



**SABAH**

# LAND ORDINANCE

(Sabah Cap. 68)

Together with the Subsidiary Legislation  
made thereunder

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DICETAK DI JABATAN CETAK KERAJAAN,  
OLEH DATUK HAJI NOOR ARIFFIN LOKMAN, PENCETAK KERAJAAN,  
SABAH, MALAYSIA

1976

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## LIST OF AMENDMENTS

<i>Ordinance/ Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
10/1948	46, 59	26-9-1948
G.N.S. 124/1948	Sch. IV	15-11-1948
G.N.S. 136/1949	Sch. VIII, IX	15-12-1949
G.N.S. 114/1950	50, 53 (iv)	15-8-1950
2/1953	3, 4 (definition of "Lease"), 6, 12, 17 (1), (2), (3), 35, 39, 40 (1), 48, 56, 64 (1), (2), 74, 98 (1), 122	13-2-1953
19/1953	2 (definition of "Title"), 13, 17 (ii), (iii), 18 (i), (ii), 55-63, 70 (ii) (b), (c), (iii), 71, 78, 79	30-4-1953
24/1954	4 (definitions of "Com- missioner", "Director" and "transfer"), 18 (2), 30 (2), 33 (1), 39, 41 (1), (2), 42, 43, 44 (1), (2), 47 (1), (3), 64 (2), 70 (2) (c), (3), 71 (b), 75, 78 (4)(b), 84, 119, 133, 162 (1), (2), (3), 163	26-11-1954 (G.N.S. 147/54)
11/1956	17 (4)	12-5-1956
31/1956	24	22-12-1956
11/1959	4 (definition of "minor")	14-10-1959
5/1960	79	7-4-1960
20/1960	24 (2)	1-1-1961
3/1962	51 (2)	11-5-1962
12/1962	71, Sch. XIA	22-9-1962
G.N.S. 129/1963 Art. 48 (1)	24 (1), Sch. IV	16-9-1963

<i>Ordinance/ Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
G.N.S. 139/1963	Long title, 4 (definitions of "alienate", "country land", "Crown land" and "owner"), 5, 6, 7, 8, 9 (1), 10, 12, 17 (4), 18 (1), 22, 24 (2), (3), 28 (1), (2), (3), 29 (c), 30 (1) (f), 32 (1), 36 (1), (2), (3), 41 (1) (d), 46, 47 (1), 48, 50, 53 (4), 54, 55 proviso, 56 (1) (b), (c), 57, 58, 70 (1), (2), (3), (4), 76, 78, (1), (3), (4) (b), (5), 79 (1), (2), 80, 85, 97 (1), 112 (2), 121 (2), 162 (1), (2), 164, 166, 167, Sch. III, IV, XXXVII, XXXVIII	16-9-1963
G.N.S. 87/1965	6, 10 (c), (d), 17 (4), 36 (2), (3), 41 (1) (a), 44 (1), 46 (a), 78 (1), 80, 100, 101, 110, Sch. V, IX	16-9-1963
G.N.S. 129/1963	56 (2)	16-9-1963
Art. 52 (2) (b)		1-10-1966
14/1966		1-10-1966
19/1966	17 (2)	28-12-1966
G.N.S. 3/1967	Sch. XXVIII	3-1-1967
11/1967	Sch. IX ("Kota Kina- balu" substituted for "Jesselton")	30-12-1967
4/1968	97 (1)	23-8-1968
Fed. Ord. No. 8, 1969	53 (6), 171A	9-8-1969
9/1970		24-9-1970
8/1971	53 (6), 171A	19-9-1970
G.N.S. 10/1971	Sch. VIII, X, XI, XIII, XV, XVI, XXVIII, XXXII, XXXIV	1-4-1971
8/1972	36A	27-7-1972
17/1972	97 (1) (a)	28-12-1972

## LAND

To regulate the alienation and occupation of State lands.

[13th December, 1930]

## PART I

## PRELIMINARY

1. This Ordinance may be cited as the Land Ordinance. Short title
2. (Omitted under the Revised Edition of the Laws Ordinance and the Interpretation Ordinance.)
3. Nothing except as herein specially otherwise enacted shall affect the past operation of any written law relating to land tenure heretofore in force in the Mainland or in Labuan or of any order made or the validity or invalidity of anything done or suffered or of any right, title or interest created thereunder. Saving.
4. In this Ordinance the following terms shall, if not inconsistent with the context or subject matter, have the respective meanings hereby assigned to them; Interpretation.
  - “abandonment” means the failure on the part of any holder of a title to land to use such land for the purposes for which it was alienated for such period and to such extent as may be prescribed in each case;
  - “alienate” means to lease, or otherwise dispose of State land on behalf of the Government in consideration of the payment of such rent and of such premium, if any, as may be required;
  - “charge” means any charge created on land for the purpose of securing the payment of money, and also the instrument by which the charge is created;
  - “chargee” means the person in whose favour a charge is created, and includes the person for the time being entitled to the benefit of such charge;
  - “Collector” means any Collector of Land Revenue or Assistant Collector duly appointed under this Ordinance;
  - “country land” means all State or alienated land not included within the boundaries of a town declared under this or any previous Land Ordinance;
  - “Court” means the High Court;
  - “State land” means all lands which have not been and may not hereafter be reserved for any public purpose, or which have not been and may not hereafter be leased or granted to or are not and may not hereafter be lawfully occupied by any person, and includes all lands which,

at the commencement of this Ordinance, may have become or which hereafter may become forfeited by reason of any breach of the conditions on which the same have been lawfully occupied, or which have been or may hereafter be surrendered to the Government by the lawful owner thereof;

“cultivation” with its cognate expressions means the effective use of the land for the purpose for which it was alienated;

“dealing” means any transaction of whatever nature by which land is affected under this Ordinance;

“deliver” includes to transmit by hand or post;

“Director” means the Director of Lands and Surveys or the Deputy Director of Lands and Surveys;

“guano” includes the excrement of bats and birds;

2/68. “forest produce” shall have the same meaning as that assigned to it under the Forest Enactment, 1968;

“land revenue” means every sum now due or which shall hereafter become due to the Government on account of premium or rent due in respect of land and fees of any kind chargeable under this Ordinance;

“lease” means any lease of land given on behalf of the Government;

“Malay Archipelago” shall include the State of Brunei the State of Sarawak, Singapore, the States of Malaya, the Republic of Indonesia and the Sulu Group of the Philippine Islands;

“memorandum” means the document recording any dealing, decision or order required to be registered under this Ordinance;

Cap 86. “Native Court” means the Native Court as constituted by the Native Courts Ordinance;

“Native Title” means an entry in the Native Title Register or in the Field Register under Part IV;

“owner” means the individual person, incorporated company, or body corporate, for the time being registered as the lessee of State land or as the holder of land comprised in an entry in the Native Title Register or Field Register, and includes a legally appointed trustee, executor, administrator, liquidator or Official Receiver;

“prescribed” means authorised by this Ordinance;

“Register of Titles” means the files or volumes of the original titles to land;

“Registrar” means a Registrar of Titles appointed under this Ordinance, and includes a Deputy Registrar of Titles;

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“rent” means whatever is to be rendered on account of the use or occupation of land, whether in money or in kind;

“sub-lease” includes a letting by the owner of land held under Part IV;

“survey” means emplacing boundary marks and making, recording or computing such measurements as are necessary to define the position of boundary marks or to establish the situation and area of any land;

“title” means any Lease, Provisional Lease, or entry in the Native Title Register or in the Field Register issued under the provisions of this Ordinance;

“Town Land” means all land included within the boundaries of a town declared under this or any previous Land Ordinance;

“transfer” used in connection with land or a charge means the passing of such land or charge by act of the owner or chargee or by order of the Collector or Director or of the Court, and also the memorandum in which such passing is recorded.

5. The entire property in and control of State land or land reserved for a public purpose is and shall be vested solely in the Government.

Government property in land.

6. Notwithstanding anything to the contrary contained in any written law relating to limitation of suits in force in Sabah, no unlawful occupation of State land or occupation under temporary licence for however long a period shall establish any right, title or interest in State land or create any right to demand a title to such land from Government.

Unlawful occupation not to establish any rights.

7. State land for the purpose of this Ordinance is divided in the following classes—

Classification of State land.

(a) Town Lands.

(b) Country Lands.

8. The Minister may declare any land within certain specified limits to be town land. After the date of such declaration no more land within the defined limits may be alienated, except under section 18, otherwise than in accordance with Part III.

Declaration of town land.

9. (1) Subject to any general or special direction of the Minister the Director may alienate State land on such terms or in such manner as is authorised by this Ordinance and may also impose special conditions in respect thereof to be set out in the title.

Alienation of State land.

(2) In particular such conditions may specify the particular product or class of products which or which alone is to be cultivated, and may forbid the cultivation of any particular product or class of products.

State land to whom alienable.

**10.** State land may be alienated only to—

(a) an individual person or persons:

Provided that in the case of a minor an adult person shall be added as guardian;

(b) a company, body corporate or society registered or specifically exempted from registration under any local or adopted Ordinance:

Provided that it is not prohibited by its constitution from holding land;

(c) a company or body corporate authorised to hold land incorporated outside Sabah or constituted by Royal Charter or Letters Patent of Her Britannic Majesty:

Provided that the Collector may require adequate proof of such incorporation or constitution;

(d) any other person or body which may hereafter be empowered by the Minister by rule hereunder to hold land within Sabah.

Co-proprietors.

**11.** Except in the case of land held by trustees, when land is held by co-proprietors they shall be entitled to the land in undivided shares equally, unless some other proportion shall have been registered.

Applications for State land.

**12.** Applications for State land may be made to the Director, or to the Collector, and shall be substantially in the form of Schedule III.

Enquiry as to native rights.

**13.** Upon the receipt of any application for unalienated country land it shall be the duty of the Collector to publish a notice calling upon any claimant to native customary rights in such land who is not yet in possession of a registered documentary title to make or send in a statement of his claim within a date to be specified in the notice. If no claim is made the land shall be dealt with as if no such rights existed.

Collector to decide claims.

**14.** Claims to native customary rights shall be taken down in writing by the headman or by the Collector, and shall be decided by the Collector.

Definition of customary rights.

**15.** Native customary rights shall be held to be—

(a) land possessed by customary tenure;

(b) land planted with fruit trees, when the number of fruit trees amounts to twenty and upwards to each acre;

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- (c) isolated fruit trees, and sago, rotan, or other plants of economic value, that the claimant can prove to the satisfaction of the Collector were planted or upkept and regularly enjoyed by him as his personal property;
- (d) grazing land that the claimant agrees to keep stocked with a sufficient number of cattle or horses to keep down the undergrowth;
- (e) land that has been cultivated or built on within three years;
- (f) burial grounds or shrines;
- (g) usual rights of way for men or animals from rivers, roads, or houses to any or all of the above.

