



UNDANG-UNDANG MALAYSIA

Akta A1643

**AKTA HARTA PUSAKA KECIL (PEMBAHAGIAN)
(PINDAAN) 2022**

Tarikh Perkenan Diraja 19 Januari 2022

Tarikh penyiaran dalam *Warta* 25 Januari 2022

Hakcipta Pencetak (H)

PERCETAKAN NASIONAL MALAYSIA BERHAD

Semua Hak Terpelihara. Tiada mana-mana bahagian jua daripada penerbitan ini boleh diterbitkan semula atau disimpan di dalam bentuk yang boleh diperolehi semula atau disiarkan dalam sebarang bentuk dengan apa jua cara elektronik, mekanikal, fotokopi, rakaman dan/atau sebaliknya tanpa mendapat izin daripada **Percetakan Nasional Malaysia Berhad (Pencetak kepada Kerajaan Malaysia yang dilantik)**.

UNDANG-UNDANG MALAYSIA

Akta A1643

AKTA HARTA PUSAKA KECIL (PEMBAHAGIAN) (PINDAAN) 2022

Suatu Akta untuk meminda Akta Harta Pusaka Kecil (Pembahagian) 1955.

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DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Harta Pusaka Kecil (Pembahagian) (Pindaan) 2022.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta* dan Menteri boleh menetapkan tarikh yang berlainan bagi permulaan kuat kuasa peruntukan yang berlainan Akta ini.

Pindaan am

2. Akta Harta Pusaka Kecil (Pembahagian) 1955 [*Akta 98*], yang disebut “Akta ibu” dalam Akta ini, dipinda dengan menggantikan perkataan “Land Administrator”, di mana-mana jua terdapat termasuk dalam nota bahu dengan perkataan “Estate Distribution Officer”, kecuali dalam takrif “Land Administrator” dalam seksyen 2, seksyen 23, 24, 26B dan 26C Akta ibu.

Pindaan seksyen 2**3. Seksyen 2 Akta ibu dipinda—**

(a) dengan memotong takrif “Director General of Lands and Mines”;

(b) dengan memotong takrif “Director of Lands and Mines”;

(c) dengan memasukkan selepas takrif “distribution order” takrif yang berikut:

‘ “Estate Distribution Officer” means an officer appointed under section 2c;’;

(d) dengan memasukkan selepas takrif “Land Administrator” takrif yang berikut:

‘ “Majlis”, in relation to a State, means the Majlis Agama Islam, by whatever name called, established under any written law for the purpose of administering Islamic law;’;

(e) dengan memasukkan selepas takrif “Native Title” takrif yang berikut:

‘ “patient” means a person who is a sole beneficiary, suffering from serious illness or injury, or who is bedridden, and unable to attend any proceedings under this Act;’;

(f) dengan memotong takrif “penghulu”;

(g) dengan memasukkan selepas takrif “prescribed” takrif yang berikut:

‘ “President” means the President of Estate Distribution appointed under subsection 2A(1);

“property” means immovable property or movable property or both;’;

- (h) dalam takrif “purchaser”, dengan memasukkan selepas perkataan “whom he claims” perkataan “, or is in possession of any movable property sold by the deceased by a written agreement;”; dan
- (i) dalam takrif “valuation officer”, dengan memasukkan selepas perkataan “assistant valuation officer” perkataan “or a registered valuer under the Valuers, Appraisers, Estate Agents and Property Managers Act 1981 [Act 242]”.

Bahagian baharu IA

4. Akta ibu dipinda dengan memasukkan selepas Bahagian I bahagian yang berikut:

“PART IA

PRESIDENT OF ESTATE DISTRIBUTION, DEPUTY PRESIDENT OF ESTATE DISTRIBUTION AND ESTATE DISTRIBUTION OFFICER

Appointment and powers of President of Estate Distribution

2A. (1) The Minister shall appoint from among the Estate Distribution Officers appointed under section 2C a President of Estate Distribution.

