



LAWS OF SARAWAK

ONLINE VERSION

[Ord. No. 5/77]

**MAJLIS ADAT ISTIADAT SARAWAK
ORDINANCE, 1977**

Incorporating all amendments up to 31st December, 2020

Prepared and Compiled by

STATE ATTORNEY-GENERAL'S CHAMBERS
SARAWAK

**MAJLIS ADAT ISTIADAT SARAWAK
ORDINANCE, 1977**

Date Passed by Dewan Undangan Negeri... ..	13th December, 1977
Date of Assent	15th December, 1977
Date of Publication in <i>Gazette</i> ...	17th December, 1977

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ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Establishment, functions and powers of the Majlis
4. Members of the Majlis
- 4A. Corporate seal
5. Secretary
6. Officers and servants of the Majlis
7. The Majlis may appoint committee
8. Conduct of inquiries
9. Funds for the Majlis
10. Annual estimates and accounts
11. Annual report
12. Regulations

SCHEDULE

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**MAJLIS ADAT ISTIADAT SARAWAK
ORDINANCE, 1977**

[Ord. No. 5/77]

An Ordinance to provide for the establishment of the Majlis Adat Istiadat Sarawak to advise the Yang di-Pertua Negeri on all matters relating to the customary law and adat of the various natives of Sarawak other than Malays or natives who profess the religion of Islam and for connected and incidental matters..

*[1st April, 1979]
(Swk. L.N. 36/79.)*

Enacted by the Legislature of Sarawak—

Short title

1. This Ordinance may be cited as the Majlis Adat Istiadat Sarawak Ordinance, 1977.

Interpretation

2.—(1) In this Ordinance—

“adat” means a native custom or body of native customs to which lawful effect has not been given to them under the Native Customs (Declaration) Ordinance, 1996 [*Cap. 22*], or any other written law and shall be deemed to include the tradition and culture of the natives;

“committee” means a committee appointed under section 7;

“community” and “customary law” have the same meanings attributed to them as in the Native Courts Ordinance, 1992 [*Ord. No. 9/92*];

“Ketua Majlis” means the Ketua of the Majlis Adat Istiadat Sarawak, and includes any person appointed by the Chief Minister to discharge temporarily the duties of Ketua Majlis

“Majlis” means the Majlis Adat Istiadat Sarawak established under section 3;

“native” means any native race which is specified in the Schedule to the Interpretation Ordinance, 2005 [*Cap. 61*], but does not include Malays and natives who profess the religion of Islam;

“native system of personal law” means the customary law applying to any community being a community forming the whole or part of any native;

“Secretary” means the secretary of the Majlis appointed under section 5.

[Am. Cap. A96.]

(2) In this Ordinance, a reference to the Yang di-Pertua Negeri shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a member of it acting under the general authority of the Majlis Mesyuarat Kerajaan Negeri.

Establishment, functions and powers of the Majlis

3.—(1) There is constituted a body corporate, with perpetual succession, to be known as the Majlis Adat Istiadat Sarawak whose functions shall be—

(a) to advise the Yang di-Pertua Negeri and the Majlis Mesyuarat Kerajaan Negeri on all matters relating to the native system of personal law and adat of the natives in Sarawak;

(b) to review from time to time the customary laws of the natives and make recommendations to the Majlis Mesyuarat Kerajaan Negeri relating to their application, codification, publication and enforcement;

(c) to recommend to the Majlis Mesyuarat Kerajaan Negeri on the deletion or abolition of any adat the practice of which is, in the opinion of the Majlis, detrimental to the progress of
any

native community or if the adat is found to be inconsistent with any other State law;

(d) to explain and promote better understanding and appreciation of the adat, cultures, traditions and history of the various native communities in Sarawak;

(e) to maintain and keep records, publications and other documents containing customary laws and adat of the natives;

(f) to promote research and study into the customary laws and adat of the natives;

(g) to perform such other functions and duties as may be vested or conferred by any other written laws on the Majlis; and

(h) to carry out and perform such other functions and duties as the Yang di-Pertua Negeri may, by notification in the *Gazette*, direct.

[Sub. Cap. A96.]

(2) Subject to the prior approval of the Chief Minister, the Majlis shall have power to do all things expedient or reasonably necessary or incidental to the discharge of its functions, and in particular, but without prejudice to the generality of the foregoing—

(a) to initiate preliminary studies and research into the various adat of the natives and make recommendations to the Yang di-Pertua Negeri on the need to standardize and codify the adat;

(b) to conduct study and research on such matters as the Majlis may think fit;

(c) to control and co-ordinate all activities relating to research on customary law and adat of the natives;

(d) to provide facilities for research and reference;

(e) to co-operate with or to give assistance to any person or body of persons undertaking research or study on the customary law and adat of the natives;

(f) to promote and to carry out programmes for study and research on the customary law and adat of the natives;

(g) to maintain liaison with other bodies, both public and private, which are engaged in the study and research concerning the customary law and adat of the natives;

(h) to hear and resolve conflicts and disputes on matters relating to the adat of the natives;

(i) to furnish guidance in the interpretation of customary law and adat of the natives;

(j) to do all acts which the Chief Minister considers desirable or expedient.

