

LAND LAW AND SURVEY REGULATION (SBEU 4313)

WEEK 11 – PENGAMBILAN TANAH

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ISI KANDUNGAN

- Pengenalan
- Prosedur
- Pampasan
- Perintah Mahkamah
- Akta Pengambilan Tanah (Pindaan) 2016 (Akta A1517)
- Part IV of the Sarawak Land Code (Cap. 81) 1958
- Land Acquisition Ordinance (Sabah Cap. 69) 1950

PENGENALAN

Pengenalan

Tanah adalah urusan negeri.

- Jadual kesembilan Perlembagaan Persekutuan.

Senarai 2 - Senarai Negeri.

- Pengambilan tanah secara paksa di bawah Para 2(d) Senarai 2 - Senarai Negeri.

Pengenalan

- Akta Pengambilan Tanah 1960.
- Akta Parlimen di bawah Perkara 76(4) Perlembagaan Persekutuan.
- Berkuatkuasa mulai 13 Oktober 1960.
- Enakmen- Enakmen Negeri mengenai pengambilan tanah telah dibatalkan dan digantikan dengan Akta Pengambilan Tanah 1960.

Pengenalan

Enakmen Negeri tersebut adalah:

- Ordinan PT Negeri Selat
- Enakmen PT Kelantan (1934)
- Enakmen PT Negeri Melayu Bersekutu
- Enakmen PT Kedah
- Enakmen PT Untuk Maksud Keretapi (Perlis)
- Enakmen PT (Perluasan) bagi Negeri Perlis (1958)
- Ordinan PT(Perluasan) Terengganu 1952

Pengenalan

Bagi negeri Sabah dan Sarawak, Perkara 76(1)(b) dan 76(4) Perlembagaan Persekutuan tidak boleh digunakan. Hal ini dinyatakan dalam Perkara 95D Perlembagaan Persekutuan.

95D Berhubung dengan Negeri Sabah@Sarawak, Fasal(4) Perkara 76 tidaklah terpakai, dan juga perenggan(b) Fasal(1).

Perkara itu tidak membolehkan Parlimen membuat undang-undang mengenai manamana perkara yang disebut dalam Fasal(4) Perkara itu.

Pengenalan

Sabah

- Land Acquisition Ordinance (Cap.69).

Sarawak

- Land Code (Cap.81) Sections 46 - 83.

Pengenalan

Persefahaman Kerajaan Persekutuan dan Kerajaan Negeri

Perkara 83(5) menyatakan bahawa:

Kerajaan Persekutuan boleh meminta Kerajaan Negeri mengambil tanah itu dan menjadi kewajipan Kerajaan Negeri untuk mematuhi permintaan tersebut.

Tanah Yang Boleh Diambil Secara Paksa

- i. Tanah berimilik seperti yang ditakrifkan dalam Kanun Tanah Negara (Akta 828);
- ii. Tanah yang diduduki mengikut hak disisi adat;
- iii. Tanah yang diduduki di bawah Akta Tanah (Kawasan Penempatan Berkelompok) 1960;
- iv. Hakmilik interim di bawah National Land Code (Penang and Malacca Titles) Act 1963; dan
- v. Tanah yang diduduki dengan harapan mendapat hakmilik seperti A.A. (Approved Application) atau Surat Akuan.

Tanah Yang Tidak Boleh Diambil Secara Paksa

- i. Tanah Kerajaan Negeri (State land)
- ii. Tanah milik kerajaan Persekutuan (PTP)
- iii. Tanah yang dipegang di bawah pajakan lombong
- iv. Tanah milik kedutaan asing
- v. Tanah simpanan hutan

Pengambilan Tanah

3. (1) Pihak Berkuasa Negeri boleh mengambil mana-mana tanah yang diperlukan:

(a) Bagi **apa-apa maksud awam** (e.g. Kemudahan awam dan pengangkutan);

(b) Oleh **mana-mana orang atau perbadanan** bagi apa-apa maksud yang pada pendapat Pihak Berkuasa Negeri **adalah benefisial untuk kemajuan ekonomi Malaysia** atau mana-mana bahagian dari itu atau kepada orang ramai secara am atau mana-mana kelas orang ramai; atau

(c) Bagi maksud perlombongan atau untuk maksud kediaman, pertanian, perdagangan, perindustrian atau rekreasi atau mana-mana kombinasi maksud itu.

(2) Suatu permohonan bagi pengambilan mana-mana tanah di bawah (1)(b) atau (c) hendaklah dibuat secara bertulis kepada **Pentadbir Tanah** dalam borang-borang yang ditetapkan.

Permohonan 3(1)(a)

Kepada Pengarah JKPTG NEGERI/ Pentadbir Tanah Daerah disertakan/ perakuan:

1. Pelan yang lengkap

- a. Butir tanah terkini seperti terdapat di syit litho dan Pelan Akui
- b. Skala yang sama (ikut Pentadbir Tanah)
- c. Warna dan Petunjuk – tanah milik (merah), T.K (kuning), rizab hutan (hijau) dan rizab sungai (biru)
- d. Jadual yang lengkap (No. lot, No. hakmilik, keluasan & keluasan terlibat serta keterangan)
- e. Bilangan pelan mencukupi (ikut negeri)

2. Sijil Carian Rasmi/ Carian Persendirian

3. Ulasan Jabatan Teknikal

4. Peruntukan kewangan mencukupi

Taksiran Kemudahan Awam

- Jalan raya
- Landasan Pengangkutan
- Bekalan Air dan Elektrik
- Talian Paip Gas
- Telekomunikasi
- Lampu Jalan
- Sistem Pembetulan
- Sistem Perparitan
- Kerja-kerja Awam
- Apa-apa Perkhidmatan atau Kemudahan Awam yang serupa

Permohonan 3(1)(b)(c)

Faktor Permohonan

- Perancangan
- Masa
- Kos
- Proses Berfasa
- Pilihan Terakhir

Orang

- i. Warganegara;
- ii. Umur tidak kurang 18 tahun;
- iii. Bukan seorang muflis;
- iv. Bukan seorang yang disabitkan kesalahan dan dihukum;
- v. Penjara satu tahun atau lebih dalam tempoh lima tahun sebelum permohonan;
- vi. Mampu dari segi kewangan;
- vii. Rekod perniagaan yang cemerlang.

Badan

- i. Syarikat / perbadanan / badan itu ditubuhkan atau didaftarkan di bawah Akta Syarikat 1965 / mana-mana Akta Parlimen atau Enakmen Negeri / Akta Pertubuhan 1966 / Akta Koperasi 1948 / Akta Pendaftaran 1965;
- ii. Mempunyai modal yang teguh;
- iii. Mempunyai rekod perniagaan yang cemerlang khususnya dalam aktiviti dan projek yang dicadangkan atau dimiliki atau dikawal oleh orang-orang yang mempunyai rekod perniagaan yang cemerlang;
- iv. Projek yang dicadangkan itu memberi faedah secara langsung kepada pembangunan mengikut dasar ekonomi negara.

Pihak Berkuasa Negeri

Sesungguhnya kuasa mutlak terletak kepada Pihak Berkuasa Negeri, Namun ia boleh mewakilkan kuasanya kepada Menteri Besar/Ketua Menteri. Perwakilan kuasa ini jika ada hendaklah diwartakan dan dari situ setiap cadangan pengambilan akan dikemukakan kepada Menteri Besar/Ketua Menteri untuk mendapat kelulusan.

PROSEDUR

Prosedur Pengambilan Tanah

□ Prosedur pengambilan tanah boleh dibahagikan kepada beberapa tahap iaitu:

- i. Permohonan, pemeriksaan dan pengwartaan;
- ii. Notis dan penyerahan;
- iii. Siasatan dan perintah;
- iv. Pembayaran pampasan;
- v. Mengambil milik;
- vi. Rujukan ke mahkamah; dan
- vii. Permohonan Ukur, Pindaan cukai dan hakmilik sambungan.

Permohonan, Pemeriksaan Dan Pengisytiharan

□ Permohonan

Semua permohonan rasmi hendaklah dikemukakan kepada Pihak Berkuasa Negeri (PBN) melalui Pentadbir Tanah Daerah (PT) dalam negeri berkenaan atau Pengarah PTG negeri berkenaan.

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Permohonan pengambilan tanah untuk tujuan persekutuan

- i. Perkara 83(5) Perlembagaan Persekutuan (PP) memperuntukkan bahawa Kerajaan Persekutuan bolehlah meminta Kerajaan Negeri mendapatkan mana-mana tanah bermilik untuk 'Tujuan Persekutuan' sama ada dengan secara perjanjian atau dengan cara paksa. Perkataan 'Tujuan Persekutuan' ditakrifkan di bawah Perkara 160(2) Perlembagaan Persekutuan;

Permohonan, Pemeriksaan Dan Pengisytiharan

- ii. Perkara 160(2) Perlembagaan Persekutuan 'Tujuan Persekutuan' termasuklah memiliki tanah negeri tujuan maksud awam seperti disebut di dalam Senarai Bersama dan berkenaan membuat undang-undang oleh Parlimen. Perkara ini adalah selaras dengan S3(1)(a) Akta Pengambilan Tanah iaitu pengambilan untuk maksud awam; dan
- iii. Telah diseragamkan bahawa bagi permohonan untuk 'Tujuan Persekutuan' (tidak termasuk Badan Berkanun Persekutuan) permohonan hendaklah dibuat oleh Ketua Pengarah Tanah dan Galian Persekutuan (JKPTG) kepada Pihak Berkuasa Negeri bagi pihak Agensi Persekutuan tersebut.

Permohonan, Pemeriksaan Dan Pengisytiharan

- ❑ Pengambilan tanah di bawah S3(1)(b)(c) Akta Pengambilan Tanah

Permohonan pengambilan tanah di bawah seksyen ini perlu dibuat kepada Pentadbir Tanah berkenaan dengan menggunakan **Borang 1** di bawah Peraturan Pengambilan Tanah 1998 (Peraturan Pengambilan Tanah) dan disertai dengan:

- i. Cadangan projek;
- ii. Pelan bentangan dan pelan pengambilan tanah;
- iii. Laporan permulaan penilaian kerajaan bagi tanah yang hendak diambil; dan

Permohonan, Pemeriksaan Dan Pengisytiharan

iv. Fee dan deposit.

Deposit yang perlu dibayar ialah pada kadar 125% daripada nilai tanah tersebut mengikut nilai kerajaan dan dibayar dalam bentuk bank draf dengan cara berikut:

- 50% pada masa permohonan
- 75% pada masa pemohon menerima syarat kelulusan PBN. Kaedah 5(1)(a)(b) di bawah Peraturan Pengambilan Tanah.
- dibayar dalam bentuk Bank Deraf
- Pentadbir Tanah boleh meminta deposit tambahan jika award lebih tinggi dari deposit

Jika pampasan yang ditawarkan melebihi deposit, Pentadbir Tanah akan menuntut deposit tambahan dalam **Borang 2 (Peraturan Pengambilan Tanah)** dan mesti dibayar dalam tempoh 30 hari. Kaedah 5(2) di bawah Peraturan Pengambilan Tanah.

Permohonan, Pemeriksaan Dan Pengisytiharan

Pentadbir Tanah boleh menolak permohonan jika permohonan tidak lengkap [S3(5) Akta Pengambilan Tanah], jika:

- Permohonan tidak lengkap
- Tuan tanah telah peroleh kelulusan pembangunan
- Pengambilan bukan untuk maksud kemudahan awam

(S 3(5)dan (6) APT 1960

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Pentadbir Tanah hendaklah mengemukakan permohonan yang lengkap kepada Unit Perancangan Ekonomi Negeri (UPEN) atau Jawatankuasa bagi WPKL [S3(4) Akta Pengambilan Tanah].

❑ UPEN atau Jawatankuasa akan mempertimbangkan permohonan tersebut dari segi:

- i. Kepentingan awam;
- ii. Keupayaan pemohon untuk menjalankan projek;
- iii. Kebolehan melaksanakan projek; dan
- iv. Kelulusan pembangunan yang diberikan kepada tuan tanah berdaftar [S3A(1) Akta Pengambilan Tanah].

Permohonan, Pemeriksaan Dan Pengisytiharan

Jika tuan tanah berdaftar telah memperolehi kelulusan pembangunan ke atas tanahnya dan pada pandangan UPEN/Jawatankuasa, tuan tanah boleh melibatkan diri dalam projek tersebut, UPEN/Jawatankuasa hendaklah memberikan notis bertulis kepada pemohon dalam **Borang 3 (Peraturan Pengambilan Tanah)** dalam tempoh 6 minggu dari tarikh penerimaan permohonan dari Pentadbir Tanah. Tujuannya adalah untuk pemohon dan tuan tanah mengadakan rundingan. Jika rundingan berjaya, pengambilan tanah tidak diteruskan dan PT hendaklah membayar kembali deposit tanpa faedah [S3A(3) APT, S3A(5) Akta Pengambilan Tanah, Kaedah 6 Peraturan Pengambilan Tanah dan Kaedah 9 Peraturan Pengambilan Tanah].

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Jika tuan tanah berdaftar belum lagi memperolehi kelulusan pembangunan ke atas tanahnya dan pada pandangan UPEN/Jawatankuasa, tuan tanah perlu melibatkan diri dalam pembangunan tersebut, maka UPEN/Jawatankuasa boleh memberi arahan kepada pemohon berunding dengan tuan tanah [S3(b) Akta Pengambilan Tanah].

❑ Apabila perundingan tidak berjaya, pemohon akan mengemukakan laporan terperinci tentang keputusan perundingan kepada UPEM/Jawankuasa. Pihak UPEN/Jawatankuasa akan menghantar permohonan beserta dengan laporan perundingan kepada sebuah Jawatankuasa Khas Pengambilan Tanah melalui **Borang 4 (Peraturan Pengambilan Tanah)** dalam masa 14 hari dari tarikh penerimaan laporan [S3A(7) Akta Pengambilan Tanah, dan Kaedah 7 Peraturan Pengambilan Tanah].

Permohonan, Pemeriksaan Dan Pengisytiharan

□ Ahli Jawatankuasa Khas Pengambilan Tanah terdiri daripada:

Negeri:

- a) Setiausaha Kerajaan Negeri sebagai pengerusi;
- b) Pejabat tanah dan galian sebagai setiausaha;
- c) Pengarah UPEN;
- d) Pengarah Jabatan Perancang Bandar dan Desa; dan
- e) Wakil jabatan yang berkaitan.

Permohonan, Pemeriksaan Dan Pengisytiharan

WPKL:

- a) Ketua Pengarah UPE (EPU) – Pengerusi
- b) Wakil dari Kementerian atau Agensi yang bertanggungjawab bagi Wilayah Persekutuan (Pindaan 2016)
- c) Wakil UPE – Setiausaha
- d) Pentadbir Tanah Wilayah Persekutuan
- e) Ketua Pengarah Tanah dan Galian Persekutuan
- f) Dato' Bandar Kuala Lumpur
- g) Wakil-wakil agensi Kerajaan yang berkaitan

Permohonan, Pemeriksaan Dan Pengisytiharan

Jawatankuasa Khas Pengambilan Tanah akan menilai kesesuaian permohonan dan memberikan syor-syor/cadangan termasuk syarat nyata iaitu jenis penggunaan tanah dan sekatan kepentingan dan menghantarkannya kepada Pihak Berkuasa Negeri tidak lewat daripada 2 bulan dari tarikh penerimaan permohonan [S3D(1) Akta Pengambilan Tanah].

