

NATIVE COURTS ENACTMENT 1992

NATIVES COURTS (NATIVE CUSTOMARY LAWS) RULES 1995

In exercise of the powers conferred by section 30 of the Native Courts Enactment 1992, the Yang di-Pertua Negeri makes the following rules:

PART I PRELIMINARY

Short title and Commencement.

1. These Rules may be cited as the Native Courts (Native Customary Laws) Rules 1995 and shall come into force on the date of its publication in the *Gazette*.

Interpretation.

2. In these Rules, unless the context otherwise requires -

“*adat fine*” means a penalty imposed in accordance with the native custom or local mores in the district in which the Court is established;

“*animal*” means any animal which is tame or which has been or is being tamed to serve some purposes for the use of man;

“*babas*” means any customary conciliatory gift to an aggrieved party designed to preserve the bonds of friendship;

“*bumbung*” means a customary device constructed or affixed on certain property as a declaration to the general public of ownership of such property;

“*denda malu*” means a customary compensation in respect of any breach of native customary law which exposes the aggrieved party to the possibility of disgrace,

dishonour, humiliation or loss of dignity before the relatives or community to whom or which such aggrieved party belongs;

“fine” means a pecuniary penalty imposed by the Court other than *adat* fine;

“fowl” includes cock, cockerel, chicken, duck, goose, hen and rooster;

“*kepanasan kampung*” means a customary fine in respect of an offence against the general virtues and dignity of a village;

“*koimanan*” means a loss or damage suffered by reason of a breach of promise to perform a certain act;

“*kosoguluanan*” means any marriage of a person who marries before an elder brother or sister;

“*lapau*” means a bigamous or polygamous marriage and the native customary fine imposed thereof;

“livestock” includes buffalo, bull, calf, cow, ewe, goat, heifer, pig, lamb, ox, ram and sheep;

“*maga’au*” means the act of marrying a man who is the husband of another woman;

“*mianu-anu*” means an illicit intercourse between persons who are not married to each other;

“*mobpuod*” means the customary observance of a bereavement period;

“*mogundosi*” means any act, word, sound or gesture tending or designed to threaten with hurt, death or instill fear;

“*mongintiti*” means any act, word, sound or gesture tending or designed to insult and provoke;

“other things” includes any article, jewellery, handicraft, instrument, goods, ornamental object, garment or clothing material which is recognized under native custom as a substitute for the payment of a penalty;

“*pitas*” means a marriage between persons who are related through a prohibited degree of consanguinity;

“*sogit*” means customary haematic penalty;

“*solod*” means the act of marrying a woman who is the wife of another man;

“*sumbang*” means an incestuous act between persons who are related through a prohibited degree of consanguinity;

“*tonduk*” means a pikestaff, stake, picket or similar object set in the ground and pointed at certain property as declaration to the general public of ownership of such property.

Use of vernacular term.

3. In the exercise of its powers under these Rules, the Court may, in its written judgment, use any vernacular term in respect of a sentence or penalty recognized under native customary laws in the district in which such Court is established.

PART II

ASSAULT, BATTERY AND THREATENING BEHAVIOUR

Causing hurt.

4. Any person who, without reasonable excuse, causes hurt to any person commits a breach of native customary law and shall be liable -

- (i) to pay to the injured party *sogit* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 12 months; or
 - (c) to both fine and imprisonment.

Threat.

5. Any person who, without reasonable excuse, threatens any person with death, bodily hurt or grievous bodily hurt commits a breach of native customary law of *mogundosi* and shall be liable -

- (i) to pay to the threatened party *sogit* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 6 months; or
 - (c) to both fine and imprisonment.

Provocation.

6. Any person who, without reasonable excuse, does any act in the sight of any person or utters any word or makes any sound in the hearing of any person with intention to provoke such person commits a breach of native customary law of *mongintiti* and shall be liable -

- (i) to pay to the provoked party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Instilling fear.

