



**THE
SARAWAK GOVERNMENT GAZETTE
PART II**

Published by Authority

Vol. LXV

29th April, 2010

No. 14

Swk. L.N. 20

**THE HOUSING DEVELOPERS (CONTROL AND LICENSING)
ORDINANCE, 1993**

**THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS) REGULATIONS, 2010**

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

Regulation

1. Citation and commencement
2. Interpretation
3. Jurisdiction
4. Prescribed fees
5. Forms

PART II

COMMENCEMENT OF PROCEEDINGS

6. Statement of claim
7. Filing of statement of claim
8. Statement of claim to be sealed. *etc.*, and entered in the Register
9. Service of statement of claim
10. Defence and counter-claim
11. Filing of statement of defence
12. Statement of defence to be sealed, *etc.*
13. Service of statement of defence
14. Defence to counter-claim

PART III

SERVICE

15. Address for service
16. Manner of service
17. Substituted service
18. Date of service

Sarawak Lawnet

PART IV
PROCEDURE

19. Fixing dates, *etc.*, for hearing
20. Award when statement of defence not filed
21. Admission of claim
22. Non-appearance of parties
23. Mediation for settlement
24. Hearing

PART V
MISCELLANEOUS

25. Summons to appear
26. Setting aside award
27. Adjournments
28. Costs
29. Notes of evidence
30. Records of proceedings to be kept

FIRST SCHEDULE — FEES

SECOND SCHEDULE — FORMS

FORM 1 — Statement of Claim

FORM 2 — Statement of Defence and Counter-Claim

FORM 3 — Defence to Counter-Claim

FORM 4 — Notice of Hearing

FORM 5 — Award for Claimant where respondent did not File Statement of Defence

FORM 6 — Award where respondent Admits Claim

FORM 7 — Award for Respondent where Claimant is Absent

FORM 8 — Award for Claimant where respondent is Absent

FORM 9 — Award by Consent

FORM 10 — Award after Hearing

FORM 11 — Summons to Witness

FORM 12 — Application for Setting Aside Award

THE HOUSING DEVELOPERS (CONTROL AND LICENSING)
ORDINANCE, 1993

THE HOUSING DEVELOPERS (TRIBUNAL FOR
HOUSING PURCHASER CLAIMS) REGULATIONS, 2010

In exercise of the powers conferred by section 24(2) of the Housing Developers (Control and Licensing) Ordinance, 1993 [*Cap. 5*], the Minister makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1.—(1) These Regulations may be cited as the **Housing Developers (Tribunal for Housing Purchaser Claims) Regulations, 2010.**

(2) These Regulations shall come into operation on the 1st day of May, 2010.

Interpretation

2. In these Regulations—

“case file” means a file opened by the Tribunal’s Registry for each claim lodged by the claimant;

“panel” means a panel of the Tribunal provided under section 17G(1) of the Ordinance;

“President” means any member of the panel who presides over any proceedings in respect of claim brought before the Tribunal;

“Secretary” means the Secretary of the Tribunal appointed under section 17F of the Ordinance, and includes an Assistant Secretary;

“Tribunal” means the Tribunal for Housing Purchaser Claims established under section 17A of the Ordinance.

Jurisdiction

3. The Tribunal shall hear any claim brought by a purchaser not later than twelve months from the date of issuance of the occupation permit for the housing accommodation or before the expiry date of the defects liability period as set out in the sale and purchase agreement, whichever is the later.

Prescribed fees

4. The fees to be paid under these Regulations shall be as prescribed in the First Schedule.

Forms

5. The forms referred to in these Regulations are those contained in the Second Schedule and which shall be used where applicable with such variations and in such numbers as the circumstances of the particular case may require.

PART II

COMMENCEMENT OF PROCEEDINGS

Statement of claim

6.—(1) Every claim lodged with the Tribunal shall be in Form 1.

(2) The claimant shall state in Form 1 the amount and particulars of the claim.

