



6 November 2015
6 November 2015
P.U. (A) 264

WARTA KERAJAAN PERSEKUTUAN

*FEDERAL GOVERNMENT
GAZETTE*

PERATURAN-PERATURAN HARTA PUSAKA KECIL
(PEMBAHAGIAN) (PINDAAN) 2015

*SMALL ESTATES (DISTRIBUTION)
(AMENDMENT) REGULATIONS 2015*



DISIARKAN OLEH/
PUBLISHED BY
JABATAN PEGUAM NEGARA/
ATTORNEY GENERAL'S CHAMBERS

AKTA HARTA PUSAKA KECIL (PEMBAHAGIAN) 1955

PERATURAN-PERATURAN HARTA PUSAKA KECIL (PEMBAHAGIAN) (PINDAAN) 2015

PADA menjalankan kuasa yang diberikan oleh seksyen 30 Akta Harta Pusaka Kecil (Pembahagian) 1955 [*Akta 98*], Menteri membuat peraturan-peraturan yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Peraturan-peraturan ini bolehlah dinamakan **Peraturan-Peraturan Harta Pusaka Kecil (Pembahagian) (Pindaan) 2015**.

(2) Peraturan-Peraturan ini mula berkuat kuasa pada 1 Januari 2016.

Peraturan baru 1A

2. Peraturan-Peraturan Harta Pusaka Kecil (Pembahagian) 1955 [*L.N. 495/1955*], yang disebut “Peraturan-Peraturan ibu” dalam Peraturan-Peraturan ini, dipinda dengan memasukkan selepas peraturan 1 peraturan yang berikut:

“Interpretation

1A. In these Regulations—

“Principal Registry” means the Principal Registry of High Court in Kuala Lumpur or the Principal Registry in Kuching, as the case may be.”.

Pindaan peraturan 2

3. Peraturan 2 Peraturan-Peraturan ibu dipinda dengan memotong perkataan “with the exception of Form B”.

Pindaan peraturan 3

4. Peraturan 3 Peraturan-Peraturan ibu dipinda—

(a) dengan menggantikan subperaturan (1) dengan subperaturan yang berikut:

“(1) Upon receipt of a petition for distribution which shall be in Form A, the Land Administrator shall notify the Principal Registry in any manner required by the Principal Registry.”; dan

(b) dengan memasukkan selepas subperaturan (1) subperaturan yang berikut:

“(1A) The Land Administrator shall complete Part I of Form B for record purposes.”.

Peraturan baru 3A dan 3B

5. Peraturan-Peraturan itu dipinda dengan memasukkan selepas peraturan 3 peraturan-peraturan yang berikut:

“Substituted petitioner

3A. (1) In the event that the existing petitioner claiming to be interested in the said estate as beneficiary dies or is incapable to represent himself due to critical illness or unsoundness of mind and no distribution order has been made under subregulation 7(1), any widow, widower or next of kin stated in Form A may apply to the Land Administrator to substitute the petitioner by filing Form AA.

(2) Upon receipt of Form AA, the Land Administrator shall notify the Principal Registry in any manner required by the Principal Registry.

Inclusion of additional name of the deceased

3B. Where it appears that any of the property of the deceased were held under a name different from the name stated in the proof of death, the petitioner under section 8 or the applicant under section 17 of the Act shall provide any necessary documents to satisfy the Land Administrator that the property forms part of the estate of the deceased in the petition or application.”.

Pindaan peraturan 4

6. Peraturan 4 Peraturan-Peraturan ibu dipinda—

(a) dengan menggantikan subperaturan (1) dengan subperaturan yang berikut:

“(1) If upon the expiration of the one month period mentioned in subregulation 3(2), the result of the search shows that a previous application has been made, the Land Administrator shall forthwith stay all proceedings and shall notify the petitioner thereof and of his rights under subsection 8(9) of the Act.”; dan

(b) dalam subperaturan (2), dengan menggantikan perkataan “regulation” dengan perkataan “subregulation”.

Pindaan peraturan 5

7. Subperaturan 5(1) Peraturan-Peraturan ibu dipinda dengan memasukkan selepas perkataan “the appropriate” perkataan “High”.

Pindaan peraturan 6

8. Peraturan 6 Peraturan-Peraturan ibu dipinda—

(a) dalam subperaturan (1)—

(i) dengan memotong perkataan “the form of”; dan

(ii) dengan memotong perkataan “and also at such places of public resort as the Land Administrator may generally or in particular cases direct”;

(b) dalam subperaturan (2)—

(i) dengan memotong perkataan “prepaid registered”; dan

- (ii) memasukkan selepas perkataan “post” perkataan “or by electronic communication”;
- (c) dalam subperaturan (3), dengan menggantikan nombor “15” dengan perkataan “seven”; dan
- (d) dalam subperaturan (4)—
 - (i) dengan memotong perkataan “or any one of the beneficiaries”; dan
 - (ii) dengan memotong perkataan “or the beneficiary concerned”.

Pindaan peraturan 7

9. Peraturan 7 Peraturan-Peraturan ibu dipinda—

- (a) dalam subperaturan (3), dengan menggantikan perkataan “send notice thereof to the Registrar, Principal Registry, High Court, Kuala Lumpur or Kuching, as the case may require, in the Form B by completing all the particulars required in Part I thereof” dengan perkataan “immediately notify the petition to the Principal Registry in any manner required by the Principal Registry”;
- (b) dengan memasukkan selepas subperaturan (3) subperaturan yang berikut:
 - “(3A) The Land Administrator shall complete Part II of Form B for record purposes.”; dan
- (c) dengan menggantikan subperaturan (4) dengan subperaturan yang berikut:
 - “(4) The Registrar shall cause the particulars to be recorded in Part II of Form B.”.

Pindaan peraturan 9

10. Peraturan 9 Peraturan-Peraturan ibu dipinda dengan menggantikan perkataan “Assistant Registrar in the appropriate Registry of the High Court” dengan perkataan “Registrar of the appropriate High Court”.

