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LAND CODE
LAND (NATIVE COMMUNAL TITLE) RULES, 2019

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LAND CODE
LAND (NATIVE COMMUNAL TITLE) RULES, 2019
(Made under section 213(1))

In exercise of the powers conferred by section 213(1) of the Land Code [*Cap. 81 (1958 Ed.)*], the Majlis Mesyuarat Kerajaan Negeri has made the following Rules:

Citation and Commencement

1.—(1) These Rules may be cited as the **Land (Native Communal Title) Rules, 2019**, and shall come into force on the 1st day of August, 2019.

Interpretation

2. In these Rules—

“beneficiaries” means the beneficiaries named in the document of title;

“Code” means the Land Code [*Cap. 81 (1958 Ed.)*];

“Director” shall have the same meaning as assigned thereto by section 2 of the Code;

“Majlis Adat Istiadat” (“Majlis Adat”) means the body corporate established under section 3 of the Majlis Adat Istiadat Sarawak Ordinance, 1977 [*Cap. 5*];

“Majlis Islam Sarawak” (“Majlis Islam”) means the body corporate established under section 3 of the Majlis Islam Sarawak Ordinance, 2001 [*Cap. 41*];

“Native Communal Title” means a title issued by the Director under section 6A of the Code;

“Superintendent” means the Superintendent of Lands and Surveys;

“trustee” means the person or body of persons appointed by the Minister under Part III of these Rules to hold Native Communal Title under rule 10; and

“trust land” means the land comprised in the document of title issued under rule 10.

PART II
PROCEDURE FOR APPLICATION AND REGISTRATION

Procedure for Application

3. An application for Native Communal Title shall be made to the Superintendent of the Division in which the area claimed is situate by using the Application Form as determined by the Director.

Particulars required in applications

4.—(1) Every application for Native Communal Title shall state such information as required in the Application Form.

(2) An application shall contain a description of the area claimed sufficient to identify it and shall provide on the reverse side of the Application Form a sketch on the cadastral plan or topographical map indicating clearly the area and location of the particular parcel of land for which the application is made.

(3) The signature of each and every applicant shall be his usual signature or his usual mark, as the circumstances may require, and, for the purpose of the future identification of the applicant, his thumbprint may, with the consent of the applicant, be added.

Application to be recorded

5.—(1) An application shall not be recorded unless the officer receiving the application is satisfied—

(a) that the application has been made in good faith;

(b) that the grant of Native Communal Title in pursuant thereof would not contravene the instructions issued under section 13(3), or the directions made under section 13(1) of the Code or leases issued under section 18A of the Code; and

(c) that all necessary particulars have been given by the applicant.

(2) The receiving officer may require the production of evidence as to the identity of the applicant.

(3) Any refusal to record an application and the grounds of that refusal shall be reported to the Superintendent who may, if he considers that it should have been recorded, direct accordingly.

Register

6.—(1) A register of applications shall be kept in every Land and Survey Office.

- (2) The following particulars shall be entered in the Register:
- (a) the serial number of the application;
 - (b) the name of the applicant and the date the application was recorded;
 - (c) the administrative district in which the land is situated and, so far as is possible, its exact location;
 - (d) the approximate area applied for;
 - (e) the name of the officer who recorded the application; and
 - (f) any other related information.

Provisional Native Communal Title

7.—(1) When an approval under section 6A of the Code is received from the Minister or the Director, the Superintendent may order that a Provisional Native Communal Title in the prescribed Form 1 under the Schedule be issued in favour of the person or body of persons entitled.

(2) Every Provisional Native Communal Title shall specify the land description, approximate area and location of the land included therein but shall not entitle the holder to the whole of the area specified until a survey under rule 8 is completed and a Native Communal Title is issued.

Survey

8.—(1) The Superintendent shall, as reasonably practicable upon receiving approval by the Minister or the Director given under rule 7(1), send a surveyor to mark out and survey the lands for which the area had been approved and issued with the provisional Native Communal Title.

(2) On completion of survey, an applicant shall be required to sign a statement to the effect that he has attended in the presence of neighbours and the survey officer and that the boundary marks as placed by the surveyor define the limits of the land approved for issuance of Native Communal Title.

(3) Upon satisfaction of the completion of such survey, the Director shall re-classify the land into Native Area Land by virtue of section 4 of the Code.

Preparation of document of title

9.—(1) After the survey has been properly completed, the Superintendent shall put up the terms and conditions for the issuance of Native Communal Title to the Director.

(2) Where the Director, subject to any direction from the Minister, is satisfied that the application complies with the Code and these rules, may direct the Superintendent to prepare a Native Communal Title to be issued to the applicant.

Issuance of Native Communal Title

10.—(1) The Superintendent upon directive from the Director shall issue the Native Communal Title in the prescribed Form 2 under the Schedule in the name of a person or body of persons established under Part III of these Rules.

