

NATIVE COURTS ENACTMENT 2026

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FOR REFERENCE ONLY (OCTOBER 2026)

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FIRST SCHEDULE

SECOND SCHEDULE

STATE OF SABAH

I assent,

TUN DATUK SERI PANGLIMA (DR.) MUSA
BIN HAJI AMAN,
Yang di-Pertua Negeri.

12 AUGUST, 2026.

No. 7 of 2026

An Enactment to provide for the establishment, jurisdiction, powers and procedures of the native courts and for related matters.

ENACTED by the Legislature of the State of Sabah as follows:

PART I PRELIMINARY

Short title, commencement and application

1. (1) This Enactment may be cited as the Native Courts Enactment 2026.

(2) This Enactment comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

(3) Except as otherwise provided in this Enactment or in any other written law, this Enactment shall only apply where all parties are natives.

Interpretation

2. (1) In this Enactment, unless the context otherwise requires —

“*adat*” has the meaning assigned to it in section 2 of the Majlis Hal Ehwal Anak Negeri Sabah Enactment 1998 [*No. 13 of 1998*];

“*adat fine*” means a penalty which may be imposed in accordance with *adat* or native customary law within the local jurisdiction of a Native District Court;

“*Adat Officer*” has the meaning assigned to it in section 2 of the Majlis Hal Ehwal Anak Negeri Sabah Enactment 1998;

“advocate” has the meaning assigned to it in section 2 of the Advocates Ordinance [*Cap. 2*];

“appellate court” means the Native High Court, in exercise of its appellate jurisdiction, or the Native Court of Appeal, as the case may be;

“Chief Judge” means the Chief Judge of the Native High Court appointed under section 24;

“Chief Justice” means the Chief Justice of the Native Court of Appeal appointed under section 24;

“Chief Registrar” means the Chief Registrar of the Native Court of Appeal appointed under section 29;

“child” means a child under the age of eighteen years;

“civil court” means any court established under Article 121 of the Federal Constitution or under section 3 of the Subordinate Courts Act 1948 [*Act 92*];

“Committee” means the Native Judicial Appointment Advisory Committee established under section 23;

“cost” includes fees, charges, disbursements, expenses and remuneration;

“Council” has the meaning assigned to it in section 2 of the Majlis Hal Ehwal Anak Negeri Sabah Enactment 1998;

“decision” means any judgment or order, but does not include any ruling made in the course of a hearing of any cause or matter which does not finally dispose of the rights of the parties;

“District Chief” has the meaning assigned to it in section 2 of the District Chief, Native Chief and Headman Enactment 2026;

“Elder” means any person appointed as an Elder under section 30;

“Headman” has the meaning assigned to it in section 2 of the District Chief, Native Chief and Headman Enactment 2026;

“Judge” means the Chief Justice, Chief Judge, Judge of the Native High Court or Judge of the Native District Court, as the case may be;

“*koiman-imanan*” means loss or damage suffered by reason of a breach of promise to perform a certain act under *adat* or native customary law;

“*lapau*” means a bigamous or polygamous act;

“local jurisdiction” means —

- (a) in the case of a Native District Court, the local limits of jurisdiction assigned under subsection 4(1);
- (b) in the case of a Native High Court, the local limits of jurisdiction assigned under subsection 5(1);

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

“Minister” means the Minister charged with the responsibility for the administration of native affairs;

“native” has the meaning assigned to it in the Interpretation (Definition of Native) Ordinance [*Cap. 64*];

“Native Chief” has the meaning assigned to it in section 2 of the District Chief, Native Chief and Headman Enactment 2026;

“native community” has the meaning assigned to it in the Interpretation (Definition of Native) Ordinance;

“native customary law” includes a native custom or body of customs, tradition, culture, rule and sanction, whether written or otherwise, having the force of law in Sabah;

“native court” means the Native Court of Appeal, the Native High Court or the Native District Court, as the case may be;

