



PARLIMEN MALAYSIA



RANG UNDANG-UNDANG

**Kanun Tanah Negara (Hakmilik Pulau Pinang dan Melaka)
(Pindaan) 1985**

DR.33/1985

Naskhah Sahih—Bahasa Inggeris

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Akta Kanun Tanah Negara (Hakmilik Pulau Pinang dan Melaka) 1963.

[]

BAHAWASANYA adalah bermanfaat dipinda Akta Kanun Tanah Negara (Hakmilik Pulau Pinang dan Melaka) 1963 bagi maksud semata-mata untuk menentukan keseragaman undang-undang dan dasar:

MAKA, OLEH YANG DEMIKIAN, menurut peruntukan-peruntukan Fasal (4) Perkara 76 Perlembagaan, INILAH DIPERBUAT UNDANG-UNDANG oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut:

1. Akta ini bolehlah dinamakan Akta Kanun Tanah Negara (Hakmilik Pulau Pinang dan Melaka) (Pindaan) 1985. Tajuk ringkas.

2. Akta Kanun Tanah Negara (Hakmilik Pulau Pinang dan Melaka) 1963, yang disebut "Akta ibu" dalam Akta ini, adalah dipinda— Pindaan seksyen 94. Akta 2/63.

(a) dengan menomborkan semula seksyen 94 sebagai seksyen 94 (1);

(b) dengan menggantikan takrif "customary land" dengan yang berikut:

"customary land" means land which, immediately before the appointed day, was customary land within the meaning of the Ordinance and includes land in respect of

2. RANG UNDANG-UNDANG

which the title had been endorsed under sub-section (2) of section 109A and land re-alienated or otherwise disposed of under sub-section (3) of section 109B;”

(c) dengan memasukkan selepas sahaja takrif “customary land-holder”, takrif yang berikut:

“Malacca Customary Land company” means a company incorporated pursuant to any written law for the time being in force in relation to companies—

(a) all members of which are Malays;

(b) the articles of association of which prohibit the transfer of its shares to any person who is not a Malay; and

(c) one of the objects of which is to deal in customary land;

and a Malacca Customary Land company, as so defined, shall, for the purpose of this Part, be deemed to be a Malay;” dan

(d) dengan memasukkan selepas sahaja subseksyen (1), subseksyen baru (2) seperti berikut:

“(2) For the purposes of land subject to the category “building” and “industry”, the word “Malay” shall include a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom and—

(a) was before Merdeka Day born in the Federation or born of parents one of whom was born in the Federation or is on that day, domiciled in the Federation; or

(b) is the issue of such a person.”

Pindaan
perkataan
“Collector”
dalam
Bahagian
VIII.

3. Bahagian VIII Akta ibu adalah dipinda dengan menggantikan perkataan “Collector” di mana jua terdapat dengan perkataan-perkataan “Land Administrator”.

4. Seksyen 108 Akta ibu adalah dipinda—

Pindaan
seksyen
108.

(a) dengan memasukkan selepas sahaja perkataan-perkataan “paragraph (b)” yang terdapat dalam perenggan (c) subseksyen (1) perkataan-perkataan “or a Registrar’s caveat under the National Land Code”;

(b) dengan menggantikan noktah di hujung perenggan (e) subseksyen (1) dengan koma bertitik dan dengan memasukkan selepasnya, perenggan baru (f) seperti berikut:

“(f) No power of attorney or any form of agency in respect of the land shall be capable of being granted to, or created in favour of any person who is not a Malay.”;

(c) dengan menggantikan subseksyen (2) dengan yang berikut:

“(2) Notwithstanding paragraph (a) of sub-section (1), land subject to the provisions of this Part may be charged to any person or body specified in the Sixth Schedule or transferred to any person or body specified in the Seventh Schedule.”; dan

(d) dengan memasukkan selepas perkataan “Schedule” yang terdapat dalam subseksyen (6), perkataan-perkataan “or the Seventh Schedule”.

5. Akta ibu adalah dipinda dengan memasukkan selepas sahaja seksyen 108, seksyen baru 108A, 108B, 108C dan 108D seperti berikut:

Seksyen
baru 108A,
108B, 108C
dan 108D.

