

STATE OF SABAH

COUNTRY LAND UTILIZATION ORDINANCE 1962 (Sabah No. 8 of 1962)

LIST OF AMENDMENTS

<i>Ordinance/ Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
41/1963	6	30-12-1963
G.N. S. 129/1963 Art. 48 (1)	14 (2) (b), 15 (3)	16-9-1963
G.N. S. 25/1964	10 (1), (2), (3), (4)	18-2-1964
G. N. S. 87/1965	2 (definition of "country land") 3 (2), 6, 12 (1), (4), 13, 14 (1), 15 (1), 19	16-9-1963
Act 91, s. 5 (1) (b)	15 (9)	16-9-1963
2/1973	2 (definition of "Minister"), 10 (1), (2), (3), (4)	14-4-1973
Act 160	18	29-8-1975
5/1981	3 (2), 6, 12 (1), (4), 13, 14 (1), 15 (1), 19	30-4-1981

An Ordinance to secure the proper utilization of alienated rural lands.

[1 September 1962.]

ENACTED by the Legislature of North Borneo as follows:

PART I
PRELIMINARY

Short title and commencement.

1. This Ordinance may be cited as the Country Land Utilization Ordinance 1962, and shall come into operation on such date as the Governor may, by notice in the *Gazette**, appoint.

Interpretation.

2. In this Ordinance, unless the context otherwise requires —

“Chairman” means the Chairman of the Committee;

“Committee” means the Land Advisory Committee established under the provisions of section 3;

“country land” means any land within Sabah which is not included within the boundaries of a town or township declared under any written law and which has been leased or otherwise disposed of to any person by or on behalf of the Government or its predecessor;

“development notice” means a notice served under the provisions of section 7;

“Director” means the Director of Lands and Surveys;

“Minister” means the Minister for the time being responsible for matters relating to natural resources;

*In force 1 September 1962 - see G.N.S. 107/62.

“owner” in relation to any specified land, means the person for the time being registered as the lessee of such land;

“person interested” in relation to any specified land, means a person having a registered interest in such land;

“registered” means registered under the provisions of the Land Ordinance [Cap. 68.];

“Registrar” means a Registrar of Titles appointed under the provisions of the Land Ordinance [Cap. 68.] and includes a Deputy Registrar of Titles;

“scheme” means a scheme prepared by an owner of specified land and submitted to the Committee in compliance with a development notice;

“specified land” means any country land which is the subject of an order made under the provisions of section 6;

“title” means any Lease or Provisional Lease issued by or on behalf of the Government or its predecessor;

“transfer” used in connexion with land, means the passing of such land by voluntary act of the owner thereof.

PART II

ESTABLISHMENT, ETC., OF COMMITTEE

Establishment of Committee.

3. (1) There is hereby established a committee, to be called the Land Advisory Committee, which shall consist of —

- (a) an officer in the public service, who shall be the Chairman of the Committee;
- (b) the Director;
- (c) the Director of Agriculture;

(d) two other persons who are not in the public service.

(2) The members of the Committee mentioned in paragraphs (a) and (b) of subsection (1) shall be appointed by the Yang di-Pertua Negeri* and shall hold office for such period as the Yang di-Pertua Negeri may determine.

Procedure of Committee.

4. (1) The Committee may make standing orders for the regulation of its proceedings and business and until such orders are made, or in respect of any matter for which no provision is made by such orders, the Committee shall conduct its business in such manner as the Chairman may determine.

(2) At any meeting of the Committee three members shall constitute a quorum.

(3) Any member of the Committee who has any financial or other interest (other than an interest arising from general taxation or ordinary residence) in any matter coming before the Committee for determination shall disclose such interest to the Committee and shall not cast any vote on such matter.

(4) Any document issued by or on behalf of the Committee shall be signified by the Chairman or any person authorised thereto by the Committee.

Power to enter on land.

5. The Committee, or any person authorised in that behalf by the Committee in writing, may enter upon any country land and there make any inspection, investigation or survey for the purpose of performing the duties imposed, or powers conferred, upon the Committee by this Ordinance:

Provided that no unnecessary damage shall be done to any land or to any property thereon.

* Throughout the Ordinance, "Yang di-Pertua Negeri" substituted for "Yang di-Pertua Negara" by virtue of Enactment No. 17 of 1976.

PART III
CULTIVATION SCHEMES

Declaration of specified land.

6. The Yang di-Pertua Negeri, after considering any report made by the Committee in that behalf, may by order in the *Gazette* declare any country land exceeding six hundred and forty acres in extent held under one title to be specified land for the purposes of this Ordinance.

Requirement to submit scheme.

