

THE NATIVE COURTS ORDINANCE, 1992

THE NATIVE COURTS RULES, 1993

[Swk. L.N. 20/93]

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THE NATIVE COURTS ORDINANCE, 1992

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[Swk. L.N. 20/93]

(Made under section 29)

In exercise of the powers conferred by section 29 of the Native Courts Ordinance, 1992 [*Ord. No. 9/92*], the Yang di-Pertua Negeri has made the following Rules:

PART I

PRELIMINARY

Citation, commencement and application

1.—(1) These Rules may be cited as the **Native Courts Rules, 1993**, and shall come into force on the same date as the commencement of the Native Courts Ordinance, 1992*.

**1st June, 1993 [Swk. L.N. 13/93].*

(2) These Rules shall apply to any proceedings in a Native Court: Provided that in the application of these Rules to the Headman's Court, nothing in these Rules shall affect the special mode of procedure prescribed in paragraph (5).

(3) These Rules shall apply to all claims, complaints and other cases pending before the Native Court on the date of the commencement of these Rules in the same manner as they apply to claims, complaints and cases after the commencement of these Rules.

(4) In relation to claims, complaints, cases or appeals filed or revisions conducted before the commencement of these Rules, the Native Court may order the Claimants or Complainants or appellants or the parties to the proceedings to resubmit such claims or complaints or appeals in accordance with these Rules.

(5) (a) In relation to any suit or proceedings in a Headman's Court, the presiding officer may allow any claim, complaint or application made by any party to the proceedings under these Rules, to be made orally with or without the need to reduce it in writing, and all such claim, complaint or application shall be deemed to have complied with the requirements of these Rules.

[Am. Swk. L.N. 61/02.]

(b) In all proceedings before a Headman's Court, the verdict of the Headman's Court, including the ground of its decision, may be given orally and recorded in writing by the Registrar which shall form part of the record of the proceedings in lieu of the written judgment or grounds of decision of the said Court.

Interpretation

2.—(1) In these Rules—

“claim” means a claim lodged with a Native Court under rule 3(1);

“Claimant” means a person who lodges a claim with the Native Court, and includes a person who becomes a party to the proceedings on any claim in the capacity of a Claimant;

“complaint” means any complaint or charge or allegation made against any person for breach of a native law or custom;

“Complainant” means a person who makes a complaint or charge to the Native Court of the commission by another person of an offence against any native law or custom;

“Defendant” means any party against whom a claim is made and any person who becomes a party to the proceedings on any claim in the capacity of a Defendant, and includes a person against whom a complaint or charge of the breach of any native law or custom has been made;

“Form” means the Form set out in the First Schedule and a Form referred to by an alphabetic symbol means the Form as lettered in the First Schedule;

“Native Court” shall mean a Native Court of original jurisdiction constituted under section 3 of the Ordinance, and includes the presiding officer thereof;

“pleader” means any person who is permitted by the Native Court to plead before the Native Court, and includes any person who is permitted to appear before the Native Court by virtue of section 10 of the Ordinance;

“Registrar” means any person appointed to be a Registrar under rule 33(4), and includes the Chief Registrar and any person exercising the powers of the Registrar under rule 33(5) and (7);

“Registry Office” means the registry office of the Native Court established under rule 32.

(2) Any powers, duties, functions or responsibilities imposed by the Ordinance and these Rules on the State Attorney-General may be exercised, executed or performed by his Deputy or any legal officer in the service of the Government of Sarawak generally or specially authorized by him in writing.

PART II
CIVIL CLAIMS

Commencement of proceedings

3.—(1) Civil claims shall ordinarily be instituted in the lowest Native Court, empowered to hear the same:

Provided that such Native Court may in accordance with rule 18 order, for reasons which shall be recorded, on its own motion or on an application made by any party to the proceedings, that the case shall be instituted in any other Native Court of equal or higher jurisdiction.

(2) Every proceeding before a Native Court shall be commenced by presenting Form A to the Registry Office of the appropriate Native Court.

Form A

(3) Form A must be signed or thumb printed by the Claimant.

(4) The Native Court or the Registrar may permit a claim to be made orally and cause it to be reduced in writing in Form A. After the claim is so reduced in writing it shall be read over and explained to the Claimant, who shall sign or thumbprint it and a copy thereof shall be given to him.

(5) Upon receipt of Form A, the Registrar shall cause the same to be served upon any person named by the Claimant as a Defendant or to any person likely to be affected by a decision of the Native Court.

(6) Any person to whom a copy of Form A is served shall be deemed to be a party to the proceedings.

Answer

4.—(1) The Defendant or any person upon whom a copy of Form A is delivered or served shall, if he so wishes to dispute the claim or any of the claims contained in the said Form, deliver to the Registry Office of the appropriate Native Court, an answer in Form B, within twenty-eight (28) days from the date of the receipt by him of Form A.

Form B

(2) Form B must be signed or thumbprinted by the Defendant or the person who has been served with Form A.

(3) A Defendant may answer or dispute the claim of the Claimant orally; but such answer must be reduced by the Native Court or the Registrar in writing in Form B, read back to the Defendant, who if he agrees with the answer as recorded, signifies his agreement by signing or thumbprinting on the said Form B.

(4) The Registrar shall cause a copy of Form B to be served on the Claimant.

Summary adjudication

5.—(1) Within twenty-one (21) days from date of receipt of Form B, the Native Court shall consider the claim filed by the Claimant and all the documentary evidence attached by him to the said Form A in support of his claim, and the answer of the Defendant as disclosed in Form B together with any documentary evidence attached to the said Form B by the Defendant.

Form B

(2) If upon such consideration, the Native Court is of the opinion that:

(a) the claim or any claim contained in Form A is frivolous and vexatious;

(b) the claim was made in bad faith;

(c) the claim is similar to or based upon the same facts as that relating to a claim which had previously been struck out or dismissed by any Native Court;

(d) the claim, even if proven, does not entitle the Claimant to any relief or remedy which is within the jurisdiction of the Native Court to grant; or

(e) the claim as disclosed in Form A is outside the local area of jurisdiction of that Native Court,

the Native Court may:

(i) strike out or dismiss the claim or any of the claims of the Claimant;
or

(ii) order that the case be transferred in accordance with rule 18 to any Native Court which has jurisdiction to decide upon the claim.

(3) Any decision of the Native Court reached pursuant to paragraph (2), which must be signed by the presiding officer, shall be conveyed by the Registrar of that Native Court to the Claimant and Defendant in Form C within fourteen (14) days of the making of the decision.

Form C

(4) Any decision reached by a Native Court under this rule shall be decided in conformity with section 21 of the Ordinance:

Provided that in the case where both the Temenggong and the Pemanca are sitting in the Chief's Superior Court, any decision reached by that Court shall be agreed upon by both the Temenggong and the Pemanca but shall not be bound by the opinion of the assessor sitting with them.

(5) Any party who is aggrieved by the decision of a Native Court may appeal against the same in accordance with the provisions of Part V.

Default

6.—(1) If the Defendant or any person served with Form A fails to deliver Form B to the Registry Office where the said Form A is filed, within the period stipulated in rule 4 (1), the Native Court shall be entitled to enter judgment in favour of the Claimant or make such order as it deems fit in his favour.

(2) Such judgment or order shall be in Form D.

Form D

(3) Form D shall be signed by the presiding officer and shall be served by the Registrar upon the Defendant or person served with Form A, within fourteen (14) days from the date of the making of such judgment or order.

Directions

7.—(1) In any case, if upon consideration of the claim as disclosed in Form A and the answer as disclosed in Form B together with the documentary evidence contained thereto, the Native Court is of the opinion that the case ought to be tried, then the Native Court shall issue the following directions to be considered for the trial of the case, that is to say—

- (i) the place where the case is to be tried;
- (ii) the date of the trial;
- (iii) the issues either of facts or law that must be determined;

(iv) the manner in which evidence is to be given, to determine any issues of facts or ascertain any facts required to resolve any issue of law;

(v) the manner in which expert evidence on native law or custom is to be given or the application of more than one native system of personal law is required to be determined; and

(vi) to deal with all matters which, by such directions, are required to be considered and to resolve all issues in dispute between the parties.

(2) The directions given under paragraph (1) shall be recorded in Form E to be signed by the presiding officer and served on the parties at least one (1) month before the date fixed for the trial thereof.

Form E

(3) There shall be no appeal against any directions given pursuant to this rule, but on application in writing or at the request in writing of any party or his pleader, the Native Court may add, vary, amend or cancel any of the directions given. Copies of such application or request shall be served by the party making the same to the other party who may object to such application or request by filing such objections in writing to the Registry Office of the Native Court concerned.

Investigation

8.—(1) The Native Court may, at any time before the trial of a case, make such investigation into any allegation of fact contained in Form A or B.

(2) Any result of such investigation shall be reduced in writing and served upon the parties before the conclusion of the hearing of the case and shall form part of the record of proceedings:

Provided always that any party may have his objection and the reason for such objection to the finding recorded.

(3) The Native Court may base its decisions on the case on the results of such findings notwithstanding the objection by any party to such findings, provided it gives reasons for overruling such objection.

Procedure

9.—(1) The trial of any case before the Native Court shall be conducted in public but the Native Court may direct that any witness shall be examined or its proceedings or any part thereof shall be conducted in private.

(2) Any proceedings before the Native Court shall be conducted in an informal manner and that provisions of the Evidence Act 1950 [*Act 56*] shall, unless the circumstances of the case require its use, not apply to such proceedings.

(3) At the trial, the presiding officer shall call upon such party as he may think fit to state his case and adduce evidence, if any, in support of the issues set out in Form E in so far as they are relevant to his case.

(4) The opposite party shall thereafter state his case and adduce evidence, if any, in support of the issues set out in Form E in so far as they are relevant to his case.