7. Any person who, without reasonable excuse, does any act in the sight of any person or utters any word in the hearing of any person with intention to instill fear on such person commits a breach of native customary law of *mogundosi* and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 300 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

PART III
SEXUAL OFFENCES

Incestuous act.

8. (1) Any man who has sexual intercourse with a woman whom he knows to be his granddaughter, daughter, sister, grandmother or mother commits a breach of native customary law of *sumbang*.

(2) Any woman of the age of sixteen or over who permits a man whom she knows to be her grandfather, father, brother, son or grandson to have sexual intercourse with her by her consent commits a breach of native customary law of *sumbang*.

(3) In this rule, "sister" includes half-sister and "brother" includes half-brother, and any expression importing a relationship between two people shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock.

- (4) Any person who commits a breach under this rule shall be liable -
 - (i) to pay to such aggrieved party as the Court may determine *sogit* not exceeding 3 heads of livestock or other things of equivalent value in inaccordance with *adat* fine; and
 - (ii)
 - (a) to a fine not exceeding 5000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 24 months; or

(c) to both fine and imprisonment.

(5) In default of paragraph (i) or (ii) (a) of subrule (4), the Court may impose an imprisonment for a term not exceeding 24 months.

Illicit intercourse between relations.

9. (1) Any person who has sexual intercourse with another who is a relation through a prohibited degree of consanguinity commits a breach of native customary law of *sumbang* and shall be liable -

- (i) to pay to such aggrieved party as the Court may determine *sogit* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; and
- (ii) (a) to a fine not exceeding 3000 ringgit; or
(b) to an imprisonment for a term not exceeding 18 months; or
(c) to both fine and imprisonment.

(2) In default of paragraph (i) or (ii) (a) of subrule (1), the Court may impose an imprisonment for a term not exceeding 18 months.

(3) In this rule, a person is deemed to be a relation through a prohibited degree of consanguinity if that person falls within such propinquity as described and listed in Schedule I.

Illicit intercourse between unmarried persons.

10. (1) Any person who has sexual intercourse with any person who is not his or her spouse commits a breach of native customary law of *mianu-anu* and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; and
- (ii) to pay *kepanasan kampung*; and

- (iii) (a) to a fine not exceeding 1500 ringgit; or
- (b) to an imprisonment for a term not exceeding 6 months; or
- (c) to both fine and imprisonment.

(2) In default of paragraph (i), (ii) or (iii) (a) of subrule (1), the Court may impose an imprisonment for a term not exceeding 6 months.

(3) Any payment of *kepanasan kampung* under this rule shall be given to the Headman of the village who shall distribute such penalty in equal proportion to the head of every family normally residing in such village.

Illicit intercourse in farm or field.

11. Any person who commits a breach of native customary law of *mianu-anu* in a farm or field belonging to or in the lawful occupation of another shall pay to the owner or occupier of the farm or field *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine.

PART IV

MARRIAGES, BETROTHAL AND ENTICEMENT

Marriage between relatives.

12. (1) Any man who marries a woman who is a relation through a prohibited degree of consanguinity commits a breach of native customary law of *pitas* and shall be liable -

- (i) to pay to the parent of the woman *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or

(c) to both fine and imprisonment.

(2) In this rule, a person is deemed to be a relation through a prohibited degree of consanguinity if that person falls within such propinquity as described and listed in Schedule II.

Termination of betrothal.

13. (1) Any person who, being betrothed, terminates that betrothal without any reasonable excuse commits a breach of native customary law and shall be liable -

- (i) (a) to pay to the aggrieved party *babas* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) to pay to the aggrieved party *denda malu* of 1 head of livestock; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

(2) If any collateral agreement has been entered into between the parties, the person in breach shall, unless the Court orders otherwise, carry out the terms of such agreement.

(3) If the aggrieved party is the fiancée, -

- (a) she shall not be required to return any dowry or betrothal gift which has been given to her; or
- (b) she shall be entitled to recover such dowry or betrothal gift as may have been agreed upon during or preceding the betrothal proposition.

(4) If the aggrieved party is the fiancé, he shall be entitled to recover any dowry or betrothal gift given by him to the fiancée.