16. Native customary rights established under section 15 shall be dealt with either by money compensation or by a grant of the land to the claimant and in the latter case a title shall be issued under Part IV.

Procedure when rights established.

17. (1) All dealings in land between non-natives on the one hand, and natives on the other hand, are hereby expressly forbidden, and no such dealings shall be valid or shall be recognised in any court of law unless they shall have been entered into and concluded before the 16th day of January, 1883, or in the terms of the next following clause.

Land dealings with natives.

(2) Any non-native desirous of purchasing land from a native shall address his application to the Resident or in the case of lands in the Labuan District, the District officer, who, if he sees fit to sanction such purchase, shall, if the native owner consent, require such native owner to execute a memorandum of surrender of the title and shall fix the premium and rent at which the land shall be leased by the Government to the applicant and such new lease shall be issued under Part II or III.

(3) Nothing in subsection (1) or (2) shall be held to prevent dealings in land between any non-native and a native who is the holder of a lease issued under Part II or Part III in respect of such land.

(4) Notwithstanding the provisions of this section and of section 64 it shall be lawful for the owner of land held under the provisions of Part IV to execute a memorandum of charge over such land in favour of the Sabah Credit Corporation incorporated under the provisions of the Credit Corporation Ordinance, 1955, or any bank licensed under the provisions of section 3 of the Banking Act, 1973 or any other company or body corporate approved by the Yang di-Pertua Negara, and in such case the Corporation, bank or other authorised person, for the purposes of the registration of any such charge or the exercise of any legal

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Act 102.

powers vested in it by the terms of such charge or under the provisions of this Ordinance in respect of such charge shall have and may exercise all the rights and powers as if such land were charged to a native and may transfer its interest under such charge or, if thereto entitled, cause the land to be transferred to any such persons as, having regard to the conditions of title, may obtain registration of such transaction.

Temporary titles.

**18.** (1) The Collector may issue Temporary Occupation Licences in the form of Schedule IV for the use of any State land for temporary purposes as may be specified in such licences. Any Temporary Occupation Licence issued under this subsection shall be non-transferable and shall be subject to the payment of such fee and to such other conditions as the Collector shall endorse on such licence.

(2) No such licence shall be issued for a longer period than three years:

Provided that the Collector may renew such licence from time to time for any period provided that no licence shall be extended so that the total consecutive period of such licence, including any renewals, extends beyond three years unless the Director by writing under his hand agrees to such extension.

Survey.

**19.** (1) Except as provided in subsection (2) all lots shall be surveyed, and lines, boundary stones or other landmarks be set up and kept in repair by or at the expense of the lessees to the satisfaction of the Collector.

(2) The survey of lots held under Temporary Occupation Licence may be dispensed with if the Collector shall think fit.

Boundaries how determined.

**20.** A title shall be deemed to alienate only the land within the boundaries as marked on the ground at the time of the survey on which the title is based.

Date of commencement how determined.

**21.** The date of commencement of any title shall be the date on which the selection of the block of land has been approved, unless otherwise expressly provided.

Land revenue to be paid before issue of title.

**22.** No definitive lease or title shall be issued until survey shall have been completed and all expenses and fees that may be due to Government in connection with the land comprised in the title shall have been paid by the owner:

Provided that the Minister may in particular cases or generally permit the postponement of payment of such expenses and fees on such conditions as he may deem fit.

Title to convey surface rights only.

**23.** In the absence of any express provision to the contrary, every document of title issued under the provisions of this Ordinance shall be deemed to vest in the holder



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thereof a surface right only in the land granted, and no right shall be conveyed thereby to remove beyond the boundaries of the said land, without licence, any timber or other forest produce or any earth, gravel, stones, coral, shell, guano, sand, loam or clay, or any bricks, lime, cement or other commodities manufactured from the materials aforesaid.

**24.** (1) All coal, minerals, precious stones and mineral oils are, and are deemed always to have been, reserved to the Government, together with the right to enter upon any lands and to search for, win, carry away and dispose of such articles in, on or under the same, and to resume such portions of land as may be necessary for examining or working any mines or for the removal of the products thereof, upon payment of compensation to the owner for damage to such lands or buildings thereon.

Minerals reserved to the Government.

(2) It shall be lawful, and shall be deemed always to have been lawful, for the Minister to grant licences under this Ordinance to others to search for, win, carry away and dispose of mineral oils and to grant leases of the same, together with the right to enter upon and occupy any lands for the purpose of operations under any such licences or leases, and all such other rights incidental or supplementary thereto as to him may seem proper.

(3) Every such licence or lease shall be for such period and upon such terms as the Minister may think fit, provided that such licence or lease shall be subject to the condition that the licensee or lessee shall pay reasonable compensation for all damage or injury to the property and rights of other persons which may be done or caused by such licensee, lessee or his servants or agents in exercise of the powers and liberties conferred by such licence, lease or right.

(4) In this section the expression "mineral oils" includes natural petroleum gas, bitumen, asphalt and other bituminous substances, with the exception of coal.

**25.** The Government reserves all edible birds' nests and guano and also the right at all times to enter upon any land and to take, or authorise others to take, such edible birds' nests and guano on payment of compensation for actual damage done to the property of the owner.

Birds' nests and guano reserved.

**26.** (1) Unless otherwise expressly provided in any title, the entire property in and control of the waters of all rivers, creeks, streams and watercourses, and of the seashore below high water mark is and shall be vested solely in the Government.

River and seashore reserves, and ridges of hills.

(2) The Government also has power to reserve such portion of land as may be deemed advisable along the banks of rivers, streams or creeks, or along the seashore above high water mark, or along the ridges of hills. Such reservations shall be shown on all documents of title.

Amount of compensation.

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**27.** The amount of compensation payable under sections 24, 25 and 30 shall be determined, in so far as may not be inconsistent with the provisions of these sections, in accordance with the procedure laid down in the Land Acquisition Ordinance.

Reserves for public or residential purpose.

**28. (1)** The Yang di-Pertua Negara may reserve any State lands which in his opinion are required for any public purpose or for a residential reserve. Such reservation shall fully describe the land and the purpose for which it is reserved and shall be conclusive evidence that the land is reserved for a public or residential purpose.

(2) When any land has been reserved under this or any previous Land Ordinance and such reservation has not been revoked, every disposition thereof, except for the purpose for which such reservation was made, shall be void:

Provided that the Yang di-Pertua Negara may, in any case in which a reserve has been created solely for the protection and furtherance of public works, authorise the officer for the time being having the control of such reserve to sanction the issue of leases by the Collector of the whole or any portion thereof, for any period not exceeding twenty-one years.

(3) The Yang di-Pertua Negara may revoke any such reservation in whole or in part:

Provided that except in the case of any reserve created solely for the protection and furtherance of public works, there shall be no revocation unless—

- (a) notice that it is proposed to revoke such reservation together with particulars of a time and place at which persons desiring to show cause against such revocation will be heard shall have been posted locally, and shall also have been published in two consecutive ordinary issues of the *Gazette*; and
- (b) the persons attending at the time and place so appointed shall have been heard.

Implied obligations in titles.

**29.** In every title there shall, by virtue of this Ordinance, be implied, in the absence of an express provision to the contrary, the following obligations on the part of the owner—

- (a) the owner will duly pay, at the time and place and to the person prescribed for that purpose, the rent

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specified in the title, and any other land revenue that may be or become due:

Provided that when the land is held by co-proprietors they shall be jointly and severally liable:

- (b) all landmarks by which the boundaries of such land are defined shall be duly maintained;
- (c) no portion of such land shall be used for the burial of a human body without the written authority under the Burials Ordinance.

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The aforesaid obligations shall run with the land, and shall bind the owner or owners thereof for the time being in like manner as if their name or names were substituted in the title for that of the original owner.

**30.** (1) The following specified rights are reserved to the Government—

Specific rights reserved.

- (a) the right at all times to take timber, earth, stone, clay, sand and other road-making material for the construction and repair of railways, telegraphs, roads, bridges and other public works from alienated lands on payment of compensation for actual damage sustained by the owner;
- (b) the right of making drains and sewers, constructing irrigation works and survey stations, laying down water pipes, erecting wires for telegraphs and other electric communications, and using, repairing and maintaining the same upon such land without paying compensation therefor. The officers of the Government and all persons thereunto duly authorised shall, at all reasonable times, have free access to such land for such purposes:

Provided that, where such works interfere with improvements, buildings or cultivated ground, compensation shall be allowed for disturbance or damage and the amount of such compensation shall be determined in accordance with the procedure laid down in the Land Acquisition Ordinance;

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- (c) the right to authorise others to exercise the powers reserved in paragraphs (a) and (b);
- (d) the right to resume without payment from any land held under a Provisional Lease or entry in a Field Register a section not exceeding one chain in width for the purpose of making a public road, railway, tramway, right of way, canal, irrigation channel, aqueduct, watercourse, drain or sewer through the said land in any direction provided always that reasonable compensation shall be paid to any person

for any actual damage caused to his property by exercise of such right;

- (e) the right to the Collector to cause any tree on alienated land to be felled, trimmed or removed on payment of compensation for the actual damage involved;
- (f) the right of the Collector of the district in which the land referred to is situated, on payment of compensation for the actual damage involved, to mark out over the said land a road or way to provide means of approach or access to any State land for the purpose of the removal therefrom of timber or other forest produce whether by a public servant or by any person duly authorised by the Government in that behalf, and in such case public servants and persons duly authorised as aforesaid shall for the purpose of the removal of such timber or other forest produce, but not otherwise, be entitled to the use and benefit of such road or way in the same manner and to the same extent as if the said road or way were a public road or way and the owner of the land shall not obstruct such use;
- (g) the right to the Collector and the officers duly authorised by him to have free access at all reasonable times to any alienated land.

(2) The amount of compensation payable under paragraphs (a), (d), (e) and (f) of subsection (1) shall be assessed by the Collector subject to an appeal to the Director whose decision shall be final.

Implied conditions in titles.