7. (1) Where the Committee is of the opinion that any specified land should be brought under cultivation it may serve a notice upon the owner thereof, and upon all persons interested therein, requiring such owner, within a period of one year from the service of such notice upon him, to submit to the Committee a scheme for the efficient cultivation of such land having regard to the availability or otherwise of labour in the area concerned and all other factors relating to such cultivation.

(2) The Committee shall cause a copy of every development notice to be delivered to the Registrar.

Restriction upon dealings with specified land and upon registration of memoranda.

8. (1) No specified land in respect of which a development notice has been served shall be transferred, subdivided, subleased, charged or otherwise disposed of without the written consent of the Committee, and the Committee may give or withhold such consent in its absolute discretion and without assigning any reason therefor.

(2) The Committee may give a consent required by subsection (1) subject to any conditions it may think fit, including conditions specifying the maximum rental payable and the maximum amount, if any, which may be received as a premium, in respect of any land disposed of by a subdivision or sublease.

(3) Upon receipt of a copy of a development notice the Registrar shall note the same against the title concerned and notwithstanding any provision of the Land Ordinance

[Cap. 68.] to the contrary, shall not register any memorandum in respect of any land comprised in such title unless the consent required by subsection (1) is produced to him with such memorandum.

(4) For the avoidance of doubt it is hereby declared that the provisions of this section shall continue to have effect notwithstanding that a scheme has been approved in respect of the land concerned under the provisions of section 9.

Contents and approval, etc., of scheme.

9. (1) Every scheme shall specify the period within which the land concerned shall be brought under complete cultivation, and such period shall not exceed ten years:

Provided that the Committee may, in its discretion, in any particular case allow a scheme to specify a period exceeding ten years if in its opinion such extended period is necessary in all the circumstances of such case.

(2) The Committee may approve or reject any scheme submitted to it.

(3) The Committee may, before approving any scheme, require the insertion therein of such conditions as it thinks necessary to ensure the proper implementation of such scheme and the continued effective cultivation of all land brought under cultivation under such scheme.

Appeals.

10. (1) Any owner of, or any person interested in, any specified land who is aggrieved by —

- (a) the requirement of any development notice in respect of such land; or
- (b) the rejection by the Committee of any scheme relating to such land; or
- (c) any condition which the Committee has required to be inserted in any such scheme under subsection (3) of section 9,

may, within twenty-eight days of the service upon him of such notice or the notification to him of such rejection or requirement, as the case may be, appeal therefrom to the Minister.

(2) The Minister may make such inquiry as he shall think necessary to enable him to come to a decision upon any appeal made to him under this section.

(3) Upon consideration of any appeal under this section the Minister may dismiss or allow such appeal or may vary any condition required to be inserted in a scheme under subsection (3) of section 9.

(4) The decision of the Minister in any appeal under this scheme shall be final and shall be binding upon the Committee and upon the owner of and all persons interested in the specified land concerned.

Effect of approval of scheme.

11. (1) Upon the final approval of a scheme by the Committee the Chairman shall certify a copy of such scheme and shall cause such copy to be delivered to the Registrar who shall deal with the same as if it were a memorandum delivered to him under section 96 of the Land Ordinance [Cap. 68.]:

Provided that the certification of the Chairman shall be deemed to be sufficient compliance with the requirements of subsection (1) of section 97 of the said Ordinance.

(2) Any condition incorporated in an approved scheme shall be deemed to have been incorporated in the lease of the land concerned, shall be endorsed upon the title thereof, and shall for all purposes be deemed to have been imposed under the provisions of subsection (4) of section 53 of the Land Ordinance [Cap. 68.].

PART IV
DISPOSAL OF SPECIFIED LAND

Recommendation for disposal of specified land.

12. (1) Where the owner of any specified land —
- (a) fails to submit a scheme as required by a development notice; or
 - (b) fails to comply with the provisions of an approved scheme; or

- (c) is, in the opinion of the Committee, unwilling or unable to cultivate such land in accordance with such scheme,

the Committee may recommend to the Yang di-Pertua Negeri that the whole or any specified portion of such land shall be acquired or sold at public auction:

Provided that the Committee shall not recommend that any portion of such land which is, at the date of such recommendation, cultivated or otherwise developed to the satisfaction of the Committee shall be so acquired or sold.

(2) The Committee, before making any recommendation under subsection (1), shall serve a notice of its intention so to do upon the owner of, and every person interested in, the land concerned.

(3) No recommendation under subsection (1) shall be made until after the expiration of a period of three months from the date of the service of the last notice served under subsection (2), and during such period the owner of, or any person interested in, the land concerned may make written representation to the Committee showing why such recommendation should not be made, and the Committee may also hear oral representations in that behalf made by such owner or person.

(4) If after consideration of any representations made under subsection (3) the Committee decides to recommend the acquisition or sale of the land concerned, it shall forward to the Yang di-Pertua Negeri such recommendation together with —

- (a) a full report of all circumstances of the case;
- (b) a full statement of the reasons for making such recommendation;
- (c) any written representations made under subsection (3); and
- (d) a summary of any oral representations made under the said subsection.