Pindaan peraturan 10

11. Peraturan 10 Peraturan-Peraturan ibu dipinda—

(a) dalam perenggan (1)(a), dengan menggantikan perkataan “K2” dengan perkataan “K1”;

(b) dalam perenggan (1)(e), dengan menggantikan perkataan “paragraph (1)” dengan perkataan “paragraphs 1(a), (b), (c) and (d),”;

(c) dalam subperaturan (3)—

(i) dengan menggantikan perkataan “K3” dengan perkataan “K2”;

(ii) dengan menggantikan perkataan “K1” dengan perkataan “K3”; dan

(iii) dengan menggantikan perkataan “paragraph” dengan perkataan “subparagraph”;

(d) dalam subperaturan (4)—

(i) dengan menggantikan perkataan “paragraph” di mana-mana jua terdapat dengan perkataan “subregulation”; dan

(ii) dengan menggantikan perkataan “K1” dengan perkataan “K3”;

- (e) dalam subperaturan (5)—
- (i) dengan memasukkan perkataan “and” di hujung subperenggan (i);
 - (ii) dengan menggantikan subperenggan (ii) dengan subperenggan yang berikut:
 - “(ii) forward to the Registrar of the appropriate High Court the remaining copies of the record, together with at least one copy of the memorandum of appeal. He shall also transmit to the Registrar the sum deposited under subparagraph (1)(c)(ii) above.”; dan
 - (iii) dengan memotong subperenggan (5)(iii); dan
- (f) dalam subperaturan (7), dengan menggantikan perkataan “Assistant Registrar” dengan perkataan “Registrar”.

Pindaan peraturan 11

12. Peraturan 11 Peraturan-Peraturan ibu dipinda—

- (a) dalam subperaturan (2), dengan menggantikan perkataan “same and at such places of public resort as the Land Administrator may generally or in particular cases direct” dengan perkataan “notice”;
- (b) dalam subperaturan (3), dengan menggantikan nombor “15” dengan perkataan “seven”; dan
- (c) dalam subperaturan (7), dengan menggantikan perkataan “Order of distribution” dengan perkataan “Order for distribution”.

Pindaan peraturan 12

13. Subperaturan 12(2) Peraturan-Peraturan ibu dipinda—

- (a) dengan menggantikan perkataan “regulation” dengan perkataan “subregulation”; dan
- (b) dengan menggantikan nombor “14” dengan perkataan “seven”.

Peraturan baru 12A

14. Peraturan-Peraturan ibu dipinda dengan memasukkan selepas peraturan 12 peraturan berikut:

“Correction of error in order

12A. If the order issued under subregulations 7(1) or 12(3) appears to have any—

- (a) clerical error; or
- (b) omission as not in accordance with the Land Administrator’s record in writing as specified in section 12 of the Act,

the Land Administrator may at any time make such correction as may be appropriate in the circumstances of the case.”.

Pindaan peraturan 13

15. Peraturan 13 Peraturan-Peraturan ibu dipinda dengan memotong perkataan “substantially in the Form U and”.

Pindaan peraturan 14

16. Peraturan-Peraturan ibu dipinda dengan menggantikan peraturan 14 dengan peraturan berikut:

“Reference by Registrar and direction to transfer

14. (1) Any reference to the Director General of Lands and Mines under the provisions of subsection 7(2) of the Act and the certificate of the Director General of Lands and Mines thereon shall be in Form W and Form X respectively.

(2) Where an estate is certified by the Director General of Lands and Mines to be a small estate, the Registrar shall transfer the petition in accordance with subsection 7(1) of the Act.”.

Pindaan peraturan 16

17. Subperaturan 16(2) Peraturan-Peraturan ibu dipinda dalam proviso dengan menggantikan perkataan “paragraph” di mana-mana jua terdapat dengan perkataan “subregulation”.

Pindaan peraturan 18

18. Peraturan-Peraturan ibu dipinda dengan menggantikan peraturan 18 dengan peraturan yang berikut:

“Regulation 18

18. (1) The fees set out in column 2 of the Second Schedule shall be taken and paid in respect of all costs, matters and proceedings set out in column 1 of the Second Schedule.

(2) Notwithstanding subregulation (1), no fee is chargeable if the deceased died without successor and the estate ordered to be reverted or transferred to the State Authority or Government as the case may be.”.

Pindaan Jadual Pertama

19. Jadual Pertama Peraturan-Peraturan ibu dipinda—

(a) dengan menggantikan perkataan “District Land Administrator” di mana-mana jua ia terdapat dalam Borang D, Borang DD, Borang E,

Borang EE, Borang F dan Borang HH dengan perkataan “Land Administrator”;

(b) dengan menggantikan perkataan “Regulation” di mana-mana jua ia terdapat dalam Borang D, Borang DD, Borang E, Borang F, Borang G, Borang HH, Borang I, Borang L, Borang M, Borang N, Borang Q, Borang R, Borang S dan Borang T dengan perkataan “Subregulation”;

(c) dengan menggantikan perkataan “Section” di mana-mana jua ia terdapat dalam Borang G, Borang HH, Borang I, Borang Q dan Borang R dengan perkataan “Subsection”;

(d) dengan menggantikan Borang A dengan borang yang berikut:

FORM A
[Subregulation 3(1)]

MALAYSIA
State of
District of

SMALL ESTATES (DISTRIBUTION) ACT 1955
DISTRIBUTION SUIT NO. OF 20...

In the Estate of deceased
Petition of (Petitioner)
of.....
..... Contact No.

PETITION UNDER SECTION 8

I, the above-named petitioner state as follows :

1. The deceased died on the day of, year
2. I am a person claiming to be interested in the said estate as Beneficiary / Creditor / Purchaser / Corporation / Settlement Officer / Penghulu / Penggawa of the Mukim of.....
(*As beneficiary, my relationship to the deceased is)

3. To the best of my knowledge and belief the deceased left a widow/widows/widower and the next-of-kin as follows:

Name	IC No. (or any other identification no.)	Address	Relationship to deceased

(If no ample space, please attach and sign the annexure)

4. The deceased was at the date of his death possessed of the following property :

A- IMMOVABLE PROPERTY

Description and No. of Title	Lot/Parcel/ PT No.	Town/ Village/ Mukim and District	Share	Address of the property

(If no ample space, please attach and sign the annexure)

B- MOVABLE PROPERTY

Description of movable property	Approximate Value

(If no ample space, please attach and sign the annexure)

C- DEBTS DUE TO DECEASED

Description of debt	Amount	Name and address of debtor

(If no ample space, please attach and sign the annexure)

5. The deceased was at the date of his death indebted as follows:

Nature of debt	Amount	Name and address of creditor

(If no ample space, please attach and sign the annexure)

6. I pray that the deceased's estate may be distributed in the manner provided by Part II of the Small Estates (Distribution) Act 1955.