(3) Form 1 shall be signed or thumb-printed by the claimant personally.

Filing of statement of claim

7. Form 1 shall be filed in four copies in the Tribunal's Registry together with the prescribed fee.

Statement of claim to be sealed, etc., and entered in the Register

8.—(1) On receipt of Form 1, the Secretary shall cause the copies filed—

- (a) to be sealed with the seal of the Tribunal; and
- (b) to be dated and signed.

(2) The Secretary shall cause every claim filed to be entered in a book to be known as the "Register of the Tribunal" kept at the Tribunal's Registry.

(3) Every claim shall be distinguished by a number and the year in which it is filed.

Service of statement of claim

9.—(1) After a claim has been entered in the Register of the Tribunal, the Registry shall cause two sealed and signed copies of Form 1 to be returned to the claimant.

(2) The claimant shall serve one copy of Form 1 on the respondent.

Defence and counter-claim

10.—(1) If the respondent who has been duly served with Form 1 disputes the claim, he shall deliver his defence in Form 2 within fourteen days after the service of the statement of claim.

(2) Form 2 shall contain particulars as to why the respondent disputes the claim.

(3) If the respondent has a counter-claim, he shall state the amount and the particulars of the counter-claim in Form 2.

(4) Form 2 shall be signed or thumb-printed by the respondent personally and if the respondent is a body corporate, Form 2 shall be signed by a director, manager, secretary or similar officer of the body corporate.

Filing of statement of defence

11. Form 2 shall be filed in four copies in the Tribunal's Registry together with the prescribed fee.

Statement of defence to be sealed, etc.

12. On receipt of Form 2, the Secretary shall cause the copies filed—

- (a) to be sealed with the seal of the Tribunal;
- (b) to be dated and signed; and
- (c) to be entered in the Register of the Tribunal.

Service of statement of defence

13.—(1) The Secretary shall return two sealed and signed copies of Form 2 to the respondent.

(2) The respondent shall serve one copy of Form 2 on the claimant.

Defence to counter-claim

14.—(1) Where there is a counter-claim, the claimant shall file a defence to such counter-claim in Form 3.

(2) Form 3 shall be signed or thumb-printed by the claimant personally.

(3) Regulations 10, 11, 12 and 13 shall apply with the necessary modifications to a defence to counter-claim in Form 3.

PART III

SERVICE

Address for service

15. Every document which is delivered or forwarded to the Tribunal shall be endorsed with the name and address of the party delivering or forwarding the same and that address shall be deemed to be the address of service of the party.

Manner of service

16.—(1) Service of a document on a person other than a body corporate or firm may be effected by—

- (a) leaving the document with that person;
- (b) tendering the document to that person; or
- (c) posting the document on a pre-paid registered letter addressed to that person at his address for service or last known address.

(2) Service of a document of a body corporate or firm may be effected by—

- (a) leaving the document with the director, manager, secretary or other similar officer of the body corporate or the proprietor of the firm;
- (b) tendering the document to the director, manager, secretary or other similar officer of the body corporate or the proprietor of the firm; or
- (c) posting the document in a pre-paid registered letter addressed to the director, manager, secretary or other similar officer of the body corporate or the proprietor of the firm at the registered office of the body corporate or firm or at its address for service.

Substituted service

17. The Tribunal may make such direction for substituted service of any document as it may think fit.

Date of service

18. The date on which any document has been left or tendered or posted in accordance with regulation 16 shall be deemed to be the date of service of such document.

PART IV

PROCEDURE

Fixing dates, etc., for hearing

19.—(1) Upon a claim being lodged with the Tribunal, the Secretary shall—

- (a) fix the date, place and time of hearing in Form 4; and
- (b) thereafter serve the notice of hearing on both the claimant and respondent.

(2) The Secretary shall serve Form 4 on the claimant and respondent not less than fourteen days before the date of the hearing.

Award when statement of defence not filed

20. If the respondent does not file his defence in Form 2, the Tribunal may make an award for the claimant in Form 5 on the hearing date.