Permohonan, Pemeriksaan Dan Pengisytiharan

□ Pihak Berkuasa Negeri boleh mengarahkan Pihak Unit Perancang Ekonomi Negeri untuk menghantar terus permohonan tersebut jika sekiranya Jawatankuasa Khas Pengambilan Tanah gagal menghantar laporan dalam tempoh yang ditetapkan dalam S3D(1) Akta Pengambilan Tanah [S3D(3) Akta Pengambilan Tanah]:

- i. Pihak Berkuasa Negeri berkuasa meluluskan atau menolak permohonan yang diterimanya [S3E(1) Akta Pengambilan Tanah];

Permohonan, Pemeriksaan Dan Pengisytiharan

- ii. Jika Pihak Berkuasa Negeri meluluskannya, Pentadbir Tanah hendaklah memberitahu pemohon dalam **Borang 5 (Peraturan Pengambilan Tanah)** dalam tempoh 14 hari [S3E(3) Akta Pengambilan Tanah dan Kaedah 10(1) Peraturan Pengambilan Tanah]. Pemohon pula hendaklah memberi jawapan kepada Pentadbir Tanah dalam masa 30 hari untuk mengesahkan penerimaannya [S3E(4) Akta Pengambilan Tanah]; dan
- iii. Jika Pihak Berkuasa Negeri menolak, Pentadbir Tanah hendaklah memberitahu pemohon dalam **Borang 6 (Peraturan Pengambilan Tanah)** dalam tempoh 14 hari dan memulangkan deposit dalam tempoh 3 bulan [S3E(5) Akta Pengambilan Tanah dan Kaedah 10(2) Peraturan Pengambilan Tanah].

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Pemohon boleh menarik balik pengambilan tanah dengan memberi satu notis bertulis kepada Pentadbir Tanah dengan syarat ianya belum diwartakan di bawah **S8** Akta Pengambilan Tanah [S3F(1) Akta Pengambilan Tanah].

❑ Pentadbir Tanah hendaklah menjalankan siasatan dalam tempoh 21 hari dari tarikh penerimaan notis menarik balik untuk menentukan amaun deposit yang hendak dirampas dan dibayar kepada orang berkepentingan [S3F(2) Akta Pengambilan Tanah, Kaedah 11(1) Peraturan Pengambilan Tanah]. Pentadbir Tanah akan memberitahu kepada pemohon dalam **Borang 7 (Peraturan Pengambilan Tanah)** dalam tempoh 14 hari [Kaedah 11(2) Peraturan Pengambilan Tanah].

Penarikan Pengambilan

- ❑ Permohonan boleh dibuat sebelum warta Seksyen 8 dengan memberi notis secara bertulis kepada PT- seksyen 3F(1)APT 1960
- ❑ Sekiranya pemohon menarik balik permohonan atau gagal mengemukakan jawapan dalam tempoh 30 hari dari tarikh menerima notis dibawah subseksyen 3E(4) Pentadbir Tanah hendaklah merampas deposit yang telah dinyatakan dalam peraturan – 3F(2)APT 1960
- ❑ Permohonan dianggap ditarik balik sekiranya:
 - Gagal mengemukakan laporan penuh perundingan kepada UPEN/JK bagi WPKL dalam tempoh masa yang ditetapkan dalam Borang 3
 - Gagal mengesahkan persetujuan dan syarat kelulusan dalam tempoh masa yang ditetapkan 8(2)(c) Kaedah Pengambilan

Penarikan Pengambilan

- Fi Penarikan – RM 1,000
- Notis Pelucutan Deposit – Borang 7
- Pentadbir Tanah boleh lucut deposit sebanyak 50% @ RM 10,000 yang mana lebih tinggi;
- PBN – boleh kurang 10% @ RM 10,000 yang mana lebih tinggi
- Selepas Warta Seksyen 4 – Seksyen 6 terpakai
- Pampasan diambil dari deposit yang dirampas
- PBN boleh arah pemohon secara bertulis bayar pampasan
- tambahan sekiranya pampasan lebih besar dari deposit-K(9)Sk(6)

Permohonan, Pemeriksaan Dan Pengisytiharan

- ❑ Jika pemohon bersetuju, Pentadbir Tanah perlu bayar kembali baki deposit dalam tempoh 3 bulan dari tarikh penerimaan keputusan daripada pemohon [Kaedah 11(3) Peraturan Pengambilan Tanah].
- ❑ Jika tidak bersetuju, pemohon boleh membuat bantahan dalam **Borang 8 (Peraturan Pengambilan Tanah)** kepada Pentadbir Tanah dalam masa 30 hari dari tarikh penerimaan keputusan. Jika gagal, pemohon dianggap telah bersetuju dan baki deposit dipulangkan dalam tempoh 3 bulan selepas tempoh 30 hari berkenaan [Kaedah 11(4) Peraturan Pengambilan Tanah].

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Pentadbir Tanah akan merujuk kepada Pihak Berkuasa Negeri dalam tempoh 14 hari dan keputusan Pihak Berkuasa Negeri adalah muktamad [Kaedah 11(5) Peraturan Pengambilan Tanah]. Pentadbir Tanah juga dikehendaki membayar balik amaun yang diputuskan oleh Pihak Berkuasa Negeri dalam tempoh 3 bulan tanpa faedah [Kaedah 11(6) Peraturan Pengambilan Tanah].

❑ Pengambilan tanah melalui **S3(1)(b)(c)** Akta Pengambilan Tanah tidak perlu diwartakan melalui **S4** Akta Pengambilan Tanah. Apabila diluluskan oleh Pihak Berkuasa Negeri, terus diwartakan di bawah **S8** Akta Pengambilan Tanah.

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Pengisytiharan di bawah S4 Akta Pengambilan Tanah

Di dalam keadaan-keadaan tertentu, sesuatu tanah itu perlu diperiksa atau disiasat terlebih dahulu sebelum dipastikan kesesuaiannya bagi sesuatu projek dan juga untuk mengelakkan perlakuan tidak jujur oleh pihak yang berkepentingan untuk menuntut bayaran pampasan yang berlebihan, maka tindakan pengwartaan di bawah **S4** Akta Pengambilan Tanah diambil dengan cara pemberitahuan di dalam **Borang A (Akta Pengambilan Tanah)** dan Pentadbir Tanah hendaklah memberitahu kepada umum notis ini dengan cara menampal di tempat-tempat tertentu.

Permohonan, Pemeriksaan Dan Pengisytiharan

Jika didapati adalah perlu siasatan tanah yang lebih terperinci dilakukan, Pengarah Pejabat Tanah dan Galian negeri boleh mengeluarkan surat kebenaran di dalam **Borang B (Akta Pengambilan Tanah)** membolehkan mana-mana orang atau pegawai memasuki tanah tersebut untuk membuat kajian kesesuaian tanah.

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Menurut **S4(3)** Akta Pengambilan Tanah kuatkuasa pengisytiharan **Borang A (Akta Pengambilan Tanah)** ini adalah selama 12 bulan sahaja, akan tetapi ia boleh diisytiharkan semula jika keadaan memerlukan. Sehubungan dengan ini pengwartaan di bawah S4 Akta Pengambilan Tanah juga menetapkan tarikh penilaian tanah yang dicadangkan.

❑ Pampanan berdasarkan kepada harga pasaran pada tarikh warta di bawah Seksyen 4 jika diikuti dengan warta di bawah Seksyen 8 dalam tempoh 12 bulan.

Permohonan, Pemeriksaan Dan Pengisytiharan

- ❑ Sekiranya pengambilan tanah diwartakan di bawah S8 Akta Pengambilan Tanah dalam jangka masa 12 bulan dari tarikh pengwartaan S4 maka tarikh penilaian tanah yang terpakai ialah tarikh pengwartaan S4.
- ❑ Sekiranya berlaku apa-apa kerosakan ke atas tanah kerana tindakan di bawah seksyen 5 (Borang B) maka pampasan tersebut boleh dibayar di bawah Seksyen 6 APT 1960.

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Pengisytiharan di bawah **S8** Akta Pengambilan Tanah

Jika sesuatu tanah telah dipastikan untuk diambil bagi sesuatu projek dan pemeriksaan tidak perlukan ataupun sudah diwartakan di bawah **S4** Akta Pengambilan Tanah, tindakan seterusnya ialah dengan mengangkat kertas Mesyuarat Majlis Kerajaan Negeri (MMKN) kepada Pihak Berkuasa Negeri untuk diluluskan pengambilan dan diwartakan di bawah **S8** Akta Pengambilan Tanah. Kertas MMKN ini diiringi dengan **Borang C (Akta Pengambilan Tanah)** yang mengandungi senarai lot tanah dan nama pemilik dan juga pelan pengambilan yang terlibat.

Permohonan, Pemeriksaan Dan Pengisytiharan

Pihak Berkuasa Negeri meluluskan pengambilan dan pengisytiharan di bawah **S8** dibuat dengan menggunakan **Borang D (Akta Pengambilan Tanah)** dan disiarkan di dalam Warta Kerajaan, disertai dengan satu salinan **Borang C (Akta Pengambilan Tanah)**. Pengisytiharan **Borang D (Akta Pengambilan Tanah)** menjadi luput dan tidak berkuatkuasa selepas tempoh 2 tahun dari tarikh itu jika di dalam tempoh masa itu Pentadbir Tanah tidak membuat siasatan dan perintah.

Permohonan, Pemeriksaan Dan Pengisytiharan

- ❑ Pentadbir Tanah perlu mengadakan siasatan bagi menentukan bayaran pampasan atas kerosakan dan kos-kos berkaitan mengikut Jadual Pertama [S8(5) Akta Pengambilan Tanah].
- ❑ Sebaik sahaja diisytiharkan, sebagaimana yang dikehendaki oleh **S9** Akta Pengambilan Tanah, Pentadbir Tanah hendaklah **menandakan atau menyebabkan ditanda kawasan yang terlibat dengan pengambilan** dan juga membuat nota tentang pengambilan di atas dokumen hakmilik yang berkaitan.

Permohonan, Pemeriksaan Dan Pengisytiharan

❑ Penandaan perlu dilakukan:

- i. Untuk mengenalpasti kawasan, pokok, tanaman, bangunan dan binaan yang terlibat;
- ii. Untuk memudahkan Pentadbir Tanah menentukan jumlah pampasan; dan
- iii. Untuk memudahkan tuntutan orang berkepentingan.

❑ Pentadbir Tanah juga perlu meminta Pengarah Perancang Bandar dan Desa membekalkan maklumat perancangan tanah terlibat untuk menentukan pampasan tanah.

Notis Dan Penyerahan

❑ Sebelum siasatan dijalankan, Pentadbir Tanah di bawah **S10** Akta Pengambilan Tanah mengeluarkan notis awam **Borang E (Akta Pengambilan Tanah)** menandakan langkah awal perbicaraan telah mula diambil dan menetapkan tarikh siasatan bagi mendengar segala tuntutan pampasan ke atas tanah yang terlibat.

❑ Cara pengeluaran notis awam adalah sebagaimana ditetapkan di bawah **S52** Akta Pengambilan Tanah iaitu dengan menampalkannya di:

- i. Pajabat Tanah di mana tanah tersebut terletak;
- ii. Papan kenyataan awam di Mukim atau Pekan di mana tanah itu terletak; dan
- iii. Di tempat-tempat lain yang difikirkan patut oleh Pentadbir Tanah.

Notis Dan Penyerahan

❑ Selain daripada itu, notis berkenaan perlu disertakan kepada:

- i. Penduduk tanah itu;
- ii. Tuan punya berdaftar tanah itu;
- iii. Mana-mana orang yang ada kepentingan berdaftar; dan
- iv. Mana-mana orang yang diketahui mempunyai kepentingan pada tanah itu [**S11(1)** Akta Pengambilan Tanah].

❑ Penerima perlu menandatangani akuan terima penyampaian dan dicatitkan ke dalam buku rekod.

Notis Dan Penyerahan

❑ Jika penama dalam notis enggan menerima atau tidak dapat menandatangani, penyampaian notis boleh dilaksanakan seperti berikut:

- i. Meletakkan satu salinan di pintu luar bangunan tempat tinggal/tempat ia menjalankan urusannya; dan
- ii. Pada mana-mana papan tanda awam tempat tersebut [**S53(2)** Akta Pengambilan Tanah].

❑ Jika penama tersebut adalah penduduk tanah, dan notis gagal diserahkan, hendaklah ditampal pada mana-mana bahagian tanah tersebut [**S53(3)** Akta Pengambilan Tanah]. Satu kenyataan tentang masa, tempat dan cara penyampaian hendaklah dicatatkan ke dalam buku rekod [**S53(4)** Akta Pengambilan Tanah].

Notis Dan Penyerahan

☐ Jika pihak berkepentingan/orang dewasa tidak ditemui/tiada dalam negeri, notis boleh diserahkan dengan cara berikut:

- i. Menyerahkan kepada agen yang diberikuasa untuk menerimanya;
- ii. Menghantar dengan pos berdaftar setelah alamatnya telah dikenalpasti; dan
- iii. Menerbitkan notis dalam mana-mana akhbar tempatan [**S54(a)(b)(c)** Akta Pengambilan Tanah].

Notis Dan Penyerahan

❑ Tarikh yang ditetapkan untuk siasatan tidak boleh lebih awal daripada 21 hari hari selepas tersiarnya notis awam **Borang E (Akta Pengambilan Tanah)**.

❑ Pentadbir Tanah juga boleh memberikan notis dalam **Borang F (Akta Pengambilan Tanah)** meminta tuan tanah yang berdaftar di dalam **Borang E (Akta Pengambilan Tanah)** atau orang lain yang mana Pentadbir Tanah fikirkan perlu memberi keterangan menulis yang diperlukan dalam **Borang E (Akta Pengambilan Tanah)**.

Siasatan Dan Perintah

❑ Tatacara siasatan dikawal oleh **S12** Akta Pengambilan Tanah. Pada tarikh siasatan yang ditetapkan Pentadbir Tanah hendaklah menyiasat:

- i. Mengenai nilai kesemua tanah yang diambil;
- ii. Mentaksir amaun pampasan;
- iii. Tentang kepentingan kesemua orang yang menuntut pampasan atau yang pada pendapatnya berhak mendapat pampasan; dan
- iv. Tentang bantahan-bantahan jika ada.

❑ Pentadbir Tanah diberi kuasa untuk mendapatkan laporan bertulis mengenai nilai tanah dan juga untuk memanggil dan memeriksa saksi-saksi untuk mentadbir sumpah atau pengakuan dan memaksa supaya dokumen-dokumen dikemukakan dan diserahkan kepadanya (**S13** Akta Pengambilan Tanah).

Siasatan Dan Perintah

❑ Pentadbir Tanah semasa menjalankan siasatan hendaklah merekodkan semua keterangan-keterangan yang diberikan oleh pemilik-pemilik tanah dan orang berkepentingan. Tatacara merekodkan ini terpulang kepada budi bicara Pentadbir Tanah untuk membuatnya. Keterangan-keterangan yang lengkap semasa siasatan amat berguna kepada Pentadbir Tanah bilamana pemilik tanah/orang berkepentingan tidak bersetuju dengan penyerahan (award) Pentadbir Tanah dan membuat bantahan ke Mahkamah.

❑ Pentadbir Tanah tidak menentukan tempat mengadakan siasatan tetapi mengikut **S17(2)** Akta Pengambilan Tanah, siasatan ringkas hendaklah dijalankan dengan cara dan tempat sebagaimana Pentadbir Tanah fikirkan wajar. Pada amalannya, di Bilik Bicara Pejabat Tanah/Pejabat Penghulu di mana tanah tersebut terletak.

Siasatan Dan Perintah

❑ Setelah selesai membuat siasatan di bawah **S12** Akta Pengambilan Tanah, Pentadbir Tanah hendak menyediakan penyerahan (award) secara bertulis di dalam **Borang G (Akta Pengambilan Tanah)** bagi tanah yang terlibat dan dibayar bagi setiap orang yang terlibat mengikut kepentingan masing-masing. Setiap penyerahan (award) ini hendaklah difailkan dan merupakan bukti muktamad yang mengikat keputusan Pentadbir Tanah.