“Liability of land to forfeiture where a Malacca Customary Land company ceases to be such.

108A. If at any time whilst a customary land is owned by, charged or leased to, or is otherwise held in the name of, a Malacca Customary Land company pursuant to paragraph (a) of sub-section (1) of section 108, such company ceases to be a Malacca Customary Land company as defined in sub-section (1) of section 94—

(a) the land shall become liable to forfeiture to the State Authority; and

(b) except in a case where action for the purpose of restoring the company as a Malacca Customary Land company is first required to be taken under section 108B, the Land Administrator shall proceed with the enforcement of the forfeiture in accordance with the provision of section 108c.

Summary
action to
secure
restoration
of the
status of a
Malacca
Customary
Land
company.

108B. (1) Where—

(a) any customary land is liable under section 108A to forfeiture to the State Authority; and

(b) it appears to the Land Administrator that action is capable of being taken by the Malacca Customary Land company in question within a reasonable time to restore itself as a Malacca Customary Land company,

the Land Administrator shall serve, or cause to be served, on the company a notice in Form "M" in the First Schedule specifying the action required to be taken in this regard and calling upon it to take such action within the time therein specified.

(2) Upon the service of any notice under sub-section (1), the Land Administrator shall endorse, or cause to be endorsed, on the register document of title to the land in question a note to the effect that action is being taken under this section in respect of the land.

(3) If the notice under sub-section (1) is complied with, the note endorsed under sub-section (2) shall be cancelled and the land shall not be forfeited under section 108A.

(4) If the notice under sub-section (1) is not complied with, the Land Administrator shall take action in accordance with the provisions of section 108c.

Action to
enforce
forfeiture.

108C. (1) Subject to section 108B, the Land Administrator shall take action under this section whenever any customary land is liable to forfeiture under section 108A.

(2) The Land Administrator shall—

(a) cause a notice in Form "N" in the First Schedule to be served on the company; and

(b) cause a copy of that notice to which there shall be appended the additional notice set out in the supplement to that to be served on—

(i) any person or body having a registered interest affecting the land (including a charge of any lease or sub-lease thereof);

(ii) any person or body having a lien over the land or over any lease or sub-lease thereof;

(iii) any person or body in occupation of any part thereof under any tenancy exempt from registration; and

(iv) any person or body having a claim protected by caveat affecting the land or any interest therein.

(3) Upon the service of a notice under subsection (2), the Land Administrator shall endorse, or cause to be endorsed, on the register document of title to the land in question a note to the effect that action is being taken under this section in respect of the land.

(4) Upon the date, and at the time and place, specified in such notice, the Land Administrator shall hold an enquiry and on the conclusion thereof—

(a) if it appears to him that the company has restored itself as a Malacca Customary Land company, he shall so

declare by order, and shall cancel or cause to be cancelled any note endorsed under this section or section 108B;

(b) if it appears to him just that further time should be allowed for enabling the company to restore itself as a Malacca Customary Land company, he shall make an order specifying the action to be taken for that purpose, and the time within which it is to be taken; or

(c) in any other case, he shall make an order declaring the land forfeit to the State Authority.

(5) If the order under paragraph (b) of sub-section (4) is complied with, the Land Administrator shall cancel or cause to be cancelled any note endorsed under this section or section 108B.

(6) If the said order is not complied with, the Land Administrator shall, on the expiry of the period specified therein, make a further order declaring the land forfeit to the State Authority.

**Forfeiture
to take
effect upon
notification
in the
Gazette.**

108D. (1) As soon as may be after the making of an order under section 108C with respect to any land, the Land Administrator shall publish in the *Gazette* a notification of forfeiture in Form "O" in the First Schedule, and upon such publication, the forfeiture shall take effect as mentioned in section 109B.

(2) Copies of any notification published under sub-section (1) shall—

(a) be affixed in a conspicuous position—

(i) on the land and in the Penghulu's office or balai in the area in which the land is situated; and

(ii) in that area, on such court-houses and mosques (if any and in such markets and other public places (if any) as the Land Administrator thinks fit; and

(b) where the State Authority considers that publication in a newspaper is desirable, be published in such newspaper circulating in the State as the Land Administrator thinks fit, and the Land Administrator shall, as soon as may be after the notification is published, register or cause to be registered a memorial thereof upon the register document of title to the land in question.”