(5) No further statements or submission may be made except by leave of the presiding officer.

(6) All proceedings before the Native Court shall be recorded by the presiding officer and if necessary read over and explained to the parties.

(7) Subject to section 10 of the Ordinance, parties before the Native Court may either appear in person or with leave of the presiding officer, through his pleader: Provided that the State Attorney-General may in any case appear either on his own behalf or through a representative where the Government of Sarawak is named a party in the proceedings or may be affected by any decision of the Native Court.

(8) Any oath or affirmation shall be administered to a witness before he commences to give evidence before the Native Court.

(9) The Native Court may on such terms and conditions as it deems fit from time to time adjourn or postpone any proceedings before that Native Court.

(10) If, on the date fixed for the trial of any case, the Claimant or the Defendant fails to appear, the Native Court, if satisfied that the party failing to appear had knowledge of the date of trial, may either strike out or dismiss the claim or enter judgment for the Claimant, as the Native Court deems fit and proper.

(11) If both Claimant and Defendant fail to appear on the date fixed for hearing of the case, the Native Court may strike out or dismiss the claim or make such order or ruling as the Native Court deems fit.

(12) Any decision, order or ruling made pursuant to paragraph (11) may be reviewed by the Native Court on application by either party, and upon such review, the case may be restored for hearing by that Native Court.

(13) Any decision, order or ruling made under this rule shall be conveyed to the parties by the Registrar in writing.

Verdict

10.—(1) The verdict of the Native Court, including the grounds or reasons thereof, shall be given in Form F which shall be served on all parties by the Registrar.

Form F

(2) Form F shall be signed by the presiding officer.

(3) A copy of Form F shall be maintained in the case file and a further copy thereof transmitted to the Resident within whose Division such case arises.

(4) Any party aggrieved by a verdict of the Native Court may appeal against the same in accordance with Part V.

Enforcement of judgment or order

11.—(1) Where a decision, judgment or order in Form F has been served under rule 10(1), and the person against whom the decision, judgment or order is made or given has not complied with the decision, judgment or order, the party who has obtained the decision, judgment or order may file in the Native Court a notice to show cause in Form F(1), and served in accordance with rule 27 a copy of it on the person against whom the decision, judgment or order is made or given.

Form F
Form F(1)

(2) The Native Court after examining the person against whom the decision, judgment or order is made or given may—

(a) pursuant to section 17 of the Ordinance, allow the person time to settle any penalty or compensation payable in cash or kind by instalments as it shall think just or, in default of the payment thereof, order the sale of any of his property; or

(b) pursuant to section 19(e) of the Ordinance, order a writ of seizure and sale to be issued in Form G: Provided no order of seizure or forfeiture shall take effect unless and until it has been endorsed by a Magistrate; or

Form G

(c) order the Defendant to be arrested in Form T and have him committed to a court presided by a Magistrate for sentence of imprisonment in accordance with section 18(2) or 23(4) of the Ordinance.

(3) Where a decision, judgment or order has been made by a Native Court for the recovery of land or for the delivery of possession of land to which there is no

title issued by the Land Office and against which no appeal has been lodged within the period of thirty (30) days from the date of receipt of Form F, the Native Court making such decision, judgment or order shall issue a direction under section 22(1) of the Ordinance in Form F(2) to enforce such decision, judgment or order: Provided that no such direction shall be issued by the Native Court until a notice in Form F(3) has been served on the Director of Lands and Surveys and he does not within twenty-one (21) days from the date of service of the notice, furnish any written objection against the intention of the Native Court to make the direction.

Form F(2)

Form F(3)

(4) There shall be no appeal against any direction issued by the Native Court pursuant to section 22(1) of the Ordinance.

PART III

BREACH OF NATIVE LAW OR CUSTOM

Application of this Part

12. This Part of the Rules shall apply only to cases involving complaints relating to breach of native law or custom or any other customary law by whose custom the Native Court is bound in respect of which a Defendant may be subject to the penalties set out in section 11(1) of the Ordinance and in proceeding relating to contempt of Native Court under section 23 of the Ordinance.

Cases excluded from jurisdiction of Native Court

13. Cases involving complaints for breach of native law or custom shall be instituted in such Native Court as would appear to have power to inflict an adequate punishment for the offence in the event of the accused being convicted. A Native Court shall not entertain a case which under section 11(1) or 28 of the Ordinance it considers it has no jurisdiction or sufficient powers to try but shall send the case to another Native Court of appropriate jurisdiction or power.

Complaints

14.—(1) Any Complainant who wishes to make—

(a) any complaint for breach of any native law or custom or any other customary law by whose custom the Native Court is bound; or

(b) any complaint against any person for contempt of Native Court,

may do so by completing Form H and delivering the same to the Registry Office of the Native Court having jurisdiction over the complaint.

Form H

(2) Form H shall be signed or thumbprinted by the Complainant.

(3) The Native Court or the Registrar may permit a complaint to be made orally and cause it to be reduced in writing in Form H. What is reduced in writing must be read back and explained to the Complainant who shall confirm his agreement to the complaint by signing or thumbprinting the said Form H and a copy thereof shall be given to him.

(4) Nothing in this Rule shall affect the right of a Native Court in dealing summarily with any contempt of that Native Court on its own motion.

Serving complaint

15. Upon receipt of the complaint, the Registry Office where the same is filed shall forthwith serve a copy of Form H together with a Notice of Mention in Form I to the Defendant and the Complainant.

Form I

Mention

16.—(1) On the date of mention, the Defendant shall appear personally in the Native Court to answer the complaint made against him.

(2) If the Defendant admits the breach of any native law or custom, the Native Court shall thereafter forthwith pass such sentence, fine or make such order as the Native Court deems fit on the Defendant.

(3) If the Defendant denies the complaint, the Native Court shall forthwith fix a date for trial and may ask the Defendant to furnish such security as the Native Court deems fit to ensure the Defendant's presence at the trial.

(4) The Complainant, unless otherwise ordered by the Native Court, must be present in the Native Court at the date of mention and trial and if he shall fail to appear, the Native Court may either dismiss the complaint or make such order as it deems fit.

Hearing

17.—(1) At the date of hearing, the Native Court shall call upon the Complainant to state his case and adduce evidence to prove his complaint against the Defendant.

(2) Unless the Native Court finds at the conclusion of the Complainant's case that there is a *prima facie* evidence of breach of any native law or custom, the Native Court shall discharge the Defendant and strike out the complaint.

(3) If the Defendant is called upon to answer the complaint he shall be entitled to state his defence and produce evidence in support thereof.

(4) The Native Court shall, upon the conclusion of the Defendant's case or not more than twenty-one (21) days thereafter, deliver its decision on the case in Form J.

Form J

(5) If it appears to the Native Court which is not presided by a Magistrate after the conviction of the offender that the offender should be imprisoned, the person presiding in that Court may commit the offender to a court presided over by a Magistrate for sentence in Form K.

Form K

(5A) A warrant to commit the offender to prison shall be in Form K(1).

Form K(1)

(5B) A warrant to discharge the offender or defendant who has been imprisoned or temporarily detained shall be in Form K(2).

Form K(2)

[Ins. Swk. L.N. 61/02.]

(6) Any appeal against any order, judgment, sentence, fine or ruling of the Native Court shall be made in accordance with Part V.

PART IIIA

APPLICATION BY A NON-NATIVE TO BE IDENTIFIED WITH A NATIVE COMMUNITY

Procedure

17A.—(1) An application under section 20(1) of the Ordinance by a non-native to be identified with a particular native community and to be subject to the native system of personal law of such community shall be made in Form K(3), supported by such particulars as are required in that Form, together with documentary evidence in support of or verification of such particulars.

Form K(3)

(2) In the case of a non-native who is a minor, an application for him or her to be identified with a particular native community under section 20 of the Ordinance may be made either jointly with the application of his or her parent or separately on his or her behalf by his or her parent or guardian.

(3) Form K(3) and the accompanying documents must be submitted in quadruplicate to the Registrar of the District Native Court, together with a filing fee of one hundred ringgit.

(4) After the filing of Form K(3), the applicant shall serve a copy each of the said Form K(3) and all accompanying documents on the State Attorney-General within 14 days from the date of filing thereof.

(5) A copy of the application shall be posted by the Registrar of the Native Court on the notice board of the Resident's Native Court at least 10 days before the date fixed for the hearing of the application.

[Ins. Swk. L.N. 61/02.]

Eligibility to apply

17B.—(1) A non-native is eligible to apply to be identified with any particular native community and be subject to the personal law of any such community if—

(a) he or she is a Malaysian citizen and is permanently residing in Sarawak; and

(b) he or she satisfies the requirements stipulated either in paragraph (2) or (3).

(2) A non-native who wishes to apply to be identified with the Malay community and be subject to the personal law of such community, must satisfy the following requirements:

(a) he or she professes the religion of Islam; and

(b) he or she habitually speaks the Malay language and observes or conforms to the Malay customs and cultures; and

(c) (i) his or her mother or father is a native of Sarawak of the Malay community; or

(ii) he or she is lawfully married, for not less 5 years, to be a native of Sarawak of the Malay community; or

(iii) he or she has been validly adopted by a native of Sarawak of the Malay community either under such native customary law or under the Adoption Ordinance [*Cap. 91 (1958 Ed.)*] of Sarawak.

(3) A non-native who wishes to apply to be identified with any other particular native community and be subject to the personal law of such community, must satisfy the following requirements:

(a) he or she is proficient in the language or dialect of the particular native community which he or she wants to be identified with; and

(b) he or she practises or conforms to the customs and cultures of that native community; and

(c) (i) his or her mother or father is a native of Sarawak; or

(ii) he or she is lawfully married, for a period of not less than 5 years, to a native of Sarawak; or

(iii) he or she has been validly adopted by a native of Sarawak either under such native customary law or under the Adoption Ordinance [*Cap. 91 (1958 Ed.)*] of Sarawak; and

(d) (i) he or she resides or has or maintains a family room (bilek) or a house in the longhouse or a kampung belonging to that native community; or

(ii) if he or she does not reside or has a family room (bilek) or a house in the longhouse or, kampung, he or she maintains close or regular contacts with that longhouse or kampung community which he or she seeks to be identified with such as by returning thereto for traditional festivals like Gawai Dayak and by actively participating in or contributing to the development and other activities of that native community.

