



1 Ogos 2012
1 August 2012
P.U. (A) 232

WARTAKERAJAAN PERSEKUTUAN

*FEDERAL GOVERNMENT
GAZETTE*

KAEDAH-KAEDAH MAHKAMAH (PINDAAN) 2012

RULES OF COURT (AMENDMENT) 2012



DISIARKAN OLEH/
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AKTA MAHKAMAH KEHAKIMAN 1964

AKTA KAEDAH-KAEDAH MAHKAMAH RENDAH 1955

KAEDAH-KAEDAH MAHKAMAH (PINDAAN) 2012

PADA menjalankan kuasa yang diberikan oleh seksyen 17 Akta Mahkamah Kehakiman 1964 [*Akta 91*] dan seksyen 4 Akta Kaedah-Kaedah Mahkamah Rendah 1955 [*Akta 55*], dan dengan persetujuan Hakim Besar Mahkamah Tinggi di Malaya dan Hakim Besar Mahkamah Tinggi di Sabah dan Sarawak, Jawatankuasa Kaedah-Kaedah dan Jawatankuasa Kaedah-Kaedah Mahkamah Rendah membuat kaedah-kaedah yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Kaedah-kaedah ini bolehlah dinamakan sebagai **Kaedah-Kaedah Mahkamah (Pindaan) 2012**.

(2) Kaedah-Kaedah ini mula berkuat kuasa pada 1 Ogos 2012.

Pindaan Aturan 1

2. Kaedah-kaedah Mahkamah 2012 [*P.U. (A) 205/2012*], yang disebut sebagai “Kaedah-Kaedah ibu” dalam Kaedah-Kaedah ini, dipinda dalam Aturan 1, kaedah 4 dalam takrif “Syerif” dengan memasukkan selepas perkataan “Mahkamah Tinggi” perkataan “dan Mahkamah Rendah”.

Pindaan Aturan 5

3. Aturan 5 kaedah-Kaedah ibu dipinda dengan menggantikan kaedah 1 dengan kaedah yang berikut:

“1. Kecuali sebagaimana yang diperuntukkan dalam Kaedah-Kaedah ini dan tertakluk kepada Aturan 94, kaedah 2, prosiding hendaklah dimulakan sama ada melalui saman pemula atau melalui writ.”.

Pindaan Aturan 11

4. Aturan 11, kaedah 1(M) Kaedah-Kaedah ibu dipinda dengan memasukkan selepas perkataan “menguatkuasakan” perkataan “atau mengetepikan”.

Pindaan Aturan 12

5. Aturan 12 Kaedah-Kaedah ibu dipinda—

(a) dengan menggantikan kaedah 4(a) dengan perenggan yang berikut:

“(a) dalam hal writ yang disampaikan dalam Semenanjung Malaysia, empat belas hari selepas penyampaian writ atau, jika masa itu telah dilanjutkan oleh atau menurut Kaedah-Kaedah ini, pada masa sebagaimana yang dilanjutkan; dan”;

(b) dengan menggantikan kaedah 4(c) dengan perenggan yang berikut:

“(c) dalam hal notis writ yang disampaikan di luar bidang kuasa di bawah Aturan 11, kaedah 4, kepada dua puluh satu hari selepas penyampaian notis writ, atau dalam hal suatu writ yang disampaikan di bawah Aturan 10, kaedah 2, kepada empat belas hari selepas penyampaian writ itu atau dalam mana-mana satu hal kepada apa-apa pelanjutan masa sebagaimana yang dibenarkan selainnya oleh Mahkamah”;

(c) dalam kaedah 9, dengan memasukkan selepas perkataan “menyampaikan” perkataan “suatu notis”;

(d) dalam kaedah 10(1)(c), dengan memasukkan selepas perkataan “menyampaikan” perkataan “suatu notis”;

(e) dalam kaedah 10(5), dengan memasukkan selepas perkataan “perenggan (1)” perkataan “atau perenggan (2)”;

- (f) dalam kaedah 10(6), dengan memasukkan selepas perkataan “perenggan (1)” perkataan “atau perenggan (2)”;

Pindaan Aturan 38

6. Aturan 38, kaedah 2(1) Kaedah-Kaedah ibu dipinda dengan menggantikan perkataan “Tanpa menjejaskan keluasan kaedah 1” dengan perkataan “Walau apa pun kaedah 1”.