(2) The President shall have all such powers as may be necessary for or in connection with the exercise of his powers under this Act or which are reasonably incidental to such exercise.

(3) Without prejudice to the generality of subsection (2), the powers of the President shall include the power to determine the territorial jurisdiction of any Estate Distribution Officer to deal with the distribution and administration of any estate falls within the Act and to have direct control and supervision over all the Estate Distribution Officers appointed under this Act.

Appointment of Deputy President of Estate Distribution

2B. (1) The Minister may appoint such number of Deputy Presidents of Estate Distribution from among the officers appointed under section 2c to assist the President in the exercise of his powers under this Act.

(2) If for any reason the President is unable to exercise his powers, the Minister may appoint one of the Deputy Presidents to exercise the powers of the President.

Appointment of Estate Distribution Officer

2c. The Minister may appoint from among the public officers such number of Estate Distribution Officers as may be necessary for the purpose of carrying into effect the provisions of this Act.”.

Pindaan seksyen 3

5. Subseksyen 3(2) Akta ibu dipinda—

- (a) dengan menggantikan perkataan “wholly or partly of immovable” dengan perkataan “of any”; dan
- (b) dengan menggantikan perkataan “two million” dengan perkataan “five million”.

Pindaan seksyen 4

6. Seksyen 4 Akta ibu dipinda—

- (a) dalam subseksyen (2), dengan menggantikan perkataan “district” di mana-mana jua terdapat dengan perkataan “State”;
- (b) dalam proviso kepada subseksyen (2)—
 - (i) dengan memotong perkataan “the Director of Lands and Mines where all the property is situated in one State or the Director General of Lands and Mines”;

- (ii) dengan memasukkan selepas perkataan “in another,” perkataan “the President”; dan
 - (iii) dengan menggantikan perkataan “district, notwithstanding that the property in that district consists solely of movable property” dengan perkataan “State”;
- (c) dalam subseksyen (3), dengan menggantikan perkataan “the Director of Lands and Mines or the Director General of Lands and Mines” dengan perkataan “the President”;
- (d) dalam subseksyen (4), dengan menggantikan perkataan “the Director of Lands and Mines or the Director General of Lands and Mines, as the case may be,” dengan perkataan “the President”; dan
- (e) dalam subseksyen (5)—
- (i) dengan menggantikan perkataan “district” dengan perkataan “State”; dan
 - (ii) dengan memotong perkataan “immovable”.

Pindaan seksyen 7

7. Subseksyen 7(2) Akta ibu dipinda dengan menggantikan perkataan “the Director General of Lands and Mines” di mana-mana jua terdapat dengan perkataan “the President”.

Pindaan seksyen 8

8. Seksyen 8 Akta ibu dipinda—

- (a) dalam subseksyen (1)—
- (i) dengan menggantikan perkataan “the penghulu or a Settlement Officer of the district or of the locality in which any land of which the deceased was the proprietor is situated, or the Corporation” dengan perkataan “the Corporation, or Majlis, or guardian, or next friend”;

- (ii) dengan menggantikan perkataan “district” dengan perkataan “State”; dan
 - (iii) dengan memotong perkataan “immovable”;
- (b) dalam subseksyen (2)—
- (i) dengan memotong perkataan “immovable”; dan
 - (ii) dengan memasukkan selepas perkataan “power” perkataan “or other supporting documents evidencing the statements claimed in the petition”;
- (c) dalam subseksyen (5), dengan memotong perkataan “movable”;
- (d) dalam subseksyen (6), dengan memotong perkataan “movable”;
- (e) dengan memasukkan selepas subseksyen (6) subseksyen yang berikut:
- “(6A) Notwithstanding subsection (6), where the valuation of the property for petition for distribution is more than one, the Estate Distribution Officer shall examine each valuation and decide which valuation to be applied in determining whether any estate is or is not a small estate and his decision shall be final and the valuation shall be conclusive for the purposes of this Act.”;
- (f) dalam subseksyen (8), dengan menggantikan perkataan “the Director of Lands and Mines or the Director General of Lands and Mines, as the case may require,” dengan perkataan “the President”;
- (g) dalam subseksyen (9)—
- (i) dengan menggantikan perkataan “the Director of Lands and Mines or the Director General of Lands and Mines” dengan perkataan “the President”; dan