7. As far as my knowledge goes, no previous application for distribution of the estate of the deceased has been made by any person and I make this solemn declaration conscientiously believing the particulars given above to be true and by virtue of the provisions of the Statutory Declarations Act 1960.

Dated at this..... day of20

Signed and solemnly declared by the
 above-named
 at
 in the State of.....
 dated this.....20

}
 Signature of Petitioner

In the presence of :

.....
 Magistrate/Commissioner for Oaths

(e) dengan memasukkan selepas Borang A borang yang berikut:

FORM AA
[Regulation 3A]

MALAYSIA

State of
District of

SMALL ESTATES (DISTRIBUTION) ACT 1955
DISTRIBUTION SUIT NO.....OF 20

In the Estate of deceased.

Petition by (name of the earlier petitioner)
..... of
.....

SUBSTITUTION OF PETITIONER

I,IC No.....
of (address) claiming to be
interested in the said estate as beneficiary stated in the above petition, hereby solemnly
affirmed that the said petitioner;

* (a) had died on ; or

* (b) is incapable to represent himself due to critical illness or unsoundness of
mind.

2. In lieu of the above said petitioner, I apply to be the new petitioner for the petition.

3. I hereby make this solemn declaration conscientiously believing the particular given
above to be true and by virtue of the provisions of the Statutory Declarations Act 1960.

Dated at this..... day of20

Signed and solemnly declared by the
above-named
at
in the State of
dated this....., 20

}
.....
Signature of Applicant

In the presence of :

.....
Magistrate/Commissioner for Oaths

*Delete as appropriate

(f) dengan menggantikan Borang B dengan borang yang berikut:

FORM B
[Subregulation 3(1A) and 7(3A)]

PART I
NOTICE OF APPLICATION

- 1. Name of deceased
- Other names (if any)
- 2. Identification No. of deceased
- 3. Identification No. of deceased (NRIC) (if any)
- 4. Date of death
- 5. Petition number and Court
- 6. Name and right of petitioner
-

PART II
NOTICE OF ISSUE OF GRANT

- 1. Name of deceased
 - Other names (if any)
 - 2. Identification No. of deceased
 - 3. Identification No. of deceased (NRIC) (if any)
 - 4. Date of death
 - 5. Petition number and Court
 - 6. Date on which Grant was issued/Distribution Order made
 -
 - 7. Name and right of person in whose favour made
 -
- Date

(g) dengan menggantikan Borang C dengan borang yang berikut—

FORM C
[Subregulation 3(2)]

MALAYSIA
PRINCIPAL PROBATE REGISTRY
SMALL ESTATES (DISTRIBUTION) ACT 1955

To:

LAND ADMINISTRATOR/
COLLECTOR/ DISTRICT OFFICER/
SARAWAK ADMINISTRATIVE OFFICER

}

Name of deceased
Other names (if any)
NRIC of the deceased
(or any other identification no.)
Date of death
Petition number and Court
Name of petitioner

With reference to your notice dated in your
..... I have caused a search to be made of the record of
applications for Probate/Letters of Administration and Distribution and of grants and
find-

*(a) that an application for Distribution has been made in respect of
order for
the Estate in Court and that
the number of such application is

*(b) that no previous application has been made in respect of this Estate.

.....
*Registrar,
High Court, Kuala Lumpur/Kuching*

Dated 20

*Delete as appropriate

(h) dengan menggantikan Borang DDA dengan borang yang berikut:

FORM DDA
[Regulation 4A]
MALAYSIA

State of
District of

SMALL ESTATE (DISTRIBUTION) ACT 1955
DISTRIBUTION SUIT NO. OF 20

In the Estate of deceased
Petition of of

LETTER OF CONSENT

I..... IC No of

 hereby solemnly
 affirmed that the above-mentioned deceased leaving estate as follows :

Immovable Property			
Description and No. of Title	Lot/Parcel/ PT No.	Town/Village/Mukim and District	Share

(If no ample space, please attach and sign the annexure)

Movable Property (e.g : cash, bank account, bond etc)

(If no ample space, please attach and sign the annexure)

2. I am a person claiming to be interested in the estate as beneficiary of the above-mentioned deceased's estate and agree the estate may be distributed as follows:

- *(a) consistent with Islamic law (*faraid*) (for Muslim) */ Distribution Act 1958 (Act 300) (for non-Muslim);
- *(b) by consensus as in Schedules below;
- *(c) surrender my whole share or interest in the estate to
 and I
 hereby declared that I shall have no rights or claims over the estate.

3. I hereby acknowledge that this Letter of Consent is not for the purpose of appointing a representative during the hearing or appointing an administrator for the above-mentioned estate of the deceased.

4. I hereby declare that the above-mentioned statement is true and fully understand the implications of my consent given herewith and signed by me.

.....
 (Name of the person making the consent)

Before me,

Date:

.....
 (Magistrate, Land Administrator,
 Commissioner for Oaths or Notary Public)

*Delete as appropriate.