Pindaan Aturan 53

7. Aturan 53 Kaedah-Kaedah ibu dipinda dengan menggantikan kaedah 2(4) dengan perenggan yang berikut:

“ (4) Mana-mana orang yang mendapat kemudahan dengan keputusan, tindakan atau peninggalan berhubung dengan perjalanan kewajipan atau fungsi awam adalah berhak untuk membuat permohonan itu.”.

Pindaan Aturan 61

8. Aturan 61, kaedah 3 Kaedah-Kaedah ibu dipinda dengan menggantikan perkataan “Pejabat Pendaftaran Mahkamah Tinggi” dengan perkataan “Pejabat Pendaftaran Mahkamah” di mana-mana terdapat dalam kaedah ini.

Pindaan Aturan 69

9. Aturan 69 Kaedah-Kaedah ibu dipinda—

- (a) dengan memasukkan selepas kaedah 8(8) perenggan yang berikut:

“ (8A) Aturan 11, kaedah 5, 6 dan 8 hendaklah terpakai bagi penyampaian di luar bidang kuasa tuntutan timbang tara saman pemula, atau apa-apa perintah yang dibuat dalam tuntutan itu, di bawah perenggan (5).”; dan

- (b) dengan memasukkan selepas kaedah 12(2) perenggan yang berikut:

“ (3) Aturan 11, kaedah 5, 6 dan 8 hendaklah terpakai bagi penyampaian di luar bidang kuasa tuntutan timbang tara saman pemula, atau apa-apa perintah yang dibuat dalam tuntutan itu, di bawah perenggan (1).”.

Pindaan Aturan 71

10. Aturan 71 Kaedah-Kaedah ibu dipinda—

(a) dalam kaedah 2, dengan memasukkan selepas takrif “Pejabat Pendaftaran Utama” takrif yang berikut:

‘ “pemberian” ertinya suatu pemberian probet atau pemberian surat kuasa mentadbir, sebagaimana yang dikehendaki mengikut konteks;’;

(b) dalam kaedah 45, dengan menggantikan perkataan “saman pemula” dengan perkataan “notis permohonan”; dan

(c) dengan menggantikan kaedah 50(4) dengan perenggan yang berikut:

“ (4) Dalam apa-apa hal yang suatu petisyen di bawah peruntukan Akta Harta Pusaka Kecil (Pembahagian) 1955 dirujuk ke Mahkamah Tinggi di bawah subseksyen 8(7), Pendaftar yang kepadanya petisyen itu dirujukkan hendaklah menyifatkan petisyen itu sebagai saman pemula supaya mematuhi peruntukan Kaedah-Kaedah ini dan boleh menghendaki pembayaran fi yang sepatutnya kena dibayar sekiranya petisyen itu difailkan sebagai saman pemula dalam Mahkamah Tinggi, tetapi dalam apa-apa keadaan petisyen itu hendaklah diteruskan seolah-olah ia pada asalnya telah difailkan sebagai saman pemula dalam Mahkamah Tinggi.”.

Pindaan Aturan 85

11. Aturan 85, kaedah 1 dan 2 Kaedah-Kaedah ibu dipinda dengan menggantikan perkataan “Pendaftar” dengan perkataan “Hakim” di mana-mana jua terdapat dalam kaedah-kaedah itu.

Pindaan Aturan 94

12. Aturan 94 Kaedah-Kaedah ibu dipinda—

(a) dengan menggantikan kaedah 2(3) dengan perenggan yang berikut:

“ (3) Apa-apa permohonan yang dimulakan di bawah mana-mana undang-undang bertulis, selain yang disenaraikan dalam Lampiran C, yang adalah melalui suatu cara selain saman pemula atau writ, hendaklah disifatkan sebagai telah dimulakan melalui saman pemula dan hendaklah dikendalikan dengan sewajarnya mengikut Kaedah-Kaedah ini.”;

(b) dalam kaedah 3(1) teks bahasa Inggeris, dengan menggantikan perkataan “High Court Rules 1980” dengan perkataan “Rules of the High Court 1980”; dan

(c) dengan menggantikan kaedah 3(2) dengan perenggan yang berikut:

“ (2) Semua tindakan dan permohonan yang belum selesai yang telah dimulakan sebelum tarikh permulaan kuat kuasa Kaedah-Kaedah ini hendaklah, dari tarikh kuat kuasa Kaedah-Kaedah ini, diteruskan mengikut peruntukan Kaedah-Kaedah ini.”.