(ii) dengan menggantikan perkataan “he shall forthwith stay all proceedings upon the petition before him until either, as the case may be, an order has been made by the Court under paragraph 5(2)(c) directing him to distribute the estate or an order has been made under subsection 4(2) conferring jurisdiction upon him” dengan perkataan “he shall strike out the petition before him and inform the petitioner accordingly”; dan

(h) dengan memasukkan selepas subseksyen (9) subseksyen yang berikut:

“(10) The Minister may, with the approval of the State Authority, by notification in the *Gazette*, appoint a date for the coming into operation of this section in relation to the Majlis.”.

Pindaan seksyen 8A

9. Seksyen 8A Akta ibu dipinda dengan menggantikan perkataan “the Corporation shall deliver” dengan perkataan “the Estate Distribution Officer shall notify the Corporation or petitioner of such case and it shall be the duty of the Corporation or petitioner to deliver”.

Seksyen baharu 8B dan 8C

10. Akta ibu dipinda dengan memasukkan selepas seksyen 8A seksyen yang berikut:

“Summary distribution

8B. (1) Where a petition for distribution is lodged or any subsequent application is filed under this Act, the petitioner or applicant may apply to the Estate Distribution Officer for a summary distribution order if the petition or application falls under the following cases:

(a) in the case of the petition, it consists only of movable property and does not exceed six hundred thousand ringgit in total value; or

(b) in the case of any subsequent application—

- (i) it consists only of movable property which has not been declared in the petition and does not exceed six hundred thousand ringgit in total value; or
- (ii) it is filed for the purpose of removing a trustee when a minor has attained age of majority.

(2) The application for an order under subsection (1) may be made as may be prescribed.

(3) Where the Estate Distribution Officer makes an order under subsection (1), the petition or subsequent application shall not be heard.

(4) A copy of an order under subsection (1) shall be served on a petitioner or applicant who shall cause such copy of the order to be served on the beneficiaries.

(5) For the purposes of this section, section 10 and subsection 13(4) shall apply.

Letters of administration *pendente lite*

8c. Pending any distribution order, letters of administration may be granted to a petitioner or any beneficiary as the Estate Distribution Officer may appoint, limited so that the administrator shall not be empowered to distribute the estate, and shall be subject to such control by, and direction of, the Estate Distribution Officer as the Estate Distribution Officer deems fit, and subject to that limitation the administrator so appointed shall have all the rights and powers of a general administrator.”.

Pindaan seksyen 9

11. Seksyen 9 Akta ibu dipinda—

(a) dalam subseksyen (1)—

(i) dengan memasukkan selepas perkataan “to be served” perkataan “on the petitioner”; dan

(ii) dengan menggantikan perkataan “upon all persons who are named in the petition as beneficiaries of or claimants to the estate or any interest therein or who appear to the Land Administrator to be interested in the distribution of the estate” dengan perkataan “and upon receiving such notice, the petitioner shall serve a copy of the notice on all persons who are named and addressed in the petition as beneficiaries of or claimants to the estate or any interest in the estate”; dan

(b) dengan memotong subseksyen (2).

