

CADASTRE SURVEY PRACTICE (SBEU 3323)

WEEK 2 - CADASTRAL SURVEYING FOR ISSUE OF TITLES

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OUTLINE

- Definition of Cadastral Survey
- Registration of Titles (S77, S85, S176, S189)

DEFINITION OF CADASTRAL SURVEY

Definition

- ❑ Cadastral surveying is the term generally used to describe the gathering and recording of data about land parcels even though the records do not form part of an official cadastre.
- ❑ When properties are initially registered, government officials have traditionally undertaken the processes of cadastral surveying and land title adjudication.

Definition

Cadastral surveying is the definition, identification, demarcation, measuring and mapping of new or changed legal parcel boundaries. It usually includes the process of re-establishing lost boundaries and sometimes resolving disputes over boundaries or other interests in real property.

Definition

- ❑ Cadastres and cadastral surveys are aspects of land administration.
- The primary object of a cadastral is to determine for each land parcel, its location, the extent of its boundaries and surface area, and to indicate its separate identity, both graphically on a map or in a record as well as physically on the ground.
- Its secondary objective is to provide information for a multipurpose cadastre to fulfil the overall information requirements of land administration.
- Cadastral plans can fulfil many of the functions of large-scale topographic maps, not only serving such purposes as boundary control, registration of title and valuation but also forming a basis of planning and development.

Definition

□ The basic features that are recorded in a cadastre are the land parcels and their boundaries. Good practice will result in laws relating to parcels and their boundaries that:

- Provide a legal definition of a land parcel;
- Recognize that boundaries may be vertical or horizontal;
- Differentiate between the legal position of a boundary and the physical position of objects;
- Define the priority of evidence; and
- Avoid getting into detail over the precision with which boundaries should be surveyed for the purposes of land titling.

Definition

- ❑ In order to guarantee the accuracy of boundary surveys and to apply quality controls to the work of the cadastral survey, it is common for survey regulations and procedures to be introduced.
- ❑ These often prescribe the manner in which surveys are to be carried out as well as the standards that must be achieved.
- ❑ Survey regulations and procedures may also prescribe the necessary qualification for the granting of licence to undertake cadastral surveys.

Definition

- ❑ The objectives of cadastral surveys are to acquire information, process it, coordinate and finally to present the vital information.
- ❑ Cadastral surveying is an expensive process not only in its execution but also in the loss of capital from delays in development and investment which may arise owing to inefficiency.

Section 83 National Land Code Survey for purposes of alienation under final title.

Where any land is surveyed in accordance with the provisions of section 396 National Land Code (Act 828) for the purpose of its alienation under final title, the boundaries determined on the survey shall accord as nearly as may be with those indicated by the plan and description by reference to which the approval of the State Authority was given.

REGISTRATION OF TITLES

(S77, S85, S176, S189)

Land Registration System

- ❑ A land register is a set of records of rights of a person or group of persons entitled to land parcels through deeds or titles. It is a land registration in which ownership of rights to the land is recorded.
- ❑ Land registration provides the framework and means for recognising formalised land ownership rights and for regulating the transfer of these rights (Dale and McLaughlin).
- ❑ Land registration to the documentation of certain interests in the land and the provision of documentary evidence for resolving property disputes as well as information for a wide variety of public functions.
- ❑ Land registration is to provide a safe and certain foundation for the acquisition, enjoyment and disposal of rights in land.

Land Registration System

□ Land registration systems are organised in different ways throughout the world, especially with regard to the land registration component.

Deeds System- only the transaction is recorded

Title System- the title itself is recorded and secured

□ The Deeds System is a register of owners focusing on 'who owns what' while the Title System is a register of properties presenting 'what is owned by whom'.

Land Registration System

In order to create sustainable development, there must be a secure and complete documentation or representation of legal and physical land objects

Deeds Registration

- ❑ A public repository is maintained for registering documents associated with property transactions, for example deeds, mortgages and survey plans.
- ❑ Deeds registration is a system for registering legal documents, rather than for registering title to land.
- ❑ A deed, in itself, does not prove title. It shows that a transaction took place but does not prove that the parties are legally entitled to carry out the transaction.

Weaknesses of Deeds Registration

- ❑ The deeds merely prove the fact that a transaction took place, without guaranteeing that the intended changes did really occur;
- ❑ It is not compulsory to register all changes of ownership, so that a correct impression at one moment may become erroneous later on; and
- ❑ The object the deed refers to is not very well described.