❑ Penyerahan (award) hendaklah mengandungi:

- i. Jumlah pampasan;
- ii. Keluasan yang diambil;
- iii. Pengumpulan pampasan; dan
- iv. Kos dan perbelanjaan jika ada.

Siapakah Orang Yang Berkepentingan ?

- ✓ Pemilik
- ✓ Pemegang Pajak
- ✓ Pemegang Pajak Kecil
- ✓ Pemegang Pajak Pajak Kecil
- ✓ Pemegang Gadaian
- ✓ Pemegang Gadaian Pajak
- ✓ Pemegang Ismen
- ✓ Penyewa
- ✓ Power Attorney (PA)
- ✓ Penduduk yang bukan pemilik
- ✓ Agensi Pemohon
- ✓ Kaveat Pendaftaran
- ✓ Kaveat Persendirian
- ✓ Kaveat Pemegang Lien
- ✓ Kaveat Pemegang Amanah

PAMPASAN

Pembayaran Pampasan

❑ Penyerahan (Award)

- Setelah membuat penyerahan (award) bertulis, Pentadbir Tanah hendaklah menyerah notis dalam **Borang H (Akta Pengambilan Tanah)** kepada setiap orang berkepentingan. Bagi setiap **Borang H (Akta Pengambilan Tanah)** hendaklah mengandungi cabutan penyerahan (award) Pentadbir Tanah dalam **Borang G (Akta Pengambilan Tanah)** yang berkaitan. Penyerahannya juga melibatkan agendi yang memohon.

Pembayaran Pampasan

❑ Penyerahan (Award)

- Award yang dibuat oleh Pentadbir Tanah tidak menjadi tidak sah sekiranya lebih besar atau kurang dengan syarat tidak melebihi $\frac{1}{4}$ hektar atau 1% daripada keluasan tanah yang terjadual yang mana lebih luas
- Sekiranya tidak berpuas hati boleh buat bantahan mengikut S37 APT 1960

(S 14(3) APT 1960)

Pembayaran Pampasan

- Sekiranya keluasan yang terlibat tidak lebih dari $\frac{1}{4}$ hektar atau 1% yang mana lebih luas tidak perlu dibuat pembetulan dan disiarkan di dalam warta S8
- Sekiranya kurang dari keluasan yang terjadual tidak lebih dari $\frac{1}{4}$ hektar atau 1% yang mana lebih luas maka tidak perlu dilakukan penarikan balik di bawah S35

(S 14 (4)(a dan b) APT 1960)

Pembayaran Pampasan

- ❑ Pemilik tanah dan orang berkepentingan mempunyai 3 pilihan semasa menerima **Borang H (Akta Pengambilan Tanah)**, iaitu (i) menerima, (ii) menerima dengan bantahan, dan (iii) membantah. Manakala, agensi memohon pula mempunyai 2 pilihan, iaitu (i) menerima, dan (ii) membantah. Sekiranya agensi memohon membantah, wang pampasan sebanyak 25% akan ditahan oleh Pentadbir Tanah.
- ❑ Pentadbir Tanah hendaklah menetapkan amaun kos yang ditanggung beban dalam prosiding itu oleh siapa dan dengan kadar apa kos termasuklah fi penilai.

S 14(5) APT 1960

Pembayaran Pampasan

Sekiranya semasa siasatan, Pentadbir Tanah mendapati tiada orang yang layak untuk dibayar pampasan, orang yang berhak enggan menerimanya atau terdapat pertikaian tentang hak ataupun hakmilik orang yang menerima pampasan, Pentadbir Tanah hendaklah dengan seberapa segera memasukkan wang tersebut ke dalam mahkamah. Jika tuan tanah telah meninggal dunia tanpa wasiat, maka pampasan tersebut dimasukkan ke akaun Amanah Raya Berhad.

Pembayaran Pampasan

Bagi mereka yang layak menerima pampasan, Pentadbir Tanah dengan seberapa segera yang boleh, membayar pampasan selepas sahaja menyerah **Borang H (Akta Pengambilan Tanah)**. Jika pampasan tidak dibayar dalam tempoh genap masa, iaitu tarikh **Borang H (Akta Pengambilan Tanah)** dikeluarkan atau 3 bulan selepas **Borang H (Akta Pengambilan Tanah)** diserahkan, yang mana lebih awal, bayaran denda lewat **5% setahun** daripada jumlah pampasan akan dikenakan.

Pembayaran Pampasan

Bayaran dianggap telah dibuat:

- Pada hari sebagaimana diberitahu secara bertulis oleh Pentadbir Tanah bahawa cek/ kiriman wang/ wang tunai telah sedia untuk diambil oleh orang yang berkepentingan; atau
- Pada hari cek/kiriman wang dihantar melalui pos berdaftar kepada orang yang berkepentingan; atau
- Pada hari serah cek/kiriman wang oleh Pentadbir Tanah ke Mahkamah.
- Pada hari pihak yang berkepentingan menerima bayaran pampasan.
- Pada hari pembayaran pampasan dimasukkan secara elektronik kepada pihak yang berkepentingan.

Pembayaran Pampasan

Elemen-Elemen Dalam Award Pampasan

- Nilai Tanah
- 'Injurious affection' (IA)
- Pecah bahagi (severance)
- Kos Perpindahan
- Sewa sementara
- Fi Penilai
- Kos hadir bicara

Mengambil Milik

❑ Pengambilan balik tanah hanya boleh dilakukan dalam 2 keadaan:

- i. Apabila **Borang H (Akta Pengambilan Tanah)** telah pun diserahkan; atau
- ii. Apabila Sijil Perakuan Segera **Borang I (Akta Pengambilan Tanah)** dikeluarkan.

❑ Menurut S19 Akta Pengambilan Tanah, Pengarah Pejabat Tanah dan Galian Negeri boleh mengeluarkan Sijil Perakuan Segera pada atau selepas tamat tempoh 15 hari dari tarikh pemberian notis **Borang J (Akta Pengambilan Tanah)** dengan syarat tiada bangunan yang terlibat di dalam kawasan yang terlibat.

Mengambil Milik

❑ Pemilikan tanah secara rasmi dibuat di bawah S22 Akta Pengambilan Tanah dengan cara mengeluarkan notis **Borang K (Akta Pengambilan Tanah)**. Salinan notis ini perlu disampaikan kepada pemilik, penduduk dan orang yang berkepentingan. Juga satu salinan dihantar kepada pihak berkuasa pendaftaran untuk diendoskan di dalam hakmilik tanah yang terlibat.

❑ Apabila **Borang K (Akta Pengambilan Tanah)** didaftarkan dengan sempurnanya di dalam hakmilik, maka tanah yang terjadual yang terlibat dengan pengambilan dengan sendirinya menjadi tanah kerajaan.

Mengambil Milik

Penarikan balik daripada pengambilan hanya boleh dibuat sebelum **Borang K (Akta Pengambilan Tanah)** didaftarkan. Penarikan balik ini boleh dibuat di bawah S35 hendaklah diisytiharkan di dalam Warta Kerajaan dan bayaran pampasan kerosakan ke atas tanah jika ada akan ditentukan oleh Pentadbir Tanah.

PERINTAH MAHKAMAH

Rujukan Ke Mahkamah

❑ Rujukan ke mahkamah hanya boleh dibuat oleh Pentadbir Tanah sahaja. Terdapat 2 keadaan di mana Pentadbir Tanah membuat rujukan, iaitu:

- i. Atas inisiatifnya sendiri; dan
- ii. Atas bantahan orang berkepentingan dan agensi pemohon.

Rujukan Ke Mahkamah

☐ Pentadbir Tanah boleh pada bila-bila masa melalui **Borang M (Akta Pengambilan Tanah)** merujuk kepada mahkamah untuk diputuskan perkara-perkara berikut:

- a) Takrifan sebenar atau kesahan atau kesan apa-apa suratcara;
- b) Orang yang ada hak atau kepentingan pada tanah;
- c) Pengumpulan pampasan bagi hak atau kepentingan itu;
- d) Tahap atau jenis hak atau kepentingan itu;
- e) Orang yang kepadanya pampasan itu kena dibayar; dan
- f) Kos apa-apa siasatan di bawah Akta ini dan orang-orang yang akan menanggung kos itu.

Rujukan Ke Mahkamah

❑ Di bawah S37(1) Akta Pengambilan Tanah, mana-mana orang yang berkepentingan ke atas tanah boleh membuat bantahan ke mahkamah berkaitan dengan perkara-perkara berikut:

- a) Pengukuran tanah itu;
- b) Amaun pampasan itu;
- c) Orang yang sepatutnya menerima pampasan; dan
- d) Pembahagian/Pengaguhan/Pengumpukkan pampasan.

Rujukan Ke Mahkamah

Bantahan ini boleh dibuat dengan menggunakan **Borang N (Akta Pengambilan Tanah)** dan disertai dengan bayaran deposit sebanyak **RM5000** atau 10% daripada amaun yang dituntut mengikut mana yang lebih kurang [S39(1) Akta Pengambilan Tanah]. Sayugia diingatkan bahawa penyerahan (award) Pentadbir Tanah adalah muktamad, jika amaunnya kurang dari **RM5000** [S37(2) Akta Pengambilan Tanah]. Deposit hendaklah diserahkan dalam tempoh 30 hari setelah diminta oleh Pentadbir Tanah, jika tidak bantahan dianggap ditarik balik [S39(2) Akta Pengambilan Tanah].

Rujukan Ke Mahkamah

□ **Borang N (Akta Pengambilan Tanah)** tersebut perlu diserahkan kepada Pentadbir Tanah mengikut jangkamasa seperti di bawah:

- i. Sekiranya orang yang membuat permohonan itu hadir atau diwakili dihadapan Pentadbir Tanah semasa membuat penyerahan (award) ialah dalam masa 6 minggu dari tarikh PT membuat penyerahan (award).
- ii. Dalam kes-kes lain dalam masa 6 minggu setelah menerima notis **Borang H (Akta Pengambilan Tanah)** atau dalam masa 6 bulan dari tarikh Pentadbir Tanah membuat penyerahan (award), mengikut yang mana lebih dahulu tamat tempohnya.

Rujukan Ke Mahkamah

❑ Apabila menerima **Borang N (Akta Pengambilan Tanah)**, Pentadbir Tanah akan menghimpun semua notis-notis yang telah dikeluarkan bagi tanah tersebut yang telah disampaikan beserta dengan satu salinan nota bicara untuk dijilidkan dan kemudiannya merujuk dokumen berkenaan ke mahkamah dengan menggunakan **Borang O (Akta Pengambilan Tanah)** dalam masa 6 bulan dari tarikh **Borang N (Akta Pengambilan Tanah)** diterima [S38(5) Akta Pengambilan Tanah].

❑ Jika bantahan ke mahkamah adalah berhubung dengan amaun pampasan, mahkamah akan melantik 2 orang pengapit (seorang daripadanya adalah penilai kerajaan) untuk membantu Hakim (S40A Akta Pengambilan Tanah).

Rujukan Ke Mahkamah

Keputusan Hakim adalah berdasarkan pendapat kedua-dua pengapit. Jika pendapat mereka berbeza, hakim akan memilih untuk bersetuju dengan pendapat salah seorang daripada mereka [S40D(2) Akta Pengambilan Tanah]. Keputusan Hakim ini adalah muktamad.

Pindaan Cukai, Hakmilik Sambungan Dan Permohonan Ukur

Sekiranya pengambilan tanah melibatkan sebahagian daripada lot, Pentadbir Tanah hendaklah mengemukakan Permohonan Ukur kepada Jabatan Ukur supaya baki lot tersebut diukur semula. Pindaan cukai tanah ke atas baki lot tersebut juga perlu dibuat berdasarkan kepada formula pengiraan yang diberikan oleh S96 Kanun Tanah Negara (Akta 828) dan dibayar pada tahun kelender yang berikutnya.

Pindaan Cukai, Hakmilik Sambungan Dan Permohonan Ukur

Selepas baki lot diukur oleh Pejabat Ukur Daerah, bagi tanah yang dipegang di bawah hakmilik kekal, Jabatan Ukur akan mengeluarkan **B1 tiff** dan diserahkan kepada Pentadbir Tanah/Pendaftar untuk mengeluarkan hakmilik sambungan dan didaftarkan. Bagi baki lot yang dipegang di bawah hakmilik sementara, Pentadbir Tanah dikehendaki membuat pindaan ke atas sempadan lot yang baru pada hakmilik yang berkaitan.

Pendudukan Sementara

□ Apabila Pihak Berkuasa Negeri mendapati pendudukan atau penggunaan tanah secara sementara diperlukan bagi memenuhi:

- i. Kehendak pengambilan di bawah S3 Akta Pengambilan Tanah; atau
- ii. Untuk menjalankan kerja-kerja awam di atas mana-mana tanah, maka Pihak Berkuasa Negeri di bawah S57 Akta Pengambilan Tanah boleh mengarahkan Pentadbir Tanah mengambil secara sementara tanah berkaitan bagi tempoh tidak melebihi 3 tahun.

Pendudukan Sementara

Pentadbir Tanah sebaik sahaja menerima arahan hendaklah memberi notis secara bertulis dalam **Borang Q (Akta Pengambilan Tanah)** kepada orang-orang berkepentingan bagi menentukan syarat-syarat pendudukan dan kadar pampasan dan cara pembayaran. Setelah tempoh pendudukan atau penggunaannya, tanah itu hendaklah dipulihkan kepada keadaan asal.

Pendudukan Sementara

- Menggunakan Borang 8
- Permohonan disertakan dengan Fi – RM 1,000
- Tidak lebih daripada 3 tahun
- Pentadbir Tanah atau Pendaftar hendaklah membuat nota mengenai perkara ini sebagaimana S 9(2)(a) dan (b)
- Deposit 125% dari nilai pasaran
- Tamat tempoh pendudukan tanah perlu dipulihkan sebagaimana asal
- Pentadbir Tanah bagi Notis melalui Borang 9 kepada pihak yang berkepentingan untuk memastikan tanah itu telah dipulihkan
- Setelah sempurna siasatan notis serahan tanah Borang 10 akan dikeluarkan

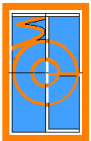
**CADANGAN PENGAMBILAN BALIK TANAH DIBAWAH SEKSYEN 3(1)(b) DAN SEKSYEN 8
UNTUK PROJEK MEMBINA JALAN KELUAR MASUK DI KM 2.7
LEBUHRAYA TANJUNG PELEPAS (CH 0+000)
HINGGA KE CADANGAN PEMBANGUNAN FORESTCITY (CH 6+000) SEPANJANG 6 KM,
(PENGAMBILAN TAMBAHAN UNTUK PERSIMPANGAN BERTINGKAT),
MUKIM TANJUNG KUPANG, DAERAH JOHOR BAHRU, JOHOR DARUL TA'ZIM**

**PELAN PENGAMBILAN BALIK TANAH SEKSYEN 8
AKTA PENGAMBILAN BALIK TANAH 1960**

JURUKUR TANAH BERLESEN :

JURUTERA PERUNDING:

PEMOHON



**STUDIOUKUR
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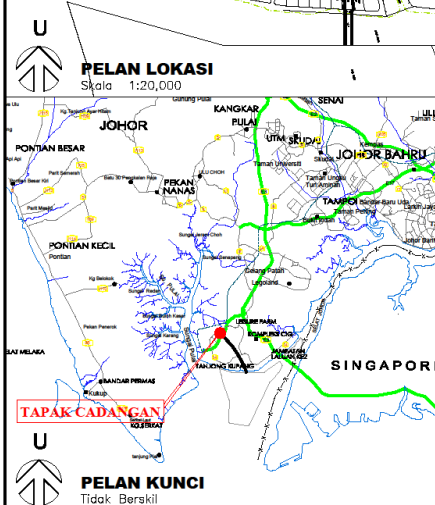
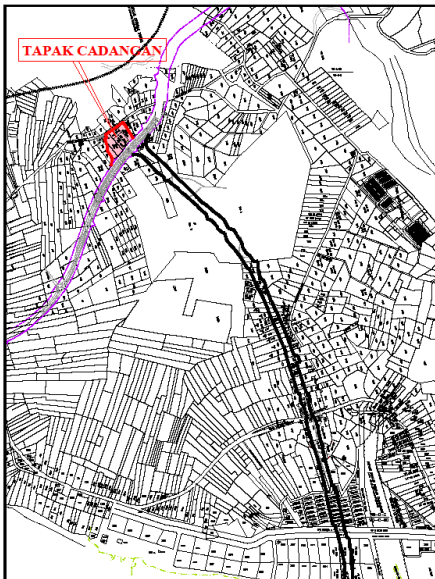
Galeri Jualan, Tingkat 2, Lot PTB 22056,
Teluk Danga, Jalan Skudai,
81200 Johor Bahru
Johor Darul Takzim
Tel : (60)7 288 6666
Fax : (60)7 207 0893

SEBUAH SYARIKAT USAHA SAMA ANTARA



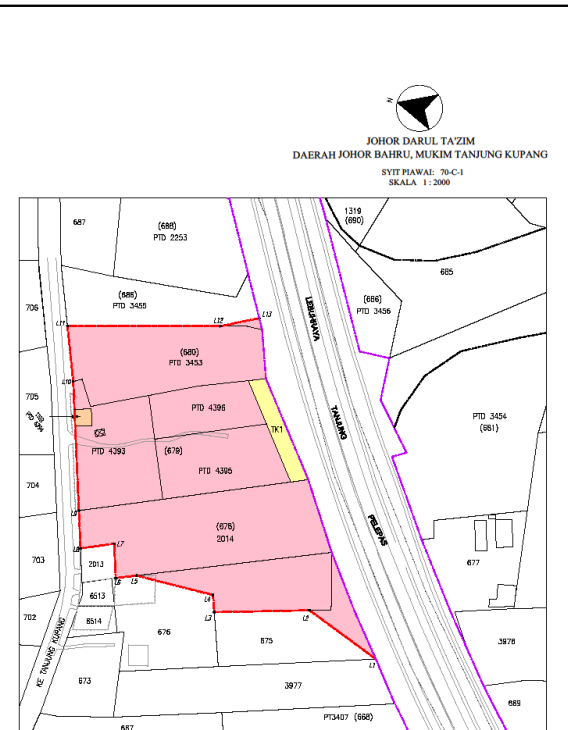
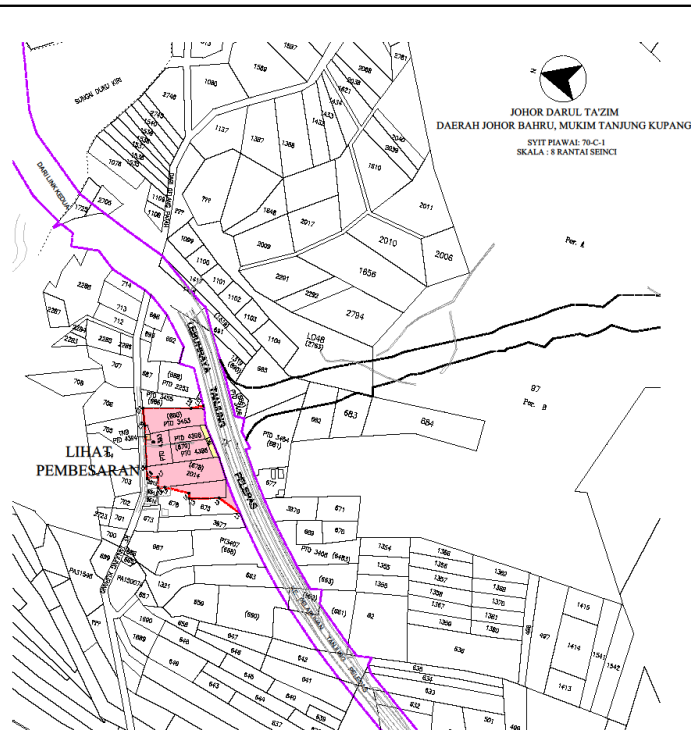
DENGAN





PELAN KUCI
Tidak Berskali

TARIKH	SEKITAR	BUKTIKAN
15/10/2014	PHIDAN JAJARAN	4
16/10/2014	PHIDAN ROK	3
17/10/2014	PHIDAN ROK	2
20/10/2014	PHIDAN 10 LORONG KEDAP & LORONG LUKARAYA	1
	PERMILIHAN	



Jadual 1
Negara: JOHOR
Daerah: JOHOR BAHRU
Mukim: TANJUNG KUPANG

SENARAI LOT YANG TERLIBAT DENGAN PENGAMBILAN TANAH

No.	No Lot Dalam / No. L.O.	No. Hakmilik atau jenis Pendaftaran	Luas Lot Mengikut Hakmilik / PA		Luas Yang Diperolehi		Luas Baki Tanah		Bilangan dan Jenis Saiz Bangunan Terlibat	Panggunaan Asal Tanah	CATITAN
			m ²	Hektar	m ²	Hektar	Por. A (m ²)	Por. B (m ²)			
1	675	M.K.G.1220	7747	1.1368	1.1368	1.438	0.1438	7602	0.7922		
2	676	M.K.G.656	7747	1.1368	1.2216	0.987		6349	0.6349		
3	2014 (870)	M.C.G.213	2041	1.1460	1.3460	1.3460				TAKA	
4	PTD 4292	HSM 081	6006.2483	8.70007	6006.2483	6.8400				TAKA	
5	PTD 4295	HSM 082	4141.1052	0.4141	4141.1052	0.4141				TAKA	
6	PTD 4295	HSM 082	6707	0.8707	6707	0.8707			1.05	TAKA	
7	PTD 3452 (880)	L.P.M. 1026	11700	0.1700	10100	1.1000				TAKA	
8	PTD 3452 (880)	L.P.M. 1026	6229	0.0229	154	0.0154		6700	0.6700		
Jumlah					43909						

Jadual 2

SENARAI LOT YANG TERLIBAT DENGAN PENGAMBILAN TANAH (TANAH KEBAJAJAN)

No.	No Lot Dalam / No. L.O.	No. Hakmilik atau jenis Pendaftaran	Luas Lot Mengikut Hakmilik / PA		Luas Yang Diperolehi		Luas Baki Tanah		Bilangan dan Jenis Saiz Bangunan Terlibat	Panggunaan Asal Tanah	CATITAN
			m ²	Hektar	m ²	Hektar	Por. A (m ²)	Por. B (m ²)			
1	PTD 3450		232	0.0232	232	0.0232				TAKA	
2	TK1		1600	0.1600	1600	0.1600				TAKA	
Jumlah					1832						

CAHAR SOLAR R.O.W.

Kota	1/2/3/4	5/6/7	8/9/10
1	-191.61/1	891.752	
2	-735.67/2	891.486	
3	-191.73/3	891.574	
4	-191.43/4	891.521	
5	-735.67/5	891.486	
6	-191.73/6	891.574	
7	-191.43/7	891.521	
8	-735.67/8	891.486	
9	-191.73/9	891.574	
10	-191.43/10	891.521	

PETUNJUK :

- BEWANGAN R.O.W.
- BEWANGAN R.O.W. (PENGAMBILAN TERKALU)
- BEWANGAN R.O.W. BEWA ADA LEMPERAN TANAH PELUPUS
- TANAH MLK YANG TERLIBAT DENGAN PENGAMBILAN BALIK TANAH
- TANAH REZAB NEGERI
- REZAB JALAN

JUWAZUHAN PERAWANG

STUDIOUKUR
GEOMETRIK SDN. BHD.
No. 10, JALAN PERAK 1, TAMAN PERAK, 81000 JOHOR BAHRU, JOHOR DARUL TA'ZIM
Tel: (07) 788 6666 Fax: (07) 788 6665 Email: info@studioukur.com

DI RYOTAN JERAMBA PANGKONG BERTINGKAT
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PERMOR
COUNTRY GARDEN PARCHVIEW SDN. BHD.
Company No. 2044640-D
Gedung 10, Tingkat 2, Lot P18 22056,
Taman Cergas, Jalan Suka,
81000 Johor Bahru,
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No. 10, JALAN PERAK 1, TAMAN PERAK, 81000 JOHOR BAHRU, JOHOR DARUL TA'ZIM
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PERKES
CADANGAN MEMBINA JALAN KELUAR MASUK DI KM 2.7 LEBUHRAYA TANJUNG PELEPAS (CH 0400) HINGGA KE CADANGAN PEMBANDUAN PELAN REDUK FOREST CITY (CH 0400) SEPANJANG 8 KM, PENGAMBILAN TAMBAHAN LUKUS, PERSEMPANGAN BERTINGKAT, MUKIM TANJUNG KUPANG, DAERAH JOHOR BAHRU, JOHOR DARUL TA'ZIM

PELAN PENGAMBILAN BALIK TANAH
(SEKSYEN 31 (b) DAN SEKSYEN 8, ARTA PENGAMBILAN TANAH 100%)
PENGAMBILAN TANAHAN - PERSEMPANGAN BERTINGKAT

DATO' DAENG A MALEK BIN DAENG A RAHAMAN
NO KP: 160128-01-5101
PENGARAH EKSEKUTIF

NO PERAL: 8 BUKTI BEKTI (1, 1000)
TARIKH: 20/10/2016

SOJ0H444LAK 7

BIANGAN BELIAN: 1/1

Langkah-Langkah

Step 1	Borang A (Seksyen 4)	Notis bahawa tanah berkemungkinan akan diambil
Step 2	Borang B (Seksyen 5)	Kuasa untuk membuat ukur
Step 3	Borang C (Seksyen 7)	Jadual tanah yang terjejas oleh pengambilan
Step 4	Borang D (Seksyen 8)	Pengisytiharaan pengambilan yang dicadangkan
Step 5	Borang E (Seksyen 10)	Pengambilan yang dicadangkan : Notis siasatan
Step 6	Borang F (Seksyen 11)	Notis menghendaki keterangan secara bertulis
Step 7	Seksyen 12	Pertanyaan

Langkah-Langkah

Step 8	Borang G (Seksyen 14)	Award pampasan bertulis
Step 9	Borang H (Seksyen 16)	Notis award dan tawaran pampasan
Step 10	Borang I (Seksyen 19)	Perakuan segera
Step 11	Borang J (Seksyen 20)	Notis mengosongkan bangunan dan pampasan
Step 12	Borang K (Seksyen 22)	Notis bahawa milikan tanah/peletakhakan petak telah diambil

Langkah-Langkah

Step 13	Borang L (Seksyen 24)	Notis untuk menyerahkan dokumen
	Borang LA	Notis penarikan balik pengambilan
	Borang LB	Penarikan balik pengambilan : Notis siasatan
	Borang LC (Seksyen 35)	Notis award dan tawaran pampasan
Step 14	Borang M (Seksyen 36)	Rujukan kepada mahkamah

Langkah-Langkah

Step 15	Borang N (Seksyen 38(1))	Permohonan supaya bantahan dirujukkan kepada mahkamah
Step 16	Borang O (Seksyen 38(5))	Rujukan kepada mahkamah
Step 17	Borang Q	Notis menduduki atau menggunakan sementara tanah
Step 18	Borang R	Notis tawaran pampasan dan maklumat mengosongkan tanah/notis tawaran pampasan untuk pemulihan

AKTA PENGAMBILAN TANAH (PINDAAN) 2016 (AKTA A1517)

LATAR BELAKANG

BACKGROUND

- Akta Pengambilan Tanah 1960 [Akta 486] mula berkuat kuasa pada 13 Oktober 1960 di seluruh negeri di Semenanjung Malaysia dan telah melalui pelbagai proses pindaan bagi menyesuaikan dengan perkembangan semasa semenjak penggubalannya. LAA 1960 (Act 486) started **13th October 1960** at all States in Peninsular Malaysia and through many amendments for to suit with the development.
- Pindaan terakhir yang dibuat kepada Akta 486 dikuatkuasakan pada 1 Februari 1998 (Akta Pengambilan Tanah (Pindaan) 1997 [Akta A999]). Latest amendment on Act 486 was **1st February 1998**, Land Acquisition (Amendment) Act 1997 (Act A999)
This amendment is to make sure the LA procedures to be enforced accordingly inline with current development and in the same time taking care the interest of land owner.
- Pindaan Akta 486 kali ini bertujuan untuk memastikan prosedur pengambilan tanah dapat dilaksanakan dengan teratur dan optimum selaras dengan perkembangan semasa dan pada masa yang sama mengambil kira kepentingan tuan tanah dan pihak yang berkepentingan yang terlibat.

AKTA PINDAAN APT TERDAHULU

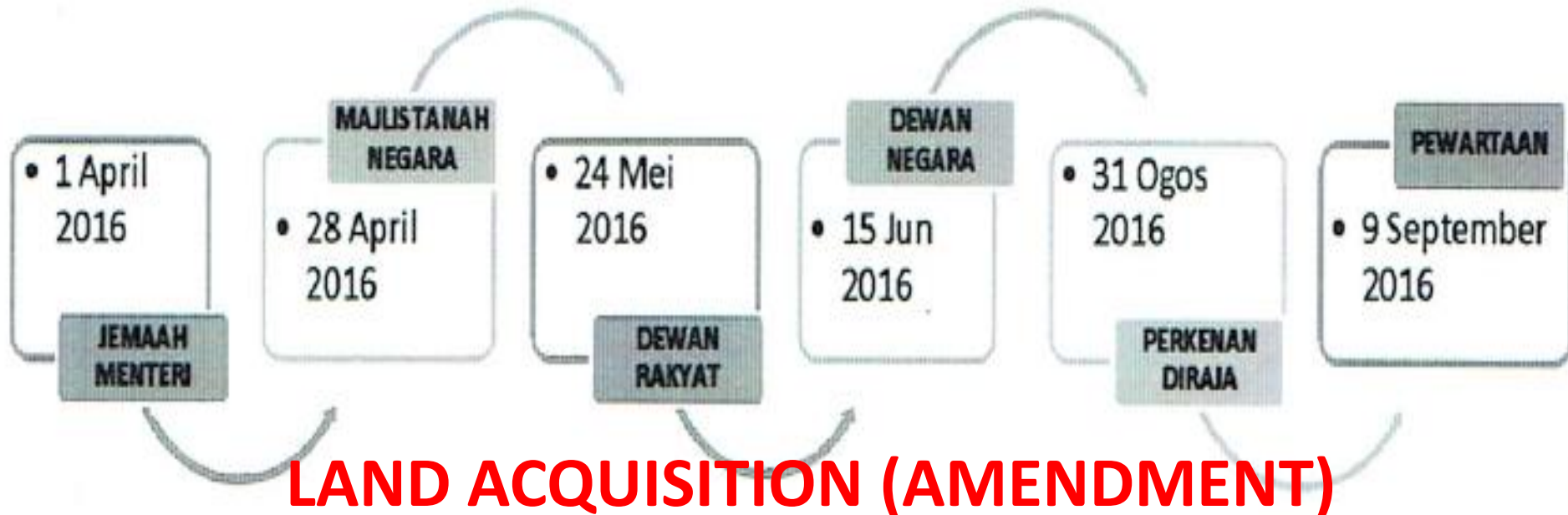
PREVIOUS AMENDMENT OF LAA

Bil.	Akta Pindaan
1.	Pindaan 1971 – Akta A49
2.	Pindaan 1973 – Akta A216
3.	Pindaan 1976 – Akta A336
4.	Pindaan 1977 – Akta A387
5.	Pindaan 1977 – Akta A388
6.	Pindaan 1984 – Akta A575
7.	Pindaan 1991 – Akta A804
8.	Pindaan 1993 – Akta A852
9.	Pindaan 1998 – Akta A999
10.	Pindaan 2016 – Akta A1517

Pindaan = Amendment

STATUS PINDAAN APT 2016

STATUS AMENDMENT OF LAA 2016



LAND ACQUISITION (AMENDMENT)

ACT 2016 (ACT A1517)

**AKTA PENGAMBILAN TANAH
(PINDAAN) 2016 [AKTAA1517]**

PINDAAN AKTA 486 TAHUN 2016

AMENDMENT ON ACT 486 AT YEAR 2016

40 sections (include
1 new section)
40 seksyen (termasuk
1 seksyen baharu);

First Schedule; and
Jadual Pertama; dan

Amendment to forms in Second Schedule through
Methods by Ministry under section 69 of Act 486.