Compellability to marry.

14. In these Rules, no person shall be compelled to marry if -

- (a) the aggrieved party has applied for or has been awarded *babas* and *denda malu*; or
- (b) both parties to the betrothal mutually agree to a termination of the betrothal; or
- (c) in the opinion of the Court, the betrothal has irretrievably broken down.

Illicit intercourse by a betrothed person.

15. (1) Any person who, being betrothed, has sexual intercourse with any person, not being the person to whom he or she is engaged to be married, commits a breach of native customary law of *mianu-anu* and shall be liable -

- (i) (a) to pay to such aggrieved party as the Court may determine *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) to pay to the aggrieved party *denda malu* of 1 head of livestock; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 6 months; or
 - (c) to both fine and imprisonment.

(2) If any breach under this rule results in the termination of any betrothal, the person in breach shall be liable -

- (i) (a) to pay to the aggrieved party *sogit* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; and

- (b) to pay to the aggrieved party *denda malu* of 1 head of livestock; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 2000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 12 months; or
 - (c) to both fine and imprisonment.

Illicit intercourse with another person's fiance or fiancée.

16. (1) Any person who has sexual intercourse with another person's fiance or fiancée commits a breach of native customary law of *mianu-anu* and shall be liable -

- (i) (a) to pay to such aggrieved party as the Court may determine *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) to pay to the aggrieved party *denda malu* of 1 head of livestock; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 6 months; or
 - (c) to both fine and imprisonment.

(2) If any breach under this rule results in the termination of any betrothal, the person in breach shall be liable -

- (i) (a) to pay to such aggrieved party as the Court may determine *sogit* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) to pay to the aggrieved party *denda malu* of 1 head of livestock; or
- (ii) in default thereof -

- (a) to a fine not exceeding 2000 ringgit; or
- (b) to an imprisonment for a term not exceeding 12 months; or
- (c) to both fine and imprisonment.

Enticement of another person's fiance or fiancée.

17. (1) Any person who entices or takes away another person's fiance or fiancée commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 2500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 18 months; or
 - (c) to both fine and imprisonment.

(2) In this rule, if the person in breach is a woman, she shall be liable to pay any dowry or betrothal gift to the aggrieved fiancée if such dowry or betrothal gift has not been paid by the fiance who was enticed or taken away.

Enticement of another person's wife.

18. Any person who entices or takes away a woman who is the wife of another person commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 3 heads of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 3000 ringgit; or

- (b) to an imprisonment for a term not exceeding 18 months; or
- (c) to both fine and imprisonment.

Marrying another person's spouse.

19. (1) Any man who marries a woman who is the wife of another man commits a breach of native customary law of *solod*.

(2) Any woman who marries a man who is the husband of another woman commits a breach of native customary law of *maga'au*.

- (3) Any person who commits a breach under this rule shall be liable -
 - (i) to pay to the aggrieved party *sogit* not exceeding 3 heads of livestock or other things of equivalent value in accordance with *adat* fine; or
 - (ii) in default thereof -
 - (a) to a fine not exceeding 3000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 18 months; or
 - (c) to both fine and imprisonment.

Bigamous or polygamous marriage.

20. (1) Any man who, being married, marries during the life of his wife commits a breach of native customary law of *lapau* and shall be liable -

- (i) (a) to pay to the wife *lapau* of 1 buffalo; and
- (b) to pay to each of the children of the marriage, if any, *sogit* of 1 livestock; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or

(b) to an imprisonment for a term not exceeding 6 months; or

(c) to both fine and imprisonment.

(2) In this rule, a child means the child of the marriage and does not include a step-child.

(3) Any person who repeats a breach under this rule shall be liable to pay twice the *lapau* payable to the wife or twice the *sogit* payable to each of the children, if any, whenever such breach is repeated.

Enticement of another person's daughter.

