



LAWS OF MALAYSIA

ACT A1030

ENVIRONMENTAL QUALITY (AMENDMENT) ACT 1998

Date of Royal Assent :	25th June 1998
Date of publication in the Gazette :	1st July 1998
Date of coming into operation:	21st August 2000 [P.U.(B) 278/2000]

ARRANGEMENT OF SECTIONS

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Long Title & Preamble

An Act to amend the Environmental Quality Act 1974.

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:

Section 1. Short title.

This Act may be cited as the Environmental Quality (Amendment) Act 1998.

Section 2. Commencement.

This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Section 3. New sections 29A, 29B and 29C.

The Environmental Quality Act 1974[*Act 127*], which in this Act is referred to as the "principal Act", is amended by inserting after section 29 the following sections:

29A. Prohibition on open burning.

(1) Notwithstanding anything to the contrary contained in this Act, no person shall allow or cause open burning on any premises.

(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 hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(3) For the purposes of subsection (1) -

"open burning" means any fire, combustion or smouldering that occurs in the open air and which is not directed there through a chimney or stack, but does not include any fire, combustion or smouldering that occurs for such activities as may be prescribed by the Minister by order published in the *Gazette*;

"premises" includes any land.

29B. Owner or occupier of premises liable for open burning.

If open burning occurs on any premises-

(a) the owner; or

(b) the occupier,

of the premises who has control over such premises shall be deemed to have contravened subsection 29A(1) unless the contrary is proved.

29C. Defence.

In any prosecution under section 29A or 29B, it shall be a defence if the person, owner or occupier of the premises proves -

(a) that the open burning occurred outside his control or without his knowledge or connivance or consent; or

(b) that he -

(i) took all reasonable precautions; or

(ii) exercised all due diligence,

to prevent the commission of the offence as he ought to have taken and exercised having regard to the nature of his responsibility in that capacity and to all the circumstances.'

Section 4. Amendment of section 44.

The principal Act is amended by substituting for section 44 the following section:

"44. Prosecution.

No prosecution shall be instituted for an offence under this Act or the regulations made thereunder without the consent in writing of the Public Prosecutor."

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