Pindaan kepada borang-borang
dalam Jadual Kedua melalui
Kaedah-Kaedah oleh Menteri di
bawah seksyen 69 Akta 486.

KEPERLUAN PINDAAN

AMENDMENT NEEDED

1

Menjelaskan dan menambahbaik prosedur pelaksanaan pengambilan tanah bawah tanah, hartanah berstrata dan pendudukan atau penggunaan sementara tanah;

To clarify and value add the procedure in land acquisition of underground land, strata property and temporary occupation of land.

2

menjelaskan dan menambahbaik prosedur berhubung rujukan ke Mahkamah oleh tuan tanah; dan

To clarify and value add procedure related to Court by land owner; and

3

memperkemaskan peruntukan sedia ada bagi memenuhi keperluan semasa.

To refine existing provision to fulfil current need.

INTIPATI PINDAAN INSIGHT OF AMENDMENT

BIL	TAJUK	SEKSYEN
1.	Tafsiran Interpretation	2
2.	Pengambilan Tanah Land Acquisition	3, 3C & 3F
3.	Penyediaan Pelan dan Senarai Tanah Preparation of Plan and Land List	7(2)
4.	Pengambilan Tanah Bawah Tanah Land Acquisition of Underground Land	7(2)
5.	Pengambilan Tanah Hakmilik Strata Land Acquisition of Strata Titles	2, 9(2)(a), 22(3)(c), 23 (a), 26(4), 66
6.	Amendment on First Schedule Pindaan Jadual Pertama 214A-Control of transfer of estate land	Taking consideration of section 214A of NLC in value the market value of estate land. Penyelarasan dan mengambil kira keperluan seksyen 214A Kanun Tanah Negara dalam menilai nilai pasaran tanah ladang

PINDAAN SEKSYEN 2

AMENDMENT OF SECTION 2

- Pindaan kepada takrifan "*scheduled land*" bertujuan untuk memudahkan pelaksanaan pengambilan bangunan yang dipecah bahagi atau hartanah berstrata. Takrifan di bawah **subseksyen 2(1)** Akta 486 dipinda dengan memasukkan perkataan "*including parcel or provisional block*" bagi memperjelaskan bahawa tanah yang terjadual juga merangkumi petak atau blok sementara.
- Memperkenalkan takrifan "*lot*" yang bertujuan menjelaskan dan menambahbaik prosedur pelaksanaan pengambilan tanah iaitu memperluaskan takrifan "*lot*" untuk turut meliputi "*interim identification number*" yang diberikan oleh Pejabat Tanah.

The Land Acquisition Act 1960 [Act 486], which is referred to as the "principal Act" in this Act, is amended in subsection 2(1)-

(a) by inserting after the definition of "**Land Administrator**" the following definition: "***lot***" has the meaning assigned to it under the National Land Code (Act 828) and includes any interim identification number allotted by Land Office pending the completion of final survey of any land held under qualified title, as the case may be;'; and

(b) in the definition of "scheduled land", by inserting after the words "**land or lands**" the words "***including parcel or provisional block***".

PINDAAN SEKSYEN 3

AMENDMENT OF SECTION 3

- Pindaan bagi membolehkan laporan penilaian awal penilai swasta boleh disertakan bersama-sama permohonan. Tujuan cadangan pindaan ini adalah untuk memastikan proses pengambilan tanah dapat dilaksanakan dengan lebih cepat
- Peruntukan sedia ada hanya membenarkan laporan penilaian awal penilai Kerajaan sahaja disertakan bersama-sama permohonan.

Paragraph 3(3)(c) of the principal Act is amended by **deleting** the word "**Government**".

PINDAAN SEKSYEN 3C

AMENDMENT OF SECTION 3C

- Keperluan untuk menggantikan keahlian salah seorang ahli Jawatankuasa Khas Pengambilan Tanah di Wilayah Persekutuan Kuala Lumpur (WPKL) susulan kedudukan Bahagian Kemajuan Wilayah Persekutuan dan Perancangan Lembah Klang (BKWPPLK) telah dimansuhkan.
- Pindaan ini adalah merujuk keahlian salah seorang ahli Jawatankuasa Khas Pengambilan Tanah di Wilayah Persekutuan Kuala Lumpur (WPKL). Pindaan ini juga akan hanya memperkenalkan jawatan secara umum untuk memudahkan pelaksanaannya sekiranya sesuatu kementerian atau agensi yang bertanggungjawab bagi Wilayah Persekutuan distruktur semula.

Subparagraph 3c(2)(b)(ii) of the principal Act is amended by substituting for the words "the Under Secretary of the Federal Territory Development and Klang Valley Planning Division, Prime Minister's Department" the words "a representative from the Ministry or agency responsible for the Federal Territory".

PINDAAN SEKSYEN 3F

AMENDMENT OF SECTION 3F

- Pindaan ini bertujuan untuk menyelaras prosedur penarikan balik permohonan pengambilan tanah. Pindaan ini bagi membolehkan Pentadbir Tanah merampas deposit yang ditetapkan dalam Kaedah dan tiada keperluan bagi Pentadbir Tanah untuk membuat siasatan dan menentukan pampasan kerana pewartaan di bawah seksyen 8 belum dibuat.

Section 3F of the principal Act is amended—

- (a) in the shoulder note, by inserting after the words "*Withdrawal from*" the words "**the application of**";
- (b) in subsection (1), by inserting after the words "*withdraw from the*" the words "**application of**";
- (c) in subsection (2)-
 - (i) by inserting after the words "*withdraws from any*" the words "**application of**"; and
 - (ii) by substituting for the words "~~conduct an enquiry to determine the amount of deposit to be forfeited for the payment of compensation to the persons interested~~" the words "**forfeit the amount of deposit as prescribed in the rules**"; and
- (d) by deleting subsection (3).

PINDAAN SEKSYEN 7

AMENDMENT OF SECTION 7

- Pindaan bagi memperkenalkan subseksyen baharu 7(2) yang memperuntukkan keperluan suatu pelan yang menggambarkan keluasan dan kedalaman tanah bawah tanah bagi pengambilan yang melibatkan tanah bawah tanah.
- Dengan pindaan ini, baki tanah yang terdiri daripada tanah permukaan, kekal dalam pemilikan tuan tanah setakat had kedalaman yang ditetapkan dalam syarat nyata hakmilik sambungan dan apa-apa kedalaman di bawah had yang ditetapkan kepada tuan tanah merupakan tanah kerajaan selaras dengan peruntukan subseksyen (4), seksyen 92B Kanun Tanah Negara.
- Sebagai contoh, sekiranya tanah yang diambil balik bermula daripada 20 meter daripada tanah permukaan, maka apabila pemilikan formal dibuat, had kedalaman yang ditetapkan bagi tanah permukaan hanya sehingga 20 meter daripada tanah permukaan. Tanah di bawahnya menjadi tanah Kerajaan. Pelaksanaan perkara ini akan mengambil kira semua aspek teknikal serta kedudukan tanah daripada aras purata laut.

Section 7 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1); and

(b) by inserting after subsection (1) as renumbered the following subsection:

"(2) Where the acquisition of part of the land refers to underground land, the plan referred to in paragraph (1)(a) shall also describe the extent and area of the underground land to be acquired."

PENGAMBILAN TANAH BAWAH TANAH

APT 2016

S. 7(2) Where the acquisition of the part of the land refers to underground land, the plan referred to in paragraph (1)(a) shall also describe the extent and area of the underground land to be acquired

KTN 2016

CHAPTER 3

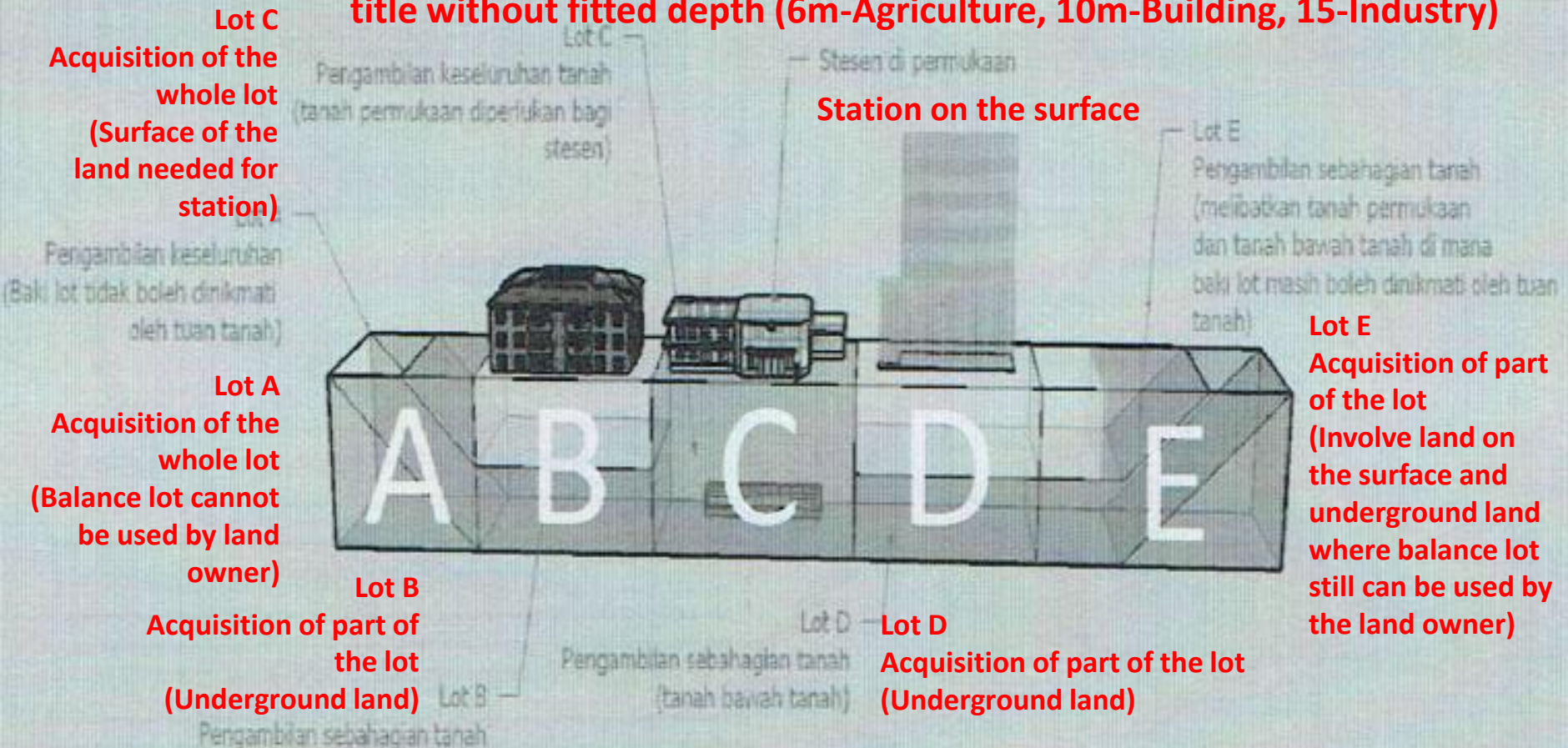
FINAL TITLE IN CONTINUATION OF FINAL TITLE

S. 166(4) For the purpose of paragraph (1)(h), if the part acquired refers wholly or in part to underground land, the title in continuation to be issued for the part left unacquired shall be endorsed in accordance with the provision of subsection 92B(2)

PENGAMBILAN TANAH BAWAH TANAH

LAND ACQUISITION FOR UNDERGROUND LAND

Contoh senario pengambilan tanah bawah tanah (hakmilik asal tidak ditetapkan kedalamannya) Scenario where the land acquisition for underground land where existing title without fitted depth (6m-Agriculture, 10m-Building, 15-Industry)



Note: Continuance title for Lot B, D and E after land acquisition according to National Land Code (Amendment) 2016 (Act 1516)

Nota: Hakmilik sambungan kepada pemilik lot B, D dan E selepas pengambilan dikeluarkan berdasarkan Kanun Tanah Negara (Pindaan 2016).

PINDAAN SEKSYEN 9, 22, 23, 26 & 66

AMENDMENT OF SECTION 3, 22, 23, 26 & 66

- Pindaan kepada peruntukan-peruntukan berkenaan bertujuan untuk menambahbaik pelaksanaan pengambilan hartanah berstrata, peruntukan-peruntukan adalah seperti berikut:
 - subseksyen 9(2) dipinda bagi membolehkan catatan tentang pengambilan melibatkan hartanah berstrata dibuat dalam buku daftar strata yang berkenaan.
 - subseksyen 22(3) dipinda bagi menghendaki Pentadbir Tanah untuk menyampaikan suatu salinan notis atau dokumen-dokumen berkaitan kepada pihak-pihak berkenaan termasuk perbadanan pengurusan skim strata berkenaan.
 - perenggan 23(a) dan 66 akan memperjelaskan bahawa pengambilan petak strata akan terus diletakhak kepada badan berkanun, orang atau badan yang bagi pihaknya petak itu diambil.
 - seksyen 26 bagi membolehkan pihak berkuasa berkenaan membuat tindakan susulan terhadap buku daftar strata selaras dengan peruntukan Akta Hak milik Strata (Akta 318).

Amendment of section 9

Section 9 of the principal Act is amended—

(a) in paragraph (1)(b), by deleting the words "or (3)"; and

(b) in subsection (2), by substituting for paragraph (a) the following paragraph:

"(a) ***where the scheduled land is held by registered title-***

(i) on the register document of title; and

(ii) in the case of land with subdivided building or land, on the relevant strata register under section 4 of the Strata Titles Act 1985 [Act 318]; or".

Amendment of section 22

Subsection 22(3) of the principal Act is amended—

(a) in paragraph (a), by deleting the word "and" at the end of the paragraph;

(b) in paragraph (b), by substituting for the full stop at the end of the paragraph the words "; and"; and

(c) by inserting after paragraph (b) the following paragraph:

"(c) the statutory body, person or corporation referred to in paragraph 23(a), and the ***management corporation in respect of a subdivided building or land.***".

Amendment of section 23

Section 23 of the principal Act is amended—

(a) by deleting the words "or (3)"; and

(b) in paragraph (a), by substituting for the words "**parcel of a subdivided building, in the**" the words "***parcel of a subdivided building or land, in the statutory body,***".