**31.** (1) Every title shall, by virtue of this Ordinance, be subject, in the absence of an express provision to the contrary, to the following implied conditions in respect of the land contained therein—

- (a) the land revenue due in respect of such land shall be a first charge on such land;
- (b) a Provisional Lease or Field Register shall give no claim to any area occupied in excess of the area mentioned therein;
- (c) payment of rent on the area mentioned in a Provisional Lease or Field Register shall give no right to registration of a Lease or Native Title to the whole extent of that area if on survey the area is found not to be available;
- (d) any owner of country land, whether his title be of a date prior or subsequent to the commencement of this Ordinance, may apply to the Collector of the district in which his land is situate for a right of way

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from his land over any other alienated country land to the nearest public road or a river or foreshore, or for permission to construct a drain or irrigation channel across such land, and the Collector shall deal with the application in the manner prescribed.

(2) The owner or occupier of any land over which a road or way shall be marked out under the provisions of subsection (1) (d) shall have no claim to compensation in respect thereof otherwise than as prescribed.

(3) When a right of way has been marked out under the powers conferred by section 30 or by this section the Collector shall have power to call for the production to him of any document of title involved and to endorse, or cause to be endorsed, on any such document of title a description and plan of such right of way.

32. (1) Subject to the provisions of the following subsections, the rent of all State lands sold or alienated after the coming into force of this Ordinance shall be liable to periodical revision, which may result in either enhancement or reduction.

Revision of rent.

(2) The first revision under this section may take place on or after 1st January, 1940, and subsequent revisions may take place at successive intervals of not less than thirty years.

(3) At each such revision the rent reserved to the Government in respect of any such land may be revised by the Collector, but in making such revision no improvements made by the landowner or his predecessors in title shall be taken into account.

33. (1) In the case of any owner who shall have fulfilled the condition of his lease as to cultivation, there may be endorsed on his lease and signed by the Director a memorandum to the effect that such condition has been fulfilled and that no further liability attaches to the said land in respect thereof.

Fulfilment of conditions.

(2) No memorandum endorsed on a lease under this section shall be held to bar or nullify any subsequent action that may be taken under section 36 in the event of the abandonment of the land held under the said lease.

34. (1) In the absence of an express condition to the contrary in the document of title, there shall by virtue of this section be implied in every document of title the condition that in case of a breach or default in the observance of any of the conditions of the said title, whether expressed or implied by this Ordinance, or any previous Land Ordinance, the Government may re-enter upon the land held thereunder and resume the whole or any portion thereof.

Breach of conditions.

(2) The retention by an owner of land alienated under Part III or Part IV of such an area under jungle or uncultivated as may be necessary in the opinion of Government for the purpose of protecting existing cultivation or for the proper and effectual management of the estate shall not be held to be a breach of conditions of title within the meaning of this section.

Non-enforcement of conditions not to constitute waiver.

**35.** (1) No acceptance by or on behalf of the Government of any land revenue nor any permission to occupy in expectation of registration of title nor any omission by the Government to enforce any right of resumption or escheat arising from the failure of an owner to comply with the terms of any cultivation clause or other condition of title shall be held to have operated or to operate as a waiver by the Government of any right of forfeiture or resumption or escheat accruing by reason of any breach of or default in the observance of any term or condition expressed or implied to which such title or permission may be subject.

(2) This section shall apply to all titles whether issued prior to or after the date of this Ordinance.

Abandoned land.

**36.** (1) When any land or portion of any land held under this Ordinance shall appear to the Collector to have been abandoned by the owner thereof for three years or upwards notwithstanding that rent may have been paid during the whole or any part of such period, the Collector with the sanction of the Minister may declare, by a notice substantially in the form of Schedule V published three times at least in the *Gazette*, served, if possible, upon the owner and posted on the land or in places of public resort in the district, that if the cultivation or occupation of such land or such portion thereof as may be specified is not resumed within six months, he will re-enter upon the land on behalf of the Government.

(2) At the expiration of the period so allowed the Collector shall make a report to the Yang di-Pertua Negara of the proceedings taken by him, which report shall contain a description of the land, together with the boundaries thereof, and shall state whether such cultivation or occupation shall have been resumed.

(3) Upon receipt of such report the Yang di-Pertua Negara may declare that such land or such portion thereof as may be specified has been resumed by the Government, and the same shall thereupon revert to and become the property of the Government:

Provided that when cultivation or occupation has been partially or wholly resumed in a bona fide manner at the time of the report mentioned in subsection (2), the portion

of the land so cultivated or occupied shall not be liable to resumption under this section.

(4) In the absence of special conditions—

(a) agricultural land shall be deemed to have been abandoned if not kept under cultivation to the extent of one third of its area by the owner or by any person on his behalf;

(b) residential or shop lots shall be deemed to have been abandoned if the buildings thereon shall have been demolished or not maintained for the period prescribed in a habitable or usable state of repair.

**36A.** (1) When it shall appear to the Collector that the owner of any land has left the State and for a period of ten years has been absent continuously from the State and has failed to appoint an Attorney or an agent resident in the State in relation to the said land, the Collector with the sanction of the Minister may, notwithstanding that rent may have been paid during the whole or any part of such period, declare by a notice published in the *Gazette* to that effect and that if the owner shall fail to disprove such facts within three months, he will re-enter upon the land on behalf of the Government.

Reversion where owner is absent from the State.

(2) If at the end of the three months from the date of the publication of the *Gazette*, the fact that the owner has left the State and has been absent from the State continuously for a period of ten years without appointing an Attorney or agent resident in the State in relation to the said land shall not be disproved, the Collector shall present to the Registrar a memorandum to that effect, and upon registration thereof the entire property in and control of the said land shall revert to and vest in the Government, and all rights and interests of any person thereunder shall cease.

**37.** (1) If the Collector shall at any time have reason to believe that there is no owner of any land surviving, he shall present to the Registrar a memorandum to that effect, and the Registrar shall thereupon register it as prescribed in Part V.

Reversion where no representative.

(2) Within three months from the date of such memorandum the Collector shall, by a notice in the form of Schedule VI to be published in four ordinary issues of the *Gazette* and posted, if practicable, upon the land, declare that he has reason to believe that there is no owner surviving and that if, by a date to be specified in the notice, the fact that there is no owner surviving shall not have been disproved, or no proceedings shall have been instituted for the appointment of a legal representative or successor to the late owner, the land shall be resumed by the Government.

(3) The date to be specified in the notice shall be five years from the date of the memorandum mentioned in subsection (1).

(4) If upon the specified date the fact that there is no owner surviving shall not have been disproved, and no proceedings shall have been instituted for the appointment of a legal representative or successor, the Collector shall present to the Registrar a memorandum to that effect in the form of Schedule VII, and upon registration thereof the entire property in and control of the said land shall revert to and vest in the Government, and all rights and interests of any person thereunder shall cease.

Surrender  
of title.

**38.** Land held under a title issued either before or after the commencement of this Ordinance may at any time be surrendered to the Government in accordance with the procedure laid down in section 112 and the document of title delivered up, and upon registration of such surrender as hereinafter provided, the land shall vest in the Government free of all encumbrances:

Provided that—

(a) notice of the intention to surrender shall have been served upon all persons having interests registered against the title, and they have had an opportunity of showing cause to the Collector why such surrender should not be accepted; and

(b) the Collector may refuse to accept a surrender unless all arrears of rent or other land revenue that may be due from such land shall have been paid.

Combination  
of titles.

**39.** In the absence of an express condition to the contrary in the document of title any owner of two or more contiguous lots may, subject to the provisions of any written law for the time being in force relating to Town Planning or governing the size, shape or area of land to be held under any single title, combine the same in one lot, and the title to such one lot shall be subject to such of the conditions set forth in the documents of title to the several lots as the Director may select.

Sub-division  
of titles.

**40.** (1) If the owner of any land comprised in any document of title is desirous of dividing or partitioning such land, application shall be made to the Collector to accept a surrender of such title and to issue new leases or make new entries in the Register relating to the land comprised therein in such lots as the owner may desire. The Collector shall thereupon in lieu thereof and subject to the provisions of any written law for the time being in force relating to Town Planning or governing the size, shape or area of land to be



held under any single title, issue such titles as may be required, on the terms of the original title:

Provided that all arrears of rent and charges, if any, due under the original title shall have been satisfied:

And provided further that the Collector shall apportion the rent payable to the Government in respect of each of such sub-divisions and shall enter such amounts on the new titles.

The rent, if any, reserved on each parcel shall not be less than fifty cents in the case of a lease or twenty cents in the case of a Native Title.

(2) When land is held by co-proprietors, any one of them may claim to have a partition of the land made:

Provided that if the land be subject to a charge or sub-lease no partition shall be made unless the chargee or lessee as the case may be shall have given his consent to such partition.

(3) In the absence of agreement between the parties the question of partition shall be decided, in the case of Native Titles by the Native Court, and in other cases by the Collector in accordance with rules hereunder.

**41.** (1) An appeal shall lie from any order or decision of a Collector, Settlement Officer, Surveyor or Registrar given under this Ordinance to the Director, and again from any order or decision of the Director, whether original or an appeal, to the Court: Appeal.

Provided that no appeal shall be admitted—

- (a) after the expiration of thirty days or, where any of the parties are resident outside Sabah, ninety days, from the date of the order or decision appealed against;
- (b) until the prescribed fees shall have been paid;
- (c) if it is expressly provided that the order or decision shall be final or if any other form of appeal is prescribed;
- (d) from any decision of the Director under section 9 of this Ordinance.

(2) Except as herein expressly provided, no Court shall exercise jurisdiction as to any claim or question in respect of which jurisdiction is given by this Ordinance to a Collector or the Director. Jurisdiction of Courts barred.

**42.** The Director may at any time call for the record of any case heard by any Collector or other officer under this Ordinance and may of his own motion revise or overrule the Revision.

decision given, or make such order thereon as may appear just. An appeal shall lie from any order given on such revision in accordance with the provisions of section 41.

Enforcement  
of orders

**43.** Any order or decision of a Collector or of the Director given under this Ordinance may be enforced as regards monetary payments by the procedure prescribed in Part VII:

Provided that no order for the sale of land shall be made during the pendency of any appeal that may have been instituted under section 41. Orders affecting land shall be registered as required by Part V and may be enforced under section 121.

Powers to  
enforce  
attendance  
of witnesses.

**44.** (1) For the purpose of any enquiry made by a Collector or by the Director, the Collector or Director, as the case may be, may require by a summons under his hand any person being within Sabah to attend before him and, if necessary, to produce all documents in his possession relating to any right to or interest in such land.

(2) The Collector or Director, as the case may be, may also examine upon oath, or solemn affirmation having the force of an oath, any person so summoned touching any right to such land or interest in the same.

(3) Every person so summoned or examined shall be legally bound to attend as required by the summons, and to produce all such documents as aforesaid, and to answer on oath or affirmation any lawful question put to him.

Copies of  
documents  
to be  
evidence.