[Ins. Swk. L.N. 61/02.]

Minors

17C.—(1) A minor, who is a non-native, may be deemed or confirmed a native in accordance with the provisions of this rule.

(2) A Resident's Native Court when granting an application of a non-native, to be identified with a native community and be subject to the native system of personal law of such community, may pronounce and confirm that any child, who has not reached the age of majority, named in paragraph 3(b) of the applicant's Form K(3), to be also identified with the said native community and subject to the native system of personal law thereof, if the Court is satisfied on evidence adduced to the Court, that the child is residing with the applicant or under his care or custody and conforms to the customs and cultures of that native community.

(3) (a) Notwithstanding paragraph (2), a minor, who is a non-native, may apply to the Resident's Native Court, through one of his parents or a guardian who is a native of Sarawak, to be identified with any particular native community and with the native system of personal law thereof. Such an application may be made in Form K(3) which must be signed on behalf of the minor by the parent or guardian.

(b) A Resident's Native Court may grant such an application by the minor if it is satisfied that the child is under the care or custody of or residing with the said

parent or guardian and conforms to the customs and cultures of that native community and is able to speak the language or dialect of that native community.

[Ins. Swk. L.N. 61/02.]

Right to be heard

17D.—(1) The State Attorney-General shall have the right to be heard by the Resident’s Native Court on any application made under this Part, and shall be deemed to be a party to the application.

(2) Notwithstanding paragraph (1), the Resident’s Native Court may proceed to hear and dispose of any application in the absence of the State Attorney-General, where the State Attorney-General notifies the Resident’s Native Court in writing that he does not wish to appear at the hearing of the application.

(3) The State Attorney-General may be represented at the hearing of any application under this Part by a State Legal Officer or any advocate duly authorized by him in writing.

(4) Except as provided in this rule, no application shall be heard in the absence of the State Attorney-General or his authorized representative.

[Ins. Swk. L.N. 61/02.]

Procedure at hearing

17E.—(1) At the hearing of any application made under this Part, the applicant must appear personally and may be represented by either an advocate, or a pleader who satisfies the Resident’s Native Court that he is either a member of the native community which the applicant wants to be identified with or he is a relative of the applicant.

(2) The applicant shall present his case to be identified with a particular native community and adduce evidence in support thereof. At the conclusion of the applicant’s presentation, the State Attorney-General may state his opinion on the application, including his objection thereto and the grounds in support thereof.

(3) After hearing the presentations of both the applicant and the State Attorney-General, the Resident’s Native Court shall as soon as possible make its decision or finding on the application.

(4) A copy of the decision or finding of the Resident’s Native Court must be given to the applicant and the State Attorney-General within 14 days of the date of pronouncement of the decision or finding.

[Ins. Swk. L.N. 61/02.]

Granting of application

17F.—(1) Where the Resident’s Native Court grants an application for an applicant (and together with those of his children who are minors named in his application) to be identified with a particular native community and be subject to the personal law of such community, the Resident’s Native Court shall, after the period of appeal has lapsed and where no appeal has been lodged against the decision of the Court, notify the State Secretary and the State Attorney-General in writing of its decision or finding on the application.

(2) Where the State Secretary is satisfied that the decision or finding of the Resident’s Native Court in respect of any application under this Part has been made in accordance with section 20 of the Ordinance, the State Secretary shall cause the name of the person or persons, as the case may be, whom the Resident’s Native Court has determined to be identified with any particular native community and to be subject to the personal law of any such community to be published in the Sarawak Government *Gazette*, and upon such publication, that person or persons shall be deemed to be a native of Sarawak.

(3) Where the State Secretary has reasons to believe that the decision or finding of the Resident’s Native Court in respect of any application under this Part has been made without complying with the procedure or without taking into consideration any of the requirements specified in section 20 of the Ordinance or these Rules, the State Secretary may direct that the application be referred back to the Resident’s Native Court for reconsideration or rehearing.

[Ins. Swk. L.N. 61/02.]

Appeal

17G. The decision of the Resident’s Native Court under this Part shall be subject to appeal by the applicant or the State Attorney-General, to the Native Court of Appeal.

[Ins. Swk. L.N. 61/02.]

PART IV

TRANSFER OF PROCEEDINGS AND REVISIONAL ORDER

Procedure on transfer from a Native Court to some other court under section 5(6) of the Ordinance

18.—(1) A Native Court on its own or on an application by any party to a proceedings may transfer the case for hearing and determination by another court under section 5(6) of the Ordinance in the course of proceedings before Judgment

and such application shall be made by notice and shall be heard by the presiding officer.

(2) Every notice shall be in Form L and shall state the nature of the Order applied and the grounds of the application and sealed by the Registrar.

Form L

(3) Where proceedings are transferred from a Native Court to some other court pursuant to section 5(6) of the Ordinance, the Registrar of the Native Court from which the proceedings are transferred shall transmit a copy of the Order of Transfer in Form M together with the case file including all the relevant documents, exhibits and certified copies of notes of evidence of the proceedings, if any, to the Resident for such directions as the Resident may think fit.

Form M

(4) If the Resident considers that any decision recorded or passed by the Native Court to transfer the case for trial and determination by some other court is illegal or improper he shall deal with the case in accordance with section 5(6) of the Ordinance.

Power of Resident to transfer case

19.—(1) The Resident may, pursuant to section 9 of the Ordinance, either on his own initiative or on the report of the lower court, or on the application of the State Attorney-General or by any party to the proceedings in Form L, make such order as seems necessary under section 9(2) of the Ordinance in Form N.

Form N

(2) The application in Form L shall be sent to the Registrar, the Resident, the Native Court whose proceedings are affected by the application and the parties to such proceedings.

(3) Upon receipt of the said Form L, the Resident shall call for and examine the record of the proceedings and the Registrar shall ensure that the record of the proceedings are transmitted to the Resident within ten (10) days after a written request for such record is received by him.

Procedure for determining the application

20. Before finally determining the application, the Resident may either make such Order as he thinks fit under section 9(2) of the Ordinance without hearing the parties, or he may direct the parties concerned, including the State Attorney-General, to appear before him and accord them a hearing.

Procedure when Order is made

21.—(1) Where an Order in Form N is made by the Resident under section 9(2) of the Ordinance, the Native Court before which the case is pending shall cause the parties concerned to appear or to be brought before the Native Court specified in the said Order as soon as may be practicable. When the parties concerned appear or are brought before the Native Court, it shall fix a date for hearing. The Native Court to which the case is transferred may act in accordance with section 9(6) of the Ordinance.

Form N

(2) The Order in Form N shall be signed by the Resident and shall be served on the following persons:

- (i) the parties to the proceedings;
- (ii) the Native Court before which the case is pending and the Native Court before which the case is to be transferred as specified in the Order; and
- (iii) the State Attorney-General.

Revisional order

22.—(1) Any party to any original, revisional or appellate proceedings before any Native Court may, not later than twelve (12) months from the termination of such proceedings, apply to the Native Court of Appeal by way of petition for revision in Form O for an order varying or revising the judgment or order of that Native Court:

Form O

Provided that no proceedings by way of revision shall be entertained where the applicant has not exhausted his rights to appeal under section 13 of the Ordinance.

(2) Subject to section 16 of the Ordinance, the Native Court of Appeal may, before finally determining the application and making such order as it thinks fit in Form P, call for and examine the record of any proceedings before that court for the purpose of satisfying itself as to the correctness, legality or propriety of any decision recorded or passed, and as to the regularity of any such proceedings.

Form P

(3) No party shall have any right to be heard before the Native Court of Appeal when exercising its powers of revision:

Provided that no final order shall be made to the prejudice of any person unless the person has had an opportunity of being so heard.

PART V
APPEALS

Process of appeal

23.—(1) Any party aggrieved by the decision, order or judgment of a Native Court may appeal against the same within thirty (30) days from the date of such decision, order or judgment, or within such further time as the Court to which the appeal lies may in any particular case allow in accordance with sections 12 and 13 of the Ordinance.

(2) An appeal against any decision, order or judgment of a Native Court shall be brought by way of Notice of Appeal in Form Q.

Form Q

(3) The Notice of Appeal shall be filed by the Appellant with the Registry Office of the Native Court which delivers or makes the decision, order or judgment appealed against.

(4) The Appellant shall cause the Notice of Appeal to be served on all parties directly affected by the decision, order or judgment appealed against.

(5) Upon receipt of Form Q, the Registrar shall cause the record of proceedings and all other documents put in evidence in the case to be transmitted to the Native Court which has jurisdiction to hear the appeal.

Hearing of appeal

24.—(1) The Native Court hearing the appeal shall notify the parties to the appeal of the time and date of hearing of the appeal by the issue of Form R.

Form R

(2) Appeal shall be by way of rehearing but no fresh evidence shall be adduced by the parties without special leave of the Native Court hearing the appeal.

(3) Save as provided herein, an appellate Native Court may by order regulate its own procedure for the hearing of any appeal.

(4) Where an appeal to an appellate court is brought on the ground that the conviction is against the weight of the evidence or that the sentence is excessive and it appears to the appellate court on perusal of the record that there is no sufficient ground for interfering, the appellate court may summarily reject the appeal after hearing the appellant or, in his absence, after due notice to him of the hearing of the appeal.