SCHEDULE I
 MALAYSIA
 State of

IMMOVABLE PROPERTY TO BE DISTRIBUTED

Title No./Lot/Parcel/ Estate of the deceased	Town/ Village/ Mukim and District	Name of Parties	Share

.....
 (Name of the person making consent)

.....
 (Magistrate, Land Administrator,
 Commissioner for Oaths or Notary Public)

SCHEDULE II
 MALAYSIA
 State of

MOVABLE PROPERTY TO BE DISTRIBUTED

Description	Name of Parties

.....
(Name of the person making consent) (Magistrate, Land Administrator,
Commissioner for Oaths or Notary Public)
Date:

- (i) dalam Borang J, dengan menggantikan perkataan “Assistant Registrar” di mana-mana jua ia terdapat dengan perkataan “Registrar”;
- (j) dengan menggantikan Borang K1 dengan borang yang berikut:

FORM K1
[Subregulation 10(1)]
MALAYSIA

State of
IN THE HIGH COURT AT.....
CIVIL APPEAL NO..... OF 20
DISTRIBUTION SUIT NO..... OF 20.....
In the Estate of deceased
Petition of of

NOTICE OF APPEAL
SMALL ESTATES (DISTRIBUTION) ACT 1955
(Section 29)

TAKE NOTICE that being a person aggrieved by the Order/Decision/or made/done by the * for the District of in the above-mentioned Distribution Suit on the day of 20 appeals to the High Court against either the whole of the said order/decision or such part of the order/decision as decided that

Dated this day of 20

.....
Solicitor/Appellant

To the Land Administrator/Collector/District Officer/Sarawak Administrative Officer
for the District of and to

* Insert Land Administrator/Collector/District Officer/Sarawak Administrative Officer.
as the case may require.

(k) dengan menggantikan Borang K2 dengan borang yang berikut:

FORM K2

[Subregulation 10(3)]

MALAYSIA

State of

IN THE HIGH COURT AT.....

CIVIL APPEAL NO..... OF 20

DISTRIBUTION SUIT NO..... OF 20.....

In the Estate of deceased

Petition of of

NOTICE TO TAKE UP RECORD

TAKE NOTICE that the appeal record in the above-mentioned proceedings is now ready
and that you must, within 14 days of service of this notice:

(a) Pay to me at this office the sum of RM being the balance of cost of
preparing the appeal record; and

(b) File in this office two copies of the memorandum of appeal on the form attached
hereto Form K3;

and take notice that if you fail to comply with this notice within the period of 14 days
above-mentioned, your appeal will be deemed to be withdrawn.

Dated this day of 20

.....
LAND ADMINISTRATOR/
COLLECTOR/DISTRICT OFFICER/
SARAWAK ADMINISTRATIVE OFFICER

Note- You must prepare sufficient copies of the Memorandum of Appeal for service on all parties interested. When you file the Memorandum of Appeal in this office you will be given copies of the Appeal Record and then it is your duty to serve a copy thereof together with a copy of the Memorandum of Appeal on the following persons, namely:

(l) dengan menggantikan Borang K3 dengan borang yang berikut:

FORM K3

[Subregulation 10(3)]

MALAYSIA

State of

IN THE HIGH COURT AT.....

CIVIL APPEAL NO OF 20

DISTRIBUTION SUIT NO..... OF..... 20

In the Estate of..... deceased

Petition of of

MEMORANDUM OF APPEAL

SMALL ESTATES (DISTRIBUTION) ACT 1955

(Section 29)

In the matter of of

deceased of applicant.

applicant

..... a party interested hereby appeals to the High Court at against the decision of the *..... dated the..... day of 20 in the above suit.

2. The decision of the *..... above referred to was shortly as follows:

3. The grounds of appeal on which the appellant relies are as follows:

Dated at this day of 20

.....
Appellant

* Insert Land Administrator/Collector/District Officer/Sarawak Administrative Officer as the case may require.

(m) dengan menggantikan Borang P dengan borang yang berikut:

FORM P

[Subregulation 12(1)]

MALAYSIA

State of

District of

SMALL ESTATES (DISTRIBUTION) ACT 1955
DISTRIBUTION SUIT NO. OF 20.....

In the Estate of deceased
Petition of of
.....

SUBSEQUENT APPLICATION
(Section 17)

Whereas an order has been made on the estate of the above-named deceased* I,
..... IC No. (or any other identification no)
..... of
.....
.....(address) apply to the Land
Administrator for**(please indicate specific application sought for)
.....
.....
.....

Made this day of 20.....

.....
Applicant

* Please attach the previous order.

** Please insert the specific application sought for, example :

- (i) revocation of trustee/administrator;
- (ii) appointment of new trustee/new administrator;
- (iii) withdrawal of the caveat;
- (iv) distribution of the deceased estate which has not been declared under section 8.

- (n) dengan memotong Borang U dan Borang V;
- (o) dengan menggantikan Borang W dengan borang yang berikut:

FORM W

[Subregulation 14(1)]

MALAYSIA

IN THE HIGH COURT AT.....

No..... OF 20

In the Estate of deceased
Before Mr Justice

REFERENCE TO DIRECTOR GENERAL LANDS AND MINES (FEDERAL)
(Subsection 7(2), Small Estates (Distribution) Act 1955)

WHEREAS it appears that the above-named deceased was a member of a tribe within the meaning of Part III of the Small Estates (Distribution) Act 1955, or that part of the said estate was property affected by tribal custom within the scope of Part III aforesaid:

IT IS HEREBY ORDERED THAT the Proceedings herein be stayed AND THAT the matter be referred to the Director General of Lands and Mines (Federal).

Made this day of 20

.....
Registrar, High Court

* Insert District Land Administrator/Collector/District Officer/Sarawak Administrative Officer, as the case may require.

(p) dengan menggantikan Borang X dengan borang yang berikut:

FORM X
[Subregulation 14(1)]
MALAYSIA

IN THE HIGH COURT AT
NO..... OF 20

In the Estate of deceased

CERTIFICATE UNDER SUBSECTION 7(2)
SMALL ESTATE (DISTRIBUTION) ACT 1955

I of Director General of
Lands and Mines (Federal), HEREBY CERTIFY that the said Estate is/is not* deemed to
be a Small Estate within the provisions of the Small Estates (Distribution) Act 1955.