**45.** A copy of any application, letter, document or instrument of any kind whatsoever relating to any purchase, reservation, grant or title in respect of land, certified as correct by the officer having the custody thereof, shall be admissible in evidence in every case in which the original would be admissible.

Yang di-  
Pertua  
Negara  
may make  
rules.

**46.** The Yang di-Pertua Negara may—

- (a) make rules\* not inconsistent with the provisions of this Ordinance for more effectually carrying out the land administration of Sabah;
- (b) add to, alter or rescind any of the forms contained in the Schedules or substitute other forms therefor or prescribe additional forms.

Appointment  
of officers.

**47.** (1) The Minister may from time to time, by notification in the *Gazette*, appoint, and when appointed cancel the

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\*See Land Rules at page 83 infra.  
Land (Temporary Planting Permit) Rules at page 111 infra.  
Rent Revision Rules, 1958 at page 115 infra.

appointment of, a Director of Lands and Surveys, a Deputy Director of Lands and Surveys and such Land Officers, Collectors, Assistant Collectors, Settlement Officers, Surveyors, Registrars and other officers, for such districts and for such duties as he may consider necessary for carrying out the provisions of this Ordinance and he may by such notification or by subsequent notification declare that any duty imposed upon or power vested in any appointee under this subsection may or shall be carried out by or exercised by any other such appointee.

(2) In any district in which there may be one or more Assistant Collectors as well as a Collector, every Assistant Collector shall exercise his powers and perform his duties in conformity with the directions of the Collector.

(3) In addition to the powers conferred upon him by this Ordinance the Director may exercise the powers of a Collector.

## PART II

### COUNTRY LANDS

**48.** Subject to any special exceptions made by the Minister in particular cases every lease under this part shall be substantially in the form of Schedule VIII, and shall be for a term not exceeding ninety-nine years.

Form of lease.

**49.** (1) If the immediate survey of any land is impracticable, the Collector may authorise the use and occupation of such land and shall thereupon issue a Provisional Lease in the form of Schedule IX subject to the conditions on which a lease would ordinarily issue.

Collector may authorise occupation pending survey.

(2) Such document shall specify the extent and describe as nearly as may be the situation of the land to which it relates, and after the survey of the land so occupied it shall be called in and cancelled and a lease issued in lieu thereof.

**50.** Subject to any general or special direction by the Minister the premium, rent and other terms upon which a lease may be granted under this Part shall be subject to the approval of the Director.

Terms for Country Land.

**51.** (1) In cases where premium is required, the situation and quality of the land and the value of the timber thereon will form the basis for calculating the amount of premium chargeable.

Premium.

(2) The premium must be paid on or before the issue of

Payment of premium.

Provided that the Collector may, in his discretion, allow premium to be paid in instalments over a period not exceeding six years. If default is made in the due payment of any premium the land shall revert to the Government and any monies paid on account thereof shall be forfeited.

Sale by  
auction in  
certain cases.

**52.** Country lands may also be disposed of in lots by public auction, the upset price, rent and other particulars being clearly stated in the conditions of sale.

Cultivation.

**53.** (1) In all cases a bona fide commencement to bring land under cultivation must be made within six months from the date of the commencement of the title.

(2) In cases where the area does not exceed 100 acres the whole area shall be brought into cultivation within three years.

(3) In cases where the area exceeds 100 acres but does not exceed 640 acres one-fifth of the total area shall be brought into cultivation during each successive year.

(4) In the case of lands exceeding 640 acres the lease shall be granted in accordance with the provisions of this Ordinance, but with such conditions as to cultivation, rent, forfeiture or otherwise as may be imposed in each case by the Minister :

Provided that in the event of the sub-division of any such lease, and the sale or transfer of any part thereof, every part so sold or transferred shall be subject to such rent per acre and to such other conditions as to cultivation, forfeiture and otherwise as the Minister may think fit in each case to impose :

And provided further that no rent shall be chargeable on sub-division of rent-free leases.

(5) In the absence of any special condition as to cultivation, every sub-division of any grant shall be subject to the provisions of subsection (2), (3) or (4) above according as the area of such sub-division does not exceed 100 acres, exceeds 100 acres but does not exceed 640 acres or exceeds 640 acres; and the date from which the cultivation clause shall take effect shall be the date of registration of such sub-division.

(6) This section shall only apply to land held under a document of title which contains no special conditions as to cultivation.

Land to  
be used  
for agri-  
cultural  
purposes  
only.

**54.** Land which has been alienated under this Part shall not be used for other than agricultural purposes except with permission of the Minister who may add or substitute such terms as he may think fit.

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PART III

TOWN LANDS

55. No Town Land shall be alienated otherwise than to the highest bidder at a public auction or auction restricted to persons declared to be competent to bid thereat:

Town Land to be alienated by auction.

Provided that the Minister may in any particular case authorise the alienation of such land without auction and in such case the terms, conditions, covenants and restrictions applicable to such alienation shall be as the Minister may direct.

56. (1) No Town Land shall be auctioned unless and until—

Terms and conditions of auction and land tenure to be approved by Minister.

- (a) the land shall have been delineated on a survey plan;
- (b) the upset price (if any) of the land to be auctioned and the terms and conditions of the auction thereof shall have been approved by the Minister;
- (c) the terms, conditions, covenants and restrictions applicable to such alienation shall have been approved by the Minister; and
- (d) a notice of the intended auction and of the terms and conditions thereof shall have been published in the *Gazette* not less than one month prior to such auction.

(2) No Government officer having any duty to perform in connection with any auction of land under this Part shall either directly or indirectly bid for, acquire or attempt to acquire any interest in the land offered at such auction without the permission of the Permanent Secretary to the Chief Minister first had and obtained.

57. Subject to any special exception made by the Minister in the form or term of any particular lease, every title to Town Land alienated under this Part shall be a Town Lease substantially in the form of Schedule VIII and shall be for a term not exceeding ninety-nine years.

Form and term of lease.

58. (Repealed.)

59. Where any Town Land has been classified under the provisions of section 58 or of any former written law or made the subject of a restrictive covenant or condition as to its use, such land shall not be used for any other purpose and any use of Town Land otherwise than in accordance with such classification, covenant or condition shall be deemed to be a breach of condition as referred to in section 34.

Use of land.

60-63. (Repealed.)

PART IV

NATIVE LANDS

Application limited to lands held by natives.

**64.** (1) This Part shall apply only to lands held by natives, and no non-native may purchase any land held under this Part, unless in accordance with the terms of section 17, or acquire any interest therein by way of charge or otherwise.

(2) In respect of any country land held in Labuan under any title by any native prior to the 31st day of December, 1952, such native may, at any time not later than the 1st day of February, 1954, apply in writing to the Director through the Collector for the district of Labuan to be registered as the owner of such land by entry in the Register of Natives Titles kept in the Labuan district under this Part and upon being satisfied that such applicant is a native and that the land is used for any of the purposes set out in subsection (2) of section 70 the Director may, upon the registration of a memorandum of surrender of the former title to such land executed by the applicant, direct the Collector for the district of Labuan to register a Native Title for such land in the name of the applicant. Every such Native Title shall be subject to payment of an annual rent at the rate of fifty cents per acre from the date of registration thereof and to such express conditions as may be imposed by the Director.

Customary tenure.  
Cap. 192.  
N.B. Ord.  
No. 3 of  
1913.

**65.** "Customary tenure" means the lawful possession of land by natives either by continuous occupation or cultivation for three or more consecutive years or by title under this Part or under the Poll Tax Ordinance\*, or Part IV of the Land Ordinance, 1913.

Rights and obligations of customary tenure.

**66.** Customary tenure shall confer upon the holder thereunder a permanent heritable and transferable right of use and occupancy in his land subject only, in addition to the general provisions of Part I of this Ordinance to—

- (a) the duty of preparing his padi fields and planting padi, cleaning, working and cultivating his garden, orchards or sago lands in such manner as may be prescribed;
- (b) the liability to give his labour free, when required by the Collector or Native Chief or Headman, for the performance of such works and duties for the common benefit of himself and neighbouring land holders as may be prescribed.

Native Title Register.

**67.** (1) A Register of Native Titles shall be kept in each district in the form of Schedule X.

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\*Poll Tax Ordinance was repealed by Ordinance No. 14 of 1962.

(2) Any native who holds his land under customary tenure without documentary title may be required by order of the Collector in writing to take out title by entry in the Native Title Register and to pay the prescribed fees for such title.

Title for land held on customary tenure.

(3) A certified copy of the entry in the Native Title Register may be issued to the owner and shall be signed by the Collector and shall have marked thereon a plan of the land to which it refers.

Extract from Register.

**68.** (1) If the immediate demarcation of any land is impracticable the Collector shall authorise by entry in the Field Register in the form of Schedule XI the use and occupancy of such land subject to the conditions which attach to title by entry in the Native Title Register, and may issue to the owner a copy of the entry in the Field Register.

Field Register.

(2) Such entry shall specify the extent and describe as nearly as may be the situation of the land to which it relates and, after the demarcation of the land so occupied, it shall be cancelled and an entry in the Native Title Register made in lieu thereof.

**69.** Claims to land based upon customary tenure shall be decided by the Collector or by the Settlement Officer acting under section 82 subject to the appeal provided for in sections 41 and 84.

Claims to land based upon customary tenure.

**70.** (1) Applications for State land under this Part shall be made to the Collector, and shall be dealt with without delay and as far as possible in the order in which they are received.

Applications for State land.

(2) No State land shall be alienated under this Part except—

For what purposes alienation allowed.

- (a) land applied for by natives for wet rice cultivation;
- (b) land applied for by natives for cultivation of foodstuffs;
- (c) land applied for by natives for any other purpose approved by the Director with the consent of the Resident.

(3) No State land shall be alienated under this Part for an area which with any other land held by the applicant under native title shall exceed in total area fifteen acres:

Limit of area.

Provided that the Director may, with the consent of the Resident of the residency in which the land is situate and, if the applicant does not ordinarily reside in such residency, of the Resident of the residency in which the applicant so

resides, alienate any area exceeding fifteen acres upon such special terms and conditions as he may think fit to impose including any conditions expressed in the consent of such Resident.

Cultivation conditions.

(4) When an application for State land under this Part has been approved, bona fide cultivation shall be commenced within six months and the whole area shall be brought into cultivation within three years. In the event of failure to comply with the terms of this subsection there shall be reserved to the Government the right to re-enter on the land in question and to resume such portions thereof as are not then under cultivation.

Rent payable.

