THE

SARAWAK GOVERNMENT GAZETTE

PART II

Published by Authority

Vol. LXXVII **13th July, 2022** **No. 42**

Swk. L. N. 145

LAND CODE

LAND (COMPANIES) RULES, 2022

ARRANGEMENT OF RULES

Rules

1. Citation, application and commencement

2. Interpretation

3. Application of land

4. Submission of documents upon approval of application

5. Documents required for registration of land to a company

6. Restriction on transfer of controlling shares in a company

SAGC

Rules

7. Application for approval by Minister for the transfer of controlling shares in a company or shares in a holding company

8. Consequences of non-compliance

9. No judicial review of decision

SAGC

LAND CODE

LAND (COMPANIES) RULES, 2022

(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, application and commencement

1.—(1) These Rules may be cited as the **Land (Companies) Rules, 2022**, and shall apply to all land alienated under the Land Code ***[Cap. 81 (1958 Ed.)]*** to a company.

(2) These Rules shall be deemed to have come into force on the 1st day of July, 2022.

Interpretation

2. In these Rules—

"Act" means the Companies Act 2016 ***[Act 777]***;

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

"company" shall have the same meaning as assigned thereto by section 2 of the Act, and includes a foreign company;

"controlling shareholder" means the holder of the controlling shares in a company;

"controlling shares" means shares at any time in aggregate have control of more than one-half of the voting powers at an annual general meeting of the company or which in aggregate constitute more than one-half of the issued share capital of a company excluding preference share;

"constitution" in relation to a company means that document described in section 34 of the Act;

"Director" means the Director of Lands and Surveys and includes a Deputy Director appointed under section 3 of the Code;

"foreign company" shall have the same meaning assigned thereto in section 2 of the Act;

"holding company" means a company which is the registered or beneficial owner of the controlling shares in a company issued with a document of title for lands;

"Minister" means the Minister for the time being charged with the responsibility for land; and

"Registrar" means the Registrar of Lands and Surveys appointed under section 3 of the Code.

Application for land

3. Every application for State land by a company shall be made in such mode as may be prescribed by direction issued by the Director and the application must be signed by two persons who are directors or secretary or shareholders of the company at the time of the submission of the application.

Submission of documents upon approval of application

4. Upon approval of the application and before the issuance of document of title for the land, the company shall lodge with the Registrar the following documents certified by a person duly authorized under section 215 of the Code to attest instruments—

(*a*) a copy of its constitution;

(*b*) an extract of the Register of members kept under section 50 of the Act, showing the persons holding shares in the company at the time of approval of the application for the land;

(*c*) an extract from the Register of directors, managers and secretaries kept under section 57 of the Act;

(*d*) resolution of the company or its board of directors accepting the alienation of the land; and

(*e*) any other documents required by the Director.

Documents required for registration of land to a company

5. Where a company is a transferee of land, for the purpose of the registration of the instrument of transfer together with the documents required for presentation to the Registrar under the Code and the Land (Registration of Titles) Rules, the Company shall also provide the documents described in rule 3.

Restriction on transfer of controlling shares in a company

6.—(1) Where on or before the coming into force of these Rules upon alienation or a company becoming the registered proprietor of any land issued with a document of title endorsed with a special condition that the land shall not be transferable or shall only be transferred with the approval of the Minister is issued to or registered in the name of a Company, any transfer of controlling shares in that Company shall be deemed to be a transfer of the land and a breach of the special condition and the estate or interest secured by the document of title may be forfeited and re-entered in accordance with the provisions of section 33 of the Code.

(2) For the purpose of this rule, a transfer of controlling shares in a company issued with a document of title, occurs when—

(*a*) the controlling shares in a company are transferred or a trust over the same have been declared in favour of, or the rights and beneficial interests attached thereto have been assigned to or conferred upon, any person whether or not he is already a shareholder in the company;

(*b*) where there has been allotment and issuance of shares including bonus shares by the company the effect whereof would reduce the shares already issued at the time of alienation or registration of the document of title of the land, to less than one half of the issued share capital of the company;

(*c*) where there has been a transfer of shares in a holding company which has been issued with or is the registered owner of controlling shares in a company issued with document of title to land and such transfer of shares in the holding company has not been approved by the Minister; or

(*d*) where the company has a single share at the time of the alienation or registration of the document of title that share is transferred to another person or more than one shares in that company have been allotted and issued to any other person.

Application for approval by Minister for the transfer of controlling shares in a company or shares in a holding company

7.—(1) Application for approval for the transfer of controlling shares in a company or shares in a holding company or transfer of any shares which would result in a change of the controlling shareholder in the company shall be submitted to the Director.

(2) Application under this Rule shall be sent in such form as the Director may direct and shall be accompanied by all the documents specified in the application together with a fee of Ringgit Malaysia one hundred (RM100.00).

(3) Upon receipt of the application under sub-rule (1), the Director shall forward the application to the Minister who may, subject to terms and conditions, approve the application.

Provided that the Minister may, on such terms and conditions as the Minister may determine, delegate to the Director his powers to approve such transfer of controlling shares.

(4) Where the application is approved, the transfer of controlling shares or the shares in a holding company may be registered and the company shall within thirty (30) days from the date of registration lodge with the Registrar an extract of the Register of members of the company duly certified by a person authorized under section 215 of the Code to attest documents.

(5) If the extract of the register is not lodged within the time stipulated in sub-rule (4), the transfer of the shares shall deemed not to have been registered or effected and the approval for the transfer thereof is deemed to have been rescinded.

(6) Where the intended transferee of controlling shares is a non-Sarawakian company or person, the approval for the transfer may only be given by the Majlis Mesyuarat Kerajaan Negeri.

Consequences of non-compliance

8. Where any transfer of shares in any company to which these Rules applies is registered or effected in contravention of any rule—

(*a*) the Minister shall direct the transfer shares be annulled and the transferors of those shares shall be restored as owners thereof and a certified copy of the extract of the register of shares of the company be submitted to the Registrar within thirty (30) days from date of such direction;

(*b*) if the company shall fail or refuse to comply with the direction issued under paragraph (*a*), the Government may re-enter the land or the document be forfeited in accordance with section 33 of the Code.

No judicial review of decision

9.—(1) Any decision made by the Minister or Director under these Rules shall be final.

(2) There shall be no judicial review in any court of any such decision except in regard to any question relating to compliance with the procedural requirements in the making of such decision.

(3) In this rule, "judicial review" includes any proceedings commenced in accordance with Order 53 of the Rules of Court 2012 ***[P.U. (A) 205]*** for any of the reliefs provided in the Schedule to the Courts of Judicature Act 1964 ***[Act 91]***.

Made this 18th day of December, 2018.

DATU HAJAH SUTIN BT SAHMAT
Clerk to Majlis Mesyuarat Kerajaan Negeri

27/HQ/LB/Policy/22.0

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