Amendment of section 26

The principal Act is amended by inserting after subsection 26(3) the following subsection:

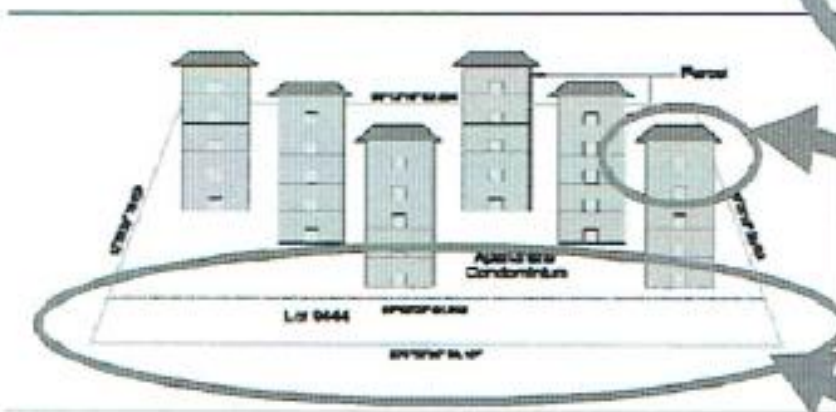
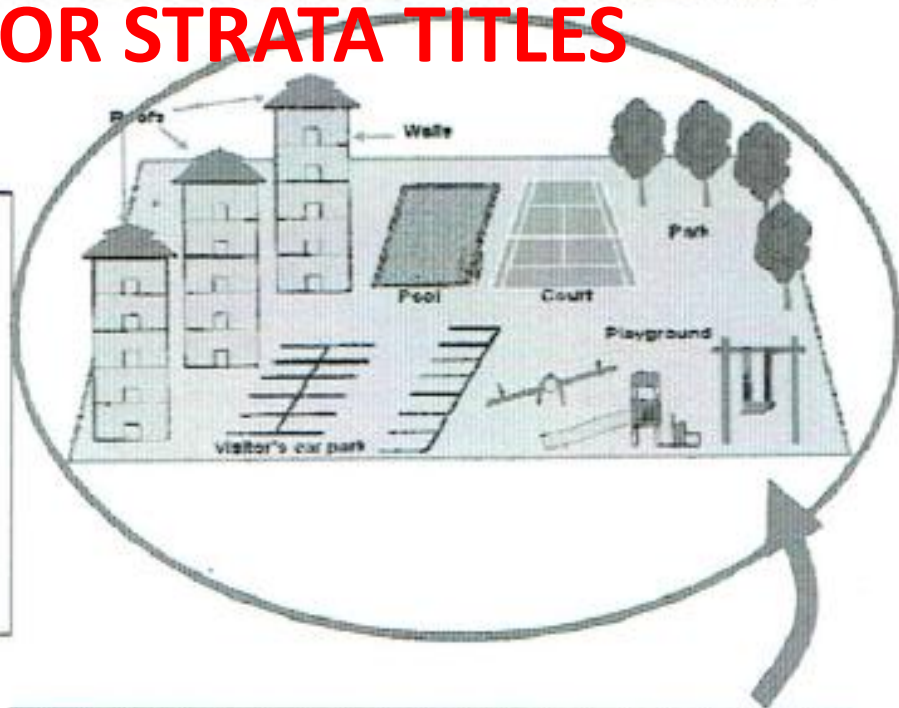
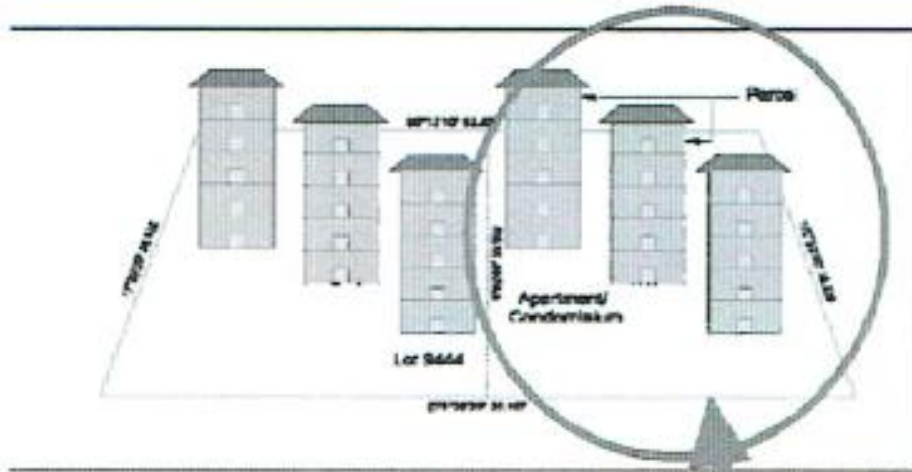
"(4) Where part of a subdivided building or land is acquired under this Act, the proper registering authority shall take necessary action in accordance with the Strata Titles Act 1985."

Amendment of section 66

Section 66 of the principal Act is amended by substituting for the words "**a subdivided building, in the person**" the words "***a subdivided building or land, in the person, statutory body***".

PENGAMBILAN TANAH HAKMILIK BERSTRATA

LAND ACQUISITION FOR STRATA TITLES



Pengambilan keseluruhan skim

Acquisition of the whole lot

Pengambilan sebahagian skim

Acquisition of part of the lot

Pengambilan petak / blok sementara

Acquisition of parcel or provisional block

Pengambilan harta bersama

Acquisition of common property

Nota: Pengurusan hakmilik melibatkan bahagian-bahagian yang tidak diambil dibuat berdasarkan Akta Hakmilik Strata (Pindaan 2016). Bagi pengambilan petak, ia akan terus diletakhak kepada pihak berkuasa berkanun yang dinamakan PBN.

PINDAAN SEKSYEN 9A

AMENDMENT OF SECTION 9A

- Pindaan dibuat bagi memendekkan tempoh masa dalam mendapatkan maklumat mengenai tanah daripada pihak berkuasa perancang tempatan tanpa perlu melalui Pengarah Perancang Bandar dan Desa. Selain itu, subseksyen (5A) kepada seksyen ini turut diperkenalkan agar maklumat mengenai tanah yang diperolehi, tidak perlu diambilkira sekiranya pengambilan tanah dilaksanakan selaras dengan seksyen 37 Akta Perancangan Bandar dan Desa 1976 [Akta 172].

Section 9A of the principal Act is amended—

(a) in subsection (1), by inserting after the words "the State Director of Town and Country Planning" the words "or from any local planning authority,";

(b) by substituting for subsection (2) the following subsection:

"(2) The State Director of Town and Country Planning or the local planning authority, upon receiving the request for information under subsection (1) shall provide the information required within two weeks from the request being made by the Land Administrator.";

(c) by deleting subsections (3) and (4);

(d) by inserting after subsection (5) the following subsection:

"(5A) The information obtained under subsection (5) shall be disregarded if the acquisition is made under section 37 of the Town and Country Planning Act 1976.";

(e) in subsection (6), by substituting for the words "subsections (3) and (4)" the words "subsection (2)"; and

(f) in subsection (7), by substituting for the word "(4)" the word "(2)".

PENGAMBILAN SKIM BERSTRATA

S. 2 **“schedule land”** means any land or lands **including parcel or provisional block** included in a schedule prepared under section 8 and appended to any declaration or notification in Forms D, E, J and K;

Land to be marked out and notice entered on register, etc

9(2) The note of the intended acquisition required by paragraph 1(b) shall made—

- (a) Where the scheduled land is held by registered title—**
 - i. on the register document of title; and**
 - ii. In the case of land with subdivided building or land, on the relevant strata register under section 4 of the Strata Titles Act 1985**

PINDAAN SEKSYEN 12 & 14

AMENDMENT OF SECTION 12

- Pindaan seksyen 12 adalah bagi memperuntukkan supaya Pentadbir Tanah merekodkan semua keterangan yang diperolehi semasa siasatan.
- Subseksye 14(1) Akta ini dipinda untuk memotong perkataan "*imposed by the valuer*" dan fi penilaian yang akan dibayar selaras dengan pengambilan tanah adalah sepertimana yang akan diperuntukkan di dalam Kaedah.

Seksyen 12

❖ Asal

Tiada peruntukan Pentadbir Tanah mesti merekodkan keterangan yang diperolehi semasa siasatan dijalankan

❖ Pindaan

Pentadbir tanah merekodkan semua keterangan yang diperolehi semasa siasatan

Section 12 of the principal Act is amended by inserting after subsection (3) the following subsection:

"(4) The Land Administrator shall record all the evidence during the enquiry."

AMENDMENT OF SECTION 14

Seksyen 14(5)

❖ Asal

Pentadbir Tanah hendaklah menetapkan amaun kos yang ditanggung ..., dan dengan apa kos, yang hendaklah termasuk apa-apa fee penilaian yang dikenakan oleh penilai, itu akan dibayar

❖ Pindaan

- Memotong perkataan " fee penilaian yang dikenakan oleh penilai
- Fi penilaian akan dibayar sepertimana diperuntukkan di dalam Kaedah

Section 14 of the principal Act is amended—

(a) in subsection (1), by deleting the words "under his hand"; and

(b) in subsection (5)

(i) by substituting for the words "The Land Administrator" the words "In addition to the award made under subsection 14(1), the Land Administrator"; and

(ii) by substituting for the words "imposed by the valuer" the words "prescribed by rules".

NEW SECTION 19A

Seksyen 19A(Baharu)

- ❖ Menjelaskan bahawa siasatan dan pampasan perlu dibuat walaupun perakuan segera dalam Borang I dan Borang K telah dikeluarkan
- ❖ Berhubung kait dengan subseksyen 8(4) di mana Pentadbir Tanah tidak membuat award dalam tempoh 2 tahun selepas pewartaan
- ** Peruntukan sedia ada dalam akta ini tidak menjelaskan secara terperinci berhubung pengambilan tanah melalui perakuan segera

The principal Act is amended by inserting after section 19 the following section:

"Enquiry and award by the Land Administrator pursuant to Certificate of Urgency

19A. (1) Notwithstanding that possession of the land has been taken pursuant to a Certificate of Urgency issued under section 19, the Land Administrator shall continue to make full enquiry and make an award in accordance with the provisions of this Act.

(2) Where the possession of the land has been taken under section 19, subsection 8(4) shall not be applicable if the Land Administrator has not made an award under subsection 14(1) within the said period of two years."

Formal Possession

S. 22(3) Upon taking possession of land under subsection (1) the Land Administrator shall also serve copy of the notice in Form K upon—

(c) The statutory body, person or corporation referred to in paragraph 23(a), and the management corporation in respect of a subdivided building or land

Entry in register

23. The proper registering authority, upon receipt of the notice in Form K, or the Land Administrator of his own motion after completing Form K, shall, upon the register document of title or other appropriate record in his possession as specified in subsection 9(2), make with respect to any scheduled land a memorial—

(a) that the whole of such land has been acquired and has vested in the State Authority or, in the case of a parcel of a subdivided building **or land, in the statutory body,** person or corporation on whose behalf the parcel has been acquired; or

S. 26(4) Where part of a subdivided building or land is acquired under this Act, the proper registering authority shall take necessary action in accordance with Strata Titles Act 1985

Land to vest free from incumbrances

66. Upon the making of a memorial under section 23 in respect of any scheduled land, the land shall vest in the State Authority as State land or, ~~in the case of a parcel of a subdivided building or~~ **land, in the person, statutory body** or corporation on whose behalf the parcel was acquired, free from incumbrances.

AMENDMENT OF SECTION 28

Seksyen 28

❖ Asal

Perbezaan luas tidak dinyatakan dengan jelas

❖ Pindaan

Sekiranya terdapat perbezaan antara keluasan diambil dengan selepas pengukuran suku hektar atau 1% tanah diwartakan yang mana lebih luas, tidak perlu diwartakan semula

Section 28 of the principal Act is amended

(a) by renumbering the existing section as subsection (1); and

(b) by inserting after subsection (1) as renumbered the following subsection:

"(2) For the purpose of subsection (1), the difference specified shall not exceed one quarter of a hectare or one per centum of the area of scheduled land as published in the Gazette under subsection 8(1), whichever is the greater, and such difference shall not be necessary for any further declaration to be made and published."

PINDAAN SEKSYEN 29A, 32 & 48

AMENDMENT OF SECTION 29A

- Pindaan kepada **seksyen 29A, 32 dan 48** Akta 486 bagi mengurangkan kadar caj bayaran lewat daripada 8% setahun yang dikenakan dalam peruntukan sedia ada kepada 5% setahun.
- Kadar 5% adalah selaras dengan kadar semasa yang digunakan oleh Mahkamah pada masa ini.

Amendment of section 29A

Section 29A of the principal Act is amended—

(a) in subsection (1), by substituting for the words "exceeds fifteen thousand ringgit" the words "or compensation in Part VII exceeds thirty thousand ringgit";

(b) in paragraph 1(a), by inserting after the word "Form H" the words ", Form Lc or Form R"; and

(c) in subsection (5), by substituting for the word "**eight**" the word "**five**".

Amendment of section 32

Section 32 of the principal Act is amended—

- (a) in subsection (1), by substituting for the word "**eight**" the word "**five**";
- (b) in subsection (113), by substituting for the word "**eight**" the word "**five**";
- (c) by substituting for subsection (ic) the following subsection:
 - "(ic) In this section "due date" in relation to any land means
 - (a) the date of taking possession of the land or a date three months after the service of a notice in Form H referred to in subsection 16(1) in respect of the land, whichever is the earlier; or
 - (b) a date three months after the service of a notice in Form Lc referred to in paragraph 35(2)(c) or Form R referred to in subsection 58(1) or section 59."; and
 - (d) in subsection (2), by substituting for the word "**eight**" the word "**five**".

Amendment of section 48

Section 48 of the principal Act is amended

- (a) by substituting for the word "shall" the word "to"; and
 - (b) by substituting for the word "**eight**" the word "**five**".
- Amendment of section 49
30. Subsection 49(1) of the principal Act is amended by deleting the words "pursuant to section 3".

PINDAAN SEKSYEN 32A & 35

- **Seksyen 32A** dipinda untuk menggambarkan amalan pembayaran pampasan pengambilan tanah selaras dengan perkembangan teknologi pada masa ini.
- **Seksyen 35** dipinda bagi memperkemaskan prosedur berhubung penarikan balik pengambilan tanah. Sekiranya penarikan balik hendak dibuat sebelum pemilikan formal dilaksanakan, pewartaan penarikan balik hendaklah dilaksanakan. Selain itu, Pentadbir Tanah juga perlu menentukan kos, sekiranya ada, sepertimana dinyatakan dalam subseksyen 14(5).

Amendment of section 32A

The principal Act is amended by substituting for section 32A the following section:

"32A. For the purposes of sections 29A, 32 and 48, "payment" is deemed to have been made—

(a) on the day as notified in writing by the Land Administrator that the payment is available for collection by the person interested;

(b) on the day the payment is sent by registered post to the person interested;

(c) on the day of the delivery of the payment by the Land Administrator to the Court;


(d) on the date the payment is received by the person interested; or

(e) on the day the payment is transmitted electronically to the account of the person interested."

AMENDMENT OF SECTION 35

Seksyen 35

❖ **Penarikan balik pengambilan daripada**

- Dipinda bagi memperkemaskan prosedur berhubung penarikan balik pengambilan tanah
 - Penarikan balik sebelum pemilikan formal dilaksanakan, pewartaan penarikan balik hendaklah dijalankan
 - Pentadbir Tanah perlu menentukan kos sepertimana dinyatakan dalam subseksyen 14(5)
- 

AMENDMENT OF SECTION 35

Section 35 of the principal Act is amended—

(a) by substituting for subsection (1A) the following subsection:

"(1A) A notification in Form LA shall be published in the Gazette and all proceedings already taken or being taken in consequence of the declaration in subsection 8(1) in respect of the land shall cease to have effect.";

(b) in subsection (2)-

(i) by inserting after the words "the Land Administrator" the words ", after notifying the person interested in Form LB,";

(ii) in paragraph (a), by deleting the word "and" after the words "to the person injured;"

(iii) in paragraph (b), by substituting for the full stop at the end of the paragraph the words "; and"; and

(iv) by inserting after paragraph (b) the following paragraph:

"(c) prepare and serve on each person interested a notice in Form Lc.";

(c) by inserting after subsection (3) the following subsection:

"(3A) For the purpose of this section, subsection 14(5) shall be applicable if necessary."; and

(d) in subsection (4), by deleting the words "or (3)".