Title Registration

- ❑ A register of title is an authoritative record, kept in a public office, of the rights to clearly defined units of land as vested for the time being in some particular person or body.
- ❑ The best known title registration system is the Torrens registration system which is introduced by Sir Robert Torrens from Australia in the 1850's. It is based on the Mirror Principle, the Curtain Principle and the Insurance Principle.

Title Registration

- ❑ The registration of title is the registration to the land parcel, not the deed.
- ❑ Each parcel is identified on a cadastral map that is cross-referenced to the register that lists the name of the owner, the nature of the tenure, and other ancillary information.
- ❑ The registers must be kept up to date at all times and be a reflection of the legal position on the ground.
- ❑ It is then only necessary to consult the current entry on the proprietorship register to find the name of the owner.

Jenis Hakmilik Di Malaysia

Pegangan Bebas (Selama-lama)

Hakmilik Pajakan (Bertempoh)

Hakmilik Sementara

Hakmilik Tetap/Kekal/Muktamad

Hakmilik Pejabat Pendaftar

Hakmilik Pejabat Tanah

Dokumen Hakmilik Daftar

Dokumen Hakmilik Keluaran

Hakmilik Sambungan

Hakmilik Pendua

Hakmilik Gantian

dan Lain-lain

Type Of Titles In Malaysia

Freehold (Forever)

Leasehold (With period)

Qualified title

Final Title

Registry title

Land Office title

Register Document of Title

Issue Document of Title

Continuation Of Title

Duplicate Issue Document Of Title

Replacement Of Register Document Of Title

Others

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

□ Bagi hakmilik tanah yang dikeluarkan sebelum Kanun Tanah Negara 1965, hendaklah disambung sehingga digantikan dengan hakmilik yang lain di bawah Kanun Tanah Negara 1965 (S160).

Contoh:

Pejabat Pendaftar: Certified of Title (CT), Grant, State Lease, Lease for Agriculture Land.

Pejabat Tanah: Entry of The Mukim Register (EMR)-Hakmilik Daftar Mukim-Negeri-Negeri Melayu Beseikutu. Approved Occupation (A.O) and Approved Application (A.A)

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Certificate Of Title

- Ianya merupakan hakmilik yang dikeluarkan di bawah Federated Malay State Land Code (Cap.138) sebelum Kanun Tanah Negara dikuatkuasakan. FMS Land Code ini dikuatkuasakan di empat buah negeri iaitu Selangor, Negeri Sembilan, Pahang dan Perak di mana digabungkan di bawah entity Negeri Melayu Bersekutu oleh Pihak Inggeris (atas persetujuan Sultan di negeri-negeri tersebut).
- Certificate Of Title merupakan hakmilik kekal (*in perpetuity*) dan dikeluarkan oleh Registrar Office (Pejabat Pendaftar). Jenis-jenis tanah yang dikeluarkan C.T ketika itu adalah tanah-tanah yang berskala besar seperti tanah-tanah ladang atau pertanian , tanah di dalam kawasan Bandar atau pekan.
- Menurut Seksyen 160 KTN, hakmilik ini masih lagi berkuatkuasa selepas kuatkuasanya KTN pada 1 Januari 1966. Hakmilik ini ditukar/disambung kepada Geran Negeri (Borang 5B) di bawah KTN.

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Malay Grant

- Malay Grant ataupun Geran Melayu ialah satu hakmilik yang dikeluarkan oleh Pejabat Tanah kepada orang-orang Melayu bagi tujuan pertanian atau kediaman di Negeri-Negeri Melayu Tidak Bersekutu dalam bentuk selama-lamanya (*in perpetuity*). Negeri Melayu Tidak Bersekutu adalah Kelantan, Terengganu, Kedah, Perlis dan Johor. Hakmilik ini berdasarkan Enakmen Rizab Melayu negeri berkenaan iaitu: (i) ERM Kelantan 1930 (ii) ERM Kedah 1931 (iii) ERM Perlis 1935 (iv) ERM Johor 1936 (v) ERM Terengganu 1941.
- Sebagai contoh di Terengganu mengikut ERM 1941 tersebut, mana-mana tanah Pertanian hakmilik Pejabat Tanah yang kurang dari 10 ekar (0.4 hektar) perlu didaftarkan sebagai pegangan Melayu. Sehubungan dengan itu, selepas kuatkuasanya KTN pada 1966, hakmilik-hakmilik ini ditukar/disambungkan kepada Geran Mukim (Borang 5D).