6. Seksyen 109 Akta ibu adalah dipinda—

Pindaan
seksyen
109.

(a) dengan menggantikan subseksyen (2) dengan yang berikut:

“(2) Where a right of re-entry is exercised on behalf of the Governor under this section in respect of any land subject to the provisions of this Part, an endorsement of the re-entry shall be made in the Malacca Customary Land Register, and in the case of a title endorsed under sub-section (2) of section 109A, in the respective register, against such land.”; dan

(b) dengan memotong subseksyen (3) dan (4).

7. Seksyen 109A Akta itu adalah dipinda—

Pindaan
seksyen
109A.

(a) dengan memasukkan selepas sahaja perkataan-perkataan “sub-section (1),” yang terdapat dalam subseksyen (2), perkataan-perkataan “the Registrar or”; dan

(b) dengan menggantikan subseksyen (3) dengan yang berikut:

“(3) Upon endorsement thereof on the register and issue documents of title, the land shall be subject to the provisions of this Part.”.

Seksyen
baru 109B
dan 109C.

8. Akta ibu adalah dipinda dengan memasukkan selepas sahaja seksyen 109A, seksyen baru 109B dan 109C seperti berikut:

Effect
of re-
entry.

109B. (1) Where re-entry on any land subject to the provisions of this Part is effected under section 109, forfeiture shall be deemed to have taken effect in respect of that land and—

(a) the land shall revert to, and vest in, the State Authority freed and discharged from all titles and interests subsisting or capable of arising immediately before the forfeiture took effect; and

(b) there shall also vest in the State Authority, without payment of compensation and subject to any provision to the contrary in the document of title to the land in question, or, as the case may be, the lease, the licence or permit in question, all buildings on the land (by whomsoever erected) other than any of temporary construction and capable of removal.

(2) The land shall not be re-alienated or otherwise disposed of to any person who is not a Malay or to a statutory authority, body or corporation which is not specified in the Seventh Schedule.

(3) Where any such land is re-alienated or otherwise disposed of to a Malay or to a statutory authority, body or corporation specified in the Seventh Schedule, it shall be deemed to be customary land.

(4) The land so re-alienated shall be held in perpetuity and the title shall be registered in the Malacca Customary Land Register.

Effect of
surrender.

109C. Whenever any customary land is surrendered to the State Authority pursuant to the provisions of the National Land Code, the land shall revert to and vest in the State Authority as State land, and the provisions of section 109B shall apply as if the land had reverted pursuant to a forfeiture.”

KANUN TANAH NEGARA (HAKMILIK PULAU
PINANG DAN MELAKA) (PINDAAN)

9

9. Jadual Pertama kepada Akta ini adalah dipinda dengan memasukkan selepas sahaja Borang "L", Borang baru "M", "N" dan "O" seperti berikut:

Pindaan
Jadual
Pertama.

Form M

NATIONAL LAND CODE (PENANG AND MALACCA
TITLES) ACT 1963

NOTICE TO A COMPANY TO RESTORE ITSELF AS A
MALACCA CUSTOMARY LAND COMPANY

(Section 108B)

To.....

of.....

Proprietor of the land scheduled below.

Whereas, I, the undersigned, am satisfied that you have ceased to be a Malacca Customary Land company in that—

(Here describe how the company has ceased to be a Malacca Customary Land company.)

(Here describe how the company has ceased to be a Malacca Customary Land company.)

Now, therefore, in exercise of the powers conferred by section 108B of the National Land Code (Penang and Malacca Titles) Act 1963, I hereby require you within a period of..... from the date of this notice to take the following action to restore yourself as a Malacca Customary Land company:

Dated this.....day of.....19.....

Land Administrator

(L.S.)

District of.....

SCHEDULE OF LAND

*Town/Village/Mukim.....*Lot/L.O. No.....
Description and No. of Title.....Area.....

* Delete as appropriate.

Form N

NATIONAL LAND CODE (PENANG AND MALACCA
TITLES) ACT 1963

NOTICE TO SHOW CAUSE

(Section 108c)

To.....
of.....