Dated this day of 20

.....
Director General of Lands and
Mines (Federal)

*Delete as appropriate

Pindaan Jadual Kedua

20. Peraturan-Peraturan ibu dipinda dengan menggantikan Jadual Kedua dengan
jadual yang berikut:

SECOND SCHEDULE
[Regulation 18]

FEES

	<i>Column 1</i>	<i>Column 2</i>
(i)	Land Administrator's Order for distribution or Grant of Letters of Administration [Subregulations 7(1) and (2)] is based on estate value and calculated as follows:	
	(a) not exceeding RM1,000.00	RM10.00
	(b) exceeding RM1,000.00 to RM50,000.00	RM30.00
	(c) exceeding RM50,000.00 and above	0.2% of the estate value
	(d) Land Administrator's Order for revocation of trust deed	RM30.00 or 0.2% of the estate value whichever is higher
(ii)	Land Administrator's Order in collateral dispute [Subregulation 11(4)]	RM30.00
(iii)	Land Administrator's Order upon subsequent application [Subregulation 12(3)] are as follows:	
	(a) application for revocation of trustee, application for withdrawal of caveat, application to cancel Letters of Administration or/and application for any further order	RM30.00
	(b) Land Administrator's Order for revocation of trust deed in subsection 13(3) of the Act	RM30.00 or 0.2% of the estate value referred in the application whichever is higher
	(c) Application for an order for distribution of the property which has not been declared under section 8 of the Act	RM10.00 or 0.2% of the estate value referred in the application whichever is higher

- | | | |
|--------|---|---|
| (iv) | Copies of Land Administrator's Order supplied on application to the Administrator or the beneficiaries | Free for the first copy and RM5.00 for the second and subsequent copies |
| (v) | Copies of Land Administrator's Order required by person other than the Administrator or beneficiaries | RM30.00 for the first copy and RM10.00 for the second and subsequent copies |
| (vi) | Inclusive appeal Fee | RM50.00 |
| (vii) | (a) copy of any documents required to be copied, for first copy | RM30.00 per copy |
| | (b) for second or subsequent copies | RM10.00 per copy |
| (viii) | (a) copy of record in writing as referred to in section 12 of the Act required to be copied, for first copy | RM30.00 per folio of 100 words or part thereof |
| | (b) for second or subsequent copies | RM10.00 per folio of 100 words or part thereof. |

Dibuat 16 Oktober 2015
 [JKPTG(S)-700/100-1/1/1(33); PN(PU2)211/II]

DATO' SRI DR. HAJI WAN JUNAIDI BIN TUANKU JAAFAR
Menteri Sumber Asli dan Alam Sekitar

SMALL ESTATES (DISTRIBUTION) ACT 1955

SMALL ESTATES (DISTRIBUTION) (AMENDMENT) REGULATIONS 2015

IN exercise of the powers conferred by section 30 of the Small Estates (Distribution) Act 1955 [*Act 98*], the Minister makes the following regulations:

Citation and commencement

1. (1) These regulations may be cited as the **Small Estates (Distribution) (Amendment) Regulations 2015**.

(2) These Regulations come into operation on 1 January 2016.

New regulation 1A

2. The Small Estates (Distribution) Regulations 1955 [*L.N. 495 of 1955*], which are referred to as “the principal Regulations” in these Regulations, are amended by inserting after regulation 1 the following regulation:

“Interpretation

1A. In these Regulations—

“Principal Registry” means the Principal Registry of High Court in Kuala Lumpur or the Principal Registry in Kuching, as the case may be.”.

Amendment of regulation 2

3. Regulation 2 of the principal Regulations is amended by deleting the words “with the exception of Form B”.

Amendment of regulation 3

4. Regulation 3 of the principal Regulations is amended—

(a) by substituting for subregulation (1) the following subregulation:

“(1) Upon receipt of a petition for distribution which shall be in Form A, the Land Administrator shall notify the Principal Registry in any manner required by the Principal Registry.”; and

(b) by inserting after subregulation (1) the following subregulation:

“(1A) The Land Administrator shall complete Part I of Form B for record purposes.”.

New regulations 3A and 3B

5. The principal Regulations are amended by inserting after regulation 3 the following regulations:

“Substituted petitioner

3A. (1) In the event that the existing petitioner claiming to be interested in the said estate as beneficiary dies or is incapable to represent himself due to critical illness or unsoundness of mind and no distribution order has been made under subregulation 7(1), any widow, widower or next of kin stated in Form A may apply to the Land Administrator to substitute the petitioner by filing Form AA.

(2) Upon receipt of Form AA, the Land Administrator shall notify the Principal Registry in any manner required by the Principal Registry.

Inclusion of additional name of the deceased

3B. Where it appears that any of the property of the deceased were held under a name different from the name stated in the proof of death, the petitioner under section 8 or the applicant under section 17 of the Act shall provide any necessary documents to satisfy the Land Administrator that the property forms part of the estate of the deceased in the petition or application.”.

Amendment of regulation 4

6. Regulation 4 of the principal Regulations is amended—

(a) by substituting for subregulation (1) the following subregulation:

“(1) If upon the expiration of the one month period mentioned in subregulation 3(2), the result of the search shows that a previous application has been made, the Land Administrator shall forthwith stay all proceedings and shall notify the petitioner thereof and of his rights under subsection 8(9) of the Act.”; and

(b) in subregulation (2), by substituting for the word “regulation” the word “subregulation”.

Amendment of regulation 5

7. Subregulation 5(1) of the principal Regulations is amended by inserting after the words “the appropriate” the word “High”.

Amendment of regulation 6

8. Regulation 6 of the principal Regulations is amended—

(a) in subregulation (1)—

(i) by deleting the words “the form of”; and

(ii) by deleting the words “and also at such places of public resort as the Land Administrator may generally or in particular cases direct”;

(b) in subregulation (2)—

(i) by deleting the words “prepaid registered”; and

- (ii) by inserting after the word “post” the words “or by electronic communication”;
- (c) in subregulation (3), by substituting for the number “15” the word “seven”; and
- (d) in subregulation (4)—
 - (i) by deleting the words “or any one of the beneficiaries”; and
 - (ii) by deleting the words “or the beneficiary concerned”.

Amendment of regulation 7

9. Regulation 7 of the principal Regulations is amended—

- (a) in subregulation (3), by substituting for the words “send notice thereof to the Registrar, Principal Registry, High Court, Kuala Lumpur or Kuching, as the case may require, in the Form B by completing all the particulars required in Part I thereof” the words “immediately notify the petition to the Principal Registry in any manner required by the Principal Registry”;
- (b) by inserting after the subregulation (3) the following subregulation:
 - “(3A) The Land Administrator shall complete Part II of Form B for record purposes.”; and
- (c) by substituting for subregulation (4) the following subregulation:
 - “(4) The Registrar shall cause the particulars to be recorded in Part II of Form B.”.