Pindaan Lampiran A

13. Lampiran A Kaedah-Kaedah ibu dipinda—

(a) dalam Borang 59—

- (i) dengan memasukkan perkataan “Dan selanjutnya sila ambil perhatian bahawa kamu dikehendaki mematuhi arahan yang berikut:” di atas perkataan “Bertarikh pada haribulan, 20”; dan
- (ii) dengan memotong perkataan “Notis ini diambil oleh plaintiff (atau sebagaimana yang berkenaan) beralamat di (nyatakan alamat). Kepada defendan (atau sebagaimana yang berkenaan)”;
 - (b) dalam Borang 159, dalam perenggan (b) butiran 2 dengan menggantikan perkataan “sepuluh ribu ringgit” dengan perkataan “dua juta ringgit”; dan
 - (c) dalam Borang 198, dalam butiran (6) “ARAHAN-ARAHAN KEPADA PLAINTIF:” dengan menggantikan perkataan “RM10” dengan perkataan “RM20”.

Pindaan Lampiran C

14. Lampiran C dipinda dengan memasukkan selepas butiran 7 butiran yang berikut:

<i>(1)</i> <i>Butiran</i>	<i>(2)</i> <i>Prosiding</i>	<i>(3)</i> <i>Undang-Undang Bertulis</i>
“8.	Prosiding di bawah Akta Cukai Pendapatan 1967	Akta Cukai Pendapatan 1967 [Akta 53]”

Dibuat 31 Julai 2012
[JK/MP 322 Jld. 11; PN(PU2)153/XIV]

Jawatankuasa Kaedah-Kaedah:

TUN ARIFIN BIN ZAKARIA
Ketua Hakim Negara, Malaysia

TAN SRI ABDUL GANI PATAIL
Peguam Negara, Malaysia

TAN SRI DATO' SERI MD. RAUS BIN SHARIF
Presiden Mahkamah Rayuan, Malaysia

TAN SRI DATO' SERI ZULKEFLI BIN AHMAD MAKINUDIN
Hakim Besar Mahkamah Tinggi di Malaya

TAN SRI DATUK SERI PANGLIMA RICHARD MALANJUM
Hakim Besar Mahkamah Tinggi di Sabah dan Sarawak

DATO' AHMAD BIN HJ. MAAROP
Hakim Mahkamah Persekutuan

DATUK ZAHARAH BINTI IBRAHIM
Hakim Mahkamah Rayuan

DATUK DR. HAJI HAMID SULTAN BIN ABU BACKER
Hakim Mahkamah Tinggi di Malaya

DATUK DAVID WONG DAK WAH
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PUAN AL-BAISHAH BINTI HJ. ABD. MANAN
Hakim Kanan Mahkamah Sesyen, Kuala Lumpur

ENCIK LIM CHEE WEE
Peguam bela, Semenanjung Malaysia

ENCIK G.B.B. NANDY @ GAANESH
Peguam bela, Sabah

ENCIK KHAIRIL AZMI BIN MOHD HASBIE
Peguam bela, Sarawak

[Akan dibentangkan di Dewan Rakyat menurut subseksyen 17(5) Akta Mahkamah Kehakiman 1964]

Jawatankuasa Kaedah-Kaedah Mahkamah Rendah:

TUN ARIFIN BIN ZAKARIA
Ketua Hakim Negara, Malaysia

TAN SRI ABDUL GANI PATAIL
Peguam Negara, Malaysia

TAN SRI DATO' SERI MD. RAUS BIN SHARIF
Presiden Mahkamah Rayuan, Malaysia

TAN SRI DATO' SERI ZULKEFLI BIN AHMAD MAKINUDIN
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Peguam bela, Sabah