Proprietor of the land scheduled below.

Whereas, I, the undersigned, am satisfied that you have ceased
to be a Malacca Customary Land company in that—(Here describe
how the
company has
ceased to be a
Malacca
Customary
Land
company).

And whereas—

*(a) I am of the opinion that the taking of action under
section 108b of the National Land Code (Penang and
Malacca Titles) Act 1963, would not be appropriate;*(b) you have failed to comply with the notice served on you
under section 108b of the National Land Code (Penang
and Malacca Titles) Act 1963, requiring you to restore
yourself as a Malacca Customary Land company.Now, therefore, in exercise of the powers conferred by section
108c of the National Land Code (Penang and Malacca Titles) Act
1963, I hereby require you to appear before me on the.....
day of.....19.....at.....hours at
.....to show cause why I should not
forthwith declare the land forfeit to the State Authority.

Dated this.....day of.....19.....

Land Administrator

District of.....

SCHEDULE OF LAND

*Town/Village/Mukim.....*Lot/L.O. No.....
Description and No. of Title.....Area.....

**KANUN TANAH NEGARA (HAKMILIK PULAU
PINANG DAN MELAKA) (PINDAAN)**

11

SUPPLEMENT

To.....
of.....

***Chargee / Lessee / Sub-lessee / Tenant / Lien-holder / Caveator**

TAKE NOTICE that if you wish to show cause why the above land should not be declared forfeit, you should appear at the time and place specified above.

Dated this.....day of.....19.....

Land Administrator

(L.S.)

District of.....

*** Delete as appropriate.**

Form O

**NATIONAL LAND CODE (PENANG AND MALACCA
TITLES) ACT 1963**

NOTICE OF REVERSION TO THE STATE AUTHORITY

(Section 108D)

Whereas, pursuant to the provisions of section 108C of the National Land Code (Penang and Malacca Titles) Act 1963, the land scheduled below has by order been declared forfeit to the State Authority.

Notice is hereby given that such forfeiture has this day taken effect and that, in consequence of the said land vesting in the State Authority—

- (a) any title or interest in the land heretofore subsisting or capable of arising is extinguished, and
- (b) the issue document of title to the land is void and is impoundable by the State.

Dated this.....day of.....19.....

Land Administrator

(L.S.)

District of.....

SCHEDULE OF FORFEITED LAND

*Town/Village/ Mukim	*Lot/L.O. No.	Description and No. of Title	Area

* Delete as appropriate.

Pindaan
Jadual
Keenam.

10. Jadual Keenam kepada Akta ibu adalah dipinda dengan menggantikan tajuk dengan yang berikut:

“PERSONS TO WHOM OR BODIES TO WHICH LAND SUBJECT TO PART VIII MAY BE CHARGED”.

Pindaan
Jadual
Ketujuh.

11. Jadual Ketujuh kepada Akta ibu adalah dipinda dengan menggantikannya dengan yang berikut:

“SEVENTH SCHEDULE

(Sections 108 and 109b)

PERSONS TO WHOM OR BODIES TO WHICH LAND
SUBJECT TO PART VIII MAY BE TRANSFERRED
OR DISPOSED OF

1. Yayasan Melaka.
2. Setiausaha Kerajaan Melaka.
3. Perbadanan Pembangunan Bandar.
4. Pembangunan Pertanian Melaka Sdn. Bhd.
5. Perbadanan Kemajuan Negeri Melaka.
6. Majlis Ugama Islam Melaka.
7. Majlis Amanah Rakyat.
8. Federal Lands Commissioner.

HURAIAN

Rang Undang-Undang ini bertujuan meminda Akta Kanun Tanah Negara (Hakmilik Pulau Pinang dan Melaka) 1963.

2. *Fasal 2* Rang Undang-Undang bertujuan meminda takrif “customary land” (“tanah adat”), memasukkan takrif “Malacca Customary Land company” (“syarikat Tanah Adat Melaka”) dan

memasukkan subseksyen baru (2) kepada seksyen 94 bagi membolehkan tanah adat yang tertakluk kepada jenis "bangunan" dan "industri" diurusniagakan oleh orang-orang Melayu selain daripada "orang Melayu" sebagaimana yang ditakrifkan di bawah seksyen 94 (1).