Pindaan seksyen 10

12. Seksyen 10 Akta ibu dipinda—

(a) dalam nota bahu, dengan memasukkan selepas perkataan “**or persons of unsound mind**” perkataan “**or patient**”;

(b) dalam subseksyen (1)—

(i) dengan memasukkan selepas perkataan “to be a minor or a person of unsound mind” perkataan “or a patient”;

(ii) dengan memasukkan selepas perkataan “the guardian of the minor or person of unsound mind” perkataan “or the next friend of the patient”; dan

(iii) dengan memasukkan selepas perkataan “person of unsound mind” di hujung subseksyen itu perkataan “or a patient”;

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

“(2) For the purposes of subsection (1)—

(a) in relation to the appointment of a guardian, the Estate Distribution Officer shall have regard to any personal law or custom affecting the minor or person of unsound mind; and

(b) in relation to the appointment of a next friend, the Estate Distribution Officer shall have regard to any personal law or custom, and any circumstances or medical reason rendering a patient unable to represent himself.”; dan

- (d) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(3) The next friend appointed under this section shall assist the patient in any matter relating to proceedings for the distribution of the estate so far as not detrimental to the interest of the patient.”.

Pindaan seksyen 11

13. Seksyen 11 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan memotong perkataan “in his district”;
- (b) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(2A) Notwithstanding subsection (2), the Estate Distribution Officer shall have power to restrict public access to the hearing of any petition or any part of the petition if he is satisfied that it is expedient in the interests of public safety, public security or propriety, or for other sufficient reason to do so.”; dan

(c) dalam subseksyen (3)—

(i) dengan menggantikan perkataan “lot of land” dengan perkataan “property”; dan

(ii) dengan menggantikan perkataan “land” dengan perkataan “property”.

Pindaan seksyen 12

14. Seksyen 12 Akta ibu dipinda—

(a) dalam subseksyen (1), dengan memasukkan selepas perkataan “guardian” perkataan “or next friend”;

(b) dalam subseksyen (2), dengan memasukkan selepas perkataan “guardian” perkataan “or next friend”;

(c) dalam subseksyen (3), dengan menggantikan perkataan “penghulu or a Settlement Officer” dengan perkataan “person”;

(d) dalam subseksyen (6)—

(i) dengan menggantikan perkataan “occupation of any land claimed by an alleged purchaser, the date, as nearly as the evidence admits, when he went into occupation” dengan perkataan “occupation or possession of any property claimed by an alleged purchaser, the date, as nearly as the evidence admits, when he went into occupation or possession”; dan

(ii) dengan memasukkan selepas perkataan “document of title” perkataan “or other supporting documents relating to the purchase of the property”;

(e) dalam subseksyen (9), dengan menggantikan perkataan “the Director of Lands and Mines” dengan perkataan “the President”; dan

- (f) dengan memasukkan selepas subseksyen (10) subseksyen yang berikut:

“(11) Where any beneficiary whose name stated in the petition is unable to attend the hearing, the Estate Distribution Officer may direct the petitioner to submit a letter of consent in a prescribed form from the beneficiary within such time as determined by the Estate Distribution Officer.

(12) Where the letter of consent referred to in subsection (11) is not submitted, the Estate Distribution Officer may, as he thinks fit, proceed to conclude the hearing.”.

Pindaan seksyen 13

15. Seksyen 13 Akta ibu dipinda—

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

“(2) Where a petition involves a beneficiary who is a minor or a person of unsound mind, the Estate Distribution Officer shall make the following order:

- (a) the share of any minor or person of unsound mind in any immovable property to be registered in the name of a suitable person as a trustee; and
- (b) the Land Administrator or the Registrar of Titles to enter a caveat to protect the interest of the minor or person of unsound mind.”;

- (b) dalam subseksyen (4)—

- (i) dengan menggantikan perkataan “such person” dengan perkataan “such number of persons”; dan
- (ii) dengan memotong perkataan “, subject to such security as he may require and may in his discretion dispense with security”;

(c) dalam subseksyen (5)—

(i) dengan memotong perkataan “of any land registered in the name of the deceased”; dan

(ii) dengan menggantikan perkataan “the land” dengan perkataan “or transfer the property”; dan

(d) dalam subseksyen (6), dengan menggantikan perkataan “land registered in the name of the deceased” dengan perkataan “property”.