“native court advocate” means a person who has been admitted and enrolled as a native court advocate under section 31;

“Native Court of Appeal” means the Native Court of Appeal established under section 6;

“Native District Court” means the Native District Court established under section 4;

“Native High Court” means the Native High Court established under section 5;

“Native Superior Court” means the Native High Court or the Native Court of Appeal, as the case may be;

“native system of personal law” has the meaning assigned to it in section 2 of the Majlis Hal Ehwal Anak Negeri Sabah Enactment 1998;

“offence” means any offence under *adat* or native customary law;

“proceeding” means any proceeding in the native court and includes an application at any stage of a proceeding;

“Registrar” means the Chief Registrar of the Native Court of Appeal, Registrar of the Native High Court or Assistant Registrar of the Native District Court, as the case may be, appointed under section 29;

“*sogit*” means customary haematic penalty;

“*solod*” means the act of enticing a person who is betrothed or married; and

“Syariah Court” has the meaning assigned to it in subsection 2(1) of the Syariah Courts Enactment 2024 [No. 5 of 2024].

(2) All words and expressions used and not defined in this Enactment but defined in the Interpretation and General Clauses Enactment 1963 [No. 34 of 1963] shall have the meanings assigned to them respectively to the extent that such meanings do not conflict with *adat* or native customary law.

Objects of establishment of native courts

3. The objects of the establishment of native courts are for the administration and enforcement of —

- (a) *adat* or native customary law prevailing within the local jurisdiction of the native courts, so far as it is applicable and is not repugnant to natural justice or morality and is not, in principle, in conflict with the provisions of any law in force in Sabah; and
- (b) any written law which the native courts are authorized to administer and enforce.

PART II
ESTABLISHMENT OF NATIVE COURTS

Establishment of Native District Court

4. (1) The Yang di-Pertua Negeri may, by order published in the *Gazette*, establish so many Native District Courts as he may think fit and shall have the power to assign the local limits of jurisdiction of such Native District Courts.

(2) A Native District Court shall have jurisdiction to hear and determine any matter, subject to section 9, arising within its local jurisdiction.

(3) Each Native District Court shall —

- (a) consist of three Judges of the Native District Court who reside within the local jurisdiction of the Native District Court; and
- (b) be presided over by a Judge of the Native District Court as may be assigned by the Chief Justice.

(4) Every proceeding in the Native District Court shall be decided in accordance with the opinion of the majority of the Judges.

Establishment of Native High Court

5. (1) The Yang di-Pertua Negeri may, by order published in the *Gazette*, establish so many Native High Courts as he may think fit and shall have the power to assign the local limits of jurisdiction of such Native High Courts.

(2) A Native High Court shall have jurisdiction to hear and determine any matter, subject to section 9, arising within its local jurisdiction.

(3) Every proceeding in the Native High Court shall be heard and disposed of before the Chief Judge, or a Judge of the Native High Court, assisted by two Elders.

Establishment of Native Court of Appeal

6. (1) The Yang di-Pertua Negeri may, by order published in the *Gazette*, establish the Native Court of Appeal.

(2) Every proceeding in the Native Court of Appeal shall be —

- (a) heard and disposed of by three Judges assisted by two Elders;
- (b) presided over by the Chief Justice, or in the absence of the Chief Justice, by the Chief Judge; and
- (c) decided in accordance with the opinion of the majority of the Judges.

(3) The Native Court of Appeal shall sit at such times and at such places as the Chief Justice may appoint.

Seals of native courts

7. Each native court shall have and use, as occasion may require, a seal or stamp of such nature and pattern as may be prescribed by the Chief Justice by notification in the *Gazette*.