(5) The decision, order or judgment of any appellate Native Court shall be conveyed to the parties in Form S.

Form S

Application of Parts IV and V to claims and complaints

25. Parts IV and V shall apply to civil claims and to cases involving complaints relating to breach of native law and custom and any application made under Part IIIA.

[Am. Swk. L.N. 61/02.]

PART VI
MISCELLANEOUS

Warrant of arrest and summonses

26. Every warrant of arrest, ordinary summons or summons to witnesses issued by a Native Court under section 24 of the Ordinance shall be in Form T, Form U and Form V respectively.

Form T

Form U

Form V

Service

27.—(1) Any Form or document or notice or instrument which under these Rules must be served upon a party to the proceedings before the Native Court may be served either—

(a) personally on that party; or

(b) by sending the same by registered post to that party's last address known to the Native Court and in regard to such service the provisions of section 3(5) of the Interpretation Ordinance, 2005 [*Cap. 61*], shall apply.

(2) Service of any document, notice or instrument, or other process of the Native Court may be proved by indorsement on a copy of the same under the hand and description of the person making the service, showing the day, place, time and mode of service, and every such indorsement shall be taken as *prima facie* evidence of the truth of the facts stated therein.

(3) The Native Court in any appropriate case may set aside the service of such Form, document, notice or instrument and order the same to be served again on any party entitled to be served.

Issue and filing of Forms

28.—(1) The Forms prescribed by these Rules shall be issued free of charge to any person desiring or entitled to the same.

(2) No fee shall be charged for the filing of any Form with a Registry Office in cases against any person for breach of any native law or custom.

(3) Where a Form is not prescribed in the First Schedule or where a prescribed Form is not suitable to the circumstances of a particular case, the prescribed Forms in the First Schedule may whenever possible be adapted to meet such a case or situation.

(4) The several Forms in the First Schedule shall be used as far as practicable for the purposes in such Forms respectively mentioned, with such variations as the circumstances of the particular case require.

(5) All Forms required by these Rules shall be completed in quadruplicate, but the Native Court or the Registrar may direct any party or person to provide such additional copies of any Form as the Native Court or Registrar may require.

Native Court fees

29.—(1) The fees specified under the special heads in the Second Schedule shall be levied in respect of the several matters and proceedings specified therein.

(2) Any fee may be remitted or reduced by the Native Court on the grounds of poverty and any Native Court on appeal may, if it thinks fit, order the refund to a successful party of any fees paid in respect of the appeal.

(3) The fees taken in the Native Court and in the Registry Office shall be entered and recorded in a book kept at the Registry Office.

Allowances to presiding officers, witnesses and assessors

30.—(1) The rates of allowances to witnesses and assessors shall be those prescribed in the Third Schedule.

(2) There shall be paid for each presiding officer mentioned in the Third Schedule such allowances as are specified in the said Schedule.

Language

31. The language to be used in the conduct of any proceedings before any Native Court shall, if not in Bahasa Malaysia, be any native language which the presiding officer shall grant leave for its usage, or English.

Registry Office and records

32.—(1) The Minister may, by notification in the *Gazette*, establish a Registry Office for every Native Court constituted under section 3 of the Ordinance, where claims, complaints, appeals or applications may be lodged and where the following records shall be kept:

(a) a case register, which shall contain the following particulars:

- (i) the serial number of the case;
- (ii) the date of the claim or complaint;
- (iii) the name of the Claimant or Complainant;
- (iv) the name of the Defendant or accused;
- (v) the fee (if any) and the number of the Native Court receipt;
- (vi) a statement whether or not a notice of appeal has been filed;
- (vii) a description of the case;
- (viii) the date of hearing;
- (ix) the names of the witnesses;
- (x) the decision or other final order of the Native Court;
- (xi) the date of payment of fine in cash or kind or compensation and the number of the Native Court receipt; and

(b) a case file or record of proceedings, which shall contain the following particulars of the case:

- (i) all Forms submitted, filed or issued in relation to the case;
- (ii) the notes of proceedings and the substance of the evidence given by the parties and their witnesses;
- (iii) a list of exhibits, if any;
- (iv) the judgment including any order, ruling, sentence or direction of the Native Court in full which must be signed by all

members of the Native Court, who support the judgment, order, ruling, sentence or direction;

(v) the views and opinions of members opposing the judgment shall be recorded and signed by them;

(vi) the presiding officer's reasons for dissenting to conform to the opinion of the assessors or any of them.

(2) If any person affected by any judgment or order in any proceedings before a Native Court desires to have a copy of the proceedings he shall on applying for such copy be furnished therewith provided that he pays for the same.

(3) The records of each case shall be authenticated by the signature of the presiding officer and may be inspected by—

(a) any party to the case;

(b) the State Attorney-General;

(c) the Resident within whose Division such case arises; and

(d) such other person as may be authorized by the Registrar.

(4) The Registry Office shall be under the control and supervision of the Registrar in which the Registry Office is situated.

(5) In the event of any appeal against the decision of the Native Court in any case, the case file shall be transmitted forthwith by the Registrar to the Native Court where the appeal is lodged, and the following particulars shall be recorded:

(a) the date of appeal and the date of the transmission of the record to the appellate court;

(b) the judgment, decision, order, sentence, fine or ruling of the Native Court;

(c) the Native Court's serial number of appeal;

(d) the result of the appeal and the date on which the Native Court was informed thereof.

Appointment of Chief Registrar, Registrars and other officers

33.—(1) The Yang di-Pertua Negeri may appoint any person to be the Chief Registrar who shall have general charge and supervision of all Registrars appointed under paragraph (4).

(2) The Chief Registrar shall establish and maintain at Kota Samarahan a Central Registry Office.

[Sub. Swk. L.N. 144/2015]

(3) Every Registrar shall forward to the Chief Registrar, at such times and in such form as the Chief Registrar shall direct, records of all proceedings registered in his district and such other information as he may require from time to time.

(4) The State Secretary may, on the recommendation of the Chief Registrar, appoint any person to be a Registrar for any place, district or division for the purpose of carrying out the provisions of these Rules, and there shall be such interpreters, bailiffs, process servers and other subordinate officers as are appointed. The Registry Office shall be under the control and supervision of the Registrar.

(5) Whenever the Chief Registrar or Registrar is for any reason unable to perform the duties of his office or whenever any such office is vacant, the Yang di-Pertua Negeri, in the case of the Chief Registrar, and the State Secretary, in the case of the Registrar, may appoint a fit person to act as Chief Registrar or Registrar; and so long as a person is lawfully acting in any such office, he shall be deemed for all purposes to be the Chief Registrar or Registrar, as the case may be, and shall have all the powers and perform all the duties imposed upon the substantive holder of the office in which he is acting.

(6) The Chief Registrar, Registrars and all subordinate officers of the Registry Office shall, in exercising their powers or performing any of their duties or functions, have regard to any general or special directions of the State Secretary.

(7) For the purposes of these Rules, subject to the direction of the State Secretary, any District Officer or any Sarawak Administrative Officer in charge of a district, in which there is for the time being no Registrar, shall have and may exercise all the powers by these Rules conferred on a Registrar.

(8) All Registrars, including the Chief Registrar and other officers appointed under paragraph (2) shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

Assessors

34.—(1) There shall be established for each district in every Division a Panel of Assessors as hereinafter prescribed.

(2) The District Officers shall with the approval of their respective Residents and in consultation with the Chiefs and Headmen in their respective districts, prepare from time to time a list of persons who are qualified to serve as assessors in their respective districts.

(3) Every person of or above the age of twenty-one, resident within the State being of sound mind and not afflicted with deafness, blindness or other infirmity incapacitating him from such duties and who in the opinion of the District Officer is versed in the native system of personal law of any native community shall be qualified to serve as an assessor.

(4) The list shall set out the name, age, place of residence, standard of education, occupation, race, community, dialect spoken, the native system and personal law followed or applicable to him and the native law or custom which he is conversant.

(5) Copies of such list shall be extended to all the Registry Offices in the district.

(6) When it is requisite to summon assessors, the presiding officer shall select from the list the requisite number of assessors as prescribed under section 4 of the Ordinance to constitute the Native Court.

(7) The presiding officer shall issue summons in Form W requiring the attendance of the persons whose names have been selected by him.

Form W

(8) Any person summoned to attend as an assessor shall be deemed for purposes of section 4(4) of the Ordinance to have been appointed by the presiding officer, and if he fails, without lawful excuse, to attend as required by the summons or, having attended, departs without having obtained permission from the presiding officer, he shall be liable to the penalties prescribed under section 11 of the Ordinance.

(9) Every person not being a Government officer summoned to serve and actively serving as an assessor shall be entitled to receive the allowances prescribed in the Third Schedule.

Seal of the Native Court

35.—(1) Every Native Court constituted under the Ordinance shall have and use as occasion may require a stamp bearing the name and locality of the Native Court and shall be deemed to be the Seal of the Native Court.

(2) The Seal of the Native Court shall be kept in the Registry Office under the custody of the Registrar and shall be affixed on any Form embodying the judgment, order, decision, direction, sentence, fine or ruling of the Native Court.

Books to be kept in the Registry Office

36.—(1) The Registrar of every Native Court shall cause to be kept in the Registry Office the following books:

(a) a Cash Deposit Book in Form X(1);

Form X(1)

(b) a Register of civil claims cases in Form Y(1);

Form Y(1)

(c) a Register of cases of breach of native law and custom in Form Y(2); and

Form Y(2)

(d) a Register of appeal cases in Form Z.

Form Z

(2) Subject to paragraph (3), any payment made under these Rules or by a judgment or order of a Native Court must be paid to the Registrar or any officer duly authorized by him in that behalf, who shall give a receipt for every sum of money received by him.