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Malay Lease

- Manakala Malay Lease atau Pajakan Melayu adalah hakmilik pajakan yang dikeluarkan kepada orang-orang Melayu bagi tanah-tanah pertanian yang dikeluarkan oleh Pejabat Tanah dalam satu tempoh (*for a term of years*) yang bersesuaian mengikut Enakmen negeri-negeri tersebut. Sehubungan dengan itu juga, selepas kuatkuasanya KTN, hakmilik-hakmilik ini disambung kepada Pajakan Mukim (Borang 5E).

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Agriculture Lease

- Juga disebut sebagai Lease For Agriculture Land ataupun Pajak Tanah Pertanian yang dikeluarkan sebelum KTN. Hakmilik ini dikeluarkan oleh Pejabat Pendaftar atau PTG di negeri Selangor, Perak, Negeri Sembilan dan Pahang di bawah Federated Malay State Land Code (Cap.138). Hakmilik ini adalah hakmilik bertempoh (*for a term of years*) dan dikeluarkan bagi maksud pertanian di dalam kawasan tanah desa. Sehubungan dengan itu juga, selepas kuatkuasanya KTN, hakmilik-hakmilik ini disambung kepada Pajak Mukim (Borang 5E).

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Mining Lease

- Dikenali juga sebagai Sijil Pajak Melombong. Ianya seolah-olah satu hakmilik dan hanya digunakan bagi tujuan Pihak Berkuasa Negeri memajakkan sebidang tanah bagi tujuan melombong sahaja dalam sesuatu tempoh yang ditetapkan di dalam sijil tersebut. Mining Lease ini dikeluarkan oleh Pejabat Pendaftar negeri-negeri bagi maksud membenarkan (melalui sijil ini) kegunaan tanah bagi maksud melombong sahaja. Keluasan tanah akan disukat dan dinyatakan didalam sijil tersebut di samping nama tuannya pajakan, tarikh tamat tempoh, syarat-syarat yang ditetapkan dan lain-lain. Sebelum tahun 1989 Sijil Pajak Melombong dikeluarkan PTG negeri menggunakan kuasa di bawah Enakmen Perlombongan Negeri-Negeri. Namun begitu selepas 1989 enakmen berkenaan ditukar kepada Enakmen Mineral Negeri-Negeri. Perlu dinyatakan di sini, kawalan aktiviti perlombongan adalah di bawah Akta Pembangunan Mineral 1994 yang dikuatkuasakan oleh Persekutuan melalui Jabatan Mineral Dan Geosains.

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Mining Lease

- Pajak Melombong ini masih berkuatkuasa sehingga tarikh yang dinyatakan di dalam sijil tersebut. Namun begitu, KTN membenarkan pengeluaran Lesen Pendudukan Sementara dan Permit Bahan Batuan diatas tanah Pajak Melombong ini kepada mana-mana orang/badan dengan syarat tanah tersebut tidak digunakan lagi bagi maksud melombong, telah mendapat persetujuan pemegang Pajak Melombong dan kelulusan Jabatan Mineral Dan Geosains Negeri.

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Entry Mukim Register

- Dikenali juga sebagai Daftar Keterangan Mukim di mana yang dikeluarkan oleh Pejabat Tanah di Negeri-Negeri Melayu Bersekutu iaitu Selangor, Perak, Pahang dan Negeri Sembilan melalui FMS Land Code (Cap.138). Tempoh pegangan hakmilik adalah selama-lamanya (*in perpetuity*) dan dikeluarkan bagi tanah desa kurang dari 0.4 hektar (10 ekar) bagi maksud pertanian.
- Setelah KTN dikuatkuasakan pada 1 Januari 1966 mana-mana hakmilik EMR disambungkan kepada Geran Mukim iaitu Borang 5D KTN.

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Approved Occupation For Land

- Approved Occupation ini bukanlah satu hakmilik tetapi satu daftaran kelulusan menduduki sesuatu tanah yang dikeluarkan oleh Pejabat Tanah di Negeri-Negeri Melayu Bersekutu iaitu Selangor, Perak, Pahang dan N.Sembilan melalui FMS Land Code (Cap.138). Dalam kata lain A.O adalah satu daftaran dengan harapan mendapat hakmilik. Daftar A.O adalah rekod yang antaranya menunjukkan perkara-perkara berikut:
 - i) Nama pemohon yang diluluskan
 - ii) Butir-butir tanah yang diluluskan (tempat dan keluasan)
 - iii) Syarat-syarat kelulusan—kadar cukai, premium, bayaran ukur yang sepatutnya dijelaskan, syarat dan sekatan kepentingan.
 - iv) Bayaran pemberimilikan (cukai, premium, bayaran ukur, bayaran pendaftaran hakmilik) yang dijelaskan
 - v) Tarikh permohonan diluluskan dan ditempatkan ke tanah itu
 - vi) Catitan yang menyatakan bahawa Jabatan Ukur telah diminta mengukur tanah tersebut.