71. Land alienated under this Part shall be free of rent for the first six years and shall thereafter be liable to an annual rent at the appropriate rate set forth in Schedule XIA. No rent shall be payable on native reserves declared under section 78 or 79:

Provided that in respect of any land alienated under this Part, other than land referred to in subsection (2) of section 64—

(a) held in the ownership of any one native the rent to be charged in respect of any area in excess of fifteen acres shall be such amount not being less than fifty cents per acre as the Resident may fix;

(b) which has previously been alienated and improved and subsequently surrendered or resumed by Government, re-alienation of such land shall be subject to such premium as the Director may fix having regard to the improvements on the land and to such rent, not being less than fifty cents per acre, as the Director may fix.

Rents due on 1st January.

72. (1) All rents fall due on the first day of January in each year but no Notice of Demand shall be issued under the provisions of Part VII in respect of any rent until the first day of May of the year the rent falls due.

Part VII to apply.

(2) Subject to the terms of this section the provisions to Part VII for the collection of land revenue shall apply of land held under this Part.

Mutations of title to be registered.

73. All mutations of title and dealings therewith shall be registered by the Collector in accordance with the procedure laid down in Part V except as herein otherwise directed, on payment of the fees prescribed for registration under this Part.



74. On the death of a native land holder the question of succession to his land held under this Part shall be decided in accordance with the provisions of the Administration of Native and Small Estates Ordinance\*

Succession  
to land.  
Cap. 1.

75. The owner of a native title may with the consent of the Director exchange his title for a lease under Part II or Part III on payment of the fees prescribed for leases under such Part, and of such premium and rent as may be imposed in each case.

Exchange  
of title.

76. In cases where a claim to customary tenure of land has been established or a claim to native customary rights has been dealt with by a grant of land and such land is held for the common use and benefit of natives and is not assigned to any individual as his private property it shall be lawful for the Minister to sanction a communal native title for such land in the name of the Collector as trustee for the natives concerned but without power of sale. Such communal native title shall be held to be a title under this Part, but shall be subject to such rent as the Minister may order.

Communal  
titles.

77. A communal title may, with the sanction of the Collector, be sub-divided and wholly or in part assigned to individual owners, who shall thereupon receive native titles in their own names. In such cases it shall be lawful for the Collector to sign a transfer on behalf of the community.

Sub-division  
of  
communal  
title.

78. The Yang di-Pertua Negara may, if he thinks it necessary to protect the present and future interests and well-being of the natives of Sabah or any community thereof, declare any area of State land, the boundaries of which have been surveyed, to be a Native Reserve for any purpose approved by him.

Native  
Reserves.

(2) Every such declaration shall—

- (a) fully describe the land declared to be a Native Reserve and for this purpose a reference to such land by its Survey Lot number shall be taken and deemed to be a full description thereof;
- (b) state the purpose for which land has been reserved;
- (c) state the term of and the conditions upon which such reservation has been made; and
- (d) be published in two consecutive issues of the *Gazette*.

\*See Small Estates (Distribution) (Amendment And Extension) Act, 1972 (Act A127).

(3) The Yang di-Pertua Negara may, if he thinks fit, appoint one or more trustees to control and manage, subject to the directions of either the Resident or District Officer as the Yang di-Pertua Negara may direct, any Native Reserve declared under this Ordinance for the purposes declared.

(4) In any case when it is proved to the satisfaction of the Resident that—

(a) a trustee so appointed refuses, neglects or fails to carry out with efficiency his duties as trustee or has died, it shall be lawful for the Resident to discharge a defaulting trustee and to appoint a new trustee in lieu of the trustee who was formerly appointed or has died; or

(b) the members of the native community in whose interest and for whose benefit a Native Reserve has been declared wilfully or without reasonable cause will not comply with the conditions to which such reserve is subject, he shall certify his opinion to the Director who shall recommend to the Yang di-Pertua Negara that such reserve be revoked.

(5) The Yang di-Pertua Negara may, if he thinks fit, at any time by order revoke and cancel the declaration of any area of State land which has been declared a Native Reserve or a Provisional Native Reservation under this or any former written law and may add to, vary or revoke any terms or conditions attached to such Reserve or Reservation.

Restriction  
on alienation  
in Reserve.

79. (1) No document of title shall be registered in respect of any land lying within a Native Reserve declared under the provisions of this or any previous Land Ordinance but the Yang di-Pertua Negara may, if he deems fit either generally or in any particular case, sanction the alienation to natives by entry in the Register of Native Titles or Field Register of any area of land within a Native Reserve declared under section 78 or under any such previous Land Ordinance to be a Native Reserve for the purpose of providing land for future cultivation by natives.

(2) The Yang di-Pertua Negara may, if he deems fit either generally or in any particular case, sanction the alienation to natives in accordance with any of the provisions of this Ordinance of any area of land lying within any provisional reservation for native use declared under the provisions of any previous Land Ordinance.

**80.** The Yang di-Pertua Negara may by notification in the *Gazette*\* and by notices locally promulgated proclaim any area or district in Sabah for settlement under this Part.

Proclamation of settlement.

**81.** It shall be obligatory on all natives claiming land within the district or area proclaimed who do not already hold a documentary title therefor, or who claim other native customary rights therein, to state their claims to the Settlement Officer or his agent either verbally or in writing within the period stated in the notification, which period shall not be less than four months from the date thereof.

Native claims to be sent to Settlement Officer.

**82.** The Settlement Officer shall enter in a register all claims submitted within the period assigned in the notification and being guided by the conditions laid down in the definitions of customary tenure and of native customary rights in this Ordinance he shall record his decision as to the ownership of the land and the claims to other native customary rights.

Settlement Officer to register and decide claims.

**83.** The Settlement Officer may if so directed order that any land, the claim to which is admitted by him under the preceding sections, shall be resumed by Government; and in such cases he shall proceed in the manner provided in the Land Acquisition Ordinance, to determine the amount of compensation to be paid:

Compensation or resumption by Government.

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Provided that no land held under a documentary title shall be liable to resumption under this section.

**84.** All land which has not been claimed or the claim to which has been rejected shall become absolutely the property of Government:

Unclaimed land to become State land.

Provided that if a claim has been rejected by the Settlement Officer, the claimant may lodge an appeal to the Director in accordance with the provisions of section 41.

**85.** The Yang di-Pertua Negara may, in the notification referred to in section 80, order that on completion of the settlement all natives whose claims to land within the area or district proclaimed have been established shall be required to take out titles under this Part and to pay the necessary fees. When the settlement has been completed no later claim to land based upon customary tenure or upon other native customary rights shall be admissible within the area or district settled.

Compulsory registration of title.

**86.** For the purposes of this Part the Collector and Settlement Officer shall have the powers assigned to Collectors and Surveyors under Part VIII.

Powers of Collector and Settlement Officer.

\*See G.N. 705/60, 360/63.

PART V

REGISTRATION

- Application of this Part.**      **87.** The provisions of this Part shall unless otherwise expressly provided apply to all dealings after the coming into operation of this Ordinance, whether the title concerned was issued prior or subsequent to the coming into operation of this Ordinance.
- No title or claim to land valid unless registered.**      **88.** No new title and no dealing with, claim to or interest in any land except land still held under native customary tenure without documentary title shall be valid until it has been registered in accordance with the provisions of this Part.
- Meaning of term registration.**      **89.** Every title shall be deemed to be registered under the provisions and for the purposes of this Ordinance so soon as the same shall have been marked by the Registrar with the folium and volume or number so as to indicate its place in the Register and every dealing shall be so deemed to be registered as soon as a memorial thereof as hereinafter described shall have been entered in the register upon the folium constituted by the existing title on the land affected.
- Titles to be in duplicate.**      **90.** All Leases, Provisional Leases and Temporary Occupation Licences shall be in duplicate, one of which shall be delivered by the Registrar to the lessee and the other retained by him.
- Separate Register to be kept.**      **91.** Separate Registers shall be kept for Leases, Provisional Leases, Native Titles, Field Registers and Temporary Occupation Licences and the Registrar shall record therein all titles and dealings required or entered in the Register.
- Continuation of titles.**      **92.** The Registrar, when in his opinion any register or issue document of title cannot for want of space or other cause conveniently bear any further endorsement, may require the owner to take a fresh issue document of title and may insert additional sheets in the Register document of title, and such fresh issue document of title shall be prepared on the terms of the original title, in the name of the owner for the time being, and shall have endorsed thereon only the memorials of any then existing registered interests. The Collector shall sign and date such endorsements, and such fresh title shall be deemed to be in continuation of and not in substitution for the original title, which shall be surrendered and destroyed.
- Register of Memorials.**      **93.** The Registrar shall keep a book to be called the Register of Memorials in which shall be entered a short description of every memorandum registered. Such book shall be in the form of Schedule XII.

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**94.** (1) Every person acquiring the possession of land or the profits thereof or any interest therein whether as purchaser or on the death of the owner, or as chargee, or otherwise, howsoever, shall give notice of such acquisition, immediately after it has taken place, to the Collector:

Notice of all changes to be given to the Collector.

Provided that no land shall be transferred or sub-leased except to an individual person or persons, company or body corporate such as is defined in section 10.

(2) The Collector on receiving such notice shall call upon the parties concerned to comply with the requirements of this Part, or shall take such action under Part VI hereof as may be required.

(3) Any person neglecting to comply with the requirements of this section within three months from the date of the dealing or transfer or acquisition of interest or omitting without reasonable excuse to comply with any order of the Collector made under subsection (2) within the time stated in such order shall be guilty of an offence against this Ordinance and shall be liable to a fine of five hundred dollars and to the payment of a sum equivalent to double the amount of any unpaid stamp duties and fees payable on the dealing and registration thereof.

**95.** All dealings shall be registered in the office in which the title concerned is registered.

Place of registration.

**96.** Any person may upon payment of the fees prescribed for registration, deliver or transmit to the Registrar a duly attested memorandum of the dealing to be registered, together with the issue document or documents of title concerned. Such memorandum may be in duplicate or more, if required by the parties concerned.

Presentation.

**97.** (1) The signature of each party to every memorandum and title shall be attested by any officer specially appointed by the Minister or by one of the following persons—

Attestation.

(a) in Sabah—

a Magistrate, Justice of the Peace, Notary Public, Commissioner for Oaths, an Advocate or the Collector;

(b) in any place within Malaysia other than Sabah or in any place within the Commonwealth—

a Magistrate, Justice of the Peace, Notary Public or Commissioner for Oaths;

(c) in any other place—

a Malaysian Consular Officer:

Provided that in the case of a document executed under seal of a company incorporated or registered under the laws of Malaysia, Singapore, Brunei or the United Kingdom of

Great Britain and Northern Ireland and bearing the signature of the secretary and at least one director of the company, attestation shall not be required.