21. Any person who entices or takes away any daughter from her parent or guardian commits a breach of native customary law and shall be liable -

(i) to pay to the aggrieved parent or guardian *sogit* not exceeding 2 heads of livestock or other things of equivalent value in accordance with *adat* fine; or

(ii) in default thereof -

(a) to a fine not exceeding 2000 ringgit; or

(b) to an imprisonment for a term not exceeding 6 months; or

(c) to both fine and imprisonment.

Remarriage before end of bereavement period.

22. Any person who remarries before the end of *mobpuod* or bereavement period in respect of a deceased spouse commits a breach of native customary law and shall be liable to pay to the next of kin of the deceased spouse *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine.

Marrying before elder brother or sister.

23. Any person who marries before any elder brother or sister commits a breach of native customary law of *kosoguluanan* and shall pay to such elder brother or sister *sogit* of 1 fowl or other things of equivalent value in accordance with *adat* fine.

PART V
BURIAL GROUNDS AND DEATH

Digging of grave.

24. Any person who, without reasonable excuse or without the permission of the family or next of kin of any deceased person, digs on the grave of such deceased person commits a breach of native customary law and shall be liable -

- (i) (a) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) to pay the cost of repair and expenses actually incurred by the family or next of kin of the deceased in restoring the grave; or
- (ii) in default thereof -
 - (a) to a fine exceeding 300 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Burning of grave without reasonable excuse.

25. Any person who, without reasonable excuse, burns or causes to be burnt any grave commits a breach of native customary law and shall be liable -

- (i) (a) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and

- (b) to pay the cost of repair and expenses actually incurred by the family or next of kin of the deceased in restoring the grave; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 3 months; or
 - (c) to both fine and imprisonment.

Burning of grave inadvertently.

26. Any person who inadvertently burns or causes to be burnt any grave commits a breach of native customary law and shall be liable -

- (i) (a) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) to pay the cost of repair and expenses actually incurred by the family or next of kin of the deceased in restoring the grave; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Damage to grave.

27. Any person who does any act or omits to do an act which damages or which is likely to result in damage to any grave as a result of such act or omission commits a breach of native customary law and shall be liable -

- (i) (a) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and

- (b) to pay the cost of repair and expenses actually incurred by the family or next of kin of the deceased in restoring the grave; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 3 months; or
 - (c) to both fine and imprisonment.

Disturbance to tombstone.

28. Any person who removes, alters, defaces or cuts any tombstone or any part thereof including any epitaph or inscription commits a breach of native customary law and shall be liable -

- (i) (a) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) to pay the cost of repair and expenses actually incurred by the family or next of kin of the deceased in restoring the grave; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 300 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Burial of corpse in burial ground reserved for another village.

29. (1) Any person who, without reasonable excuse, buries a corpse in the burial ground reserved for another village without first obtaining the permission of the Headmen of such village commits a breach of native customary law and shall be liable -

- (i) (a) to pay *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and

(b) to a fine not exceeding 300 ringgit; or

(ii) in default thereof -

(a) to a fine not exceeding 600 ringgit; or

(b) to an imprisonment for a term not exceeding 1 month; or

(c) to both fine and imprisonment.

(2) Any payment of *sogit* under this rule shall be given to Headman of such village who shall distribute such *sogit* in equal proportion to the head of every family normally residing in such village.

Burial of a deceased person without permission.

30. (1) Any person who, without reasonable excuse or permission from the family or next of kin of the deceased person, buries such deceased person commits a breach of native customary law and shall be liable -

(i) (a) to pay to such aggrieved party as the Court may determine *sogit* of 1 fowl and 1 gong or other things of equivalent value in accordance with *adat* fine; and

(b) to a fine not exceeding 100 ringgit; or

(ii) in default thereof -

(a) to a fine not exceeding 200 ringgit; or

(b) to an imprisonment for a term not exceeding 2 weeks; or

(c) to both fine and imprisonment.

(2) No person shall commit a breach under this rule if -

(a) reasonable steps have been taken to communicate with or to inform the family or next of kin of the deceased person regarding such death; or

- (b) the family or next of kin does not respond to the information or notification in respect of such death; or
- (c) the deceased person has suffered sudden death in any place which any member of the public or person present at the time of death would, in the circumstances, have been equally obligated to assist the deceased person and to inform the family or next of kin of the death of such deceased person.