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Approved Application For Land

- Daftar A.O telah diselenggarakan di bawah kaedah-kaedah yang dibuat di bawah undang-undang tanah terdahulu. Di mana ianya bagi tujuan penempatan (kediaman). Manakala tanah-tanah A.A (Approved Application) bagi tanah-tanah pertanian.
- Di bawah A.O/A.A, orang-orang yang nama mereka didaftarkan mempunyai hak supaya hakmilik didaftarkan sebaik sahaja tanah diukur dan hakmilik tetap perlulah dikeluarkan. Perlu diingat bahawa di bawah A.O/A.A tanah tidak boleh dipindahmilik, digadaikan, dipajak mahupun urusan-urusan lain.
- Sehubungan dengan itu, setelah KTN dikuatkuasakan tanah-tanah A.O/A.A akan didaftarkan kepada Geran Mukim (Borang 5D KTN). 30

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Surat Sementara

- Ianya dikenali sebagai Bentuk Daftar Sementara iaitu 'Interim Register' (IR). Digunapakai di negeri-negeri selat iaitu Pulau Pinang dan Melaka sebelum wujudnya Kanun Tanah Negara di bawah Surat Iktatan Inggeris ataupun "*Deeds System*" yang diperkenalkan oleh Pihak Inggeris di mana berdasarkan "*property and conveyancing*" iaitu undang-undang equity.
- IR dibuat daripada hasil cabutan Daftar Penyelesaian ataupun lebih dikenali sebagai 'Settlement Register' (SR). Ia kemudiannya akan dibukukan di Pejabat Tanah dan Galian (PTG). Segala urusan berkenaan dengan tanah seperti pindahmilik, gadaian, kaveat akan diandoskan didalam IR. Nombor Pegangan atau lebih dikenali sebagai 'Holding Number' adalah merupakan nombor lot bagi pegangan berkenaan.

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Surat Sementara

- Setelah wujudnya Kanun Tanah Negara 1965, IR perlu ditukarkan kepada pegangan hakmilik. Ianya dibuat dengan dua cara samada dipohon oleh tuan tanah sendiri ataupun Pesuruhjaya Hakmilik Tanah yang akan memutuskan bahawa pemilikan itu tidak boleh disangkal berlandaskan Akta Kanun Tanah Negara (Hakmilik Melaka dan Pulau Pinang) 1963. Keputusan itu boleh dibuat dengan adanya nama tuan tanah terakhir didalam IR tersebut.
- Namun, dalam beberapa kes, ada juga nama tuan tanah yang tidak terang dan memerlukan siasatan untuk menentukan siapa tuan punya tanah berkenaan. Ianya boleh dilakukan dengan melihat kembali urusan-urusan yang telah dilakukan sebelum itu contohnya dari Surat Cara, Perletakan Hak atau Pemindahan Hak.

Hakmilik-Hakmilik Sebelum Kanun Tanah Negara 1965

Surat Sementara

- Pada 01/04/2001 sistem SPTB diperkenalkan, hakmilik gantian telah dibuat untuk penyelarasan pegangan hakmilik. Pejabat Tanah Daerah akan menghantar Lampiran 'A' yang mengandungi maklumat tanah yang diambil dari IR beserta pelan (yang telah disediakan oleh pihak Jabatan Ukur dan Pemetaan) kepada Pejabat Tanah dan Galian untuk dimasukkan kedalam sistem SPTB. Bagi hakmilik Pejabat Pendaftar, pelan untuk menyediakan pegangan hakmilik dipohon sendiri oleh pihak Pejabat Tanah dan Galian kepada pihak Jabatan Ukur dan Pemetaan.

Type Of Titles In Malaysia

Freehold (Forever)

Leasehold (With period)

Qualified title

Final Title

Registry title

Land Office title

Register Document of Title

Issue Document of Title

Continuation Of Title

Duplicate Issue Document Of Title

Replacement Of Register Document Of Title

Others

Titles Before National Land Code 1965

☐ For land title that issued before National Land Code 1965, continue in use until it have been continued into or replaced other register under National Land Code 1965 (S160).

Example:

Registrar Office: Certified of Title (CT), Grant, State Lease, Lease for Agriculture Land.