Order by Yang di-Pertua Negeri for disposal of specified land.

13. Where a recommendation has been made under section 12 the Yang di-Pertua

Negeri may decide that the specified land or portion thereof which was the subject of such recommendation shall be acquired or that it shall be sold by public auction.

Acquisition of specified land.

14. (1) Where any specified land is to be acquired as a result of a decision under section 13 the purposes of this Ordinance shall be deemed to be a public purpose and the Yang di-Pertua Negeri shall make a declaration regarding such land under the provisions of section 3 of the Land Acquisition Ordinance [*Cap. 69.*] and thereafter the provisions of subsection (2) apply.

(2) In the acquisition of any specified land as a result of the operation of this Ordinance —

- (a) the Director shall be deemed to be the authorised officer for the purposes of the Land Acquisition Ordinance [*Cap. 69.*]; and
- (b) the compensation to be paid shall be assessed at the amount which, at the date of commencement of this Ordinance, would have been fixed as the premium payable upon the alienation of such land had a lease thereof for a period of ninety-nine years been granted by the Government at that date.

Sale of specified land by public auction.

15. (1) Where any specified land is to be sold by public auction as a result of a decision under section 13, the Yang di-Pertua Negeri shall cause a notice to that effect to be published in the *Gazette* and thereupon the Director shall take immediate steps to effect such sale, and may, subject to the directions of the Committee, subdivide such land for the purpose of such sale.

(2) The Director shall cause such public notice to be given of any sale under this section as he may, in the interest of the parties or any of them, think advisable.

(3) The amount of the reserve price at any sale under this section shall be the amount which, at the date of commencement of this Ordinance, would have been fixed as the premium payable upon the alienation of the land concerned had a lease thereof for period of

ninety-nine years been granted by the Government at that date.

(4) The reserve price shall be communicated by notice to the owner of, and to any person interested in the land concerned not less than twenty-one days prior to the date fixed for the sale of such land, and such owner or person may, within fourteen days from the date of receipt by him of such notice, appeal to a judge whose decision thereon shall be final.

(5) Pending the determination of an appeal under subsection (4) the sale of the land concerned shall be postponed.

(6) The conditions of sale at a public auction under this section shall be settled by the Director and shall include such conditions as to cultivation as the Committee may require, and upon such sale the provisions of subsection (2) of section 11 shall apply to such conditions as if they were conditions incorporated in an approved scheme.

(7) The Director may postpone any sale under this section or, if upon the offer of land at public auction no sale is effected, may cause the land to be put up again for auction at some future date.

(8) Section 146 to 148 inclusive of the Land Ordinance [Cap.68.] shall apply in the case of a sale under this section:

Provided that in such application the said sections shall be read as if the word "Director" was substituted for the word "Collector" and the word "owner" was substituted for the word "defaulter".

(9) The amount realised at any sale under this section, less the expenses necessarily incidental thereto, shall be paid by the Director to the person or persons lawfully entitled thereto and in the case of any dispute as to which person or persons are so entitled the Director may apply to the High Court for relief by way of interpleader.

Value in exceptional cases.

16. Notwithstanding any provision of this Ordinance relating to the amount payable on the acquisition of specified land or to the amount of the reserve price at any sale of such land by public auction, if such land is registered in the name of any person other than the original lessee and such persons is able to satisfy the Director or the judge that the cost of the

acquisition of such land by him was greater than the amount which would otherwise be fixed under any such provision, such cost shall be substituted for such amount.

PART V
MISCELLANEOUS

Service of documents.

17. Any document required or authorised to be served by or under this Ordinance may be served —

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it addressed to such person at his usual or last known place of abode or business; or
- (c) in the case of an incorporated company or body, by delivering it to the secretary or clerk of such company or body at their registered or principal office or sending it in a registered prepaid letter addressed to such secretary or clerk at such office; or
- (d) if it is practicable after reasonable inquiry to ascertain the name or address of the person upon whom it is to be served, by fixing it to some conspicuous part of the land to which such document relates.

Offences.

18. Any person who —

- (a) opposes, obstructs or impedes any person in the execution of his duty or the performance of his powers under this Ordinance; or
- (b) opposes, obstructs or impedes the lawful occupation, or taking of possession, of any land under this Ordinance; or
- (c) procures, or attempts to procure, by any means an amount in consideration of a subdivision or sublease which is in excess of an amount specified in any

condition imposed under the provisions of subsection (2) of section 8,

shall be guilty of an offence and liable to a fine of one thousand ringgit or to imprisonment for three months.

Rules.

19. The Yang di-Pertua Negeri may make rules generally for carrying out the provisions of this Ordinance.

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