



LAWS OF SARAWAK

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Chapter 22

NATIVE CUSTOMS (DECLARATION) ORDINANCE, 1996

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**NATIVE CUSTOMS (DECLARATION)
ORDINANCE, 1996**

Date Passed by Dewan Undangan Negeri	23rd November, 1996
Date of Assent	2nd December, 1996
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Chapter 22
NATIVE CUSTOMS (DECLARATION) ORDINANCE, 1996

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Chapter 22

NATIVE CUSTOMS (DECLARATION) ORDINANCE, 1996

An Ordinance to provide for the codification of native customs and to declare the legal status of such codes and for related matters.

[12th December, 1996]

WHEREAS certain customs of the several native races of Sarawak have always constituted a part of the laws of Sarawak:

AND WHEREAS some of such customs have from time to time been compiled and published and such codes of native customs have been recognized by the courts as the customary law of the native races concerned:

AND WHEREAS it is expedient that express statutory provisions should be made for regulating the codification of such native customs and for the publication of authorized version of any native customary laws that have been so codified:

NOW, THEREFORE, BE IT ENACTED by the Legislature of Sarawak as follows:

Short title

1. This Ordinance may be cited as the Native Customs (Declaration) Ordinance, 1996.

Interpretation

2. In this Ordinance—

“Chief”, “community”, “customary laws” and “Headman” shall have the meanings attributed to them by the Native Courts Ordinance, 1992 [*Ord. No. 9/92*];

“code” means a code of native customs compiled and published under this Ordinance or by the Majlis Adat Istiadat Sarawak with the authority of the Majlis Mesyuarat Kerajaan Negeri prior to the enactment of this Ordinance;

“Majlis Adat Istiadat Sarawak” means the Majlis established under section 3 of the Majlis Adat Istiadat Sarawak Ordinance, 1977 [*Ord. No. 5/77*];

“native race” means a race included in the Schedule to the Interpretation Ordinance, 2005 [*Cap. 61*].

Majlis Adat Istiadat Sarawak may publish codes

3. The Majlis Adat Istiadat Sarawak may, after consultation with the Chiefs and Headmen of the native community concerned, and with the approval of the Majlis Mesyuarat Kerajaan Negeri, compile and publish codes of the customs of any of the native races of Sarawak.

Application of a code

4.—(1) A code may apply in respect of the customs of one or more native races or the whole or any part of a native race.

(2) Where the customs of any native race vary in respect of different districts or areas in the State, a different code may be published in respect of every such district or area.

Contents of codes

5. A code may—

- (a) specify a date as from which it shall take effect;
- (b) prescribe and define offences and fix penalties or maximum or minimum penalties therefor;
- (c) prescribe and define civil wrongs and fix the amount of compensation or damages to be awarded therefor or the manner of assessment of such compensation or damages;
- (d) prescribe the classes of cases within the jurisdiction of the respective native courts;

(e) provide as to whether the version prepared in the native language of any native community or the English version is to be the authorized version of such code; and

(f) provide for any other matter in connection with the customs of the native race in respect of which the code is compiled.

Amendment of a code

6.—(1) Where the Majlis Adat Istiadat Sarawak is satisfied that—

(a) there has been an error in any code or in the translated version thereof; or

(b) there has been an inadvertent omission of any recognized custom in any code; or

(c) after consultation with the Chiefs and Headmen of the native community concerned, any custom contained in a code should no longer be practised or is obsolete,

it may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, by order published in the *Gazette*, either rectify the error or include any custom that has been omitted or delete any custom in any code which is to be abolished or is declared to be obsolete.

(2) Save as aforesaid, no amendment shall be made to any code.

Codes may not be questioned by court

7.—(1) Where a code has been published under this Ordinance, it shall be conclusive as to the customs of the native race in respect of which it was compiled and its correctness shall not be questioned in any court whatsoever.

(2) No code or amendment of a code shall be held invalid by reason only of the failure of the Majlis Adat Istiadat Sarawak to consult with one or more of the Chiefs or Headmen of the native community concerned before publication.

Guide on practice or observance of custom

8. The Majlis Adat Istiadat Sarawak shall, from time to time or when requested by the Majlis Mesyuarat Kerajaan Negeri, provide guidance on how a native custom is to be observed or practised by any of the native races to which that custom relates or belongs.

Legal status of a code

9. If any provision of a code is found to be repugnant to or is inconsistent with a provision of any written law, the latter shall prevail.

Translation

10. The authorized version of the code compiled and published by the Majlis Adat Istiadat Sarawak under section 3 may be translated, and the translated version may also be used and referred to:

Provided that in the case of any conflict between the authorized version and the translated version, the former shall prevail.

Government Printer or other printer

11.—(1) The Government Printer or any other printer may, with the approval of the State Secretary, print and offer for sale to the general public copies of the authorized version and the translated version of the code, and such copies shall be deemed to be the authentic copies of the native customary laws of any native communities in Sarawak.

(2) Copies of the authorized version and the translated version of the code shall be distributed among such persons, offices, institutions and public bodies as the State Secretary may direct.

Repeal and saving

12.—(1) The Native Customary Laws Ordinance [*Cap. 51 (1958 Ed.)*] is repealed.

(2) Notwithstanding subsection (1), any Order or Notification made under the provisions of the repealed Ordinance and in force immediately prior to the date of commencement of this Ordinance shall continue to be in force and have full effect as if made under this Ordinance.

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LIST OF AMENDMENTS

Amending Law

Short title

In force from

-NIL-

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