Land Office: Entry of The Mukim Register (EMR)-Federated Malay States. Approved Occupation (A.O) and Approved Application (A.A)

Titles Before National Land Code 1965

Certificate Of Title

- Is a title issuance under Federated Malay State Land Code (Cap.138) before enforcement of National Land Code. This FMS Land Code was enforced in four States which are Selangor, Negeri Sembilan, Pahang and Perak where merge under Federated Malay State by British (with blessing from Sultan of related States).
- Certificate Of Title is a title in perpetuity and issued by Registrar Office. Types of Certificate of Title that period was for large scale land such as agriculture lands, land located in town or village areas.
- Pursuant to Section 160 NLC, this title is still in force after the effective date of NLC on 1 January 1966. This title is converted/continued to Grant (Form 5B) under NLC.

Titles Before National Land Code 1965

Malay Grant

- Malay Grant is a title issued by the Land Office to the Malays for agricultural or residential purposes in the Unfederated Malay States in perpetuity. Unfederated Malay States are Kelantan, Terengganu, Kedah, Perlis and Johor. This title is based on the state Malay Reserves Enactment namely: (i) ERM Kelantan 1930 (ii) ERM Kedah 1931 (iii) ERM Perlis 1935 (iv) ERM Johor 1936 (v) ERM Terengganu 1941.
- As an example in Terengganu pursuant to ERM 1941, any agriculture land under Land Office Title that less than 10 acres (0.4 hectares) must be registered as a Malay Grant. Accordingly, after NLC's enforced in 1966, these titles were converted/continued to Mukim Grant (Form 5D).

Titles Before National Land Code 1965

Malay Lease

- Malay Lease is a title lease to Malay for agriculture land by Land Office for a term of years that suitable according to State Enactment. Therefore, with that after enforcement NLC, these Malay Lease continue to Mukim Lease (Form 5E).

Titles Before National Land Code 1965

Agriculture Lease

- Is also known as Lease For Agriculture Land that issued before NLC. This title issued by Registrar Office or State Land and Mines Office (PTG) in States Selangor, Perak, Negeri Sembilan and Pahang under Federated Malay State Land Code (Cap.138). This title is for a term of years and for agriculture purpose in country land. Therefore, with that after enforcement NLC, these Agriculture Lease continue to Mukim Lease (Form 5E).

Titles Before National Land Code 1965

Mining Lease

- Also known as Mining License Certificate. It is a title and is only used for the purpose of the State Authority to lease a piece of land for the purpose of mining only within such period as may be prescribed in the certificate. Mining Lease is issued by the State Registrar Office for the purpose of allowing (by this certificate) the use of land for mining purposes only. The land area will be surveyed and stated in the certificate as well as the name of the owner of the lease, the expiration date, the stipulated conditions and the other.

Titles Before National Land Code 1965

Mining Lease

- Prior to 1989 the Mining License Certificate was issued by State Land and Mines Office under State Mining Enactment. However after 1989 the enactment was changed to the State Mineral Enactment. It should be noted here that control of mining activities is under the Mineral Development Act 1994 which is enforced by the Federation through the Mineral and Geoscience Department.

Titles Before National Land Code 1965

Mining Lease

- This Mining Lease is still in force until the date stated in the certificate. Nevertheless, NLC allows for the issuance of Temporary Occupation License and Mineral Permit on this Mining Lease land to any person/body provided that the land is not used for mining purposes, has been granted the approval of the holder of a Mining Lease and the approval of the State Mineral and Geoscience Department.

Titles Before National Land Code 1965

Entry Mukim Register

- Entry Mukim Register is issued by Land Office in States in Federated Malay States, i.e. Selangor, Perak, Pahang and Negeri Sembilan through FMS Land Code (Cap.138). The duration of ownership is in perpetuity and issued for country land that less than 0.4 hectares (10 acres) for agriculture purposes.
- After NLC was enforced on 1 January 1966, any EMR title was continued to the Mukim Grant ie Form 5D under NLC.

Titles Before National Land Code 1965

Approved Occupation For Land

- Approved Occupation is not a title but is a registration of approval for occupies a land issued by the Land Office of the Federated Malay States i.e. Selangor, Perak, Pahang and Negeri Sembilan through FMS Land Code (Cap.138). In other words, A.O is a register in the hope of obtaining ownership. The register of A.O is a record which indicates the following:
 - i) Name of the applicant
 - ii) Detail of approved lands (location and approval)
 - iii) Terms of approval – quit rent, premium, survey fee, express condition and restriction of interest.
 - iv) Alienation fee (quit rent, premium, survey fee, title registration fee) has been paid
 - v) Date of application approved on land
 - vi) Note that mention Department of Survey and Mapping has been asked to survey the related land.