(2) Upon receipt of such memorandum, if he be satisfied as to its authenticity, the Collector shall affix his own signature thereto and thereafter it shall be registered.

Power of Attorney.

**98.** (1) Where any memorandum purports to be signed by any person as attorney for another, such person's power of attorney shall, unless registered under the provisions of any written law providing for such registration, be attested in the manner prescribed in section 97 for the attestation of signatures, and shall be delivered with the memorandum, and it or a copy thereof shall be filed in the Land Office with the memorandum to which it refers:

Provided that in the case of a subsequent memorandum executed under the same power of attorney, it shall not be necessary to file another copy, but a reference shall be made on the memorandum to the previous dealing.

(2) The Registrar may require proof to his satisfaction of the continuance in force of any power of attorney and may reject any instrument executed under such power of attorney if such proof is not furnished.

Rejection of memorandum.

**99.** If the Registrar on examination of the document presented shall decide that it is unfit for registration or defective, he may either refuse registration or return the document for the necessary rectification or correction.

Registration how effected.

**100.** If the Registrar shall decide that the document presented is in order and fit for registration, he shall, in the absence of any lawful prohibition of registration thereof and on receiving payment of the prescribed fees, endorse upon the document of title and upon the issue copy or extract from the Register a brief memorial showing the nature of the dealing and date of registration and also, except in cases of satisfaction of charge and surrender of title for cancellation, exchange or sub-division, the names of the parties and hour of registration. Every such endorsement shall be made or attested by the Registrar and shall contain a reference to the memorandum on which it is based and its serial number in the Register of Memorials:

Provided that if the document presented is a judgment, order or decree issuing from any Collector or any court in Sabah the Registrar may refuse registration until the expiry of the period of appeal against such judgment, order or decree.

**101.** An original of every such memorandum shall be filed in the Land Office in which registration takes place: Memo-randum to be filed.

Provided that if the memorandum be a judgment, order or decree issuing from any court in Sabah or in any British possession, a true copy thereof, certified by the Registrar or other official of the said court, may be accepted in place of an original.

**102.** After registering the dealing as hereinbefore described, the Registrar shall return to the party entitled to the custody thereof the issue document of title or extract from the Register, together with the duplicate, if any, of the memorandum. Return of title.

**103.** All memorials and memoranda shall be numbered serially in order of priority of registration. For purposes of priority the time of presentation shall be taken as the time of registration, without regard to the date of execution of the memorandum, or to any express or implied or constructive notice contained in the document: Priority.

Provided that if a memorandum has been returned for correction under section 99 it shall take priority from the time it is presented afresh.

**104.** When any land is intended to be transferred or charged or sub-leased, the parties shall execute a memorandum substantially in one of the forms in Schedule XIII, XIV, XV, or XVI, with such variations as the Registrar may permit, which are necessary or desired and not inconsistent with anything in any Ordinance for the time being in force. Form of memo-randum.

**105.** Any sub-lease of land granted for a term not exceeding one year shall be valid without registration: Proviso for sub-leases.

Provided that no right to purchase the land contained in any such sub-lease shall be valid as against any subsequent purchaser of the land unless such sub-lease be registered:

And provided further that the registered owner shall be liable jointly and severally with the sub-lessee for all rents which shall become payable to the Government during the continuance of the sub-lease.

**106.** An undivided share in land may be transferred or charged, but no area not being the whole area of the land comprised in any document of title shall be transferred or charged until the land shall have been sub-divided and fresh documents of title registered for each sub-division. Undivided share and undivided part.

Transfer of  
charged  
land.

**107.** In every dealing by which any land is transferred subject to a charge, there shall be implied the following agreement by the transferee with the transferor and, so long as the transferee shall remain the owner, with the chargee, that is to say, that the transferee will pay such sums as are secured by the charge in accordance with the terms thereof, and will carry out such other conditions as are specified therein :

Provided that unless the memorandum of transfer shall have been signed also by the chargee with an express statement that the transferor is exempt from all further liability in respect of the charge, the chargee shall, in the event of the transferee failing to observe the conditions of the charge, retain the right to recover from the transferor the whole or any part outstanding of the principal and interest secured by the charge.

Release of  
one of  
several titles  
charged.

**107A.** (1) When any charge is registered against more than one title any of the titles under the charge may be released from the said charge upon registration of a memorandum substantially in the form of Schedule XVIIA hereto signed by the chargee.

(2) Such memorandum shall be attested and registered in the manner hereinbefore prescribed and the Registrar shall also cause the word "released" to be written or stamped across the memorial relating to such charge in the Register and on the titles released together with the relative memorial number and the date of release and shall also endorse on the relative memorandum of charge a memorial showing the titles released and the amount, if any, repaid.

Transfer of  
charge.

**108.** Upon the registration of the transfer of a charge, the right to recover the principal and interest secured thereunder shall be transferred so as to vest the same in the transferee.

Satisfaction  
of charge  
how effected.

**109.** When any charge has been satisfied, the chargee shall sign a memorandum substantially in the form of Schedule XVII and such memorandum shall be attested and registered in the manner hereinbefore prescribed; the Registrar shall also cause the word "satisfied" to be written or stamped across the memorial relating to such charge in the title and Register, and across the office copy of the Memorandum of Charge and shall append his signature thereto.



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**110.** If any person shall be entitled to pay off the charge and the chargee cannot be found within Sabah and there be no person authorised to give a receipt for the money, the Registrar for the district in which the charged land is situated may receive such money with all arrears then due in trust for the person entitled thereto, and may upon being satisfied that the correct amount has been paid make an order discharging such charge which order shall upon registration have the same force and effect as a satisfaction signed by the chargee.

Satisfaction in case of absence of chargee from Sabah.

**111.** If default be made in the payment of the principal sum, interest or periodical payment or any part thereof secured by a charge, or in the observance of any agreement expressed or implied in such charge, it shall be lawful for the Collector, on the application of the chargee and on being satisfied that such default has been made and has continued for the space of one month after the notice has been served by the chargee upon the chargor, in accordance with rules hereunder to order the sale by auction of the whole or any part of the land comprised in the charge.

Sale of land on application by chargee.

**112.** (1) When any title is surrendered for cancellation, exchange or sub-division, the owner shall execute a memorandum substantially in the form of Schedule XVIII which shall be registered in the manner prescribed in this Part.

Registration of surrender or cancellation of title.

(2) When any title has been cancelled the fact of such cancellation shall be endorsed upon the Register of Titles, with a reference to the number of the *Gazette* notification and date, and shall be signed by the Registrar.

**113.** No title to charged land shall be so surrendered as aforesaid without the consent thereto in writing of the chargee or chargees, and no surrender of a title whether by operation of law or by act of parties shall effect any registered sub-lease, or any unregistered sub-lease for a term not exceeding one year.

Consent to surrender by chargee or sub-leasee.

**114.** (1) An executor or administrator or person claiming by any form of succession may become the registered owner of land by the registration as provided by sections 100 and 101 of the probate or letters of administration granted to him.

Registration of title by executors, etc.

(2) A trustee in bankruptcy, or receiver of an insolvent estate, or other person claiming by any order of court or act of law, may, in like manner, become the registered owner of land upon satisfactory proof of his title thereto.

(3) Registration under subsection (1) or (2) of this section shall entitle the person registered to deal with the land comprised in his title as though he were absolute owner, but shall in nowise be held to affect or vary his fiduciary position or his responsibility to the Court which appointed him for the due performance of his duties.

Change of name.

**115.** Upon presentation of an official certificate or other sufficient proof of the change of name of an owner or chargee, such as by marriage, or by a company under the provisions of the Act or Ordinance under which it is incorporated, the Collector may register a memorial of such change of name.

Caveat.

**116.** (1) A caveat substantially in the form of Schedule XIX may be registered at any time with respect to any lands by any person claiming to be entitled to any interest in such lands, and a memorial of such caveat shall be endorsed on the register in the manner prescribed in section 100:

Provided that it shall not be necessary for the issue copy of the title to be presented for endorsement. No such caveat except a caveat by the Collector shall be in force for a period exceeding six months from the time of registration.

Notice to caveatee.

(2) Upon the registration of a caveat, the Registrar shall cause a notice of such registration to be served upon the caveatee in the form of Schedule XX.

Effect of caveat.

(3) So long as any caveat shall remain in force, the Registrar shall not register any memorandum executed by the caveatee unless such memorandum shall be in accordance with the requirements of such caveat.

Removal of caveat.

(4) The caveatee may, except in the case of a caveat by the Collector, make application to the Collector in writing to remove the caveat, and thereupon the Collector may serve a notice upon the caveator in the form of Schedule XXI requiring him to show cause why the said caveat should not be removed, and the Collector shall, after hearing the parties, make such order as he shall think just.

Caveat by Collector.

(5) The Collector may present a caveat in the form of Schedule XXII prohibiting any dealing with any land in which an interest is claimed by the Government or with regard to which it shall appear to him that an error has been made, or for the prevention of suspected fraud or improper dealing, and such caveat shall remain in force until withdrawn by the Collector or cancelled by the Court. Such caveat shall take priority over any memorandum already presented but registration of which has not been completed.

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**117.** If any document of title under which land is claimed by any person contains, in the opinion of the Collector, no means within itself of identifying with reasonable certainty the land to which it relates, or contains errors or omissions either in the original title or in later endorsements, the Collector may, by notice in writing under his hand, require such person to deliver up the same in order that such corrections or additions may be made thereto, whether by the endorsement of a plan thereon or otherwise, and such person shall be bound so to deliver up the same within one month from the date of the service of the notice. When such corrections or additions as aforesaid have been duly made the Collector shall return such document of title to the person entitled to the custody thereof.

Rectification  
of title.

**118.** (1) Except as is provided by subsections (4) and (5) any person claiming any estate or interest in land may at any time apply to the Collector for an order that any register, book or journal kept in his Land Office under this Ordinance shall be rectified, or that any entry may be made or interpolated in any such register, book or journal, or that any entry therein may be cancelled; and the Collector, after giving such notice of the application and making such enquiry as he may think fit, may either refuse such application, or, if satisfied as to the justice of the case, may make such order in reference thereto as he may think just.

Rectification  
of register,  
etc.

(2) The Assistant Collector and every other person affected by such order of the Collector shall obey the same upon being served with a copy of such order.

(3) If in the opinion of the Collector any alteration or rectification of the Register should be made, his order shall be in the form of Schedule XXIII and shall be registered in the manner prescribed in this Part.