Pindaan seksyen 14

16. Subseksyen 14(2) Akta ibu dipinda dengan memotong perkataan “movable or immovable” di mana-mana jua terdapat.

Pindaan seksyen 15

17. Seksyen 15 Akta ibu dipinda—

(a) dalam subseksyen (3)—

(i) dalam perenggan (a), dengan memasukkan selepas koma bertindih di hujung perenggan itu perkataan “or”;

(ii) dalam perenggan (b), dengan menggantikan perkataan “; or” dengan noktah; dan

(iii) dengan memotong perenggan (c);

(b) dalam subseksyen (4)—

(i) dalam perenggan (a), dengan memotong perkataan “or a specified interest therein to be charged to the beneficiary for amount of his share, together with interest at such rate as may be just, not exceeding five per centum per annum, in lieu of allocating to him a proprietary interest”;

- (ii) dalam perenggan (*b*), dengan memotong perkataan “and may order, if necessary, that any such payment and interest thereon at such rate as may be just, not exceeding five per centum per annum, be secured by a charge upon any share or shares of those other beneficiaries”; dan
 - (iii) dalam proviso kepada perenggan (*bb*), dengan menggantikan perkataan “has deposited with the Land Administrator” dengan perkataan “has deposited with the Corporation”; dan
- (c) dengan memasukkan selepas subseksyen (4) subseksyen yang berikut:

“(4A) Where any beneficiary fails to agree to the sale of the land or any part of it, the Estate Distribution Officer may order the land or any part of it to be sold in such manner as may be prescribed based on the consent of the beneficiaries holding two-third majority shares on the land or any part of it.

(4B) In the exercise of the power under subsection (4A), the Estate Distribution Officer shall take into account the interest of the beneficiaries to be secured and protected.”.

Pindaan seksyen 16

18. Seksyen 16 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan menggantikan perkataan “The Land Administrator shall then arrange for the order so far as it relates to land to be registered as may be necessary and shall act under subsection (3) where applicable” dengan perkataan “The petitioner shall then arrange for the order so far as it relates to land to be registered as may be necessary and the Estate Distribution Officer shall act under subsection (3) where applicable”;

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

“(2) The Estate Distribution Officer in making a distribution order may make an order for entry of caveat and the Land Administrator or Registrar of Title, upon receiving the distribution order, shall give effect to such order accordingly.”;

(c) dalam subseksyen (3), dengan memasukkan selepas perkataan “Corporation” perkataan “or Majlis”;

(d) dalam subseksyen (4), dengan menggantikan perkataan “Corporation” di mana-mana jua terdapat dengan perkataan “Corporation or Majlis”; dan

(e) dengan memasukkan selepas subseksyen (4) subseksyen yang berikut:

“(5) The Minister may, with the approval of the State Authority, by notification in the *Gazette*, appoint a date for the coming into operation of this section in relation to the Majlis.”.

Seksyen baharu 16A

19. Akta ibu dipinda dengan memasukkan selepas seksyen 16 seksyen yang berikut:

“Amendment of order

16A. (1) Where the Estate Distribution Officer is satisfied that any order made under this Act contains clerical error, he may make such amendment on the order and the order shall be served on the petitioner.

(2) No amendment other than an amendment to correct a clerical error shall be made by the Estate Distribution Officer or any person affected by the order unless it is made in accordance with the regulations made by the Minister.”.

Pindaan seksyen 17

20. Subseksyen 17(2) Akta ibu dipinda dengan menggantikan perkataan “, the Land Administrator may either” dengan perkataan “or a person of unsound mind has been certified by a Government Medical Officer that the person is no longer a person of unsound mind, the Estate Distribution Officer may either request the Land Administrator or Registrar of Titles to”.

Penggantian seksyen 18

21. Akta ibu dipinda dengan menggantikan seksyen 18 dengan seksyen yang berikut:

“Duty of Corporation and Majlis

18. (1) Where a proprietor or owner of any property has died and no proceedings, to the knowledge of the Corporation or Majlis, have within six months of the date of death been taken to obtain a grant of probate or letters of administration or for distribution order under this Act of the estate of a deceased, the Corporation or Majlis may report the matter to the Estate Distribution Officer and the Estate Distribution Officer may thereupon request the Corporation or Majlis to lodge a petition for distribution of the estate subject to the Corporation or Majlis to obtain consent from a beneficiary to the estate of a deceased person, a creditor or a purchaser who has interest in the estate of a deceased person, as the case may be.

