES)	IPA TYPE E (REFER TO NOTES)
1.	Processing fees for application of permit	RM30	RM30	RM100	RM30	RM30
2.	Grant of permit	A1 RM100 A2 RM200	RM900	C1 RM5,000 C2 RM2,000 C3 RM750 C4 RM200	RM900	RM900
3.	Renewal of permit	A1 RM50/year A2 RM100/year	RM900	C1 RM5,000/year C2 RM2,000/year C3 RM750/year C4 RM200/year	RM900/year	RM900/year
4.	Replacement of permit	RM50	RM50	RM50	RM50	RM50
5.	Certified true copy of permit	RM10	RM10	RM10	RM10	RM10

Notes:

Type A – Construct, connect, modify or repair water pipes/fittings which convey water from public mains.

Type B – To connect private connection pipe to a sewer, or sewage treatment works.

Type C – Construct, install or modify any part of a water/sewerage system.

Type D – Maintenance services for water/sewerage but does not involve the operation of the system.

Type E – Desludging services.

At present, only sewerage contractors are required to obtain a license from Jabatan Perkhidmatan Pembentungan to implement sewerage works while those carrying out construction or maintenance works on the water supply system do not need a separate license apart from the licenses issued by Pusat Khidmat Kontraktor (PKK) and the Construction Industry Development Board (CIDB). With the enforcement of the Water Services Industry

(Permit) Rules on 1 January 2008, all contractors who wish to engage in water supply system works will need to apply for an IPA Type C or an IPA Type D permit, as the case maybe. These contractors are given until 30 June 2008 to apply for the new permits.

All new applications and renewals for permits, EXCEPT Type A Permit (Water Plumbers) shall be applied to SPAN from 1 January 2008. For

such purpose, SPAN will appoint state water operators as Certifying Agencies to carry out registration of permits on behalf on SPAN.

Certifying Agencies

SPAN has registered the respective state water operators (see tables below) and Indah Water Konsortium Sdn Bhd (IWK) as their certifying agencies effective 1 January 2008.

TABLE 1: CERTIFYING AGENCIES FOR WATER SUPPLY SERVICES

NO	STATE	WATER SUPPLY OPERATOR
1.	Selangor, WPKL, Putrajaya	Syarikat Bekalan Air Selangor (SYABAS)
2.	Johor	SAJ Holdings Sdn Bhd
3.	Kelantan	Air Kelantan Sdn Bhd (AKSB)
4.	Pulau Pinang	Perbadanan Bekalan Air Pulau Pinang (PBAPP)
5.	Terengganu	Syarikat Air Terengganu (SATU)
6.	Melaka	Syarikat Air Melaka Bhd (SAMB)
7.	Perak	Lembaga Air Perak (LAP)
8.	Negeri Sembilan	Jabatan Bekalan Air Negeri Sembilan (JBANS)
9.	Pahang	Jabatan Bekalan Air Pahang (JBAP)
10.	Kedah	Jabatan Bekalan Air Kedah (JBAK)
11.	Perlis	Jabatan Kerja Raya Perlis (JKRP)
12.	Wilayah Persekutuan Labuan	Jabatan Bekalan Air Labuan (JBAL)

TABLE 2: CERTIFYING AGENCIES FOR SEWERAGE SERVICES

NO	STATE	WATER SUPPLY OPERATOR
1.	Selangor, WPKL, Putrajaya	Indah Water Konsortium Sdn Bhd (IWK)
2.	Johor (including Johor Bahru & Pasir Gudang)	
3.	Wilayah Persekutuan Labuan	
4.	Pulau Pinang	
5.	Terengganu	
6.	Melaka	
7.	Perak	
8.	Negeri Sembilan	
9.	Pahang	
10.	Kedah	
11.	Perlis	
12.	Kelantan	

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Water Services Industry Act 2006 (Act 655) Enforced

Business Plan

All individual licensees are required to submit a 30-year Business Plan in addition to a 3-year annual rolling plan to SPAN for approval. The 30-year Business Plan will be reviewed for its viability in the process of granting license while the 3-year plan is a magnification of the 30-year plan which SPAN will regulate and monitor the water operating companies through a series of KPIs based on the plan.

Tariff Review under WSIA

The existing water rates and tariff structures in all states in Peninsular Malaysia and Labuan will remain **status quo** for the time being with the enforcement of WSIA. There will be **no automatic tariff increase** and licensees will have to meet certain KPI's

before their application can be considered by SPAN.

Rates, Charges and Deposits

Consumers and developers will continue to pay at the existing rates, where applicable, as imposed by the state water operators until the new standard rates and charges have been regulated by SPAN.

Integration of Water Supply and Sewerage Services

The joint billing of water supply and sewerage charges will be implemented in phases, commencing with Johor, Pulau Pinang and Labuan. Subsequently, it will be implemented in states where water supply has been corporatised, to be followed by the rest.

The joint billing will only be applied to premises which are connected to public sewerage systems while premises with individual septic tanks are not included, instead, they are required to desludge their individual septic tanks once every two years.

Conclusion

The introduction of a centralised regulatory regime via WSIA will contribute towards improving efficiency and effectiveness in the water services industry. Cooperation and support from the various ministries and agencies, consumers and the public as well as water operators and others who are involved in the construction, maintenance and provision of water supply and sewerage systems are needed to ensure its success. ■