Amendment of regulation 9

10. Regulation 9 of the principal Regulations is amended by substituting for the words “Assistant Registrar in the appropriate Registry of the High Court” the words “Registrar of the appropriate High Court”.

Amendment of regulation 10

11. Regulation 10 of the principal Regulations is amended—

- (a)* in paragraph (1)(a), by substituting for the word “K2” the word “K1”;
- (b)* in paragraph (1)(e), by substituting for the words “paragraph (1)” the words “paragraphs (1)(a), (b), (c) and (d),”;
- (c)* in subregulation (3)—
 - (i)* by substituting for the word “K3” the word “K2”;
 - (ii)* by substituting for the word “K1” the word “K3”; and
 - (iii)* by substituting for the word “paragraph” the word “subparagraph”;
- (d)* in subregulation (4)—
 - (i)* by substituting for the word “paragraph” wherever appearing the word “subregulation”; and
 - (ii)* by substituting for the word “K1” the word “K3”;
- (e)* in subregulation (5)—
 - (i)* by inserting the word “and” at the end of subparagraph (i);

(ii) by substituting for subparagraph (ii) the following subparagraph:

“(ii) forward to the Registrar of the appropriate High Court the remaining copies of the record, together with at least one copy of the memorandum of appeal. He shall also transmit to the Registrar the sum deposited under subparagraph (1)(c)(ii) above.”; and

(iii) by deleting subparagraph (5)(iii); and

(f) in subregulation (7), by substituting for the words “Assistant Registrar” the word “Registrar”.

Amendment of regulation 11

12. Regulation 11 of the principal Regulations is amended—

(a) in subregulation (2), by substituting for the words “same and at such places of public resort as the Land Administrator may generally or in particular cases direct” the word “notice”;

(b) in subregulation (3), by substituting for the number “15” the word “seven”; and

(c) in subregulation (7), by substituting for the words “Order of distribution” the words “Order for distribution”.

Amendment of regulation 12

13. Subregulation 12(2) of the principal Regulations is amended—

(a) by substituting for the word “regulation” the word “subregulation”; and

(b) by substituting for the number “14” the word “seven”.

New regulation 12A

14. The principal Regulations are amended by inserting after regulation 12 the following regulation:

“Correction of error in order

12A. If the order issued under subregulations 7(1) and 12(3) appears to have any—

(a) clerical error; or

(b) omission as not in accordance with the Land Administrator’s record in writing as specified in section 12 of the Act,

the Land Administrator may at any time make such correction as may be appropriate in the circumstances of the case.”.

Amendment of regulation 13

15. Regulation 13 of the principal Regulations is amended by deleting the words “substantially in the Form U and”.

Amendment of regulation 14

16. The principal Regulations are amended by substituting for regulation 14 the following regulation:

“Reference by Registrar and direction to transfer

14. (1) Any reference to the Director General of Lands and Mines under the provisions of subsection 7(2) of the Act and the certificate of the Director General of Lands and Mines thereon shall be in Form W and Form X respectively.

(2) Where an estate is certified by the Director General of Lands and Mines to be a small estate, the Registrar shall transfer the petition in accordance with subsection 7(1) of the Act.”.

Amendment of regulation 16

17. Subregulation 16(2) of the principal Regulations is amended in the proviso by substituting for the word “paragraph” wherever appearing the word “subregulation”.

Amendment of regulation 18

18. The principal Regulations are amended by substituting for regulation 18 the following regulation—

“Regulation 18

18. (1) The fees set out in column 2 of the Second Schedule shall be taken and paid in respect of all costs, matters and proceedings set out in column 1 of the Second Schedule.

(2) Notwithstanding subregulation (1), no fee is chargeable if the deceased died without successor and the estate ordered to be reverted or transferred to the State Authority or Government as the case may be.”

Amendment of First Schedule

19. The First Schedule to the principal Regulations is amended—

(a) by substituting for the words “District Land Administrator” wherever appearing in Form D, Form DD, Form E, Form EE, Form F and Form HH the words “Land Administrator”;

(b) by substituting for the word “Regulation” wherever appearing in Form D, Form DD, Form E, Form F, Form G, Form HH, Form I, Form L, Form M, Form N, Form Q, Form R, Form S and Form T the word “Subregulation”;

(c) by substituting for the word “Section” wherever appearing in Form G, Form HH, Form I, Form Q and Form R the word “Subsection”;

(d) by substituting for Form A the following form:

FORM A
[Subregulation 3(1)]

MALAYSIA
State of
District of

SMALL ESTATES (DISTRIBUTION) ACT 1955
DISTRIBUTION SUIT NO. OF 20...

In the Estate of deceased
Petition of (Petitioner)
of.....
..... Contact No.

PETITION UNDER SECTION 8

I, the above-named petitioner state as follows :

1. The deceased died on the day of, year
2. I am a person claiming to be interested in the said estate as Beneficiary / Creditor / Purchaser / Corporation / Settlement Officer / Penghulu / Penggawa of the Mukim of.....
(*As beneficiary, my relationship to the deceased is)
3. To the best of my knowledge and belief the deceased left a widow/widows/widower and the next-of-kin as follows:

Name	IC No. (or any other identification no.)	Address	Relationship to deceased

(If no ample space, please attach and sign the annexure)

4. The deceased was at the date of his death possessed of the following property :

A- IMMOVABLE PROPERTY

Description and No. of Title	Lot/Parcel/ PT No.	Town/ Village/ Mukim and District	Share	Address of the property

(If no ample space, please attach and sign the annexure)

B- MOVABLE PROPERTY

Description of movable property	Approximate Value

(If no ample space, please attach and sign the annexure)

C- DEBTS DUE TO DECEASED

Description of debt	Amount	Name and address of debtor

(If no ample space, please attach and sign the annexure)

5. The deceased was at the date of his death indebted as follows:

Nature of debt	Amount	Name and address of creditor

(If no ample space, please attach and sign the annexure)

6. I pray that the deceased's estate may be distributed in the manner provided by Part II of the Small Estates (Distribution) Act 1955.

7. As far as my knowledge goes, no previous application for distribution of the estate of the deceased has been made by any person and I make this solemn declaration conscientiously believing the particulars given above to be true and by virtue of the provisions of the Statutory Declarations Act 1960.