3. *Fasal 4* Rang Undang-Undang bertujuan membuat peruntukan mengenai kemasukan kaveat Pendaftar terhadap tanah adat, dan menambah satu lagi sekatan terhadap urusanniaga tanah adat yang mana perwakilan kuasa atau sebarang bentuk agensi tidak boleh diberi atau diwujudkan bagi sesiapa jua yang bukan orang Melayu.

4. *Fasal 5* Rang Undang-Undang bertujuan memasukkan seksyen baru 108A hingga 108D. Peruntukan-peruntukan ini menggariskan langkah-langkah perlucuthakan tanah adat yang dimiliki oleh, atau digadai atau dipajakkan kepada, atau dengan apa cara pun dipegang atas nama, suatu syarikat yang tidak lagi menjadi syarikat Tanah Adat Melaka.

5. *Fasal 6* Rang Undang-Undang bertujuan menggantikan subseksyen (2) seksyen 109 yang ada sekarang dengan satu subseksyen baru (2) bagi membolehkan pengendorsan mengenai kemasukan semula ke dalam Daftar berkenaan di mana hak kemasukan semula dilaksanakan bagi pihak Pihak Berkuasa Negeri, dan juga untuk memotong subseksyen (3) dan (4).

6. *Fasal 7* Rang Undang-Undang bertujuan memperuntukkan bahawa setelah pengendorsan perkataan-perkataan "Tanah Adat Melaka" ke dalam dokumen hakmilik daftar dan hakmilik keluaran, tanah yang berkenaan itu hendaklah tertakluk kepada peruntukan-peruntukan Bahagian VIII.

7. *Fasal 8* Rang Undang-Undang bertujuan memasukkan seksyen baru 109B dan 109C. Seksyen 109B memperuntukkan bahawa mana-mana tanah yang kembali kepada Pihak Berkuasa Negeri atas sebab perlucuthakan akibat kemasukan semula kerana pelanggaran terhadap peruntukan-peruntukan dalam Bahagian VIII tidaklah boleh diberimilik atau dengan apa cara pun dilupuskan kepada mana-mana orang yang bukan orang Melayu, atau mana-mana orang atau badan yang tidak dinyatakan dalam Jadual Ketujuh. Seksyen ini juga memperuntukkan bahawa sekiranya tanah itu diberimilik semula atau dengan apa cara pun dilupuskan ianya hendaklah disifatkan sebagai tanah adat, dan hendaklah dipegang untuk selama-lamanya dan hakmilik tersebut hendaklah didaftarkan dalam Daftar Tanah Adat Melaka. Seksyen 109C memperuntukkan bahawa di mana sesuatu tanah adat diserahkan balik kepada Pihak Berkuasa Negeri di bawah peruntukan-peruntukan Kanun Tanah Negara, tanah tersebut hendaklah kembali dan terletaklah kepada Pihak Berkuasa Negeri sebagai tanah Kerajaan dan peruntukan-peruntukan seksyen 109B hendaklah terpakai bagi tanah yang berkenaan.

8. *Fasal 9* Rang Undang-Undang bertujuan memperuntukkan borang baru "M", "N" dan "O" dalam Jadual Pertama. Borang-borang ini diperlukan untuk memberi kesan ke atas peruntukan-peruntukan yang berkaitan dengan perlucuthakan dalam seksyen baru 108B, 108C dan 108D yang dicadangkan itu.

9. *Fasal 10* Rang Undang-Undang bertujuan meminda Jadual Keenam untuk membuat peruntukan mengenai pemegangan gadaian Tanah Adat Melaka oleh orang-orang atau badan-badan yang disenaraikan dalam Jadual tersebut.

10. *Fasal 11* Rang Undang-Undang bertujuan memperuntukkan Jadual Ketujuh yang menyenaraikan orang-orang atau badan-badan yang kepadanya Tanah Adat Melaka boleh dipindahkan atau dilupuskan.

11. Fasal-fasal yang lain adalah merupakan pindaan berbangkit atau pindaan kecil sahaja.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U2) 1360.]