Admission of claim

21. Where the respondent in his statement of defence admits the claim, the Tribunal shall make an award for the claimant in Form 6.

Non-appearance of parties

22.—(1) If the claimant does not appear on the date, at the time and place fixed for the hearing but the respondent appears, the Tribunal may, if it is satisfied that the notice of hearing has been duly served—

- (a) dismiss the claim, if the respondent has no counter-claim; or
- (b) make an award for the counter-claim, if the respondent has a counter-claim.

(2) An award made under subregulation (1) shall be in Form 7.

(3) If the respondent does not appear on the date, at the time and place fixed for the hearing but the claimant appears, the Tribunal may, if it is satisfied that the notice of hearing has been duly served—

- (a) proceed with the hearing in the absence of the respondent; or
- (b) adjourn the hearing to a later date.

(4) Before disposing of the claim in the absence of the respondent, the Tribunal shall consider any representation submitted by the claimant.

(5) An award made where the respondent is absent shall be in Form 8.

(6) If neither party appears on the date, at the time and place fixed for the hearing, the Tribunal may, subject to regulation 27, strike out the action.

Mediation for settlement

23.—(1) At the hearing, the Tribunal may, where appropriate, assist the parties to effect the settlement of claim by consent.

(2) An award obtained by consent shall be in Form 9.

Hearing

24.—(1) At the hearing before the Tribunal, the claimant shall be entitled to adduce evidence, call any witness or produce any document, record or thing in support of his case.

(2) After the claimant has presented his case, the respondent shall present his case and may adduce evidence, and call any witness or produce any document, record or thing in support of his case.

(3) After the claimant and respondent have closed their respective cases, a brief oral or written submission may be made by the respondent and thereafter by the claimant.

(4) An award made under this regulation shall be in Form 10.

PART V

MISCELLANEOUS

Summons to appear

25.—(1) The summons to any person to appear as a witness or to produce any document, record or other thing in his possession before the Tribunal shall be in Form 11.

(2) Form 11 shall be signed by the Secretary and shall bear the seal of the Tribunal.

Setting aside award

26.—(1) Any award obtained where one party does not appear at the hearing, or any award obtained pursuant to regulation 20, may be set aside by the Tribunal on the application of the aggrieved party and on such conditions as it thinks just.

(2) The application shall be in Form 12 and shall be made within thirty days after the receipt of the award.

(3) Form 12 shall be served on the party who obtained the award.

Adjournments

27. The Tribunal may from time to time adjourn a hearing on such conditions as it thinks just.

Costs

28. The Tribunal may in its discretion award costs not exceeding five hundred ringgit to any one party.

Notes of evidence

29. The Tribunal shall—

- (a) take notes of evidence;
- (b) state the terms of any particular question or answer;

- (c) make a note of the award made; and
- (d) sign or initial the notes of evidence.

Records of proceedings to be kept

30.—(1) The Secretary shall keep records of all proceedings of the Tribunal.

(2) The records required by these Regulations shall be kept by making entries in the respective case file.

Sarawak Lawnet

FIRST SCHEDULE

(Regulation 4)

FEEs

	<i>Proceedings</i>	<i>Forms</i>	<i>Amount of fee</i> <i>RM</i>
1.	Filing of statement of claim	1	50
2.	Filing of statement of defence and counter-claim	2	50
3.	Filing of defence to counter-claim	3	50

Sarawak Lawnet

SECOND SCHEDULE

FORMS

(Regulation 5)

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 1

(Regulation 6)

STATEMENT OF CLAIM

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

Name of Claimant: _____	I.C. No.: _____
Address: _____	

Name of Respondent: _____	I.C. No.: _____
Address: _____	

Statement:

Claimant's claim is for a sum of RM _____

Particulars of claim _____

Date

Date of filing

*Signature/Right thumb-print
of Claimant*

Secretary

(SEAL)

TO THE RESPONDENT:

If you dispute the claimant's claim, you shall file in your statement of defence in Form 2 on or before _____

INSTRUCTION TO THE CLAIMANT:

1. You shall fill in your name in full, your identity card number and your address in the column provided.
2. You shall fill in the name of the respondent in full and his last known address in the column provided.
3. You shall state the exact amount claimed in the column provided. The amount claimed should not exceed RM40,000. If the amount exceeds RM40,000 but does not exceed RM80,000, then the claim shall be agreed by both parties in writing and approved by the Minister as provided under section 171 of the Ordinance.
4. You shall state the particulars of your claim in the column provided. The particulars shall state the relevant date and how the claim has arisen or what is the basis of the claim.
5. If the column provided is insufficient, you may continue on a separate sheet of paper and write "see overleaf". Any separate sheet of paper used should be attached to this Form.
6. Having filled in the particulars, you shall sign this Form personally.
7. Having completed this Form, you shall file this Form in four copies in the Tribunal's Registry. You shall pay a filing fee of RM50. The Registry will put the seal of the Tribunal on the four copies. Two copies of this Form shall be returned to you.
8. You cannot be represented by a lawyer at the hearing. You may however apply to the Tribunal at the hearing for legal representation if you can show that the matter in question involves complex issues of law and that you will suffer severe financial hardship if you are not legally represented.

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 2

(Regulation 10)

STATEMENT OF DEFENCE AND COUNTER-CLAIM

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

Name of Claimant:	I.C. No.: _____
Address:	

Name of Respondent:	I.C. No.: _____
Address:	

Statement of defence:

Counter-claim:

Date

Date of filing

Signature/Right thumb-print
of Respondent

Secretary

(SEAL)

TO THE RESPONDENT:

1. If you admit to the claimant's claim you may state in the column provided for the statement of defence that you admit the claim.
2. If you dispute the claim, your statement of defence shall contain particulars as to why you dispute the claim.
3. If you have any counter-claim, you shall state your counter-claim with particulars in the column provided.
4. If the column provided is insufficient, you may continue on a separate sheet of paper and write "see overleaf". Any separate sheet of paper used should be attached to this Form.
5. You shall sign Form 2 personally and file in four copies in the Tribunal's Registry. In the case of a body corporate, this Form shall be signed by a director, manager, secretary or other similar officer. The filing fee is RM50. The Registry will put the seal of the Tribunal on the four copies and return to you two copies.

Sarawak Lawnet

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 3

(Regulation 14)

DEFENCE TO COUNTER-CLAIM

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

Name of Claimant:	I.C. No.: _____
Address:	

Name of Respondent:	I.C. No.: _____
Address:	

Defence to counter-claim:

Date

Signature/Right thumb-print
of Claimant

(SEAL)

Date of filing

Secretary

TO THE CLAIMANT:

1. If you admit to the respondent's counter-claim you shall state in the column provided for defence to counter-claim that you admit the counter-claim.
2. If you dispute the counter-claim, your defence to the counter-claim shall contain particulars as to why you dispute the counter-claim.
3. You shall sign Form 3 personally and file in four copies in the Tribunal's Registry. The filing fee is RM50. The Registry will put the seal of the Tribunal on the four copies and return to you two copies.

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 4

(Regulation 19)

NOTICE OF HEARING

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

BETWEEN

_____ Claimant

AND

_____ Respondent

TAKE NOTICE that the above claim will be heard on _____ the _____ day of _____ at
_____ at _____ o'clock in the forenoon/afternoon.
(address of place of hearing)

Please bring all witnesses, documents, records or things to support your claim/defence and counter-claim.