AMENDMENT OF SECTION 37

Seksyen 37

Syarat permohonan kepada mahkamah

❖ Asal :

- Amaun pampasan melebihi RM 3,000 (individu) atau
- Amaun pampasan melebihi RM 15,000 (agensi kerajaan atau perbadanan)

❖ Pindaan

- Amaun pampasan dinaikkan kepada RM 5,000 (individu)
- Amaun pampasan dinaikkan kepada RM 30,000 (agensi kerajaan atau perbadanan)

AMENDMENT OF SECTION 37

Section 37 of the principal Act is amended—

(a) in subsection (1), by inserting after the words "section 10 or 11" the words "or any person interested pursuant to any compensation made under section 35 or Part VII who";

(b) in subsection (2)-

(i) by deleting the words "in respect of any interest in any scheduled land"; and

(ii) by substituting for the words "**three thousand ringgit**" the words "**five thousand ringgit**"; and

(c) in subsection (3)

(i) by substituting for the words "Where the total amount of any award in respect of any scheduled land exceeds **fifteen thousand ringgit**" the words "Where the total amount of any award exceeds **thirty thousand ringgit**";

(ii) by deleting the words "undertaking a work which in the opinion of the State Authority is of public utility, and";

(iii) by substituting for the words "pursuant to section 3" the words "or being occupied or used pursuant to Part VII"; and

(iv) by deleting the words "in any scheduled land under subsection (1),".

PINDAAN SEKSYEN 40B

AMENDMENT OF SECTION 40B

- Peruntukan sedia ada memperuntukkan bahawa adalah menjadi keperluan undang-undang bagi melantik pengapit yang terdiri daripada penilai kerajaan dan penilai swasta untuk hadir ke Mahkamah apabila diarahkan.
- **Seksye 40B** dipinda bagi membolehkan penilai kerajaan turut menerima fi sepertimana yang ditentukan oleh Mahkamah di bawah subseksyen (5) seksyen ini. Ini disebabkan kedua-dua pengapit yang dilantik adalah bebas dan tidak terikat atau dipengaruhi oleh mana-mana pihak dalam memberikan pandangan kepada Mahkamah.

Subsection 40B(5) of the principal Act is amended by deleting the words "who is not a valuation officer employed by the Government".

PINDAAN SEKSYEN 57

- **Seksye 57** Akta ini adalah suatu peruntukan untuk menjelaskan berhubung pendudukan atau penggunaan sementara tanah.
- Pindaan ini bertujuan untuk membolehkan penggunaan peruntukan ini diperluaskan dan keperluan untuk mengendorskan catatan mengenai pendudukan dan penggunaan sementara tanah tersebut itu ke dalam dokumen hakmilik atau dokumen lain yang ditetapkan di bawah perenggan 9(2)(a) dan (b) Akta ini.

Amendment of section 57

The principal Act is amended by substituting for section 57 the following section:

"57. (1) Whenever it appears to the State Authority that the temporary occupation or use of any land is needed—

(a) for any purpose specified in subsection 3(1);

(b) in order to carry out public works on any land; or

(c) as indicated in a development plan under the law applicable to it relating to town and country planning, the State Authority may direct the Land Administrator to procure the occupation or use of any such land for such term as he shall think fit, not exceeding three years from the date of commencement of such occupation or use, in the manner prescribed by this Part.

(2) The Land Administrator or other registering authority shall make a note of any temporary occupation or use of land as specified under paragraphs 9(2)(a) and (b)."

PINDAAN SEKSYEN 58

- Susulan pindaan kepada seksyen 57, **seksyen 58** Akta ini dipinda bagi memasukkan peruntukan berhubung **penentuan pampasanoleh Pentadbir Tanah** yang boleh merujuk kepada pandangan yang diberikan oleh penilai, memasuki apa-apa perkiraan bagi tujuan menggantikan pampasan dalam bentuk kewangan, merekodkan perkiraan dan semua keterangan semasa siasatan.
- Pindaan juga adalah untuk menjelaskan bahawa Pihak Berkuasa Negeri boleh menduduki atau menggunakan tanah tersebut secara sementara apabila notis berkaitan diberikan.

Amendment of section 58

36. Section 58 of the principal Act is amended—

(a) in subsection (1), by inserting after the words "shall make such offer of compensation" the words "in Form R";

(b) by inserting after subsection (2) the following subsection:

"(2A) Prior to making an offer for compensation under subsection (1), the Land Administrator may obtain a written opinion on the value of the land from a valuer."; and

(c) by inserting after subsection (3) the following subsections:

"(4) In making any assessment of compensation under subsection (3), the Land Administrator may, whether by way of full or partial substitution for monetary compensation, enter into any arrangement with a person having an interest in such land in such a way as may be equitable, having regard to the interests of the parties concerned.

(5) Whenever the Land Administrator enters into any arrangement under subsection (4), he shall make an entry of the particulars thereof in the appropriate register.

(6) All the evidence during the enquiry and the amount of compensation offered shall be recorded by the Land Administrator.

(7) ***Nothing in this section shall prevent the State Authority to occupy or use the land if the person interested is not agreeable to the compensation offered*** pursuant to subsection (1).

(8) For the purpose of this section, subsection 14(5) shall be applicable if necessary."¹²⁶

PINDAAN SEKSYEN 59 & 60

AMENDMENT OF SECTION 59 & 60

- **Seksyen 59** dipinda bagi membolehkan siasatan dibuat oleh Pentadbir Tanah untuk tujuan penentuan pampasan setelah tamat tempoh pendudukan atau penggunaan sementara.
- **Seksyen 60** turut dipinda bagi membolehkan bantahan oleh pihak berkepentingan yang tidak berpuas hati dengan pampasan yang diberikan dan membuat bantahan ke Mahkamah dengan menggunakan peruntukan sedia ada dalam Akta ini. Prosedur ini dikemaskini selaras prosedur sedia ada bagi pengambilan tanah untuk memastikan perjalanan rujukan ke Mahkamah oleh pihak berkepentingan adalah teratur.

Section 59 of the principal Act is amended by inserting after the words "referred to in section 57" the words ", the Land Administrator shall make an enquiry to ensure that".

Section 60 of the principal Act is amended by substituting for the words " Where the Land Administrator is unable to agree with the persons interested on the amount of compensation" the words "Where the person interested is unable to agree on the amount of compensation offered by the Land Administrator".

PINDAAN SUSULAN SEKSYEN 35 & BAHAGIAN VII

- Selara dengan pindaan bagi tujuan penarikan balik pengambilan tanah dan pendudukan atau penggunaan sementara tanah, seksyen 29, 29A, 31, 32, 35, 36, 37, 38, 49, 51, 53, 55 dan 65 dipinda agar seksyen-seksyen tersebut turut digunapakai bagi tujuan penarikan balik di bawah seksyen 35 dan pendudukan atau penggunaan sementara tanah di bawah Bahagian VII Akta ini.

After Amendment of Section 35 & Part VIII

With the amendment for cancelation of land acquisition and temporary occupation of land, section 29, 29A, 31, 32, 35, 36, 37, 38, 49, 51, 53, 55 and 65 are amended in order to use in section 35 and temporary occupation of land under Part VIII.

PINDAAN SEKSYEN 69

AMENDMENT OF SECTION 69

- **Seksye 69** dipinda bertujuan untuk membenarkan kaedah-kaedah dibuat berhubung apa-apa perkara di bawah Akta ini yang turut meliputi apa-apa borang, fi atau deposit.
- In termasuk fi penilaian yang baru diperkenalkan selaras dengan pindaan subseksyen 14(5). Selain itu, ia dipinda bagi memberi kuasa kepada Menteri untuk membuat kaedah bagi menetapkan borang-borang dalam Jadual Kedua selaras dengan persekitaran elektronik, khususnya penggunaan tandatangan secara digital.

Section 69 of the principal Act is amended—

(a) by inserting after paragraph (b) the following paragraph:

"(ba) prescribe any Form in the Second Schedule in electronic form;"; and

(b) in paragraph (d), by substituting for the words "the application for acquisition of land under paragraph 3(1) (b) or (c)" the words "any matter under this Act".

PINDAAN JADUAL PERTAMA

- Pindaan bagi tujuan penyelarasan dan mengambil kira keperluan seksyen 214A Kanun Tanah Negara dalam menilai nilai pasaran tanah ladang.
- Peruntukan sedia ada memperuntukkan bahawa dalam menentukan nilai tanah ladang yang akan diambil tidak akan dipengaruhi dengan fakta bahawa ladang berkenaan boleh dijual kepada seorang yang lain seperti yang diperuntukkan di bawah seksyen 214A KTN.
- Ia bertujuan bagi mengelakkan keputusan dalam kes *Kumpulan Sua Betong Sdn. Bhd. lawan Pemungut Hasil Tanah, Port Dickson* di mana Mahkamah memutuskan bahawa "...kelulusan Lembaga Tanah Ladang tidak diperlukan apabila tanah ladang atau sebahagiannya dipindah milik kepada seseorang sahaja".
- Cadangan pindaan ini akan memperjelaskan situasi bahawa sekiranya pengambilan tanah melibatkan tanah ladang, nilai tanah perlu mengambilkira perbandingan nilai tanah ladang.

Amendment of First Schedule

The First Schedule to the principal Act is amended

(a) in the heading, by substituting for the words "[Sections 12, 35, 46 and 47]" the words "[Sections 12, 35 and 47]"; and

(b) in subparagraph (1)(2D), by substituting for the words "within the meaning of section 214A of the National Land Code (Act 828), the market value shall not in any way be affected by the fact that it can be sold to one person" the words ", the market value of such land shall be determined taking into consideration section 214A of the National Land Code".

SARAWAK

Part IV of the Sarawak Land Code (Cap. 81) 1958

Part IV of the Sarawak Land Code (Cap. 81) 1958-Resumption Of Alienated Land

45 Surrender

Any registered proprietor of land holding directly from the Government may, with the approval of the Superintendent, given in such terms and subject to such conditions as he thinks fit, and with the written consent of every person having a registered interest therein, surrender his estate or interest in the whole or any part of the land comprised in the appropriate document of title. Upon registration of such surrender, the interest of the proprietor in the estate or interest surrendered by him shall revert to the Government.

Where only part of an estate or interest has been surrendered, the necessary adjustment in any rent payable shall be made.

Resumption Of Alienated Land

46 Purposes for which land may be resumed

Land may be resumed by the Government whenever it is required for any of the following purposes

(a) the planning, establishment, extension, improvement, development and re-development of towns, bazaars, growth centres, housing estates, sites for industries, factories, trade and commerce, or the provision of accommodation for workers employed by factories and in industrial estates, the provision and establishment of public parks and greens, open spaces, public amenities or recreational facilities;

(b) the provision of residential accommodation for any section or class of the community including the officers, servants or employees of the Federal or State Government and the families and employees thereof;

(c) the provision or improvement and development of roads and means of communications and any public utility or public service, whether undertaken or managed, or to be undertaken or managed, by the Federal or State Government or by a public body or by private enterprise or otherwise howsoever;

(d) slum clearance or the resumption, with the object of improving the condition thereof, of property which is or renders other property unfit for human habitation or dangerous or injurious to health;

Resumption Of Alienated Land

- (e) the provision of land for aquaculture or the cultivation of agricultural crops or for research or experimental purposes in connection therewith;
- (f) the settlement or re-settlement of any community or of any section or class of the public;
- (g) any work or undertaking by any person, corporation or statutory body, which in the opinion of the Minister is beneficial to the economic or social development of the State or any part thereof or to the public generally or any class of the public;
- (h) any purpose declared to be a public purpose by or under any written law either for the purpose of this Code or for the purpose of any written law repealed by this Code*;
- (i) any purpose which the Majlis Mesyuarat Kerajaan Negeri by order signified in the Gazette may declare to be a public purpose, whether in addition, in lieu or by way of modification of any of the foregoing; and
- (j) any combination of the above purposes.

Resumption Of Alienated Land

47 Power to enter and survey

(1) Whenever the Minister decides that land in any locality is likely to be needed for any of the purposes specified in section 46, the Superintendent shall cause a public notice of the substance of such decision to be given at convenient places in such locality, and thereupon any officer or other person either generally or specially authorized by the Minister in this behalf and his servants and workmen may enter upon such land and may survey, bore, take levels, set out and mark boundaries, and do all other acts necessary to ascertain whether the land is suitable for such purpose.

48 Declaration that land is required for a public purpose

(2) The declaration shall be posted in the office of the Superintendent and of the District Officer and shall state the situation of the land, the particular purpose for which it is needed, its approximate area and all other particulars necessary for identifying it and also the place where a plan of the land, if any has been made, may be inspected. Such declaration shall be conclusive evidence that the land is needed for the purpose specified therein.

Resumption Of Alienated Land

49 Plan to be made and notices given

(1) The Superintendent shall thereupon cause a plan of the land to be made, if none already exists, and shall cause notices to be posted at convenient places on or near the land to be taken stating that the Government intends to take possession thereof and that claims to compensation for all interests therein may be made to him.

50 Power to require statements as to names and interests

(1) The Superintendent may also require any such person as is referred to in section 49(3) to deliver to him within a time to be specified, being not less than fifteen days, a statement in writing containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

Resumption Of Alienated Land

51 Inquiry and award by Superintendent

(1) On the day so fixed, or on any other day to which the inquiry has been adjourned, the Superintendent shall proceed to inquire into the objections, if any, which any person interested has stated, pursuant to a notice given under section 49 to the measurements as surveyed, and into the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(a) where the land has been surveyed to the satisfaction of the Superintendent, the true area or, where the land has not been so surveyed, the approximate area.

(b) the compensation which in his opinion should be allowed for the said land.

52 When award of Superintendent to be final

(1) The award under section 51 shall be filed in the office of the Superintendent and shall, except as hereinafter provided, be final and conclusive evidence as between the Superintendent and the persons interested, whether they have respectively appeared before the Superintendent or not, of the true area and value of the land and the apportionment of the compensation among the persons interested.

Resumption Of Alienated Land

53 Power to take possession

(1) When the Superintendent has made an award under section 51 he may take possession of the land.

54 Entries to be made in Register

(1) When the Superintendent has taken possession of alienated land under section 53, the Registrar shall make an entry in the Register in respect of such land declaring that possession has been taken of the whole or, if a part only, the approximate area thereof and, after such entry has been made, shall serve a notice in writing on the person in possession of the document of title relating to such land requiring him to deliver up the same to the Registrar, and such person shall deliver up the issue document of title in accordance with the terms of such notice.

(2) Any person failing to comply with a notice served upon him under this section shall be guilty of an offence: Penalty, a fine of two thousand ringgit.

(3) Upon such entry being made as in this section provided, the whole of the land or part thereof, as the case may be, shall vest in the Government.

Resumption Of Alienated Land

55 Adjustment of compensation

(1) Whenever, on final survey of the land, a difference is found to exist between the area as surveyed and the area as found by the Superintendent under section 51, such difference shall be valued at the same rate as that at which the land has been valued for compensation in the final award, and the amount so arrived at with interest at six per cent per year from the date at which possession was taken or compensation paid shall, as the case may be, be either paid by the Superintendent or refunded by the person to whom compensation has been paid:

Provided that, where the difference found to exist on final survey does not exceed or fall short of the area, as found by the Superintendent under section 51, by more than one per cent, there shall be no further payment or refund under this section.

(2) Every refund due under this section shall be an arrear and shall be recoverable in the manner prescribed by law for the collection of arrears of rent.

Resumption Of Alienated Land

56 Reference to Court

(1) Any person interested who has not accepted the award may, by written application to the Superintendent and on payment of the prescribed fee, require that the matter be referred by the Superintendent for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested.