(3) Where a judgment or order has been made for payment of any fees, fines or other monies into the Native Court, the presiding officer shall cause to be opened a record of receipts in Form X(2) wherein must be entered all fees, fines or moneys paid into the Native Court under the judgment or order. The record of receipts and all sums of money received by the Native Court shall be sent to the Registrar within thirty (30) days from the date of receipt thereof.

Form X(2)

(4) All such books shall remain exposed in the Registry Office at all times during office hours, and shall at such time be open to the inspection of any and every person asking for the same, and every person shall have the right to inspect the same and take any note or extract of any entry therein without the payment of any fee or reward.

Allowances of presiding officers other than *ex-officios*

37. There shall be paid to persons appointed under the proviso to section 4(2), section 9(2)(e) and (iii), the proviso to section 13(1)(d) and 13(3)(a) of the Ordinance, such allowances as are set out in the Third Schedule.

[Am. Swk. L.N. 61/02.]

Time

38. The time stipulated in these Rules for the doing of any act or the filing or service of any Form may be extended, abridged or varied by order or direction of the Native Court.

Statutory and inherent powers

39. For the removal of doubts it is hereby declared that nothing in these Rules shall be deemed to limit or affect the powers of any Native Court as conferred by the Ordinance or to make any order as may be necessary to prevent injustices or to prevent an abuse of the process of the Native Court.

FIRST SCHEDULE

(Rule 28)

LIST OF FORMS

<i>Forms</i>	<i>Nature</i>
A	Submission of Claim (Rule 3)
B	Submission of Answer to Claim (Rules 4 and 5)
C	Decision on Summary Adjudication (Rule 5(3))
D	Default Judgment (Rule 6(2))
E	Direction for Trial of Case (Rule 7(2))
F	Verdict for each Contested Civil Case (Rule 10)
F(1)	Notice to Show Cause (Rule 11(1))
F(2)	Direction for Possession of Land (Rule 11(3))
F(3)	Notice to Director of Lands and Surveys (required under section 22(1) of Ordinance (Rule 11(3))
G	Writ of Seizure and Sale (Rule 11(2)(b))
H	Complaint for Breach of Native Law or Custom (Rule 14)
I	Notice of Mention (Rule 15)
J	Decision for each Complaint (Rule 17(4))
K	Order to Commit Offender to a Court presided over by a Magistrate (Rule 17(5))
K(1)	Warrant of commitment (Rule 17(5A))
K(2)	Warrant to discharge a person imprisoned or detained (Rule 17(5B))
K(3)	Application to be identified with a native community (Rule 17A)
	<i>[Ins. Swk. L.N. 61/02.]</i>
L	Notice of Application of Transfer (Rules 18(2) and 19)
M	Order of Transfer of Proceedings to another Court (Rule 18(3))
N	Order made by Resident (Rules 19 and 21)

<i>Forms</i>	<i>Nature</i>
O	Petition for Revision (Rule 22)
P	Order made on Revision (Rule 22(2))
Q	Notice of Appeal (Rule 23)
R	Notice of Hearing of Appeal (Rule 24)
S	Decision of the appellate Native Court (Rule 24(5))
T	Warrant of Arrest (Rule 26)
U	Ordinary Summons (Rule 26)
V	Summons to Witnesses (Rule 26)
W	Summons to Assessors (Rule 34(7))
X(1)	Cash Deposit Book (Rule 36(1))
X(2)	Record of Receipts (Rule 36(3))
Y(1)	Register of Civil Claims Cases (Rule 36(1))
Y(2)	Register of Cases of Breach of Native Law and Custom (Rule 36(1))
Z	Register of Appeal Cases (Rule 36(1))

FORM A

(Rule 3)

SUBMISSION OF CLAIM

- To: (1) District Native Court*
(2) Chief's Superior Court*
(3) Chief's Court*

†Case No.:

at (Place)

PART I

PARTICULARS OF CLAIMANT

- (1) Name: (NRIC No.)
- (2) Residential address:
- (3) Address of service:
- (4) Age:
- (5) Race/Community:
- (6) Native system of personal law followed or applicable to him:
- (7) Any other relevant information:

PART II

PARTICULARS OF DEFENDANT

- (1) Name: (NRIC No.)
- (2) Residential address:
- (3) Address of service:
- (4) Age:
- (5) Race/Community:
- (6) Native system of personal law followed or applicable to him:
- (7) Any other relevant information:

PART III
PARTICULARS OF NATURE OF CLAIM

(State briefly the nature of claim against Defendant)

PART IV
DOCUMENTARY EVIDENCE, IF ANY,
IN SUPPORT OF CLAIM

- 1.
- 2.
- 3.
- 4.

DECLARATION

*⁽¹⁾ I, declare that the information supplied herein are true to the best of my knowledge, information and belief and that I am not to adduce any evidence to contradict or vary the contents of any documents listed in Part IV of this Form.

Dated this day of, 20

.....
*Signature or right thumbprint
of Claimant*

OR

*⁽²⁾ I, declare that the contents of this Form, including the documents itemised in Part IV have been read over to me and the information herein contained are true to the best of my knowledge, information and belief and I understand that I am not to adduce any evidence to contradict or vary the contents of any documents listed in Part IV.

Dated this day of, 20

.....
*Signature or right thumbprint
of Claimant*

- * *Delete where inapplicable.*
- † *Case Number to be assigned by the Registry Office.*

Note:

- (1) *Declaration (2) shall be made if the Defendant has made his claim orally and the same has been reduced in writing for him by the Registrar.*
- (2) *This Form is issued free of charge by the Registry Office of the appropriate court.*

INDORSEMENT AS TO SERVICE

This Form was served on the abovenamed Defendant by leaving the same at (or by sending the same by registered post to)(address) on the day of, 20 at o'clock of the (noon).

.....
Process Server

FORM B

(Rules 4 and 5)

SUBMISSION OF ANSWER TO CLAIM

- To: (1) District Native Court*
(2) Chief's Superior Court*
(3) Chief's Court*

†Case No.:

at (Place)

PART I

PARTICULARS OF CLAIMANT

- (1) Name: (NRIC No.)
- (2) Residential address:
- (3) Address of service:
- (4) Race/Community:
- (5) Age:
- (6) Native system of personal law followed or applicable to him:
- (7) Date of receipt of Form A:
- (8) Any other relevant information:

PART II
ANSWER TO CLAIM IN FORM A

*(State whether or not you admit the claim,
if you deny the claim,
state briefly the defence relied on against
the claim in Form A)*

PART III
DOCUMENTARY EVIDENCE, IF ANY,
IN SUPPORT OF DEFENCE

- 1.
- 2.
- 3.
- 4.

DECLARATION

*⁽¹⁾ I, declare that the information supplied herein are true to the best of my knowledge, information and belief and that I am not to adduce any evidence to contradict or vary the contents of any documents listed in Part III of this Form.

Dated this day of, 20

.....
Defendant

OR

*⁽²⁾ I, declare that the contents of this Form, including the documents itemised in Part III have been read over to me and the information herein contained are true to the best of my knowledge, information and belief and I understand that I am not to adduce any evidence to contradict or vary the contents of any documents listed in Part III.

Dated this day of, 20

.....
Defendant

- * *Delete where inapplicable.*
- † *Case Number to be assigned by the Registry Office.*

Note:

- (1) *Declaration (2) shall be made if the Defendant has made his claim orally and the same has been reduced in writing for him by the Registrar.*
- (2) *This Form is issued free of charge by the Registry Office of the appropriate court.*

FORM C

(Rule 5(3))

DECISION ON SUMMARY ADJUDICATION

In the Native Court at

†Case No: *Between* Claimant

And Defendant

Upon considering the claim as disclosed in Form A and the answer as stipulated in Form B together with the documentary evidence contained thereto, filed in this case, the Court is of the opinion that (here set out any of the grounds specified in rule 5(2) which are relevant to this case)

and it is ordered that—

- (a) the claim be struck out;
- (b) the whole/part of the claim be dismissed;
- (c) the case be transferred in accordance with rule 18 of the Native Courts Rules, 1993;
- (d)
- (e)

GIVEN this day of , 20 under my hand and the Seal of the Court.

(SEAL)

Signature of Presiding Officer,
 Native Court at
 (i.e. the Chief/Sarawak Administrative Officer/
 Magistrate/or such other person who is
 appointed to preside over the Native Court)

(Note: Pursuant to rule 5(3), this decision shall be conveyed by the Register to the Claimant and Defendant within 14 days of the making of the decision)

To: (Defendant)
 and
 (Claimant)

† Case Number to be assigned by the Registry Office.

FORM D

(Rule 6(2))

DEFAULT JUDGMENT

In the Native Court at

† Case No:

Between

Claimant

And

Defendant

WHEREAS the Defendant having been served with the claim as disclosed in Form A attached failed to file his defence within the period of twenty-eight (28) days as stipulated in rule 4(1) of the Native Courts Rules, 1993, it is ordered that—

- (a) the Defendant do pay to the Claimant RM
- (b) this action be dismissed;
- (c)
- (d)

GIVEN this day of , 20 under my hand and the Seal of the Court.

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who
is appointed to preside over the Native Court)*

(Note: This decision shall be served by the Registrar upon the Defendant within 14 days from the date of making of such Judgment or Order)

† Case Number to be assigned by the Registry Office.

To: (Defendant)

FORM E

(Rule 7(2))

DIRECTION FOR TRIAL OF CASE

In the Native Court at

† Case No:

Between

Claimant

And

Defendant

Upon considering the claim as disclosed in Form A and the answer as stipulated in Form B and the supporting documents attached thereto, filed in this case, the Court is of the opinion that the case ought to be tried, it is directed that—

- (1) the place of hearing shall be in the Native Court at
- (2) this case will be heard on the day of, 20, at a.m./p.m.
- (3) the issues of fact and law to be decided are as follows:

Facts

- (a)
- (b)
- (c)

Law

- (a)
- (b)
- (4) Evidence from such party shall be given orally/by written testimony made on oath submitted before hearing.