(3) Without prejudice to subsection (1) or (2), it shall also be the functions of the Majlis to advise any person or body of persons, either on its own motion or on being referred to it by such person or body of persons, on matters relating to the customary law and adat of the natives, and shall in all such matters be the authority in Sarawak:

Provided that, the Majlis shall, before giving any advice under this subsection, consult the State Attorney General whose opinion on any legal issue that may be contained or raised in the advice shall be taken into consideration by the Majlis.

[Am. Cap. A96.]

(4) The Majlis shall be responsible to the Chief Minister and the Chief Minister may, from time to time, issue directives on any aspect of the functions of the Majlis and such directives shall be binding on the Majlis.

Members of the Majlis

4.—(1) The Majlis shall consist of the following members to be appointed by the Yang di-Pertua Negeri with the advice of the Chief Minister:

- (a) the Ketua Majlis;
 - (b) a representative of the Chief Minister's Department;
- and
- (c) not more than eleven other members.

[Am. Cap. A96.]

(2) The members of the Majlis other than *ex officio* members shall be appointed from among citizens who are natives of Sarawak:

Provided that a native who professes religion of Islam may be appointed a member if he is in the opinion of the Yang di-Pertua Negeri well versed in the customary law and adat of any native community.

(3) Every member of the Majlis shall, unless he sooner resigns or his appointment revoked, hold office for a term not exceeding three years and shall be eligible for reappointment.

(4) Every member of the Majlis may be paid such remuneration or allowances as the Chief Minister may determine.

(5) The Schedule shall have effect with respect to the Majlis.

(6) All members of the Majlis, officers and servants of the Majlis shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

Corporate seal

4A.—(1) The Majlis shall have a corporate seal by the name of “Majlis Adat Istiadat Sarawak” which shall be kept in the custody of the Secretary and may be affixed to any document or instrument, executed or issued by the Majlis which is required to be sealed, in the presence of the Ketua Majlis or any other member of the Majlis and the Secretary.

(2) The Majlis may—

- (a) sue and be sued in its corporate name;
- (b) acquire, own, hold, lease or dispose of property, both movable and immovable; and
- (c) perform, do and suffer such other acts or things as bodies corporate may lawfully perform, do and suffer.

(3) The Majlis shall for all purposes of the Land Code [*Cap. 81 (1958 Ed.)*] be deemed a native.

[Ins. Cap. A96.]

Secretary

5.—(1) There shall be a Secretary who shall be appointed by the Chief Minister from among members of the public service.

(2) The Secretary shall be the Chief Administrative Officer of the Majlis and shall, subject to the directives of the Majlis, be responsible for the day to day administration of the Majlis and for the implementation of decisions of the Majlis.

[Am. Cap. A96.]

Officers and servants of the Majlis

6. There shall be appointed such number of public officers or servants to assist the Majlis in the carrying out of its functions, and of such classes or grades, as may be considered necessary for the purpose of carrying into effect the provisions of this Ordinance.

The Majlis may appoint committee

7.—(1) The Majlis may appoint such committees as it deems necessary for dealing with any matter connected with the functions of the Majlis; and such committees shall, subject to subsection (2), consist of such of the members of the Majlis as the Majlis may appoint.

(2) The Majlis or any of its committees may request any person (not being a member of the Majlis) to attend any meeting or deliberation of the Majlis or committee for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at such meeting or deliberation.

(3) The procedure of any committee appointed under this section shall be determined by the Majlis.

Conduct of inquiries

8.—(1) Subject to the prior approval of the Yang di-Pertua Negeri, the Majlis or any of its committee may hold an inquiry into and report on any matters pertaining to the customary law and adat of the natives.

(2) In every inquiry under subsection (1), the following provisions shall have effect:

(a) notice of any inquiry to be held shall be given not less than three weeks beforehand by notification in the *Gazette* and in such other manner as the Majlis or committee, as the case may be, may think appropriate;

- (b) the notice shall specify—
 - (i) where and when such inquiry shall be made and its report rendered; and
 - (ii) whether the inquiry, or any part of it, shall or shall not be held in public;
- (c) evidence may be received orally or in writing; and
- (d) for summoning and examination of any person and for compelling the production of documents, the Majlis or committee shall have the powers of a Sessions Court Judge.

[Am. Act 92.]

Funds for the Majlis

9.—(1) For the purpose of enabling the Majlis to carry out its functions under this Ordinance, the State Government may, from time to time, provide grants to the Majlis of such sums as the State Government may determine.