Titles Before National Land Code 1965

Approved Application For Land

- Registry of A.O has been maintained under rules made under the previous land law. Where is it for placement (residence) purposes. Whereas the A.A (Approved Application) land for agricultural land.
- Under A.O / A.A, people whose names are registered have the right to be registered as soon as the land is surveyed and the final title is obtained. Keep in mind that land under A.O/A.A cannot be transferred, mortgaged, leased or other affairs.
- Accordingly, after NLC enforced, the A.O/A.A land will be registered to Mukim Grant (Form 5D NLC).

Titles Before National Land Code 1965

Temporary Letter

- Also known as Temporary Registry, i.e. Interim Register (IR). Had been used in The Straits Settlements, i.e. Pulau Pinang and Melaka before National Land Code under Deeds System that introduced by British, where based on property and conveyancing” i.e. equity laws.
- IR is issued by Settlement Register (SR). It will then be posted on the Land and Mines Office (PTG). All matters pertaining to land such as transfer, mortgage, caveat will be deposited in IR. The Holding Number is the lot number.

Titles Before National Land Code 1965

Temporary Letter

- Upon the National Land Code 1965, IR must be converted to title ownership. It is made in two ways either apply by the land owner or the Land Title Commissioner who will decide that the ownership is indefeasibility in accordance with the National Land Code (Malacca and Penang) Act 1963. The decision may be made by the last name of the land owner in IR.
- However, in some cases, there is also the name of land owner is unclear and requires an investigation to determine who the land owner. It can be done by checking the dealing that have been done before, such as from the Letter of Rights, Placement or Right Transfer.

Titles Before National Land Code 1965

Temporary Letter

- On 01/04/2001, SPTB system was introduced, replacement of titles were made for the coordination of title ownership. The District Land Office will submit a Appendix 'A' containing the land information taken from the IR and the plan (which has been prepared by the Department of Survey and Mapping) to the Land and Mines Office for inclusion in the SPTB system. For Registry Title, the plan for the preparation of title is applied by the Land and Mines Office to the Department of Survey and Mapping.

Qualified Title

- ❑ The purposes of qualified title are:
 - To enable land to be alienated in advance of survey;
 - To enable title to be issued in advance of survey:
 - ✓ to the individual portions into which any alienated land is to be sub-divided or partitioned.
 - ✓ to the combined area to be formed by the amalgamation of any such lands.

Qualified Title

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 - To enable land to be alienated in advance of survey;
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 - ✓ to the combined area to be formed by the amalgamation of any such lands.

Qualified Title

- ❑ Qualified title shall confer on the proprietor the like rights in every respect as those conferred by final title, save that:
 - The boundaries of the land shown on the document of title thereto shall be provisional only except so far as any of them may have been established by any earlier survey;
 - Unless otherwise provided for under this Act, the land shall not be capable of being sub-divided or partitioned, or included in any amalgamation, nor shall any building thereon be capable of subdivisions.

- ❑ Where any land held under qualified title has been duly surveyed (Final Survey) in accordance with the provisions of section 396, final title may be issued in continuation of the qualified title.

Registry Title

☐ Registry title means title evidenced by a grant or State lease, or by any document of title registered in a Registry under the provisions of any previous land law. It register by the Registrar.

- ☐ Registry title shall be appropriate in the case of:
- i. Town (bandar) or village (pekan) land;
 - ii. any lot of country land exceeding four hectares in area; and
 - iii. any part of the foreshore or sea-bed.

Land Office Title

❑ Land Office title means title evidenced by a Mukim grant or Mukim lease, or by any document of title registered in a Land Office under the provisions of any previous land law. It register by the Land Administrator.

❑ Land Office title shall be appropriate in the case of any lot of country land, not exceeding four hectares in area.

❑ Provided that:

- State Authority may if it thinks fit, on approving the alienation of any country land, direct that the land shall ultimately be held under Registry title notwithstanding that its area does not exceed four hectares.

- Under the Land (Group Settlement Areas) Act, 1960, under which Land Office title is required to be issued.

Hakmilik Tetap dan Hakmilik Sementara

Hakmilik Sementara memberi hak yang sama (seperti disebut dalam seksyen 92 Kanun Tanah Negara) seperti Hakmilik Tetap kecuali tanah yang dipegang di bawahnya tidak boleh dipecah sempadan, dipecah bahagi dan disatukan dengan tanah lain.