† Case Number to be assigned by the Registry Office.

- (5) Expert evidence on customary law shall be confined to witness from each party.
- (6) (any other directions)

This Form shall be treated as a formal notice of hearing of this case.

Dated this day of, 20

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

(Note: This direction shall be served by the Registrar on the parties at least one month before the date fixed for the trial thereof)

To: (1) (Claimant)
(2) (Defendant)

FORM F

(Rule 10)

VERDICT FOR EACH CONTESTED CIVIL CASE

In the Native Court at

† Case No:

Between

Claimant

And

Defendant

* (A) Upon hearing (1) *(Claimant)*

(2) *(Defendant)*

* (B) Upon hearing.....*(Claimant/Defendant)*

and in the absence of
(Claimant/Defendant)

† *Case Number to be assigned by the Registry Office.*

* *Delete where inapplicable.*

THIS COURT ORDERS:

(1)

(2)

(3)

(4)

Note: *The verdict should also include the grounds and reasons thereof.*

GIVEN this day of , 20 under my hand and the Seal of the Court.

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

Note: In the case of land dispute, the order shall include pursuant to section 22 of the Ordinance the following particulars and such other matters as the Court may deem fit to include:

1. *The name and address of person entitled to the land:—*

Name:

Address:

2. *Particulars of the land*

.....

.....

To: (1) (Complainant)

(2) (Defendant)

(3) The Resident,Division

FORM F(1)

(Rule 11(1))

NOTICE TO SHOW CAUSE

In the Native Court at

† Case No:

Between

Claimant

And

Defendant

To: (Defendant)

and to Native Court at

The Claimant applied to the Native Court at for the enforcement of the judgment/order* of the Native Court at given on which was served on the Defendant by registered post/personally* on the day of

This is to require you the Defendant to appear before this Court on at a.m./p.m. to show cause why an order for the enforcement of the said judgment/order* should not be made against you.

.....
Date

.....
Signature of Claimant

(SEAL)

.....
Date of filing

.....
Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)

† Case Number to be assigned by the Registry Office.
* Delete where inapplicable.

FORM F(2)

(Rule 11(3))

DIRECTION FOR POSSESSION OF LAND

TO:

In the Native Court at

† Case No:

Between

Claimant

And

Defendant

Whereas at Court held on the day of, 20 it was adjudged that the Claimant/Defendant* was entitled to possession to the land mentioned in the final judgment or order annexed hereto, and it was ordered that the Claimant/Defendant* should give the Claimant/Defendant* possession of the said land on the day of, 20

And Whereas the Claimant/Defendant* has not obeyed the said judgment/order*:

And Whereas the Director of Lands and Surveys has made no objection to the Court against the making of this Direction:

Now therefore pursuant to section 22 of the Native Courts Ordinance, 1992, it is directed that the said final judgment/order* annexed hereto shall have the same effect as that of a Settlement Order made by a Settlement Officer under section 95 of the Land Code [Cap.81 (1958 Ed.)]:

And these are therefore to authorize and order you forthwith to enforce the said judgment/order* in accordance with sections 95(2) and (3) and 96 of the Land Code [Cap.81 (1958 Ed.)]:

† Case Number to be assigned by the Registry Office.

* Delete where inapplicable.

[Note: This direction shall not be issued until a copy of the said judgment or order together with all documents and the record of the proceedings have been served on the Director of Lands and Surveys and he does not, within twenty-one (21) days from the date of service the Notice in Form F(3), furnish any written objection to the Court against the making of this Direction].

GIVEN under my hand and the seal of the Native Court at this day of, 20

(SEAL)

Presiding Officer, Native Court at (i.e. the Chief/Sarawak Administrative Officer/ Magistrate/or such other person who is appointed to preside over the Native Court)

FORM F(3)

(Rule 11(3))

NOTICE TO DIRECTOR OF LANDS AND SURVEYS

(Section 22(1) of the Native Courts Ordinance, 1992)

In the Native Court at

†Case No:

Between

Claimant

And

Defendant

To: Director of Lands and Surveys,
Sarawak

Take notice that in regard to the dispute between the Claimant and the Defendant abovenamed this Court has made the Order in Form F attached hereto in respect of the native customary land specified in the said Order.

Take further notice that if you do not, within twenty-one (21) days of service of this Notice on you, give to this Court written objection as to why the said Order shall not have the same effect as a settlement Order made by a Settlement Officer under section 95 of the Land Code; this Court shall direct the said Order shall have such effect and be enforced as a Settlement Order.

Dated this day of , 20.

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

† Case Number to be assigned by the Registry Office.

FORM G

(Rule 11(2)(b))

WRIT OF SEIZURE AND SALE

In the Native Court at

†Case No:

Between

Claimant

And

Defendant

To:

Whereas of was on the day of, 20 adjudged by the Native Court at to pay a fine of RM (or compensation in cash or kind), and whereas the said although required to pay the said fine (or compensation), has not paid the same or any part thereof.

This is to authorize and require you to seize any property belonging to the said which may be found within the District of and, if within next after the issue of this writ, the said fine (or compensation) shall not be paid, to sell the property seized, or so much thereof as shall be sufficient to satisfy the said fine (or compensation), returning this writ, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the Seal of the

Native court at, this day of, 20

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

Indorsement by Magistrate

I do authorize the execution in the District of of this writ of seizure and sale issued by (presiding officer of the Native Court at)

Dated this day of, 20

.....
Magistrate of
the class

Indorsement certifying Seizure and Sale

I have this day seized the property found on or upon the premises No. pursuant to a writ of seizure and sale referred to above and that I value the property seized at RM approximately.

The same has been sold by public auction on the day of, 20 at a.m./p.m. for the sum of RM

Dated this day of, 20

.....
Registrar

† *Case Number to be assigned by the Registry Office.*

FORM H

(Rule 14)

**COMPLAINT FOR BREACH OF NATIVE LAW
AND CUSTOM**

- To:
- (1) District Native Court*
 - (2) Chief's Superior Court*
 - (3) Chief's Court*

†Case No.:

at (Place)

PART I

PARTICULARS OF COMPLAINANT

- (1) Name: (NRIC No.)
- (2) Residential address:
- (3) Address of service:
- (4) Age:
- (5) Race/Community:
- (6) Native system of personal law followed or applicable to him:
- (7) Any other relevant information:

PART II

PARTICULARS OF DEFENDANT

- (1) Name: (NRIC No.)
- (2) Place of residence:
- (3) Address of service:
- (4) Age:

- (5) Race/Community:
- (6) Native system of personal law followed or applicable to him:
- (7) Any other relevant information:

PART III

PARTICULARS OF NATURE OF COMPLAINT

(State briefly the nature of breach of native law or custom committed by the Defendant or the act of contempt allegedly committed by the Defendant).

DECLARATION

*⁽¹⁾ I, declare that the complainant made herein is *bona fide* and true to the best of my personal knowledge, information and belief.

Dated this day of, 20

.....
*Signature or right thumbprint
of Complainant*

OR

*⁽²⁾ I, declare that the contents of this Form have been read over to me and I confirm that the same are true to the best of my knowledge, information and belief and that the complaint made by me is a *bona fide* one.

Dated this day of, 20

.....
*Signature or right thumbprint
of Complainant*

* *Delete where inapplicable.*

† *Case Number to be assigned by the Registry Office.*

Note:

- (1) *Declaration (2) shall be made if the Complainant has made his complaint orally and the same has been reduced in writing for him by the Registrar.*
- (2) *This Form is issued free of charge by the Registry Office of the appropriate court.*

FORM I

(Rule 15)

NOTICE OF MENTION

In the Native Court at

† Case No:

Between

Claimant

And

Defendant

Let all parties concerned attend before the Native Court at on the day of, 20 on a.m./p.m. for mention/hearing* of a complaint made by of (Complainant) against of (Defendant).

A copy of the complaint signed by the Complainant in Form H is attached.

In default of your appearing on the day of mention/hearing, you will be deemed to admit any claim stated in the complaint

And you will be bound by the judgment in the action which may be enforced by execution against you.

Date this day of, 20

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

To: (Complainant)

..... (Defendant)

† Case Number to be assigned by the Registry Office.

* Delete where inapplicable.

FORM J

(Rule 17(4))

DECISION FOR EACH COMPLAINT

In the Native Court at

† Case No:

Between

Claimant

And

Defendant

This action having been heard before Native Court at on the day of, 20 on a.m./p.m.

- *(a) in the presence of the Complainant and the Defendant;
*(b) in the presence of the Complainant, and the Defendant not appearing;
*(c) in the presence of the Defendant, and the Complainant not appearing;
*(d) the Defendant admits the complaint;
*(e) the Defendant denies the complaint;

it is ordered that—

- *(i) the Defendant be discharged and the case dismissed;
*(ii) the complaint be struck out;
*(iii) the Defendant be sentenced or fined
(Note: The penalties are set out in section 11 of the Native Courts Ordinance, 1992);
or
*(iv) (here specify such other order as the Court deems fit to make on the Defendant under section 19 of the Native Courts Ordinance, 1992)

Given this day of , 20 .

under my hand and the Seal of the Court.

(SEAL)

Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)

To: (Complainant)
..... (Defendant)

† Case Number to be assigned by the Registry Office.

* Delete where inapplicable.

FORM K

(Rule 17(5))

**ORDER TO COMMIT OFFENDER TO A COURT
PRESIDED OVER BY A MAGISTRATE**

*(Made under section 23(4) & (5) of the
Native Courts Ordinance, 1992)*

In the Native Court at
† Case No:

Between

Complainant

And

Defendant

Whereas on the.....day of, 20..... the Defendant
..... of in Case No. at the
..... Native Court at was convicted before the said
Court of the offence of and ordered

And whereas it appears to the said Court by reason of the nature and circumstances of the case*
(or by reason of the character and antecedents of the defendant*) the Defendant should be imprisoned.