(4) Whenever any application made by a native is based upon an alleged native custom, the Collector shall refer the matter for decision to the Native Court, and appeals shall lie as provided in the constitution of the said court.

(5) Nothing in this section shall be held to affect or vary the procedure prescribed for claims to succession to a deceased owner.

**119.** It shall be lawful for the Director at any time on his own motion to revise or over-rule the decision of the Collector, or to take such proceedings as he may deem fit for the purpose of altering, rectifying or otherwise dealing with the registration of any title.

Rectification  
by the  
Director.

**120.** (1) If any document of title is lost or destroyed the person lawfully entitled to the custody thereof together with

Loss of title.

other persons, if any, having knowledge of the circumstances may file in the Land Office of the district in which the land is situated an affidavit or statutory declaration containing a full description of such document of title and the circumstances under which it was lost or destroyed.

(2) The Collector shall thereupon cause to be published in the *Gazette* or locally in the district, for the period of not less than one or more than three months a notice in the form of Schedule XXIV.

(3) If no objection is lodged within the period stated, the Collector shall thereafter, on receipt of the prescribed fees, issue to the person lawfully entitled to the custody thereof a certified copy of the document of title, and such certified copy shall be available for all purposes and uses for which the original title so lost or destroyed would have been available, and as valid to all intents as such title:

Provided that the Collector shall not in any case issue such certified copy unless he is satisfied as to the truth of the affidavit or declaration and the good faith of the applicant for the same.

Delivery of titles for cancellation or endorsement.

**121.** (1) When any document of title or extract from the Register is forfeited or expires or is superseded or is required for the purpose of correcting any error or of endorsing any memorial thereon, the Collector may by a notice in the form of Schedule XXV served on the holder thereof require him to deliver up such document, and the holder shall thereupon be legally bound so to deliver it.

Penalty for non-delivery.

(2) If default be made in delivering up any document of title required to be delivered up under subsection (1) the Collector may impose a penalty not exceeding twenty-five dollars which penalty shall be recoverable in the manner prescribed in Part VII, and may further with the sanction of the Director declare that such title has been cancelled by the Government, and thereupon all rights and interests thereunder shall cease.

Inspection of Registers.

**122.** The Register of Title, the Register of Memorials and all instruments registered shall be open to public inspection on every working day during office hours, on payment of the prescribed fees, and shall be public documents within the meaning of the Evidence Act, 1950.

Act 56.

Official searches.

**123.** On receipt of the prescribed fee and a requisition in writing containing full particulars of the search required to be made in any of the Registers or documents referred to in the previous section the Collector or Registrar shall direct a diligent search to be made, and shall give a certificate of the result of such search to the person making the

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requisition, and every such certificate shall be receivable in evidence.

124. On payment of the prescribed fees, copies or extracts certified by the Collector or Registrar, of or from any document or Register referred to in section 122 shall be given to any person making application for the same.

Certified copies.

PART VI

*(Repealed)*

PART VII

COLLECTION OF LAND REVENUE

130. The provisions of this Part shall unless otherwise expressly provided apply to all titles whether issued prior to or after the coming into operation of this Ordinance.

Application of Part.

131. Nothing contained in this Part shall be held to vary the special provisions in Part IV with regard to rent due on Native Titles.

Proviso for Native Titles.

132. All rents shall become due on the 1st January in each year except where otherwise specially provided.

Rents when due.

133. Every sum now due or payable or which shall hereafter become due or payable to the Government on account of land revenue or any amount assessed or ordered to be paid as compensation or fine or otherwise by the Collector or Director in any order under this Ordinance, or any other sums which may be expressed in any other Ordinance to be recoverable in the manner provided for the recovery of rent or land revenue, may be recovered in the manner hereinafter provided.

Land revenue how recoverable.

134. When any such sum has fallen due and a written notice of demand, in the form of Schedule XXVIII has been served on any one of the persons liable therefor, and a period of fifteen days, or such further time as may have been allowed by the Collector, has elapsed from the date of such service without such sum having been paid or satisfied, such sum shall be an "arrear", and every person liable for it shall be a "defaulter".

'Arrear' and 'defaulter'.

135. With a view to the recovery of an arrear, the Collector may issue an attachment in the form of Schedule XXIX, and may seize, by virtue thereof, any movable property of the defaulter wherever the same may be found, and may also seize any effects or any crops to whomsoever belonging which may be found on the land in respect of which the arrear is due, and may, not less than three days after such seizure, sell the same by public auction:

Proceedings for recovery of arrear.

Provided that in the case of growing crops it shall be lawful for the purchaser to retain possession thereof on the ground until ripe, and thereafter to reap or remove the same.

Attachment of property.

**136.** (1) The attachment may be made by an officer deputed by the Collector for that purpose, who shall issue a notice, in the form of Schedule XXX and shall take an inventory of the property attached. If he is unable to execute the warrant he shall return it to the Collector with an endorsement stating the reason of his failure.

(2) Such officer shall be deemed to be a public servant within the meaning of the Penal Code.

(3) The expense of maintenance or custody of any property or thing seized under this Part shall be part of the costs of the attachment.

Attachment of property may be dispensed with.

**137.** It shall be lawful for the Collector, if he shall think fit, to dispense with the issue of a warrant of attachment under section 135 and to proceed at once against the land in the manner next hereinafter provided.

Proceedings against land.

**138.** If the arrear and costs are not paid in full within the time required in the notice issued under section 134, or have not been recovered by the sale of any movable property attached under the provisions of section 135 the Collector may proceed against the land in respect of which the arrear and costs are due.

Notice of sale.

**139.** (1) The Collector shall issue a notice of sale substantially in the form of Schedule XXXI and serve it if possible upon the defaulter, stating that after the expiration of three months from the date of the said notice the land will be sold for the recovery of arrears and costs :

Provided that no failure to serve or irregularity in serving any notice of sale under this subsection shall invalidate any sale which has been or which shall be held under the provisions of this Part or give rise to any cause of action against the Government or any officer thereof by reason of such failure or irregularity.

(2) The Collector shall also issue and post at the District Land Office or other public place, and publish in the *Gazette*, notices of sale substantially in the form of Schedule XXXII specifying the lands in respect of which rent has not been paid and notifying that such lands will be sold for the recovery of arrears and costs at a specified place and date, which date shall not be less than one month from the date of issue of the notice in each case.

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**140.** (1) Except as hereinafter provided, all lands so specified shall at the time and place notified, or on the day to which the Collector may postpone the sale, be put up to public auction by the Collector, and shall be sold to the highest bidder.

Land to be auctioned

(2) No officer employed in the Land Office of the district and no officer having any duty to perform in connection with any sale under this Part shall either directly or indirectly bid for, acquire or attempt to acquire any interest in property offered at such sale.

**141.** If any person tenders to the Collector the amount of the arrears and costs at any time previous to the sale, the Collector shall upon receipt of the same desist from all further proceedings in respect thereof.

Power to stop sale.

**142.** If at any such sale as aforesaid there shall be no bid sufficient to cover the amount due for arrears and costs, the Collector shall record the fact in the auction sale book, and shall register in the manner prescribed in Part V a memorandum in the form of Schedule XXXIII, and upon such registration being made the land shall revert to and be vested in the Government and all right, title and interest of the defaulter therein shall cease.

Procedure if sufficient bid not made. Land to revert to Government.

**143.** The proceeds of any sale under sections 135 and 139 shall be applied in the first place in satisfaction of the arrears and costs, and in the event of there being any surplus remaining, the Collector shall, if he is satisfied as to the right of any person claiming such surplus, pay the amount to such person and, if he is not so satisfied, shall place the amount on deposit in the Treasury to be held in trust for the person who may ultimately succeed in establishing his claim thereto.

Application of proceeds of sale.

**144.** The Collector shall declare at any sale under section 139 to what bidder, if any, the land has been sold, and his decision on this point shall be final, and the sale shall become final and conclusive on payment of the full amount of the purchase money.

Sale when final.

**145.** In default of the payment of purchase money or of any part thereof within the time required, the land shall be put up for re-sale, and the defaulting purchaser shall forfeit any amount already paid.

Default of payment and re-sale.

**146.** On payment of the purchase money and the prescribed fee, the Collector shall deliver to the purchaser an order in the form of Schedule XXXIV, and the purchaser shall thereupon be entitled to have the title to the land so purchased by him duly registered in his name in the manner provided in Part V without the payment of any further fee

Title conferred on purchaser.

therefor, and such registration shall have the effect of transferring to and vesting in him such land or interest free of all encumbrances created by or derived from the defaulter or his predecessor in title, except such as are expressly reserved by the Collector at the time of sale.

Notice to deliver title.

**147.** (1) The Collector may, by a notice in the form of Schedule XXV, require the defaulter or any person in possession of any document of title relating to the land which, or a part of which, has been so sold as aforesaid, to deliver to him such document of title, and such defaulter or other person shall be legally bound to comply with such notice.

(2) In any case in which it may be found impossible to recover such document of title, the Collector shall proceed in accordance with the provisions of section 121.

Penalty for dishonest and fraudulent use of title.

**148.** Any person dishonestly and fraudulently using any document of title relating to the land which, or a part of which, has been so sold as aforesaid, in a manner inconsistent with the rights of the purchaser, after service on him of the notice required by the preceding section, shall be deemed to have committed, or to have attempted to commit, the offence defined in section 415 of the Penal Code.

Application to Court against attachment.

**149.** If any person whose property, crops or land has been attached or advertised for sale under the provisions of this Part disputes the property of such attachment or sale, he may, in the case of movable property, apply to the Court of the nearest Magistrate and, in the case of immovable property, to the High Court for an order to stay the proceedings, and such Court, after hearing the Collector and making such further enquiry as may be necessary, shall make such order as may seem just.

Recovery through court.

**150.** If after the procedure prescribed by this Part has been followed the arrears together with costs and expenses have not been recovered in full the Collector may recover any balance outstanding by suit in a court of competent jurisdiction.

### PART VIII

#### DEMARICATION AND SURVEY

Application of Part.

**151.** The provisions of this Part shall, unless otherwise expressly provided, apply to all titles whether issued prior to or after the coming into operation of this Ordinance.

General powers under this Part.

**152.** Any Collector, Survey Officer or Settlement Officer may, at any reasonable time, enter upon all lands which he is required to survey or settle and upon lands contiguous



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thereto and may make all enquiries and may fix or place any stone, post, or pillar or other boundary mark in or upon the land and may dig up any ground for the purpose of fixing the same and may cut down and remove any timber or other growth which may obstruct any survey line or any boundary:

Provided that as little damage as possible shall be done to the land or to any property thereon.

