



LAWS OF SARAWAK

ONLINE VERSION

Chapter 44
(1958 Edition)

ANCESTRAL WORSHIP ORDINANCE

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ANCESTRAL WORSHIP ORDINANCE

CHAPTER 44 (1958 Edition)

An Ordinance to provide for the restriction of gifts and bequests for the purposes of ancestral worship.

[16th April, 1930.]

Short title

1. This Ordinance may be cited as the Ancestral Worship Ordinance.

Limitations on property disposed of for ancestral worship

2.—(1) No person may dispose of any property which, or the income from which, is to be used to perform the religious rites of ancestral worship in such manner that the said rites shall be performed for any longer period than twenty-one years from the date the disposition takes effect or, if by will, from the date of death of the testator.

(2) If the disposition takes effect for any period after the death of the grantor or testator, the amount disposed shall not exceed one quarter of the net value of the estate at the time of the death of the grantor or testator.

(3) Where the trustees under any disposition which takes effect after the death of the grantor have administered the funds for a period in excess of the period allowed by this section, the High Court may, if satisfied that such administration has been done in good faith, exempt the trustees from liability for breach of trust.

(4) Where in any disposition there is provision for ancestral worship and—

(a) in addition a provision that part of the funds disposed may be used for the education or charitable relief of the descendants of the grantor or testator, or for some other purpose or purposes; or

(b) where it is proved to the satisfaction of the High Court that, according to recognized custom, funds set aside for ancestral worship may be used for purposes other than the performance of religious rites,

the provision, in so far as it applies to the performance of the religious rites, shall be dealt with in accordance with subsections (1) and (2), and the High Court may, on the application of the trustees, declare that the other purpose or purposes if otherwise lawful shall be deemed to be and shall be administered as a separate trust which is not subject to the limitations imposed by this Ordinance, and may direct what portion of the funds is to be applied thereto:

Provided that in paragraph (b), if no such application be made, this Ordinance shall apply.

(5) In every case where any disposition is directed otherwise than as aforesaid, the direction shall be void for any period in excess of the said period of twenty-one years and for any sum in excess of one quarter of the net value of the estate.

Power of High Court to vary dispositions

3.—(1) Where a disposition, which is valid under section 2, has been made for the purposes of ancestral worship and it becomes impossible or not reasonably practicable to carry out any or all of the provisions of the disposition, the High Court may set aside or vary the terms of the disposition on such terms as may be just.

(2) Where the ancestral worship is to be carried out in some country other than Sarawak and there is either no person living in that country who is qualified to carry out the worship or where, owing to the smallness of the funds available or other reason, it is unreasonable to expect the person who can carry out the worship to proceed to that country, it shall be deemed to be a sufficient cause to enable the Court to exercise the powers conferred by subsection (1)

(3) Where any specific property has been left for the purposes of ancestral worship, the High Court may order that the disposition be varied by the substitution of other property for the specific property disposed.

Computation of value of property

4.—(1) Where the disposition is to take effect after the death of the grantor and part or all of the property disposed consists of a share in any business, profession or other undertaking carried on by the deceased, whether by himself or jointly with some other person, the value of the property so disposed, for the purposes of any bequest relating to ancestral worship, shall, subject to any specific provision in the articles of partnership, if any, be the value of the grantor's interest at the time of his death, including the value of capital invested by him in the business, profession or undertaking and an amount for goodwill, if any.

(2) The value so determined may be paid at the option of the executors in either of the following ways—

(a) the capital sum may be paid in one sum or it may be paid in installments with interest at five per cent per year on the amount in arrear, and invested upon trust for the purposes of ancestral worship, and at the expiry of the prescribed period for the performance of the rites, the capital sum shall, subject to any direction by the grantor, fall into the residue of the grantor's estate;

(b) by leave of the High Court, a sum equal to five per cent of the total sum may be paid annually for the purposes of ancestral worship for the prescribed period, subject to such guarantees as the Court may consider necessary.

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