Now therefore pursuant to section 23(4) of the Native Courts Ordinance, 1992, I commit the said
Defendant of to the District Native Court at to be presided over
by a Magistrate for sentence.

It is further ordered that the Defendant shall furnish security in sum of RM by
payment to the said Court, or by bond to the satisfaction of the Registrar; and if the Defendant shall
default in providing such security or bond he shall be delivered to the Officer in Charge of the Prison at
..... there to be temporarily detained until he is brought before a court presided by a
Magistrate for sentence.

A sealed copy of the Judgment is attached hereto.

GIVEN this day of , 20 under my
hand and the Seal of the Court.

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

† Case Number to be assigned by the Registry Office.

* Delete where inapplicable.

FORM K(1)

(Rule 17(5A))

WARRANT OF COMMITMENT

To the Officer-in-Charge of prison at

Whereas on the day of in the

Native Court at in respect of Case

No. the offender/defendant, of

..... was found to have:

- *(a) breached native law or custom under
- *(b) committed contempt of native court under section 23(1) of the Native Courts Ordinance, 1992;
- *(c) failed to comply with a lawful order of a native court, namely, under section 23(2) of the Native Courts Ordinance, 1992;
- *(d) failed to provide security/bond to secure his attendance before a native court to be presided by a Magistrate under section 23(4) of the Native Courts Ordinance, 1992;
- *(e) (here state other grounds),

And has been imposed the penalty of/sentenced/ordered:

- *(i) a fine of or in default imprisonment;
- *(ii) to a term of imprisonment for
- *(iii) to be temporarily detained/imprisoned
- *(iv)

2. This is to authorize and require you, the said Officer, to receive the said offender into your custody, together with this warrant, and to keep him safely in prison for the said period of* until he is ordered to be released by this Court/unless the said fine be sooner paid/unless the said security/bond be sooner, furnished/, and to return this warrant to this Court with an indorsement certifying the manner of its execution.

Given this day of under my hand and the Seal of the Court.

(SEAL)

(Signature and Name of Magistrate)

*Delete where inapplicable.

FORM K(2)

(Rule 17(5B))

**WARRANT TO DISCHARGE A PERSON
IMPRISONED OR DETAINED**

To the Officer-in-Charge of prison at

Whereas of was committed to your custody under a warrant of commitment issued by this Court dated day of, and has since (state here the grounds for discharge/release of offender or defendant).

2. This is to authorize and require you immediately to discharge the said from your custody.

Given this day of under my hand and the Seal of the Court.

(Signature and name of Magistrate)

(SEAL)

[Ins. Swk. L.N. 61/02.]

FORM K(3)

(Rule 17A)

To: The Registrar,
District Native Court,
.....

**APPLICATION TO BE IDENTIFIED
WITH A NATIVE COMMUNITY**

In the matter of section 20(1) of the Native Courts Ordinance, 1992, I do apply to be identified with the community and to be subject to the native system of personal law of such community.

1. PERSONAL PARTICULARS OF APPLICANT

- (a) Name:
- (b) Identity Card No.:
- (c) Age:
- (d) Date of Birth:
- (e) Place of Birth:
- (f) Race:
- (g) Citizenship:
- (h) Religion:
- (i) Occupation:
- (j) Present residential address and period of residence:
.....
- (k) Tel. No.:
- (l) Postal Address:
- (m) Previous residential address(es) and period of residence:
.....
.....

(n) Knowledge of native dialects (state whether proficiency is excellent, good or poor).

.....
.....

2. PARTICULARS OF NATURAL PARENTS/ADOPTING PARENTS*

(a) Father

- (i) Name:
 - (ii) Identity Card No.:
 - (iii) Age:
 - (iv) Date of Birth:
 - (v) Place of Birth:
 - (vi) Race:
 - (vii) Citizenship:
 - (viii) Religion:
 - (ix) Occupation:
 - (x) Present residential address:
-

(b) Mother

- (i) Name:
- (ii) Identity Card No.:
- (iii) Age:
- (iv) Date of Birth:
- (v) Place of Birth:
- (vi) Race:
- (vii) Citizenship:
- (viii) Religion:

- (ix) Occupation:
- (x) Present residential address:
.....

(If applicant has been adopted, state also the particulars of natural parents, if available.)

3. MARITAL STATUS (SINGLE/MARRIED/WIDOW/DIVORCED)*

If married, state:

- (a) Particulars of spouse of applicant
 - (i) Name of wife/husband:
 - (ii) Identity Card No.:
 - (iii) Age:
 - (iv) Date of Birth:
 - (v) Place of Birth:
 - (vi) Race:
 - (vii) Citizenship:
 - (viii) Religion:
 - (ix) Occupation:

(If applicant has more than one spouse, full particulars thereof must also be supplied in a separate document, to be attached to this application).

(b) Names of children (male/female)	Date of Birth
(i)
(ii)
(iii)
(iv)
(v)

4. REASONS FOR CLAIMING TO BE IDENTIFIED WITH THE PARTICULAR
NATIVE COMMUNITY:

5. DOCUMENTS/INFORMATION TO SUPPORT THIS APPLICATION:

Date:

.....

(Signature of Applicant/

**On behalf of the Applicant)*

**Delete whichever is inapplicable.*

[Ins. Swk. L.N. 61/02.]

FORM L

(Rules 18(2) and 19)

NOTICE OF APPLICATION OF TRANSFER

In the Native Court at

†Case No:

Between

Claimant/
Complainant*

And

Defendant

Take notice that the abovenamed Claimant/Defendant* intends to apply to the Native Court at on the day of, 20, at a.m./p.m. for an Order to transfer the case for hearing and determination by the Court.

The grounds of the application are:

- 1. }
- 2. } (state the grounds)
- 3. }

Date this day of , 20 .

.....
Applicant

This notice is taken out by the Claimant/Defendant* on the day of , 20 .

(SEAL)

.....
Registrar

- To:
- (1) the Native Court at
 - (2) the Claimant/Defendant*
 - (3) the Resident, Division.

† Case Number to be assigned by the Registry Office.

* Delete where inapplicable.

FORM M

(Rule 18(3))

**ORDER OF TRANSFER OF PROCEEDINGS
TO ANOTHER COURT**

(Under section 5(6) of the Native Courts Ordinance, 1992)

In the Native Court at

† Case No:

Between

Claimant/
Complainant*

And

Defendant

Whereas after having heard the above case, it has been made to appear to me on my own initiative*/on the application made by the *Claimant/Defendant:

- **(a)* that the Court has no jurisdiction or power to hear the case; or
- **(b)* that the Court has no jurisdiction to enforce a law or custom which is not applicable in the area of the jurisdiction of the Court; or
- **(c)* that the Claimant/Defendant is not subject to the jurisdiction of the Court; or
- **(d)* *(here specify any other reasons, including, if applicable, any of the reasons specified in section 9(2) of the Native Courts Ordinance, 1992)*

I order

- (i) that the Defendant be committed for trial before the Native Court at; or
- (ii) that this case be transferred to and tried before the Court at

This order of transfer is issued subject to the order made by the Resident, Division cited below:

† Case Number to be assigned by the Registry Office.
 * Delete where inapplicable.

Given this day of , 20 .under my hand and the Seal of the Court.

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

ORDER of the Resident, Division.

Having considered the decision recorded or passed by the said Native Court to transfer the case for trial by the Native Court at, I order—

- *(a) that leave to transfer the said proceedings be granted; or
- *(b) that the said proceedings shall be stayed; or
- *(c) that the said proceedings shall not be commenced.

Dated this day of 20 .

Resident,
..... Division.

* Delete where inapplicable.

[Note: If the Resident shall order that such proceedings be stayed or shall not be commenced, the Resident shall make a report thereof to the State Attorney-General who shall confirm and set aside any such order.]

To: The Registry Office,
..... Native Court
at (to which
the case is transferred)

Copy to: The Resident, Division.

FORM N

(Rules 19 and 21)

ORDER MADE BY RESIDENT

(Under section 9(2) of the Native Courts Ordinance, 1992)

- To:
- (1) District Native Court*
 - (2) Chief's Superior Court*
 - (3) Chief's Court*

†Case No.:

at (Place)

Whereas after having examined the record of the proceedings in the case between and and the judgment/order* of the Native Court given on the day of , 20, it has been made to appear to me on the report of the Native Court at* or the application of the State Attorney-General* or the Claimant/Complainant/Defendant* or on my own initiative* that

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)

(here state the grounds for making this Order — as provided in section 9(2) of the Native Courts Ordinance, 1992)

† Case Number to be assigned by the Registry Office.

* Delete where inapplicable.

I order

(i)

(ii)

(here insert such order as are specified in section 9(2) of the Native Courts Ordinance, 1992, which the Resident deems fit and proper)

(iii)

(iv)

(v)

Dated this day of , 20 .

Resident,
..... Division

To:

- (1) the (Name and address of Claimant/Complainant*)
- (2) the (Name and address of Defendant)
- (3) the Native Court at (the Court transferred from)
- (4) the Native Court at (the Court transferred to)
- (5) the State Attorney-General

* Delete where inapplicable.

FORM O

(Rule 22)

PETITION FOR REVISION

In the Native Court of appeal at

†Case No.:

To: The Honourable Judge/President* of the Native Court of Appeal.

Between

Petitioner

And

Respondent

The Petition of (NRIC No.) of
..... showeth that—

1. a decision/judgment/order* has been obtained against the Petitioner on
.....

2. the Petitioner therefore prays that the decision/judgment/order* be set
aside/revised/amended/varied* on the following grounds:

(here set out the grounds relied on)

*(1) I, declare that the statements contained in the foregoing Petition
are to the best of my knowledge, information and belief in all respects true.