Death in house of another.

31. Where a person dies in the house belonging to another or which is in the lawful occupation of another who is not a relative of the deceased person, the family or the next of kin of the deceased person commits a breach of native customary law and shall be liable -

- (i) (a) pay to the owner or occupier thereof *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (b) monetary compensation not exceeding 200 ringgit; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 400 ringgit; or
 - (b) to an imprisonment for a term not exceeding 2 weeks; or
 - (c) to both fine and imprisonment.

Death on farmland or field.

32. Where a person dies in or on a farmland or field belonging to another or which is in the lawful occupation of another who is not a relative of the deceased person, the family or the next of kin of the deceased person commits a breach of native customary law and shall be liable -

- (i) (a) to pay the owner or occupier thereof *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or

- (b) monetary compensation not exceeding 200 ringgit; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 400 ringgit; or
 - (b) to an imprisonment for a term not exceeding 2 weeks; or
 - (c) to both fine and imprisonment.

PART VI
GROSS MISBEHAVIOR, INDECENCY AND MISCHIEF

Indecent assault.

33. Any person who, without reasonable excuse, touches any part of the body of any person by whatever means, device or instrument with intent to insult the modesty of such person commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Indecent exposure.

34. Any person who wilfully, openly and obscenely exposes his or her private parts or any part thereof to any person with intent to insult the modesty of such person commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or

- (ii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment

Indecent word, sound or gesture.

35. Any person who utters any word or makes any sound in the hearing of any person, or makes any gesture in the sight of any person, with intention of insulting, wounding or hurting the feeling of such person commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Slandering remark or gesture.

36. Any person who utters any word in the hearing of any person or makes any gesture in the sight of any person with intent to defame, degrade, discredit or put into disrepute such person commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or

- (b) to an imprisonment for a term not exceeding 1 month; or
- (c) to both fine and imprisonment.

Spreading rumour.

37. Any person who makes false allegation or accusation against any person with intent to defame such person commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 2 fowls or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 100 ringgit; or
 - (b) to an imprisonment for a term not exceeding 2 weeks; or
 - (c) to both fine and imprisonment.

Disruption of functions.

38. Any person who does any act or behaves in such manner as to disrupt or causes to be disrupted any wedding or betrothal ceremony, festival, feast or other similar celebration commits a breach of native customary law and shall be liable -

- (i) (a) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) if the Court deems appropriate, to pay for the cost of repairing or replacing any damaged chattel, if any; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 800 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Disruption of obsequies or requiem.

39. Any person who does any act or behaves in such manner as to disrupt or causes to be disrupted any obsequies or requiem or other similar rites commits a breach of native customary law and shall be liable -

- (i) (a) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; and
- (b) if the Court deems appropriate, to pay for the cost of repairing or replacing any damaged chattel, if any; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Adulteration of water sources.

40. Any person who, wilfully or knowingly, adulterates, contaminates, pollutes or fouls the water of any communal spring, village reservoir or river so as to render it less fit for the purpose for which it is ordinarily used commits a breach of native customary law and shall be liable -

- (i) to pay *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

(2) Any payment of *sogit* under this rule shall be given to the Headman of the village who shall distribute such *sogit* in equal proportion to the head of every family normally residing in such village.

Trespass.

41. Any person who, without reasonable excuse, enters any house or land or any part thereof belonging to or which is in the lawful occupation of another commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 2 fowls or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 100 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 week; or
 - (c) to both fine and imprisonment.

Entering bedroom.

42. (1) Any person who, without reasonable excuse or permission from the owner or occupier of any bedroom, enters such bedroom which is normally occupied by a female member of the family commits a breach of native customary law and shall be liable -

- (i) to pay to such aggrieved party as the Court may determine *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

(2) This rule does not apply to any immediate member of the family of the woman whose room is entered into.

Damage to chattel.