Process of native courts

8. (1) All writs, summonses, subpoenas, warrants, orders, rules, notices and other processes shall be —

- (a) issued and expressed to be issued by the Chief Justice, the Chief Judge or the Judge of the Native District Court, as the case may be, in the name of the Yang di-Pertua Negeri;
- (b) signed by the Registrar of the native court issuing or making such writs, summonses, subpoenas, warrants, orders, rules, notices or other processes; and

- (c) sealed or stamped with the seal or stamp of the native court issuing or making such writs, summonses, subpoenas, warrants, orders, rules, notices or other processes.

(2) Subject to any limitations imposed by or under any written law and so far as its nature permits, any writ, summons, subpoena, warrant, order, rule, notice and other process of a native court made in respect of any matter within its jurisdiction may be served and executed within Malaysia.

PART III

JURISDICTION AND POWERS

Jurisdiction of native courts

9. (1) The native courts shall have jurisdiction to hear and determine matters not within the jurisdiction of the Syariah Court or the civil court.

(2) Without prejudice to the generality of subsection (1), the native courts shall have jurisdiction to hear and determine the following matters:

- (a) cases arising from breach of *adat* or native customary law or both;
- (b) cases involving *adat* or native customary law including the personal law relating to —
 - (i) gifts, inheritance or succession, whether testate or intestate;
 - (ii) custody, guardianship, adoption, legitimacy and maintenance of children or dependants;
 - (iii) maintenance of spouse; and
 - (iv) breach of betrothal;

- (c) any matter relating to the solemnization of a marriage and the validity, nullity, divorce or dissolution of a marriage solemnised under *adat* or native customary law, including where, during the subsistence of such marriage, one spouse —
 - (i) has embraced the religion of Islam; or
 - (ii) has contracted a subsequent marriage under the Law Reform (Marriage and Divorce) Act 1976 [Act 164];
- (d) any ancillary matter arising from the nullity, divorce or dissolution of a marriage referred to in paragraph (c), including —
 - (i) the custody and care of a child;
 - (ii) the maintenance of a child, spouse or former spouse; and
 - (iii) the division of matrimonial assets;
- (e) cases involving *adat* or native customary law relating to —
 - (i) *koiman-imanan*;
 - (ii) matrimonial matter including *solod* and *lapau*;
 - (iii) insulting the modesty of a person or illicit relationships including *mianu-anu*;
 - (iv) traditional belief; or
 - (v) traditional knowledge and cultural expressions,where at least one party is a native;
- (f) any offence as may be prescribed by the rules made under section 49;

- (g) any matter relating to the interpretation or construction of any provision of this Enactment; and
- (h) any other matter in respect of which the native courts are empowered, by or under any written law, to exercise jurisdiction.

(3) In addition to and not in derogation of the jurisdictions specified in subsection (2), the native courts shall have the criminal jurisdiction conferred by the Native Courts (Criminal Jurisdiction) Act 1991 [Act 471].

Original jurisdiction of Native District Court

10. (1) The Native District Court shall have jurisdiction to hear and determine any case, action, suit or summons in relation to the matters in section 9 where the amount in dispute or the value of the subject matter does not exceed fifty thousand ringgit.

(2) The Native District Court may, if it is satisfied that any case, action, suit or summons before it would be more appropriately tried in the Native High Court, on its own motion or on the application of any party, order that the case, action, suit or summons be transferred to the Native High Court.

Original jurisdiction of Native High Court

11. (1) The Native High Court shall have original jurisdiction to hear and determine any case, action, suit or summons in relation to the matters in section 9 where the amount in dispute or the value of the subject matter exceeds fifty thousand ringgit.

(2) The Native High Court shall, in addition to its jurisdiction under subsection (1), have jurisdiction to hear and determine any case, action, suit or summons transferred from the Native District Court under subsection 10(2).

Local jurisdiction of native courts

12. The native courts shall have jurisdiction to hear and determine matters in section 9 where —

- (a) the cause of action arose;
- (b) the parties or one of the parties resides or has his place of business;
- (c) the facts on which the proceeding is based exist or alleged to have occurred; or
- (d) any land the ownership of which is disputed is situated,

within the local jurisdiction of the native court or, notwithstanding anything contained in this section, where all parties consent in writing, within the local jurisdiction of another native court of co-ordinate jurisdiction.