Dated at this..... day of20

Signed and solemnly declared by the
 above-named
 at
 in the State of
 dated this20

}
 Signature of Petitioner

In the presence of :

.....
 Magistrate/Commissioner for Oaths

(e) by inserting after Form A the following form:

FORM AA
 [Regulation 3A]

MALAYSIA

State of
 District of

SMALL ESTATES (DISTRIBUTION) ACT 1955
 DISTRIBUTION SUIT NO.....OF 20

In the Estate of deceased.

Petition by (name of the earlier petitioner)of
.....

SUBSTITUTION OF PETITIONER

I,.....NRIC No..... of
..... (address) claiming to be
interested in the said estate as beneficiary stated in the above petition, hereby solemnly
affirmed that the said petitioner;

*(a) had died on ; or

*(b) is incapable to represent himself due to critical illness or unsoundness of mind.

2. In lieu of the above said petitioner, I apply to be the new petitioner for the petition.

3. I hereby make this solemn declaration conscientiously believing the particular given
above to be true and by virtue of the provisions of the Statutory Declarations Act 1960.

Dated at this..... day of20

Signed and solemnly declared by the
above-named
at
in the State of
dated this.....,20

}
.....
Signature of Applicant
}

In the presence of :

.....
Magistrate/Commisioner for Oaths

*Delete as appropriate

(f) by substituting for Form B the following form:

FORM B
[Subregulation 3(1A) and 7(3A)]

PART I
NOTICE OF APPLICATION

1. Name of deceased
- Other names (if any)
2. Identification No. of deceased
3. Identification No. of deceased (NRIC) (if any)
4. Date of death

- 5. Petition number and Court
- 6. Name and right of petitioner
-

PART II
NOTICE OF ISSUE OF GRANT

- 1. Name of deceased
- Other names (if any)
- 2. Identification No. of deceased
- 3. Identification No. of deceased (NRIC) (if any)
- 4. Date of death
- 5. Petition number and Court
- 6. Date on which Grant was issued/Distribution Order made
-
- 7. Name and right of person in whose favour made
-

Date

(g) by substituting for Form C the following form:

FORM C
[Subregulation 3(2)]

MALAYSIA
PRINCIPAL PROBATE REGISTRY
SMALL ESTATES (DISTRIBUTION) ACT 1955

To:

LAND ADMINISTRATOR/
COLLECTOR/ DISTRICT OFFICER/
SARAWAK ADMINISTRATIVE OFFICER }

Name of deceased

Other names (if any)

NRIC of the deceased

(or any other identification no.)

Date of death

Petition number and Court

Name of petitioner

With reference to your notice dated in your
..... I have caused a search to be made of the record of
applications for Probate/Letters of Administration and Distribution and of grants and
find-

*(a) that an application for Distribution has been made in respect of
 order for
 the Estate in Court and that
 the number of such application is

*(b) that no previous application has been made in respect of this Estate.

.....
Registrar,
High Court, Kuala Lumpur/Kuching

Dated 20

*Delete as appropriate

(h) by substituting for Form DDA the following form:

FORM DDA
 [Regulation 4A]
 MALAYSIA

State of
 District of

SMALL ESTATE (DISTRIBUTION) ACT 1955
 DISTRIBUTION SUIT NO. OF 20.....

In the Estate of deceased
 Petition of of

LETTER OF CONSENT

I..... IC No of
 hereby solemnly
 affirmed that the above-mentioned deceased leaving estate as follows :

Immovable Property			
Description and No. of Title	Lot/Parcel/ PT No.	Town/Village/Mukim and District	Share

(If no ample space, please attach and sign the annexure)

Movable Property (e.g : cash, bank account, bond etc)

(If no ample space, please attach and sign the annexure)

2. I am a person claiming to be interested in the estate as beneficiary of the above-mentioned deceased's estate and agree the estate may be distributed as follows:

- * (a) consistent with Islamic law (*faraid*) (for Muslim) */ Distribution Act 1958 (Act 300) (for non-Muslim);
- * (b) by consensus as in Schedules below;
- * (c) surrender my whole share or interest in the estate to and I hereby declared that I shall have no rights or claims over the estate.

3. I hereby acknowledge that this Letter of Consent is not for the purpose of appointing a representative during the hearing or appointing an administrator for the above-mentioned estate of the deceased.

4. I hereby declare that the above-mentioned statement is true and fully understand the implications of my consent given herewith and signed by me.

.....
(Name of the person making the consent)

Before me,

Date:

.....
(Magistrate, Land Administrator,
Commissioner for Oaths or Notary Public)

*Delete as appropriate.

(j) by substituting for Form K1 the following form:

FORM K1

[Subregulation 10(1)]

MALAYSIA

State of

IN THE HIGH COURT AT.....

CIVIL APPEAL NO..... OF 20

DISTRIBUTION SUIT NO..... OF 20.....

In the Estate of deceased

Petition of of

NOTICE OF APPEAL

SMALL ESTATES (DISTRIBUTION) ACT 1955

(Section 29)

TAKE NOTICE that being a person aggrieved by the Order/Decision/or made/done by the * for the District of in the above-mentioned Distribution Suit on the day of 20 appeals to the High Court against either the whole of the said order/decision or such part of the order/decision as decided that

Dated this day of 20

.....

Solicitor/Appellant

To the Land Administrator/Collector/District Officer/Sarawak Administrative Officer for the District of and to

.....

* Insert Land Administrator/Collector/District Officer/Sarawak Administrative Officer. as the case may require.

(k) by substituting for Form K2 the following form:

FORM K2

[Subregulation 10(3)]

MALAYSIA

State of

IN THE HIGH COURT AT.....

CIVIL APPEAL NO..... OF 20

DISTRIBUTION SUIT NO..... OF 20.....

In the Estate of deceased

Petition of of

NOTICE TO TAKE UP RECORD

TAKE NOTICE that the appeal record in the above-mentioned proceedings is now ready and that you must, within 14 days of service of this notice:

(a) Pay to me at this office the sum of RM being the balance of cost of preparing the appeal record; and

(b) File in this office two copies of the memorandum of appeal on the form attached hereto Form K3;

and take notice that if you fail to comply with this notice within the period of 14 days above-mentioned, your appeal will be deemed to be withdrawn.