OR

*(2) I, declare that the contents of this Petition have been read
out to me and the statements herein contained are true to the best of my knowledge, information
and belief.

Dated this day of, 20

*Signature/Right thumbprint
of Petitioner*

† Case Number to be assigned by the Registry Office.

* Delete where inapplicable (Declaration (2) shall be made if the Petitioner has made his Petition
orally and the same has been reduced in writing for him by the Registrar).

NOTICE TO PETITIONER/RESPONDENT*

The Petitioner has applied to this Court to set aside/revise/amend/vary* the judgment/order* dated in Case No. The date and time of hearing of the petition are shown below:

Hearing date: Time:

Date of filing:

Dated this day of, 20

(SEAL)

Signature of Presiding Officer,
Native Court of Appeal at

To: (Petitioner)
..... (Respondent)

*Delete where inapplicable.

Note: Before entertaining any petition for revision it is important to note the proviso to sections 16(1) and (2) of the Native Courts Ordinance, 1992.

FORM P

(Rule 22(2))

ORDER MADE ON REVISION

In the Native Court of appeal at

†Case No.:

In the matter of

Between

Petitioner

And

Respondent

This action was heard before Native Court at on the day of, 20 and having considered the decision recorded or passed by the said Native Court, it is adjudged that—

- (a) *the claim or any of the claims be struck out or dismissed;
- (b) *the Respondent to pay the Petitioner RM
- (c) *the decision/judgment/order* of the Native Court at be set aside and a new trial be conducted by the Native Court at
- (d) *the decision/judgment/order* of the Native Court at be amended/varied* as follows:
- (e)
- (f)

GIVEN thisday of, 20
under my hand and the Seal of the Court.

(SEAL)

*Judge/President**
of the Native Court of Appeal

**Delete where inapplicable.*

†Case Number to be assigned by the Registry Office.

FORM Q

(Rule 23)

NOTICE OF APPEAL

In the Native Court at

† Case No.:

Name of Appellant: NRIC No.

Address:

Name of Respondent: NRIC No.

Address:

To: Native Court at
and (parties to the proceedings)

Take notice that the abovenamed Appellant intends to appeal against either the whole of the decision/judgment/order* or part of the decision/judgment/order* of the Native Court at given on the day of, 20 on the following grounds:

(here state in full the decision/judgment/order appealed against and the grounds thereof)*

Dated thisday of, 20

*Signature/Right thumbprint of
Appellant*

To: (1) The Registry Office of the appropriate Native Court.
(2) All parties to the proceedings.

† Case Number to be assigned by the Registry Office.
*Delete where inapplicable

FORM R

(Rule 24)

NOTICE OF HEARING OF APPEAL

In the Native Court at

† Case No.:

Between

Appellant

And

Respondent

Take notice that the Appellant is dissatisfied with the decision/judgment/order* of the Native Court at given on the day of, 20 and has applied to set aside/reverse/amend/vary* the said decision/judgment/order*. The date and time of hearing of the appeal are shown below:

Hearing date: Time:

Date of filing:

Date this day of, 20

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

To: Appellant

..... Respondent

†Case Number to be assigned by the Registry Office.

*Delete where inapplicable.

FORM S

(Rule 24(5))

DECISION OF THE APPELLATE NATIVE COURT

In the Native Court at

† Case No.:

Between

Appellant

And

Respondent

This action having been heard before

Native Court at it is ordered that—

*(Make such order as it may deem just in accordance with
section 14 of the Native Courts Ordinance, 1992)*

Given this day of , 20 .

under my hand and the seal of the Court.

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

† Case Number to be assigned by the Registry Office.

FORM T

No.:

(Rule 26)

WARRANT OF ARREST

(Made pursuant to section 24 of the Native Courts Ordinance, 1992)

To: The Commissioner of Police and all other Police Officers.

Whereas of stands charged with the offence of you are hereby directed to arrest the said and to produce him before the Native Court at for hearing and determination.

Dated this day of , 20 .

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

Indorsement

This is to authorize and require you to arrest the said of and to bring him before the said Court to be examined in respect of the offence complained of.

Dated this day of , 20 .

Magistrate of the Class.

FORM U

No.:

(Rule 26)

ORDINARY SUMMONS

(Made under section 24 of the Native Courts Ordinance, 1992)

In the Native Court at
Between
 Claimant/
 Complainant*
 And
 Defendant

You are summoned to appear at the

Native Court at on the day of 20 at the hour of in the noon to answer the claim/complaint* in an action for the particulars of which are hereunto annexed.

Dated this day of , 20

(SEAL)

Signature of Presiding Officer,
 Native Court at
*(i.e. the Chief/Sarawak Administrative Officer/
 Magistrate/or such other person who is
 appointed to preside over the Native Court)*

[Note: If the person on whom a summons is to be served resides outside the jurisdiction of the Court, the summons shall be indorsed as required under section 24 of the Native Courts Ordinance, 1992, by a Magistrate in the manner specified hereunder:

Indorsement to be made on the Summons before issue

Indorsed by of (Magistrate of the Class) this day of , 20 authorizing the issue of this summons against the intended Defendant and to serve the said summons on the Defendant at (address at which and the district therein within which service is to be effected)

Magistrate of the Class

Indorsement as to Service

This summons was served on the abovenamed Defendant by registered post/leaving the same* at by me on the day of , 20..... at o'clock of the noon.

Process Server

*Delete where inapplicable.

FORM W

(Rule 34(7))

SUMMONS TO ASSESSORS

To: of

Whereas you have been appointed to serve as an Assessor in accordance with Rule 34 of the Native Courts Rules, 1993.

You are required to attend on the day of, 20 at o'clock in the noon, at the Native Court at to serve as an Assessor and to continue in attendance till duly discharged by the presiding officer from further attendance.

Dated this day of , 20 .

(SEAL)

*Signature of Presiding Officer,
..... Native Court at
(i.e. the Chief/Sarawak Administrative Officer/
Magistrate/or such other person who is
appointed to preside over the Native Court)*

SECOND SCHEDULE

(Rule 29)

NATIVE COURT FEES

In Original Jurisdiction

Cases against any native law or custom	No fees
Civil claims cases instituted—	
In District Native Court	RM30
In Chief's Superior Court	RM20
In Chief's Court	RM16
In Headman's Court	RM10

In Appeal Cases

On appeal to Chief's Court	RM20
On appeal to Chief's Superior Court	RM24
On appeal to District Native Court	RM36
On appeal to Resident's Native Court	RM40
On appeal to the Native Court of Appeal	RM50
For certified copies of proceedings or documents—	
For the first 100 words or part thereof	RM20
For each subsequent 100 words or part thereof	RM10
On inspection of a record by a party	RM1

Provided that any such fees prescribed above may be remitted or reduced by the Native Court on the ground of poverty (rule 29(2)).

THIRD SCHEDULE

**ALLOWANCES OF PRESIDING OFFICERS,
WITNESSES AND ASSESSORS**

(Rules 30 and 37)

WITNESSES ALLOWANCES

(Rule 30)

Such allowance plus reasonable travelling and lodging expenses as the Native Court may think fit, having due regard to the circumstances of the witnesses: Provided that such allowance should not exceed RM20 per day.

ASSESSORS ALLOWANCES

(Rule 30)

For each day of
attendance or
part thereof

RM30 plus reasonable travelling and accommodation expenses as
the Native Court may think fit.

SITTING ALLOWANCES FOR PRESIDING OFFICERS

(Rule 37)

- (1) Chiefs, Headman and such other persons who are appointed under the proviso to section 4(2) of the Ordinance shall be eligible to the following sitting allowances:
 - (i) when sitting in a Headman's Court RM15 per day or part thereof
 - (ii) when sitting in a Chief's Court RM25 per day or part thereof
 - (iii) when sitting in a Chief's Superior Court RM30 per day or part thereof
 - (iv) when sitting in a District Native Court RM50 per day or part thereof
- (2) A Presiding Officer who is appointed under the proviso to section 13(1)(d) of the Ordinance to sit in a Resident's Native Court shall be paid RM50 per day or part thereof.
- (3) A Presiding Officer who is appointed under the proviso to section 13(3)(a) of the Ordinance to sit in the Native Court of Appeal shall be paid RM125 per day or part thereof.

Note: *(In addition to the sitting allowance referred to above, the Ketua Masyarakat and Ketua Kaum and such other persons who are appointed under the provisos to sections 4(2), 13(1)(d) and 13(3)(a) of the Native Courts Ordinance, 1992, shall be paid such salaries as may be determined by the State Secretary, from time to time.)*

ALLOWANCES OF PRESIDING OFFICERS

(Rule 37)

Chiefs, Headmen and such other persons who are appointed as provided under rule 37 while travelling on duty shall be eligible for the following allowances in respect of journeys undertaken outside the officer's place of residence:

- (a) Subsistence Allowance while sitting in a—
- | | |
|------------------------------|---------------------------------|
| (i) Headman's Court | RM20.00 per day or part thereof |
| (ii) Chief's Court | RM24.00 per day or part thereof |
| (iii) Chief's Superior Court | RM30.00 per day or part thereof |

[Sub. Swk. L.N. 61/02.]

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|-----------------------------|---|---|
| (iv) District Native Court | } | in the case of persons who are appointed as provided under rule 37, the equivalent allowances payable to officers of the appropriate grade in the public service, as may be determined by the Sate Secretary, |
| (v) Resident's Native Court | | |
| (vi) Native Court of Appeal | | |

(b) *Transport Allowance*

Actual cost of return passages by the most direct route between place of resistance and place of duty.

(c) *Accommodation expenses*

Actual accommodation expenses upon production of receipted bills or, if not staying in Government Rest House or hotels, the equivalent allowances payable to officers of the appropriate grade in the public service, as may be determined by the State Secretary.