57 Superintendent's statement to the Court

58 Service of notice

59 Appointment of assessors

Resumption Of Alienated Land

60 Matters to be considered in determining compensation

(1) In determining the amount of compensation to be awarded for land resumed under this Part, the Court shall take into consideration the following matters and no others

- (a) the market value at the date of the publication of the notification
- (b) any increase in the value of the other land of the person interested likely to accrue from the use to which the land resumed will be put;
- (c,d) the damage,
- (e) if in consequence of the resumption he is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change;
- (f) any improvements to the land made with the prior consent of the Superintendent after the publication of the notification

Resumption Of Alienated Land

61 Matters to be disregarded in determining compensation

In determining the amount of compensation to be awarded for land resumed under this Part, the Court shall not take into consideration²

- (a) the degree of urgency which has led to the resumption;
- (b) any disinclination of the person interested to part with the land resumed;
- (c) any damage sustained by the person interested which, if caused by a private person, would not be a good cause of action;
- (d) any damage which is likely to be caused to the land acquired after the date of the posting of the declaration;
- (e) any increase in the value of the land resumed likely to accrue from the use to which it will be put when resumed;
- (f) any outlay on additions or improvements to the land resumed which was incurred after the date of the posting of the declaration
- (g) any improvements to the land made without the prior consent of the Superintendent after the publication of the notification, without the consent of the Superintendent
- h) evidence of sales of comparable properties, unless the Court is satisfied that the sales are made bona fide and not for speculative purpose
- (i) any enhancement or likely enhancement in the value of the land resumed as a result of development in the neighbourhood by the provision of roads, drains etc.

Resumption Of Alienated Land

62 Rules as to the amount of compensation

(1) Where the applicant has made a claim to compensation pursuant to any notice under section 49, the amount awarded to him shall not exceed the amount so claimed or be less than the amount awarded by the Superintendent under section 51.

(2) Where the applicant has refused to make such claim or has omitted, without sufficient reason to be allowed by the Court, to make such claim, the amount awarded by the Court may be less than, and shall in no case exceed, the amount awarded by the Superintendent.

(3) Where the applicant has omitted, for a sufficient reason to be allowed by the Court, to make such claim, the amount awarded to him by the Court may be less than or may exceed the amount awarded by the Superintendent.

63 Assessor's opinion to be recorded

64 Difference of opinion

65 Assessor's fees

66 Award to be in writing

67 Costs

Resumption Of Alienated Land

68 Appeal to the Court of Appeal

(1) When the amount of compensation awarded or claimed is not less than fifty thousand ringgit, the Superintendent or any person interested may appeal from the decision of the Court to the Court of Appeal. No appeal shall lie from the decision of the Court in any other case:

Provided that the Court may reserve any question of law arising therein for the decision and directions of the Court of Appeal.

(2) Every appeal under this section shall be presented within the time and in the manner provided for appeals in civil matters to the Court of Appeal.

69 Payment of interest on excess compensation

If the sum which in the opinion of the Court the Superintendent ought to have awarded as compensation is in excess of the sum which the Superintendent did award as compensation, the award of the Court may direct that the Superintendent shall pay interest on such excess at the rate of four per cent per year from the date on which he took possession of the land to the date of payment of such excess to the Court or to the person interested.

Resumption Of Alienated Land

- 70 Application of Courts of Judicature Act 1964
- 71 Payment of compensation or deposit thereof in Court

72 Payment of interest

When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Superintendent shall pay the amount awarded with interest thereon at the rate of four per cent per year from the time of so taking possession until it has been so paid or deposited.

73 Temporary occupation of waste or arable land

(1) Whenever it appears to the Minister that temporary occupation and use of any waste or arable land are needed for any of the purposes specified in section 46, he may direct the Superintendent to procure the occupation and use of the same for such term as he shall think fit, not exceeding three years from the commencement of such occupation.

74 Power to enter and take possession

1) On payment of such compensation, or on executing such agreement, or on making a reference under section 73, the Superintendent may enter upon and take possession of the land and use or permit the use thereof in accordance with the terms of the said notice.

Resumption Of Alienated Land

75 Dispute as to condition of land

If the Superintendent and the persons interested differ as to the condition of the land at the expiration of the term or as to any matter connected with the said agreement, the Superintendent shall refer such difference to the decision of the Court.

76 Service of notice

(1) Service of any notice under this Part shall be made by delivering or tendering a copy thereof signed, by the officer therein mentioned and, in the case of any other notice, by or by order of the Superintendent or the Court.

(2) Whenever practicable the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business or by fixing a copy thereof in some conspicuous place in the office of the Superintendent and also on some conspicuous part of the land to be resumed:

Provided that, if the Superintendent or the Court so directs, the notice may be sent by registered letter addressed to the person named therein at his last known residence address or place of business, and service of it may be proved by the production of the registration receipt. It shall be presumed that such registered letter was received by the addressee in the ordinary course of the post.

Resumption Of Alienated Land

- 77 Obstructing survey, *etc.*
- 78 Police to enforce surrender
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- 80 Exemption from stamp duty and fee
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SABAH

**Land Acquisition Ordinance
(Sabah Cap. 69) 1950**

Land Acquisition Ordinance (Sabah Cap. 69) 1950

Table of Contents

1 Short title

INTERPRETATION

2 Interpretation

“land” includes messuages, tenements and hereditaments corporeal or incorporeal, and immovable property of every tenure or description, whatever may be the estate or interest therein;

“person interested” means every person claiming, or entitled to claim, compensation

under this Ordinance:

Provided that a tenant by the month or at will shall be deemed not to be a person

interested for the purposes of this Ordinance;

Land Acquisition Ordinance (Sabah Cap. 69) 1950

INTERPRETATION

“public purpose” means any, or any combination, of the following purposes —

- (a) for exclusive use of the Government or of the Federal Government or for general public use;
- (b) for or in connection with the planning, establishment, extension, improvement or development of any town or township any purpose reasonably necessary or desirable in regard thereto, including the provision of open spaces and amenities and the setting apart of suitable sites for factories industries and trade;
- (c) for or in connection with the provision of residential accommodation for any section or class of the community including the officers, servants or employees of the Government or the Federal Government, and the families and employees thereof;
- (d) for obtaining control over land contiguous to, or required for or in connection with, any port, airport, railway, road or other public works of convenience;

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INTERPRETATION

“public purpose” means any, or any combination, of the following purposes

—

(e) for or in connection with any public utility undertaking or the provision of any public service;

(f) for or in connection with any scheme relating to the settlement or resettlement of any community, or of any section or class of the public, rural or urban;

(g) for or in connection with the provision of land for the cultivation of padi, or for agricultural research or experimental purposes;

(h) for or in connection with the conservation, improvement or exploitation of natural resources.

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ACQUISITION OF LAND AND ABANDONMENT OF ACQUISITION

3 Acquisition of land

(1) If the Yang di-Pertua Negeri considers that any land should be acquired for a public purpose he may cause a declaration to that effect to be made in the manner provided by this section and the declaration shall be conclusive evidence that the land to which it relates is required for a public purpose.

(2) Every declaration shall be published in two ordinary issues of the Gazette and copies thereof shall be posted on one of the buildings (if any) on the land or exhibited at suitable places in the locality in which the land is situate, and, where possible, be served on the owner of the land and in the declaration shall be specified the following particulars to the land which is to be acquired:

- (a) the district in which the land is situate;
- (b) a description of the land, giving the approximate area and such other particulars as are necessary to identify the land;
- (c) in cases where a plan has been prepared, the place where, and the time when, a plan of the land can be inspected;
- (d) the public purpose for which the land is required.

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4 Preliminary notification and power to enter land

If it appears to the Yang di-Pertua Negeri that any land is likely to be required for any purpose which, in the opinion of the Yang di-Pertua Negeri, is a public purpose and it is necessary to make a preliminary survey or other investigation of the land, he may cause a notification to that effect to be published in two ordinary issues of the Gazette and thereupon it shall be lawful for the authorised officer (and his agents, assistants and workmen) to do all or any of the following things, that is to say:

- (a) to enter upon and survey and take levels of any land in any locality to which the notification relates;
- (b) to dig or bore into the sub-soil of such land;
- (c) to do all other acts necessary to ascertain whether the land is adapted to such purpose;
- (d) to set out the boundaries of the land intended to be taken, and the intended line of work, if any, proposed to be done thereon;
- (e) to mark levels and lines by placing marks and cutting trenches;
- (f) where otherwise the survey cannot be completed, the levels taken or the boundaries or line of the work set out, to cut down and clear away any standing crop, fence, tree or bush;
- (g) to do all such other acts as may be incidental to or necessary for any of the purposes aforesaid

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5 Power to apply land to purposes of acquisition without waiting for formal vesting

6 Authorised officer to treat with landowner

7 Boundaries of land and issue of notice of acquisition

(1) As soon as may be after any land has been acquired compulsorily, the authorised officer shall, if the boundaries of the land have not been set out or if they cannot be identified by reference to any plan, cause the same to be surveyed and set out, and he shall also issue a notice of acquisition in accordance with the provisions of this section.

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8 Authorised officer may require information as to interests in land

(1) The authorised officer may, by notice served personally, or by post addressed to the last known place of abode or business of the person concerned, require the owner or occupier of, or any person interested in, any land, or in any part thereof, in respect of which a declaration or a notification has been published in the *Gazette* under section 3 or section 4 respectively, to deliver to him within a time to be specified in the notice, being not less than twenty-one days after service of the notice, a statement in writing containing, so far as may be within his own knowledge, the name of every person possessing any interest in the land, or any part thereof, whether as partner, mortgagee, lessee, tenant or otherwise, and the nature of such interest.

(2) Every person who is required to make and deliver a statement under this section and who, without reasonable excuse, refuses to make or deliver such statement, or willfully makes any such statement which is false or incomplete in any material particular, shall be liable on summary conviction, to a fine of one hundred ringgit or to imprisonment for three months.

9 Claim of person interested to have land acquired or abandoned

If, within three months after entry has been made on any land under the provisions of section 4, such land shall not be acquired or abandoned, any person interested in the land or any part thereof may serve a notice on the authorised officer requiring that the acquisition of the land or part thereof be completed or abandoned, and, if within one month thereafter, the acquisition of such land or part thereof be not completed or abandoned in accordance with the provisions of this Ordinance, the acquisition of the land or part thereof shall be deemed to have been abandoned.

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10 Abandonment of acquisition

(1) At any time before any land has been acquired compulsorily the Yang di-Pertua Negeri may, by notification published in the *Gazette*, declare that the intended acquisition of such land is abandoned.

(2) When the acquisition of any land is abandoned in accordance with the provisions of this section, or is deemed to have been abandoned under section 9, any compensation payable by virtue of this Ordinance shall, in default of agreement, be assessed as though it was compensation payable under this Ordinance for the acquisition of land.

(3) No compensation shall be payable in any case for loss of bargain or for damages for breach of contract.

10A Revocation of acquisition

(1) The Yang di-Pertua Negeri may, at any time as and when he deems it necessary, by notification published in the *Gazette*, revoke the acquisition of any land which has been acquired compulsorily under section 3.

(2) Upon the publication of the notification in the *Gazette*, the land and the buildings and erections thereon shall revert to the owner or the person interested in the land, as the case may be, and the Director of the Lands and Surveys shall take or cause to be taken all such steps as are necessary to lawfully revert the land to the owner or the person interested.

(3) Where any acquisition is revoked under subsection (1), any damages for actual loss or injury, if any, suffered by the owner or the person interested, arising by reason of the exercise of the power conferred by section 3, shall be paid to the owner or the person interested.

(4) No damages shall be payable in any case for loss of bargain or for breach of contract.

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TEMPORARY OCCUPATION OF LAND

11 Temporary occupation of unoccupied land

(1) Whenever it appears to the Yang di-Pertua Negeri that temporary occupation and use of any unoccupied land are needed for any public purpose, he may direct the authorised officer to procure the occupation and use the same for such term or terms as the Yang di-Pertua Negeri shall think fit not exceeding three years from the commencement of such occupation.

12 Power to enter and take possession

(1) The authorised officer may immediately enter upon and take possession of the land and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term the authorised officer shall make or tender to the persons interested compensation for the damage if any, done to the land and not provided for by the agreement and shall restore the land to the persons interested therein.

13 Difference as to condition of land

If the authorised officer and the persons interested differ as to the condition of the land at the expiration of the term or as to the compensation mentioned in subsection (2) of section 12 or as to any matter connected with the said agreement the authorised officer shall refer such difference to the decision of a Judge.

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DETERMINATION OF CLAIMS TO COMPENSATION

14 Determination of questions by Judge

(1) All questions and claims relating to the payment of compensation under this Ordinance and to the apportionment of such compensation shall, save as is hereinafter provided, be submitted to a Judge.

15 Documents, etc., to be forwarded to the Judge

(1) Where proceedings are taken before the Judge or the Magistrate as provided in section 20 for the determination of any question relating to the payment of compensation, the authorised officer shall forward to the Judge, or to the Magistrate as the case may be, those of the following documents and particulars which relate to the acquisition or the intended acquisition of the land,

16 Inquiry by Judge

The Judge shall hold an inquiry at a place, date and time to be fixed by him, of which not less than fourteen clear days notice shall be given to the parties concerned, and every such inquiry shall be conducted in public.

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17 Procedure at inquiry

The procedure at an inquiry, the summoning and remuneration of witnesses for attendance thereat, and all questions incidental to the inquiry shall be governed by the provisions of the laws for the time being in force relating to civil proceedings in the High Court

18 Power of entry for purpose of inquiry

The Judge, or any person authorised by him, may at any time before, during or after an inquiry under this Ordinance, enter upon and inspect any land for any purpose connected with such inquiry.

19 Award of Judge

At the conclusion of the inquiry the Judge shall decide upon the claims for compensation and apportionments submitted to him and shall make an award under his hand and shall cause the same to be filed in the High Court and such award shall thereupon for all purposes (including appeals and executions) be deemed to be a final judgment or order of the High Court.

DETERMINATION OF SMALL CLAIMS FOR COMPENSATION

20 Procedure where claim for compensation does not exceed certain amounts

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PROVISIONS GOVERNING ASSESSMENT OF COMPENSATION, ETC.

21 Rules for assessment of compensation

Subject to the provisions of this Ordinance the following rules shall apply to the assessment and award of compensation by a Judge for the compulsory acquisition of land —

(a) the value of the land shall, subject as hereinafter provided, be taken to be the amount which the land, in its condition at the time of acquisition, if sold in the open market by a willing seller, might have been expected to have realised at a date twelve months prior to the date of the second publication in the Gazette of the declaration under section 3 or of the direction under section 5, whichever is the earlier

22 Special rule as to severance

(1) As to severance, compensation may be assessed on the footing that any specified works, crossings, or access agreed to on behalf of the Yang di-Pertua Negeri shall be erected, provided, and allowed, and any such agreement shall be reduced into writing and be signed by the Judge and shall be valid and effectual and binding on the parties.

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23 Interest

The Judge, in awarding compensation, may add thereto interest at a rate not exceeding six per centum per annum, calculated from the date upon which the authorized officer entered into possession of the land acquired until the date of the payment of the compensation awarded by the Judge.

24 Rules as to costs

(1) The authorised officer shall pay to the claimant the reasonable costs incurred by him in or about the preparation and submission of his claim, unless the Judge considers that the claimant has failed to put forward a proper claim within a reasonable time after the service of the notice under section 7 or that the claim put forward is grossly excessive or that he has been a party to some deceit or fraud in respect of his claim.

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MISCELLANEOUS

- 25 Service of notices, etc..
- 26 Absentee owners
- 27 Compensation to persons interested in adjacent land
- 28 Special provisions as to leases
- 29 Persons in possession to be deemed owners
- 30 Fees and expenses of assessors
- 31 Payment of compensation, etc.
- 32 Exemption from stamps duty and fees
- 33 Limitation of time for making claims
- 34 Assaulting or obstructing officer
- 35 Rules

THANK YOU