Dated the _____ day of _____

(SEAL)

Secretary

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 5
(Regulation 20)

**AWARD FOR CLAIMANT WHERE
RESPONDENT DID NOT FILE STATEMENT OF DEFENCE**

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS
AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

BETWEEN

_____ Claimant

AND

_____ Respondent

The statement of claim (Form 1) having been duly served on the Respondent and the Respondent having failed to file his defence within the stipulated time, the Tribunal hereby makes the following award:

Dated the _____ day of _____

(SEAL)

President

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 6
(Regulation 21)

AWARD WHERE RESPONDENT ADMITS CLAIM

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

BETWEEN

_____ Claimant

AND

_____ Respondent

The Respondent having admitted the claim, the Tribunal hereby makes the following award:

Dated the _____ day of _____

(SEAL)

President

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 7
(Regulation 22(2))

AWARD FOR RESPONDENT WHERE CLAIMANT IS ABSENT

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

BETWEEN

_____ Claimant

AND

_____ Respondent

This action having this day been called on for hearing before _____ in the presence of the Respondent, and in the absence of the Claimant, the Tribunal hereby makes the following award:

Dated the _____ day of _____

(SEAL)

President

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 8
(Regulation 22(5))

AWARD FOR CLAIMANT WHERE RESPONDENT IS ABSENT

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

BETWEEN

_____ Claimant

AND

_____ Respondent

This action having this day been called on for hearing before _____ in the presence of the Claimant, and in the absence of the Respondent, the Tribunal hereby makes the following award:

Dated the _____ day of _____

(SEAL)

President

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 9
(Regulation 23(2))

AWARD BY CONSENT

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

BETWEEN

_____ Claimant

AND

_____ Respondent

This action having this day been called on for hearing before _____ in the presence of the Claimant and the Respondent, and both parties having consented, the Tribunal hereby makes the following award:

Dated the _____ day of _____

(SEAL)

President

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 10
(Regulation 24(4))

AWARD AFTER HEARING

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

BETWEEN

_____ Claimant

AND

_____ Respondent

This action having been heard before _____ on _____ at _____, the Tribunal hereby makes the following award:

Dated the _____ day of _____

(SEAL)

President

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 11
(Regulation 25)

SUMMONS TO WITNESS

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS

AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

BETWEEN

_____ Claimant

AND

_____ Respondent

To

(insert full name and address of person summoned)

You are hereby summoned to appear before the Tribunal at

(address of place of hearing)

on the ____ day of _____ at _____ o'clock in the forenoon/ afternoon to give evidence for the
Claimant/Respondent and also to bring with you and produce _____
(specific documents to be produced) at the time and place aforesaid.

Dated the _____ day of _____

(SEAL)

Secretary

THE HOUSING DEVELOPERS (CONTROL AND LICENSING) ORDINANCE, 1993

THE HOUSING DEVELOPERS
(TRIBUNAL FOR HOUSING PURCHASER CLAIMS)
REGULATIONS, 2010

FORM 12
(Regulation 26)

APPLICATION FOR SETTING ASIDE AWARD

IN THE TRIBUNAL FOR HOUSING PURCHASER CLAIMS
AT _____
IN THE STATE OF SARAWAK

CLAIM NO.: _____

Name of Claimant/Respondent:	I.C. No.:
Address:	

1. An award has been obtained against me on _____
2. I hereby apply to set aside the award.

I was not present at the hearing because:

I did not file my defence because:

Date

Signature/Right thumb-print of
Claimant/Respondent

NOTICE TO THE CLAIMANT/RESPONDENT

The Claimant/Respondent has applied to this Tribunal to set aside the award dated _____.

The date and the time for the hearing of application is as stated below.

Date of hearing: _____ Time: _____

Date of filing

(SEAL)

Secretary

Made by the Minister this 9th day of April, 2010.

DATUK AMAR ABANG HAJI ABDUL RAHMAN ZOHARI
BIN TUN ABANG HAJI OPENG,
Minister for Housing and Urban Development

Sarawak Lawnet

Sarawak Lawnet



DICETAK OLEH PERCETAKAN NASIONAL MALAYSIA BERHAD, KUCHING, SARAWAK
BAGI PIHAK DAN DENGAN KUASA PERINTAH KERAJAAN SARAWAK