43. Any person who, without reasonable excuse, does any act which damages or causes to be damaged any chattel belonging to another commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 fowl or other things of equivalent value in accordance with *adat* fine; and
- (ii) (a) to repair such damage; or
(b) to pay the cost of repairing such damage; or
(c) if the Court deems appropriate, to replace the damaged chattel, if any, with a similar or an equivalent chattel; or
- (iii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Injury to livestock or fowl.

44. Any person who, without reasonable excuse, injures, maims or kills any livestock or fowl belonging to another commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party in such form and manner as the Court may deem appropriate *sogit* not exceeding the value of the livestock or fowl injured, maimed or killed; or
- (ii) in default thereof -

- (a) to a fine not exceeding 1000 ringgit; or
- (b) to an imprisonment for a term not exceeding 1 month; or
- (c) to both fine and imprisonment.

Throwing object at house.

45. Any person who, without reasonable excuse, throws, flings, hurls or slings any object at any house belonging to or in the lawful occupation of another commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 3 fowls or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 150 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 week; or
 - (c) to both fine and imprisonment.

Swearing and cursing.

46. Any person who swears or utters a curse at another commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 2 fowls or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 100 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 week; or
 - (c) to both fine and imprisonment.

Fence.

47. Any person who, without any reasonable excuse, removes, alters, defaces or cuts any fence or any part thereof on any land belonging to or in the lawful occupation of another commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 fowl or other things of equipment value in accordance with *adat* fine; and
- (ii) (a) to repair the fence; or
(b) to pay for the cost of repairing such fence; or
- (iii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 2 weeks; or
 - (c) to both fine and imprisonment.

Liability for damage by animal.

48. Any owner or person in charge of an animal who fails to keep such animal to be properly folded, tethered or under control, or who allows such animal to stray commits a breach of native customary law if such animal causes damage to or on any property or part thereof belonging to another and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 fowl or other things of equivalent value in accordance with *adat* fine; and
- (ii) (a) to repair any damage caused by such animal; or
(b) to pay for the cost of repairing such damage; or
(c) if the Court deems appropriate, to replace the damaged property, if any, with a similar or an equivalent property; or
- (iii) in default thereof -

- (a) to a fine not exceeding 1000 ringgit; or
- (b) to an imprisonment for a term not exceeding 1 month; or
- (c) to both fine and imprisonment.

Causing trespass by interfering with animal.

49. Any person who interferes with an animal belonging to another or with any fence, enclosure or building within which such animal is confined or with any means by which it is tethered thereby causing or enabling such animal to trespass commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* exceeding 2 fowls or other things of equivalent value in accordance with *adat* fine; and
- (ii)
 - (a) to repair any damage caused by such animal; or
 - (b) to pay for the cost of repairing such damage; or
 - (c) if the Court deems appropriate, to replace the damaged property, if any, with a similar or an equivalent property; or
- (iii) in default thereof -
 - (a) to a fine not exceeding 500 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Felling tree.

50. Any person who, without reasonable excuse, cuts, fells, removes or collects any tree or any part thereof on any land belonging to or in the lawful occupation of another commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 3 fowls or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 300 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 week; or
 - (c) to both fine and imprisonment.

Disturbance to dam or embankment.

51. (1) Any person who, without reasonable excuse or lawful authority, removes, alters, defaces or cuts any communal dam or embankment, which is collectively built and used by the residents of any village, so as to render such dam or embankment less fit for the purpose for which it is built and used commits a breach of native customary law and shall be liable -

- (i) to pay *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 100 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 week; or
 - (c) to both fine and imprisonment.

(2) Any payment of *sogit* under this rule shall be given to the Headman of the village who shall distribute such *sogit* in equal proportion to the head of every family normally residing in such village.

(3) This rule shall not apply to any person who is bound to execute lawful warrant or order issued or made in the exercise of the jurisdiction conferred by this Enactment or any other written law.

Disturbance to customary signification of property.