(2) Any fees payable under this section as may be prescribed and may be paid out of the estate.

(3) The Minister may, with the approval of the State Authority, by notification in the *Gazette*, appoint a date for the coming into operation of this section in relation to the Majlis.”.

Pindaan seksyen 19

22. Seksyen 19 Akta ibu dipinda dengan memotong perkataan “in which his district is situated”.

Pindaan seksyen 29

23. Seksyen 29 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan memasukkan selepas perkataan “High Court” perkataan “within thirty days from the date the order, decision or act is made or done”; dan
- (b) dengan menggantikan subseksyen (2) dengan subseksyen yang berikut:

“(2) For the purposes of subsection (1), the procedure in relation to such appeal shall be subject to the rules of court applicable in the High Court.”.

Penggantian Jadual Pertama

24. Akta ibu dipinda dengan menggantikan Jadual Pertama dengan jadual yang berikut:

“FIRST SCHEDULE

[Subsection 15(5)]

MATTERS TO BE TAKEN INTO CONSIDERATION BY ESTATE DISTRIBUTION OFFICER
IN DISTRIBUTING ESTATE

In the exercise of any discretion of the Estate Distribution Officer to determine whether to make a distribution order in accordance with any agreement between the beneficiaries or in settling the terms of any distribution order providing for the distribution of property, the Estate Distribution Officer shall have regard to the following considerations:

- (a) in relation to immovable property—
 - (i) dividing the land into several lots in several names may seriously diminish the value of the estate as a whole;
 - (ii) the real value of small shares, especially when represented by complicated fractions, is less than their proportionate values;
 - (iii) it is not conducive to good cultivation or to peace in a family for persons who may have conflicting interests to be undivided co-proprietors of land;

- (iv) it is greatly to the advantage of a minor or a person of unsound mind that his co-proprietors should be those most nearly related to him; and
 - (v) valuations are necessarily estimates and are only approximately correct; it is unnecessary that the estimated value of a lot should be precise amount of a beneficiary's mathematical share; it is sufficient if the estimated value of a lot substantially corresponds to a beneficiary's calculated share; and
- (b) in relation to movable property—
- (i) type of movable property whether can be divided or not; and
 - (ii) the rights to which any beneficiary or interested party is entitled to may consist in terms of the physical share of the actual movable property or its value.”.

25. Kecualian

(1) Apa-apa petisyen, permohonan, siasatan, pendengaran dan prosiding berhubung dengan pembahagian suatu harta pusaka kecil yang belum selesai sebelum tarikh permulaan kuat kuasa Akta ini hendaklah diuruskan mengikut Akta ibu sebagaimana yang dipinda oleh Akta ini.

(2) Apa-apa perintah, surat kuasa tadbir, keputusan, penentuan, arahan, perakuan, pelantikan, rujukan, tindakan dan notis berhubung dengan pembahagian suatu harta pusaka kecil yang telah dibuat, dilakukan atau dikeluarkan oleh Pentadbir Tanah di bawah Akta ibu sebelum tarikh permulaan kuat kuasa Akta ini, hendaklah disifatkan telah dibuat, dilakukan atau dikeluarkan oleh Pegawai Pembahagian Harta Pusaka dan terus berkuat kuasa.

(3) Apa-apa rayuan kepada apa-apa perintah, keputusan atau tindakan yang dibuat atau dilakukan di bawah seksyen 29 Akta ibu sebelum tarikh permulaan kuat kuasa Akta ini hendaklah, selepas tarikh permulaan kuat kuasa Akta ini, diteruskan seolah-olah seksyen 29 Akta ibu tidak dipinda oleh Akta ini.