ENCIK KHAIRIL AZMI BIN MOHD HASBIE
Peguam bela, Sarawak

*[Akan dibentangkan di Dewan Rakyat menurut seksyen 8 Akta Kaedah-Kaedah
Mahkamah Rendah 1955]*

COURTS OF JUDICATURE ACT 1964
SUBORDINATE COURTS RULES ACT 1955
RULES OF COURT (AMENDMENT) 2012

IN exercise of the powers conferred by section 17 of the Courts of Judicature Act 1964 [Act 91] and section 4 of the Subordinate Courts Rules Act 1955 [Act 55], and with the consent of the Chief Judge of the High Court in Malaya and the Chief Judge of the High Court in Sabah and Sarawak, the Rules Committee and the Subordinate Courts Rules Committee make the following rules:

Citation and commencement

1. (1) These rules may be cited as the **Rules of Court (Amendment) 2012**.
- (2) These Rules come into operation on 1 August 2012.

Amendment of Order 1

2. The Rules of Court 2012 [*P.U. (A) 205/2012*], which is referred to as the “principal Rules” in these Rules, is amended in Order 1, rule 4, in the definition of “Sheriff” by inserting after the words “the High Court” the words “and the Subordinate Court”.

Amendment of Order 5

3. Order 5 of the principal Rules is amended by substituting for rule 1 the following rule:

“1. Except as provided in these Rules and subject to Order 94, rule 2, proceedings shall be commenced either by originating summons or by writ.”.

Amendment of Order 11

4. Order 11, rule 1(M) of the principal Rules is amended by inserting after the word “enforce” the words “or set aside”.

Amendment of Order 12

5. Order 12 of the principal Rules is amended—

(a) by substituting for rule 4(a) the following paragraph:

“(a) in the case of a writ served within Peninsular Malaysia, to fourteen days after service of the writ or, where that time has been extended by or by virtue of these Rules, to that time as so extended; and”;

(b) by substituting for rule (4)(c) the following paragraph:

“(c) in the case of a notice of a writ served out of the jurisdiction under Order 11, rule 4, to twenty-one days after service of the notice of the writ, or in the case of a writ served under Order 10, rule 2, to fourteen days after service of the writ or in either case to such extended time as the Court may otherwise allow.”;

(c) in rule 9, by inserting after the word “serve” the words “a notice of the”;

(d) in rule 10(1)(c), by inserting after the word “serve” the words “a notice of the”;

(e) in rule 10(5), by inserting after the words “paragraph (1)” the words “or paragraph (2)”;

(f) in rule 10(6), by inserting after the words “paragraph (1)” the words “or paragraph (2)”.

Amendment of Order 38

6. Order 38, rule 2(1) of the principal Rules is amended by substituting for the words “Without prejudice to the generality of rule 1” the words “Notwithstanding rule 1”.

Amendment of Order 53

7. Order 53 of the principal Rules is amended by substituting for rule 2(4) the following paragraph:

“ (4) Any person who is adversely affected by the decision, action or omission in relation to the exercise of the public duty or function shall be entitled to make the application.”.

Amendment of Order 61

8. Order 61, rule 3 of the principal Rules is amended by substituting for the words “Registry of the High Court” the words “Registry of the Court” wherever appearing in this rule.

Amendment of Order 69

9. Order 69 of the principal Rules are amended—

(a) by inserting after rule 8(8) the following paragraph:

“ (8A) Order 11, rules 5, 6, and 8 shall apply to the service out of jurisdiction of the arbitration claim originating summons, or any order made in such claim, under paragraph (5).”; and

(b) by inserting after rule 12(2) the following paragraph:

“ (3) Order 11, rules 5, 6 and 8 shall apply to the service out of jurisdiction of the arbitration claim originating summons, or any order made in such claim, under paragraph (1)”.

Amendments of Order 71

10. Order 71 of the principal Rules are amended—

(a) in rule 2, by inserting after the definition of “Principal Registry” the following definition:

“ ‘grant” means a grant of probate or grant of letters of administration, as the context requires;”;

(b) in rule 45, by substituting for the words “originating summons” the words “notice of application”; and

(c) by substituting for rule 50(4) the following paragraph:

“ (4) In any case in which a petition under the provisions of the Small Estates (Distribution) Act 1955 is referred to the High Court under subsection 8(7) thereof, the Registrar to whom such petition is referred shall treat the petition as an originating summons so as to comply with the provisions of these Rules and may require the payment of fees which would have been payable if the petition had been filed as an originating summons in the High Court, but in all other respects the petition shall be proceeded with as though it had originally been filed as an originating summons in the High Court.”.