(2) A grant in perpetuity under this Rule shall be made for agricultural purpose, subject to such conditions, obligations and restrictions, as the Director on the direction of the Minister, may impose.

Registration of Native Communal Title

11.—(1) The Registrar shall register the Native Communal Title and record all particulars in the Register upon its issuance by the Superintendent.

(2) The Registrar at all material times upon making entry onto the Register shall satisfy himself that such registration shall not contravene section 8 and section 13A of the Code.

Effect of Registration

12. No title or right to the land included in the Register shall be acquired by possession or user adversely to, or in derogation of, the title of the registered proprietor holding directly from the Government.

Development of Trust Land

13. Any agreement between the beneficiaries and a third party for the development of the trust land in whatsoever manner shall be voidable at the instance of the beneficiaries unless prior consultation with the trustee has been conducted.

PART III
APPOINTMENT, POWERS AND DUTIES OF TRUSTEE

Appointment of Trustee

14.—(1) The Minister shall appoint a person or a body of persons to be a trustee who shall hold a Native Communal Title in trust for the benefit of the beneficiaries.

(2) The appointment shall remain valid until revoked by the Minister.

(3) Until such appointment is made by the Minister, Majlis Adat or Majlis Islam, as the case may be, shall be the trustee to hold the Native Communal Title under rule 10.

Execution of Trust Deed

15.—(1) The trustee shall cause a trust deed in the form to be approved by the Minister to be executed with the representative of the beneficiaries.

(2) For the purposes of this provision, “the representative of the beneficiaries” means the person who enjoys the confidence of a majority of the beneficiaries.

Functions of the Trustee

16. Subject to these Rules, the functions of the trustee are—

(a) to hold the trust land in accordance with these Rules and any other law for the benefit of the beneficiaries;

(b) to consult the Minister on matters related to the trust for the purpose of these Rules;

(c) to advise the Minister in relation to matters related to the trust; and

(d) to carry out other functions assigned to him under these Rules or any other law or by the Minister.

Powers and Duties of the Trustee

17.—(1) The trustee may, subject to the conditions and directions contained in his appointment, for the purpose or benefit of the trust administered by him—

(a) receive and hold the trust land;

(b) authorize any change in the registered address of the trust;

(c) after consultation with the Minister, apply for a variation in title condition of the trust land under Part X of the Code when required to do so by the beneficiaries; and

(d) do or carry out or have such specific functions, activities or duties as the Minister or Majlis Mesyuarat Kerajaan Negeri permit or allow.

(2) Nothing in this Rule shall deem to have authorized any trustee to do or carry out or exercise any power which is contrary to the purpose of the trust.

Liability of Trustees

18. No trustee shall be personally liable for or in connection with any act or omission done or committed in good faith and without gross negligence nor for any debt, liability, act or omission.

Board of Trustees

19.—(1) Where the trustee appointed by the Minister under rule 14 consist of a body of persons that trust shall be administered and managed by a Board of Trustees which shall consists of the following—

(a) a Chairman;

(b) a Deputy Chairman;

(c) two persons from amongst the beneficiaries; and

(d) not less than two and not more than three other trustees from amongst persons who has the relevant experience, knowledge and skills

who shall be appointed by the Minister.

(2) The Board shall appoint a secretary and a treasurer from amongst its members.

(3) A member of the Board may at any time resign his office by letter addressed to the Minister.

(4) The appointment of any member of the Board may be revoked by the Minister if—

(a) he has been adjudged a bankrupt;

(b) he has breached any of the provisions of the Code or these Rules or the Trustee Act 1949 [Act 208];

(c) he has been convicted of any criminal offence or any offence under the Companies Act 2016 [Act 777] and suffered a fine exceeding two thousand ringgit or imprisonment exceeding a term of one year;

(d) he has been convicted on a charge in respect of an offence under any written law relating to corruption;

(e) he has been absent from the State for a continuous period of more than twelve (12) months; or

(f) the Minister is of the opinion that, that person has failed or is unable to discharge his duties as a member on account of his insanity, ill health or for any other good reasons.

(5) Where any vacancy in the Board shall have arisen by reason of—

(a) death;

(b) the removal, pursuant to subsection (4); or

(c) resignation

of any member, the Minister may appoint any other person as a member to fill such vacancy.

PART IV MISCELLANEOUS

General Penalty

20. Any person who fails to comply with any provision of these Rules commits an offence and shall, on conviction, be liable to a fine of not exceeding five thousand ringgit or to imprisonment for a term of not exceeding two years or to both.

Delegation of Powers

21. The Minister or the Director may subject to such conditions as he may impose delegate any of the powers conferred upon him under these Rules.