Pecah bahagi bangunan juga tidak dibolehkan sekiranya ia terletak di atas tanah yang dipegang di bawah Hakmilik Sementara melainkan tanah itu telah diukur dengan sempurnanya dan pelan akui berkenaan dengannya telah diluluskan oleh Pengarah Ukur dan Pemetaan Negeri.

Sempadan tanah bagi tanah di bawah Hakmilik Sementara adalah sementara melainkan telah ditetapkan dengan pengukuran terdahulu.

Hakmilik Tetap dan Hakmilik Sementara

Tujuan diadakan Hakmilik Sementara ialah untuk membolehkan tanah bermilik sebelum diukur atau untuk membolehkan hakmilik dikeluarkan sebelum pengukuran bagi tiap-tiap bahagian tanah apabila dipecah sempadan atau dipecah bahagi atau bagi tanah yang disatukan apabila penyatuan tanah dibuat.

Pengeluaran hakmilik kepada pemohon yang telah mendapat kelulusan permohonan tanah (dalam kes pemberimilikan) dan tuan punya-tuan punya tiap-tiap umpukan tanah yang dipecah sempadan atau dipecah bahagi atau tuan punya tanah yang disatukan ialah untuk membolehkan mereka membuat pindamilik, gadaian atau pajakan sebelum kerja ukur diselesaikan.

Hakmilik Tetap dan Hakmilik Sementara

Dahulunya Kanun Tanah Negara (Akta 828) menghendaki pemohon yang diluluskan pemberimilikan tanah membuat permohonan Hakmilik Sementara sebelum Hakmilik Sementara boleh didaftarkan.

Sekarang tuan punya tanah tidak lagi dikehendaki berbuat demikian kerana pindaan kepada Kanun Tanah Negara (Akta 828) menghendaki supaya Hakmilik Sementara didaftarkan sebaik sahaja semua hasil tanah yang kena bayar telah dibayar.

Hakmilik Tetap dan Hakmilik Sementara terbahagi kepada hakmilik Pejabat Pendaftar dan hakmilik Pejabat Tanah.

Hakmilik Pejabat Pendaftar & Hakmilik Pejabat Tanah

Hakmilik Tetap boleh jadi hakmilik Pejabat Pendaftar atau hakmilik Pejabat Tanah.

Hakmilik Pejabat Pendaftar didaftarkan oleh Pendaftar Hakmilik di Pejabat Pendaftaran Hakmilik (satu di setiap negeri-ibu negeri) dan hakmilik Pejabat Tanah didaftarkan oleh Pentadbir Tanah di Pejabat Tanah bagi satu-satu daerah (satu di setiap daerah atau daerah kecil)

Menurut seksyen 77(3) Kanun Tanah Negara, hakmilik Pejabat Pendaftar adalah bersesuaian bagi tanah bandar atau pekan atau mana-mana lot tanah desa yang luasannya melebihi 4 hektar atau mana-mana bahagian pantai pasang surut atau dasar laut.

Hakmilik Pejabat Pendaftar & Hakmilik Pejabat Tanah

Hakmilik Pejabat Tanah bersesuaian bagi mana-mana lot tanah desa yang luasnya tidak melebihi 4 hektar.

Pihak Berkuasan Negeri boleh jika ia berpandangan sesuai, samada meluluskan pemberimilikan mana-mana tanah desa, tanpa menghiraukan bahawa luasnya kurang daripada 4 hektar, membuat arahan bahawa tanah tersebut hendaklah akhirnya dipegang di bawah hakmilik Pejabat Pendaftar.

Hakmilik Pejabat Tanah hendaklah didaftarkan bagi semua pegangan di bawah Akta Tanah (Kawasan Penempatan Berkelompok) 1960.

Hakmilik Sambungan (S166)

□ Hakmilik Kekal:

- Apabila Pendaftar atau Pentadbir Tanah menentukan mengenai dokumen hakmilik tersebut tidak cukup ruang untuk memasukkan nota atau tidak boleh digunakan oleh sebab keadaan fizikalnya,
- Di mana dokumen hakmilik tersebut telah hilang atau rosak keseluruhan atau sebahagian telah musnah,
- Ketika satu penyerahan sebahagian tanah atau ketika pengukuran semula suatu sempadan semulajadi dibuat di bawah seksyen 202 dan 354.

Hakmilik Sambungan (S166)

□ Hakmilik Kekal:

- Jika mana-mana tanah bermilik yang telah termakan oleh laut atau mana-mana sungai,
- Jika dokumen hakmilik berhubung dengan lebih dari satu lot,
- Jika sebahagian sahaja dari sekeping tanah diperolehi oleh kerajaan dan bahagian yang tidak diperolehi telah diukur semula, contoh dalam kes pengambilan balik tanah.
- Jika Pendaftar atau Pentadbir Tanah memutuskan bahawa satu hakmilik 'multileaf' perlu dikeluarkan.
- Jika terdapat perubahan baharu sempadan pentadbiran.