Amendment of Order 85

11. Order 85, rules 1 and 2 of the principal Rules are amended by substituting for the word “Registrar” the word “Judge” wherever appearing in the rules.

Amendment of Order 94

12. Order 94 of the principal Rules is amended—

(a) by substituting for rule 2(3) the following paragraph:

“ (3) Any application commenced under any written law, other than those listed in Appendix C, which is by way of a mode other than originating summons or writ, shall be treated as having been commenced by way of originating summons and shall be dealt with accordingly in accordance with these Rules.”;

(b) in rule 3(1) of the English text, by substituting for the words “High Court Rules 1980” the words “Rules of the High Court 1980”; and

(c) by substituting for rule 3(2) the following paragraph:

“ (2) All pending actions and applications that were commenced before the date of coming into operations of these Rules shall, from the date of coming into operation of these Rules, proceed in accordance with the provisions of these Rules.”.

Amendment of Appendix A

13. Appendix A of the principal Rules is amended—

(a) in Form 59—

(i) by inserting the words “And further take notice that you are required to comply with the following directions:” above the words “Dated this day of , 20”; and

(ii) by deleting the words “This notice is taken out by the plaintiff (or as may be) of (state address). To the defendan (or as may be)”;

(b) in Form 159, in paragraph (b) item 2 by substituting for the words “ten thousand ringgit” the words “two million ringgit”; and

(c) in Form 198, in item (6) of the “INSTRUCTIONS TO PLAINTIFF:” by substituting for the word “RM10” the word “RM20”.

Amendment of Appendix C

14. Appendix C is amended by inserting after item 7 the following item:

<i>(1)</i> <i>Item</i>	<i>(2)</i> <i>Proceedings</i>	<i>(3)</i> <i>Written Law</i>
“8.	Proceedings under the Income Tax Act 1967	Income Tax Act 1967 [<i>Act 53</i>]”

Made 31 July 2012

[JK/MP 322 Jld. 11; PN(PU2)153/XIV]

Rules Committee:

TUN ARIFIN BIN ZAKARIA
Chief Justice, Malaysia

TAN SRI ABDUL GANI PATAIL
Attorney General, Malaysia

TAN SRI DATO' SERI MD. RAUS BIN SHARIF
President of the Court of Appeal, Malaysia

TAN SRI DATO' SERI ZULKEFLI BIN AHMAD MAKINUDIN
Chief Judge of the High Court in Malaya

TAN SRI DATUK SERI PANGLIMA RICHARD MALANJUM
Chief Judge of the High Court in Sabah and Sarawak

DATO' AHMAD BIN HJ. MAAROP
Judge of the Federal Court

DATUK ZAHARAH BINTI IBRAHIM
Judge of the Court of Appeal

DATUK DR. HAJI HAMID SULTAN BIN ABU BACKER
Judge of the High Court in Malaya

DATUK DAVID WONG DAK WAH
Judge of the High Court in Sabah and Sarawak

PUAN AL-BAISHAH BINTI HJ. ABD. MANAN
Senior Sessions Court Judge, Kuala Lumpur

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Advocate, Sabah

ENCIK KHAIRIL AZMI BIN MOHD HASBIE
Advocate, Sarawak

*[To be laid before the Dewan Rakyat pursuant to subsection 17(5) of the Courts of
Judicature Act 1964]*

Subordinate Court Rules Committee:

TUN ARIFIN BIN ZAKARIA
Chief Justice, Malaysia

TAN SRI ABDUL GANI PATAIL
Attorney General, Malaysia

TAN SRI DATO' SERI MD. RAUS BIN SHARIF
President of the Court of Appeal, Malaysia

TAN SRI DATO' SERI ZULKEFLI BIN AHMAD MAKINUDIN
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Advocate, Sarawak

[To be laid before the Dewan Rakyat pursuant to section 8 of the Subordinate Courts Rules Act 1955]