SCHEDULE

FORM 1
(rule 7)

PROVISIONAL NATIVE COMMUNAL TITLE

Whereas I, _____ Superintendent of Lands and Surveys, _____ Division (hereinafter called "the said Superintendent") have agreed to issue a provisional Native Communal Title to _____ all that parcel of land situate in the _____ District and known as Lot Number _____ (in Block/Section Number _____ containing approximately _____ acres and whereas a grant in accordance with the provisions of the Land Code cannot be given because the immediate survey of the land has not yet been practicable now therefore I, the said Superintendent, hereby agree to the said _____ entering into possession of the land and to holding it as tenant from the ____ day of _____, _____ subject to the implied conditions and restrictions contained in the Land Code and to the express conditions hereinafter written.
In witness thereof I the said Superintendent have hereunto set my hand and seal of office this _____ day of _____.

Superintendent of Lands and Surveys

REGISTERED at the _____ Land Registry Office this _____ day of _____.

Registrar/Asst. Registrar

Diagram

Scale: 1 : _____

Classification: _____

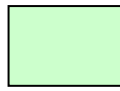
Category : _____

Locality : _____

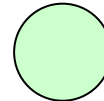
TRN. : ~~-LCPTD-~~ _____

L&S. _____

Section 6A(3)



Block/Section
DISTRICT



Lot no.

NAME(S) OF PROPRIETOR(S) & COMMUNITY

.xxx TRUSTEE (NO.____) to hold the trust land in accordance with the law for the benefit of the
.xxx Community of Kampung .xxx

RESTRICTIONS AND SPECIAL CONDITIONS

(including any modification of implied conditions and restrictions)

(i) Upon the completion of a proper survey of the land, the holder of this provisional native communal title will be given a grant in accordance with the provisions of the Land Code, and subject to the following express conditions and restrictions:

(a) This provisional title is issued pursuant to section 6A of the Land Code;

(b) This land is to be used only for agricultural purposes;

(c) No assignment or transfer to any person who is not a member of the native community named therein; and

(d) No dealing affecting this land may be effected without the consent in writing of the Minister or Majlis Mesyuarat Kerajaan Negeri.

(ii) The holder of this provisional native communal title shall not be entitled to a land of an area equal to the area above stated but only to such an area as the survey shows to be available.

	Limitation, Easement, Etc. & Annotation	Signature of Registrar/Asst. Registrar
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REMARKS:

FORM 2
(rule 10)

NATIVE COMMUNAL TITLE

KNOWN ALL MEN BY THESE PRESENTS that I, _____
 Superintendent of Lands and Surveys, _____ Division (hereinafter called "the said
 Superintendent") in consideration of the restrictions and the conditions hereinafter imposed do hereby
 under and by virtue of the powers conferred on me by the Land Code **grant unto** the proprietor(s)
 hereinafter named all that parcel of land situate in the _____ District and known as Lot
 number _____ in Block/Section Number _____ containing _____ more or less, and which is
 more precisely delineated on Survey Plan Number _____ deposited in the
 office of the said Superintendent to hold in perpetuity from the _____ day of _____ subject to
 the implied conditions and restrictions contained in the Land Code and to the express conditions
 hereinafter written.
 In witness thereof I the said Superintendent have hereunto set my hand and seal of office this
 _____ day of _____.

Superintendent of Lands and Surveys

REGISTERED at the _____ Land Registry Office this _____ day of _____.

Registrar/Asst. Registrar

Diagram

Scale: 1 : _____

Classification: _____

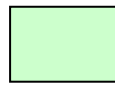
Category: _____

Locality : _____

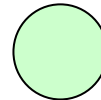
TRN. : ~~-LCTD-~~ _____

L&S. _____

Section 6A(3)



Block/Section
DISTRICT



Lot no.

NAME(S) OF PROPRIETOR(S) & COMMUNITY

.xxx TRUSTEE (NO.____) to hold the trust land in accordance with the law for the benefit of the
.xxx Community of Kampung .xxx

RESTRICTIONS AND SPECIAL CONDITIONS

(including any modification of implied conditions and restrictions)

- (i) *This title is issued pursuant to section 6A of the Land Code;*
- (ii) *This land is to be used only for agricultural purposes;*
- (iii) *No assignment or transfer to any person who is not a member of the native community named therein; and*
- (iv) *No dealing affecting this land may be effected without the consent in writing of the Minister or Majlis Mesyuarat Kerajaan Negeri.*

	Limitation, Easement, Etc. & Annotation	Signature of Registrar/Asst. Registrar
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REMARKS: (Schedule of NTD Land Serial No. _ SJ No. & DLS's approval / SLS ref.)

Made by Majlis Mesyuarat Kerajaan Negeri this 28th day of March, 2019.

MOHAMAD JUNAIDI BIN MOHIDIN,
Clerk to Majlis Mesyuarat Kerajaan Negeri

SARAWAK LAWNET