(2) All moneys received, raised or earned by the Majlis shall be paid forthwith into an account with a licensed bank or other financial institutions in Sarawak after consultation with the State Financial Authority and credited to a Fund to be called “the Majlis Adat Istiadat Sarawak Fund” (“the Fund”) which shall be—

(a) controlled and administered by the Majlis, subject to the direction of the Chief Minister; and

(b) operated upon by such persons as may be authorized by resolution passed by the Majlis.

(3) All moneys standing in the credit of the Fund shall be used and devoted solely for the following purposes:

(a) the payment of the expenses of, or in connected with the administration and management of the Majlis;

(b) the payment of all expenses necessary for the carrying out of the functions of the Majlis and any purposes authorized by this Ordinance; and

(c) such other purposes as the Chief Minister may approve.

[Sub. Cap. A96.]

Annual estimates and accounts

10.—(1) The Majlis shall obtain in advance the approval of the Chief Minister for its annual estimates of expenditures and for any supplementary estimates of its expenditures.

(2) The Majlis shall keep proper accounts and other accounting records and shall, in respect of each financial year, prepare a statement of its accounts in a form approved by the Majlis Mesyuarat Kerajaan Negeri.

(3) The accounts of the Majlis shall be audited by a qualified auditor, appointed annually by the Majlis and with the approval of the State Financial Authority and the auditor shall make a report of the accounts examined by him.

(4) As soon as the accounts of the Majlis have been audited in accordance with subsection (3), a copy of them together with a copy of the report made by the auditor shall be submitted to the Majlis Mesyuarat Kerajaan Negeri, for examination and approval, and after that, the Chief Minister shall present to the Dewan Undangan Negeri, a copy of every such statement and report.

(5) In accordance with the Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995 [*Cap. 15*] which shall apply to the Majlis, a copy of such statement and report shall also be submitted to the State Financial Authority.

[Sub. Cap. A96.]

Annual report

11. The Majlis shall, as soon as possible, at the close of each financial year, submit to the Majlis Mesyuarat Kerajaan Negeri, an annual report on the activities of the Majlis during that financial year and the Chief Minister shall present a copy of it to the Dewan Undangan Negeri.

[Sub. Cap. A96.]

Regulations

12. The Yang di-Pertua Negeri may make such regulations as he thinks necessary or expedient for the better carrying into effect of the purposes and provisions of this Ordinance and, in particular, such regulations may provide for amending the Schedule.

*SCHEDULE**(Section 4(5))*

REGULATIONS OF THE MAJLIS

Disqualification from membership

1.—(1) The following persons shall be disqualified from being appointed or being members of the Majlis:

(a) if he is not a member of a class of persons referred to in section 4(2):

(b) a person who is of unsound mind or is otherwise incapable of performing his duties;

(c) a person under twenty one years of age;

(d) a person who by his conduct is in the opinion of the Yang di-Pertua Negeri likely to bring discredit upon the Majlis; and

(e) a person who has been convicted of an offence and sentenced to imprisonment for a term of not less than one year.

(2) A member of the Majlis shall be deemed to have vacated his office—

(a) upon his death;

(b) upon his resignation;

(c) upon his failure to attend three consecutive meetings of the Majlis without permission from the Ketua Majlis; or

(d) if he becomes disqualified under subparagraph (1), and a new member shall be appointed in his place in accordance with this Ordinance.

Summoning meetings, quorum, procedure and minutes

2.—(1) All meetings of the Majlis shall be summoned by the Secretary.

(2) The Secretary may in addition to the meetings specified in subparagraph (1) summon the Majlis to meet—

- (a) if directed by the Ketua Majlis so to do; or
- (b) on a requisition in writing by one half of the members of the Majlis.

(3) If on any question to be determined by the Majlis there is an equality of votes, the Ketua Majlis or if the Ketua Majlis is absent the presiding member shall have a casting vote in addition to his deliberative vote.

(4) Subject to this Ordinance, the Majlis shall determine its own procedure.

(5) Minutes shall be kept of all proceedings of the Majlis and copies of them shall be submitted to the Chief Minister.

(6) The Ketua Majlis or any member presiding in the absence of the Ketua Majlis and three other members shall form a quorum at any meeting of the Majlis.

Presiding officer at meetings of the Majlis

3. At all meetings of the Majlis, the Ketua Majlis, or in his absence, such member as the members present may elect, shall preside.

**MAJLIS ADAT ISTIADAT SARAWAK
ORDINANCE, 1977*****Ord. No. 4/77***

LIST OF AMENDMENTS

<i>Amending Law</i>	<i>Short title</i>	<i>In force from</i>
Swk. L.N. 36/79	Date of Commencement of the Ordinance	1.4.1979
Cap. A96	Majlis Adat Istiadat Sarawak (Amendment) Ordinance, 1972	1.6.2002