Dated this day of 20

.....
LAND ADMINISTRATOR/
COLLECTOR/DISTRICT OFFICER/
SARAWAK ADMINISTRATIVE OFFICER

Note- You must prepare sufficient copies of the Memorandum of Appeal for service on all parties interested. When you file the Memorandum of Appeal in this office you will be given copies of the Appeal Record and then it is your duty to serve a copy thereof together with a copy of the Memorandum of Appeal on the following persons, namely:

(l) by substituting for Form K3 the following form:

FORM K3
[Subregulation 10(3)]

MALAYSIA

State of

IN THE HIGH COURT AT.....

CIVIL APPEAL NO OF 20

DISTRIBUTION SUIT NO..... OF..... 20

In the Estate of..... deceased

Petition of of

MEMORANDUM OF APPEAL
SMALL ESTATES (DISTRIBUTION) ACT 1955

(Section 29)

In the matter of of

deceased of applicant.

applicant

..... a party interested hereby appeals to the High Court at against the decision of the * dated the..... day of 20 in the above suit.

2. The decision of the * above referred to was shortly as follows:

3. The grounds of appeal on which the appellant relies are as follows:

Dated at this day of 20

.....
Appellant

* Insert Land Administrator/Collector/District Officer/Sarawak Administrative Officer as the case may require.

(m) by substituting for Form P the following form:

FORM P
[Subregulation 12(1)]

MALAYSIA
State of
District of

SMALL ESTATES (DISTRIBUTION) ACT 1955
DISTRIBUTION SUIT NO. OF 20.....

In the Estate of deceased
Petition of of
.....

SUBSEQUENT APPLICATION
(Section 17)

Whereas an order has been made on the estate of the above-named deceased* I,
..... IC No. (or any other identification no)
..... of
.....
.....(address) apply to the Land
Administrator for **(please indicate specific application sought for)
.....
.....

Made this day of 20.....

.....
Applicant

* Please attach the previous order.

** Please insert the specific application sought for, example :

- (i) revocation of trustee/administrator;
- (ii) appointment of new trustee/new administrator;
- (iii) withdrawal of the caveat;
- (iv) distribution of the deceased estate which has not been declared under section 8.

(n) by deleting Form U and Form V;

(o) by substituting for Form W the following form:

FORM W

[Subregulation 14(1)]

MALAYSIA

IN THE HIGH COURT AT.....

No..... OF 20

In the Estate of deceased

Before Mr Justice

REFERENCE TO DIRECTOR GENERAL LANDS AND MINES (FEDERAL)

(Subsection 7(2), Small Estates (Distribution) Act 1955)

WHEREAS it appears that the above-named deceased was a member of a tribe within the meaning of Part III of the Small Estates (Distribution) Act 1955, or that part of the said estate was property affected by tribal custom within the scope of Part III aforesaid:

IT IS HEREBY ORDERED THAT the Proceedings herein be stayed AND THAT the matter be referred to the Director General of Lands and Mines (Federal).

Made this day of 20

.....
Registrar, High Court

* Insert District Land Administrator/Collector/District Officer/Sarawak Administrative Officer. as the case may require.

(p) by substituting for Form X the following form:

FORM X
[Subregulation 14(1)]
MALAYSIA

IN THE HIGH COURT AT.....
NO..... OF 20

In the Estate of deceased

CERTIFICATE UNDER SUBSECTION 7(2)
SMALL ESTATE (DISTRIBUTION) ACT 1955

I of Director General of
Lands and Mines (Federal), HEREBY CERTIFY that the said Estate is/is not* deemed to
be a Small Estate within the provisions of the Small Estates (Distribution) Act 1955.

Dated this day of 20

.....
Director General of Lands and
Mines (Federal)

*Delete as appropriate

Amendment of Second Schedule

20. The principal Regulations are amended by substituting for the Second Schedule
the following schedule:

SECOND SCHEDULE
[Regulation 18]

FEES

	<i>Column 1</i>	<i>Column 2</i>
(i)	Land Administrator's Order for distribution or Grant of Letters of Administration [Subregulations 7(1) and (2)] is based on estate value and calculated as follows:	
	(a) not exceeding RM1,000.00	RM10.00
	(b) exceeding RM1,000.00 to RM50,000.00	RM30.00
	(c) exceeding RM50,000.00 and above	0.2% of the estate value
	(d) Land Administrator's Order for revocation of trust deed	RM30.00 or 0.2% of the estate value whichever is higher
(ii)	Land Administrator's Order in collateral dispute [Subregulation 11(4)]	RM30.00
(iii)	Land Administrator's Order upon subsequent application [Subregulation 12(3)] are as follows:	
	(a) application for revocation of trustee, application for withdrawal of caveat, application to cancel Letters of Administration or/and application for any further order	RM30.00
	(b) Land Administrator's Order for revocation of trust deed in subsection 13(3) of the Act	RM30.00 or 0.2% of the estate value referred in the application whichever is higher
	(c) Application for an order for distribution of the property which has not been declared under section 8 of the Act	RM10.00 or 0.2% of the estate value referred in the application whichever is higher

- | | | |
|--------|---|---|
| (iv) | Copies of Land Administrator's Order supplied on application to the Administrator or the beneficiaries | Free for the first copy and RM5.00 for the second and subsequent copies |
| (v) | Copies of Land Administrator's Order required by person other than the Administrator or beneficiaries | RM30.00 for the first copy and RM10.00 for the second and subsequent copies |
| (vi) | Inclusive appeal Fee | RM50.00 |
| (vii) | (a) copy of any documents required to be copied, for first copy | RM30.00 per copy |
| | (b) for second or subsequent copies | RM10.00 per copy |
| (viii) | (a) copy of record in writing as referred to in section 12 of the Act required to be copied, for first copy | RM30.00 per folio of 100 words or part thereof |
| | (b) for second or subsequent copies | RM10.00 per folio of 100 words or part thereof. |

Made 16 October 2015
 [JKPTG(S)-700/100-1/1/1(33); PN(PU2)211/II]

DATO' SRI DR. HAJI WAN JUNAIDI BIN TUANKU JAAFAR
Minister of Natural Resources and Environment