52. Any person who, without reasonable excuse, removes, alters, defaces or cuts any *tonduk*, *bumbung* or other customary device used as a means of declaring to the general public of ownership of or over any property commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* of 1 head of livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 300 ringgit; or
 - (b) to an imprisonment for a term not exceeding 2 weeks; or
 - (c) to both fine and imprisonment.

PART VII
BREACH OF PROMISE

Breach of promise.

53. Any person who refuses to honour a promise commits a breach of native customary law of *koimanan* and shall be liable to pay compensation at a rate not exceeding 20 per centum of the total agreed purchase price or value, as the case may be, of the subject-matter of such promise:

Provided that no person shall be compelled to honour any such promise where the other person has opted to sue for compensation.

EXAMPLES

- (a) *A refuses to honour his promise to B because A would be better off by not honouring such promise.*
- (b) *A refuses to honour his promises to B because of influence and interference by a third person which A could have avoided.*

- (c) *A refuses to honour his promise to B because of objection from any member of A's family which A could have avoided.*
- (d) *A refuses to honour his promise to B because of a change of circumstances whereby A would incur or anticipates loss by honouring such promise.*

PART VIII
BIRTH AND CUSTOMARY ABSTENTION

Birth.

54. Any woman who gives birth in any house belonging to or in the lawful occupation of another commits a breach of native customary law and shall be liable to pay to the owner or occupier of the house *sogit* of 1 fowl.

Prohibited act during *mobpuod*.

55. Any person who, without reasonable excuse, walks under any fruit tree or enters any orchard belonging to another during *mobpuod* which such person is bound under native customary law to observe upon the demise of his or her spouse commits a breach of native customary law and shall be liable -

- (i) to pay to the owner of the fruit tree or orchard *sogit* of 1 livestock or other things of equivalent value in accordance with *adat* fine; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 1000 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 month; or
 - (c) to both fine and imprisonment.

Customary abstention or abstinence.

56. (1) Any person who, without reasonable excuse, contravenes or fails to observe any customary prohibition during such period of time or circumstances as may be required under his or her custom to observe commits a breach of native customary law and shall be liable -

- (i) to pay to the aggrieved party *sogit* not exceeding 3 fowls; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 100 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 week; or
 - (c) to both fine and imprisonment.

(2) In this rule, "customary prohibitions" means any act or activity which is prohibited to be done under native customary law as a mark or symbol of respect and reverence of any event or incident which by its nature is regarded as divinely sacred under native custom.

Entering house after funeral ceremony.

57. Any person who, without reasonable excuse, enters any house belonging to or in the lawful occupation of another immediately after attending any funeral ceremony commits a breach of native customary law and shall be liable -

- (i) to pay to the owner or occupier of such house *sogit* not exceeding 3 fowls; or
- (ii) in default thereof -
 - (a) to a fine not exceeding 100 ringgit; or
 - (b) to an imprisonment for a term not exceeding 1 week; or
 - (c) to both fine and imprisonment.

PART IX
GENERAL PROVISION

Inherent jurisdiction of the Court.

58. Nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court in any case involving native customary laws not expressly covered by these Rules, but which is otherwise recognized under the native customary laws of the native community in the district in which the Court is established.

SCHEDULE 1
(Rule 9 (3))

Prohibited Degree of Consanguinity for *Sumbang*

Description of relationship

Father and daughter-in-law

Father and step-daughter

Father and adopted daughter

Mother and son-in-law

Mother and step-son

Mother and adopted son

Uncle and niece

Uncle and step-niece

Aunt and nephew

Aunt and step-nephew

Between first cousin and first cousin

Between second cousin and second cousin

Between third cousin and third cousin

Between step-brother and step-sister

SCHEDULE II

(Rule 12 (2))

Prohibited Degree of Consanguinity for *Pitas*

Description of relationship

Uncle and niece

Uncle and step-niece

Aunt and nephew

Aunt and step-nephew

Between first cousin and first cousin

Between second cousin and second cousin

Between third cousin and third cousin.

Dated the 21st day of December 1995.

By His Excellency's Command,

DATUK STEPHEN K. S. FOO
State Attorney-General, Sabah