**153.** (1) The Collector, Survey Officer or Settlement Officer may cause a notice, substantially in the form of Schedule XXXV, to be served on any person owning, occupying, or otherwise interested in any such land and any land abutting thereon or on any person employed on or connected with such land requiring such person to attend before him at a time and place to be stated in the notice for the purpose of pointing out the boundaries of such land or rendering aid in setting up or repairing the boundary marks or of affording assistance or information for the purpose of the survey or settlement.

Notice to procure attendance.

(2) Every person upon whom such notice may be served shall be legally bound to attend as required by the notice and, so far as he may be able, to do any of the things mentioned therein.

**154.** The Collector, Survey Officer or Settlement Officer may cause a notice, substantially in the form of Schedule XXXVI, to be served on any owner or occupier of or applicant for such lands requiring him to clear any boundary line or to cut any line which may be necessary for the purposes of survey or to provide labour or otherwise assist in such work; and if it is necessary to employ hired labour for such purposes the surveyor may assess and recover from such owner, occupier or applicant the cost of the same.

Clearing of boundary lines.

**155.** (1) If it is necessary to remove or destroy any trees, fences, crops or other property of value in order to effect the clearance of any line, the surveyor shall assess the value of the same and shall pay or tender the amount so assessed to the owners thereof.

Compensation for injury done by clearance.

(2) The assessment shall be made before the property is removed or destroyed.

(3) Any dispute regarding the sufficiency of the amount so paid or tendered shall be referred to the Collector for decision.

Notice to persons to give information or to produce documents.

**156.** (1) The Collector, Survey Officer or Settlement Officer may issue a notice, substantially in the form of Schedule XXXV, calling upon any person who can give any information respecting the boundaries of the land, or in whose possession or power any document relating to such boundaries is alleged to be, to attend before him and give such information or produce such document on a date and at a place to be mentioned in the notice.

(2) Every person on whom such notice is served shall be legally bound to attend and to give such information and to produce such document as is required by the notice.

Boundary marks to be erected.

**157.** (1) The Collector, Survey Officer, or Settlement Officer may after making due enquiry mark out the boundaries of the land and may, unless permanent boundary marks of a suitable description have already been erected, cause the same to be erected in such manner and number as he may consider sufficient, and may recover the cost thereof from the owner.

(2) No sub-division or combination of existing titles shall be allowed which contravenes the provisions of any approved town plan or any Town Planning or other Ordinance for the time being in force and affecting the land sought to be divided or combined.

Power to re-erect and repair boundary marks.

**158.** Whenever a Collector becomes aware that any boundary mark in his district has been injured, destroyed or removed he may cause the same to be replaced or repaired and may recover the expenses of so doing from the person who is bound to preserve such mark.

Duties of headmen.

**159.** It shall be the duty of every headman to report immediately to the Collector any boundary mark found to be defaced, obliterated, moved, altered, injured, missing or otherwise impaired, destroyed or rendered useless.

Removal of or interference with survey and land marks.

**160.** (1) No landmark, boundary mark, trigonometrical station, semaphore or other survey mark shall be defaced, obliterated, moved, injured or otherwise impaired, destroyed or rendered useless, except by a person duly authorised thereto by the officer having control of such station or mark, and any person acting in contravention of this section shall be liable, upon conviction by a Magistrate, to the penalty provided by the Penal Code and may further be ordered to pay a sum not exceeding three times the cost of repairing or replacing such station or mark and of making any survey rendered necessary by the act for which such conviction was had, the amount to be recovered by the process provided for the recovery of fines.

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(2) If any person shall have occasion to require the temporary or permanent removal or alteration of any such station or mark he shall make an application in writing to that effect to the officer having control of the same, setting forth the reasons for such application, whereupon such officer may comply with such application and shall be entitled to recover from the applicant the cost of such work as may be thereby entailed.

**161.** If at any time the owner of any land which shall have been surveyed is called upon to point out or define his boundaries and shall neglect or be unable to do so, it shall be lawful for the Collector after fourteen days notice to survey and define the said boundaries and to recover from the owner of the land the cost of such work as may be thereby entailed:

Collector may order boundaries to be defined.

Provided that such cost shall not exceed the sum of one dollar and twenty-five cents per chain of lineal measurement.

**162.** (1) The Director shall cause such computations to be made from the records of the surveying officer as may be necessary, in the opinion of the Minister, to prove the accuracy of the survey of the land and the accurate emplacement thereon of the boundary marks together with the dimensions of the land surveyed, and shall cause such computations or measurements to be made as shall define the geographical position of the land surveyed to the satisfaction of the Minister.

Duties of Director.

(2) The Director shall cause to be prepared a plan embodying, in such form as the Minister may direct, the measurements and dimensions obtained by the surveying officer.

(3) The Director shall be responsible for the safe keeping of all records of survey.

**163.** The fees leviable for surveys shall be as prescribed\* but it shall be lawful for the Director in special cases to charge for surveys by lineal measurement at the special rate prescribed.

Survey fees.

PART IX

TRESPASSES AND PENALTIES

**164.** It shall be lawful for a Magistrate, upon the information of the Collector or other public servant charging any person or persons with being in unlawful occupation

Information of unlawful occupation.

\*See Land Rules at page 83 infra.

of State land or land reserved for a public purpose, to issue a summons for the appearance before him of the party or parties so informed against, and of any other person or persons whom it may be necessary or proper to examine as a witness or witnesses on the hearing of any such information.

Removal of  
unlawful  
occupants.

**165.** (1) The Magistrate shall proceed in a summary way, in the presence of the parties, or, in case of wilful absence of any person against whom such information shall have been laid, then in his absence, to hear and determine such information; and, on being satisfied of the truth thereof, such Magistrate shall issue his warrant, addressed to any police officer, requiring him forthwith to dispossess and remove such person from such land and on behalf of the Government to take possession of the land, together with all crops growing thereon and all buildings and immovable property upon and affixed thereto and the person to whom such warrant is addressed shall forthwith carry the same into execution.

(2) The said information, summons and warrant may be in the form or to the effect, respectively, of Schedules XXXVII, XXXVIII and XXXIX.

Penalties  
for unlawful  
occupation.

**166.** Any person who shall be found after due warning unlawfully occupying any State land, or land reserved for a public or residential purpose, either by residing or by erecting any house, hut or other building thereon, or by clearing, enclosing or cultivating any part thereof or cutting timber or produce thereon, or who shall directly or indirectly abet the commission of such act or trespass by another person, shall be guilty of an offence under this Ordinance and shall be liable to a fine of two hundred dollars, or, in default of the payment thereof, to imprisonment for six months.

Penalty for  
unlawful  
grazing.

**167.** Any person who shall graze animals on State land or land reserved for a public or residential purpose except under and in accordance with the terms of a permit issued by the Collector shall be guilty of an offence against this Ordinance and shall be liable to a fine of fifty dollars.

Penalty for  
other  
offences.

**168.** Any person not licensed or otherwise authorised in that behalf under section 23, 24, 25, or 30 who shall cut, dig or take from any land any product in such section mentioned, or remove or sell the same, shall be guilty of an offence against this Ordinance and shall be liable to a fine of five hundred dollars, or in default or payment thereof, to imprisonment for six months.

**169.** (1) It shall be lawful for the Magistrate before whom any person shall be convicted of an offence under section 166, 167 or 168 to order such person to pay, in addition to any fine which shall have been imposed for such offence, the value of any timber or other property cut down, destroyed or injured upon such land during any period of the unlawful occupation thereof by such person, and the expense of any survey which shall have become necessary for proving such unlawful occupation or for ascertaining the extent thereof.

Recovery of expenses

(2) For the purpose of ascertaining such value and expense, a certificate under the hand of the Collector shall be held until the contrary be proved, to be proof that the sum therein set down is the true amount to be recovered from such person in respect of such value and expenses as aforesaid, Any sum so ordered to be paid may be recovered by the process provided for the recovery of fines.

**170.** Any person offending against the provisions of any section of this Ordinance or of any rule made thereunder for which no penalty is expressly provided, shall be liable, on conviction before a Magistrate, to a fine of one hundred dollars, or in default of the payment thereof to imprisonment for four months.

Penalties not otherwise provided.

**171.** Every unauthorised interference with or encroachment on any public road, street, highway or waterway by a building or other erection, or by enclosure or planting, or by filling up or obstructing any ditch, or by making any drain or watercourse, or by breaking up or injuring such road, street, highway or waterway or otherwise, shall be immediately abated and removed on the written order of the Collector, and the person or persons offending may be ordered on conviction before a Magistrate to pay such damages as the Magistrate shall order and the expenses of such abatement.

Encroachment on road, etc., may be abated.

**171A.** (1) When the alienation of State land or state rights in land has been approved or granted subject to such provisions and conditions contained in this Ordinance or any previous Land Ordinance and subject to such terms and conditions as may be imposed by the Director or a Collector to be set out in the title or an agreement, a breach or default in the observance of any of such provisions, terms or conditions shall render the owner or prospective owner of such land or rights in land liable, on conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or to both.

Penalties for breach of provision, term or condition, etc.

(2) This section shall apply to all titles or agreements whether issued or entered into by the Director or a Collector prior to or after the date of this Ordinance.

Repeal.  
S. S. Cap. 6.

172. The Labuan Ordinance of the Straits Settlements and all rules, regulations, orders, appointments, notifications and forms made, issued and prescribed thereunder are hereby repealed, revoked and cancelled:

Cap. 119.

Provided that for the purposes of the Reconstitution of Land Office Records (Labuan) Ordinance, and for no other purpose, such Ordinance, rules, regulations, orders, appointments, notifications and forms shall be deemed to continue in operation until such date as the Governor may appoint.

SCHEDULES I AND II

(Omitted under the Revised Edition of the Laws Ordinance and the Interpretation Ordinance)

SCHEDULE III

(Section 12)

APPLICATION FOR STATE LAND

Application No. of 19 District.  
Received by me this day of 19

.....  
Collector.

Sir,

I/We beg to apply for acres of land at of which a description and sketch is given overleaf for the purpose of to be held on terms.

2. I/We hold the following lands alienated before 1st May, 1927:

TITLE	DISTRICT	AREA	FORM OF CULTIVATION	AREA CULTIVATED
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and I/We hold, or have held, the following titles alienated after 1st May, 1927.

TITLE	DISTRICT	AREA	FORM OF CULTIVATION	AREA CULTIVATED
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3. My/Our full name(s) and address(es) is/are:

4. The address to which any communication concerning this application may be sent by post is:

I am/We are, Sir,

Your obedient servant(s).