Hakmilik Sambungan (S174)

□ Hakmilik Sementara:

- Apabila Pendaftar atau Pentadbir Tanah menentukan mengenai dokumen hakmilik tersebut tidak cukup ruang untuk memasukkan nota atau tidak boleh digunakan oleh sebab keadaan fizikalnya,
- Di mana dokumen hakmilik tersebut telah hilang atau rosak keseluruhan atau sebahagian telah musnah,
- Jika Pendaftar atau Pentadbir Tanah memutuskan bahawa satu hakmilik 'multileaf' perlu dikeluarkan.
- Jika terdapat perubahan baharu sempadan pentadbiran.

Dokumen Gantian (S175 & S187)

□ Oleh tuan tanah:

Sama untuk hakmilik kekal dan hakmilik sementara

- Apabila Pendaftar atau Pentadbir Tanah menentukan mengenai dokumen hakmilik tersebut tidak cukup ruang untuk memasukkan nota atau tidak boleh digunakan oleh sebab keadaan fizikalnya
- Di mana dokumen hakmilik tersebut telah hilang atau rosak keseluruhan atau sebahagian telah musnah.

Dokumen Pendua (S175A-F & S187A)

- ❑ Oleh Pendaftar atau Pentadbir Tanah (jika dokumen hakmilik daftaran kepada tanah itu tidak menghendaki penggantian):

Sama untuk hakmilik Tetap dan hakmilik sementara

- Apabila Pendaftar atau Pentadbir Tanah menentukan mengenai dokumen hakmilik tersebut tidak cukup ruang untuk memasukkan nota atau tidak boleh digunakan oleh sebab keadaan fizikalnya
- Di mana dokumen hakmilik tersebut telah hilang atau rosak keseluruhan atau sebahagian telah musnah.

Document of Title

- ❑ Document of Title in relation to any alienated land, means both the Register Document of Title and the Issue Document of Title.
- ❑ In the case of land held under qualified title in respect of which no application for an issue document of title has been made by the proprietor.

Register Document of Title and Issue Document of Title

□ Register Document of Title (Dokumen Hakmilik Daftaran) means any document registered, or prepared for registration, under this Act and evidencing or, as the case may be, intended to evidence title to land, and any document evidencing title to land registered before the commencement of this Act under the provisions of any previous land law.

□ Issue Document of Title (Dokumen Hakmilik Keluaran) means any document prepared for issue to the proprietor of any land (whether under this Act or under the provisions of any previous land law), being a copy of, or an extract from, the register document of title.

Continuation of Title (S166)

□ Final Title:

- Where Registrar or Land Administrator decides with respect to the register document of title that there is insufficient space for the making of further entries or its physical condition no longer be used.
- Where the issue document of title has been lost or wholly or partially destroyed or is being improperly or wrongfully withheld.
- Where partial surrender of land or on the re-survey of a natural boundary under section 202 or under section 354.

Continuation of Title (S166)

Final Title:

- Where any alienated land has been partially affected by encroachment by sea or any river.
- Where a document of title relates to more than one lot.
- Where only part of piece of land has been acquired by the State and the part left un-acquired has been resurveyed.
- Where the Registrar or Land Administrator decides that a multi-leaf title is required to be issued.
- Where there is a boundaries of new district happen involve the respected document of title.

Continuation of Title (S166)

☐ Qualified Title:

- Where Registrar or Land Administrator decides with respect to the register document of title that there is insufficient space for the making of further entries or its physical condition no longer be used.
- Where the issue document of title has been lost or wholly or partially destroyed or is being improperly or wrongfully withheld.
- Where the Registrar or Land Administrator decides that a multi-leaf title is required to be issued.
- Where there is a boundaries of new district happen involve the respected document of title.

Duplicate Issue Document of Title (S175)

By land owner:

- Where issue document of title that there is insufficient space for the making of further entries or its physical condition no longer be used.
- Where the issue document of title has been lost or wholly or partially destroyed or is being improperly or wrongfully withheld.

Replacement of Register Document of Title (S175A-F & S187A)

By Registrar or Land Administrator:

- Where issue document of title that there is insufficient space for the making of further entries or its physical condition no longer be used.
- Where the issue document of title has been lost or wholly or partially destroyed or is being improperly or wrongfully withheld.

THANK YOU