Native system of personal law

13. (1) The native court may, in any proceeding where the parties belong to, are deemed to belong to or identify with different native communities —

- (a) instruct the parties to determine the native system of personal law to be applicable in the proceeding; or
- (b) in the interest of justice, where the parties are unable to reach such determination under paragraph (a), apply any native system of personal law as it may consider appropriate.

(2) Notwithstanding subsection (1), the native system of personal law of the aggrieved party shall apply in any proceeding for matters under subparagraphs 9(e)(i), (ii) and (iii).

(3) In any case where one party is not a native, the native system of personal law of the native party shall apply.

Powers of native courts

14. (1) In exercising its jurisdiction under section 9, the Native District Court shall have power to —

- (a) order the payment of any *sogit*, compensation, damages, costs or *adat* fine, and determine the manner of such payment;
- (b) pass any sentence or impose any penalty which the Native District Court is authorized to pass or impose under this Enactment, *adat* or native customary law or any written law;
- (c) order the restitution of any movable or immovable property wrongfully taken or withheld;
- (d) grant orders for matters relating to a marriage solemnized under *adat* or native customary law, including protection order or ouster order;
- (e) grant orders for matters relating to the custody, guardianship, adoption or legitimacy of a child or dependant;
- (f) grant orders for matters relating to the maintenance of a child, dependant, spouse or former spouse, and the security for or the variation of such maintenance order;
- (g) order the division of property or asset;
- (h) grant orders for matters relating to inheritance and succession; and
- (i) grant such other orders or reliefs as may be necessary under *adat* or native customary law.

(2) The Native Superior Courts shall have all powers of the Native District Court in subsection (1) and in addition, shall have power to —

- (a) cancel or rectify any instrument or document executed under *adat* or native customary law;

- (b) annul or affirm adoptions made under *adat* or native customary law; and
- (c) order preservation, detention or custody of property pending final determination.

(3) In amplification and not in derogation of the powers conferred under this section or inherent in any native court, the native courts shall have such additional powers as set out in the First Schedule.

Power to issue summons, subpoena and warrant

15. (1) The native courts shall have the powers to issue summons, subpoena and warrant of arrest, and all such powers shall be exercised subject to and in compliance with any written law and the rules as may be prescribed under section 48.

(2) No warrant of arrest issued by the Native District Court shall be executed unless it is endorsed by a Judge of the Native High Court.

PART IV

APPEAL AND REVISION

Jurisdiction to hear and determine appeals

16. (1) The Native High Court shall have jurisdiction to hear and determine appeals for any judgment or decision of any Native District Court within its local jurisdiction.

(2) The Native Court of Appeal shall have jurisdiction to hear and determine appeals for any judgment or decision of the Native High Court in the exercise of its original, appellate or revisionary jurisdiction.

(3) Except as provided in subsection (4), an appeal may lie on a question of fact or *adat* or native customary law only or to both question of fact and *adat* or native customary law.

(4) An appeal from the Native High Court, in the exercise of its appellate jurisdiction, to the Native Court of Appeal shall be confined only to question of *adat* or native customary law.

Leave to appeal

17. (1) No appeal shall be heard and determined unless leave to appeal has been granted by the appellate court.

(2) An application for leave in subsection (1) shall be made within sixty days after the date on which the decision appealed against was given and such application shall operate as a stay of execution.

Notice of appeal

18. Every appeal shall be by notice in writing in the form as may be prescribed and shall be filed with the Registrar of the native court from which the appeal lies within sixty days after the date on which the decision appealed against was given.

Powers of appellate court

19. (1) The appellate court shall have power to —

- (a) affirm, set aside, reverse, amend or vary the judgment or decision of the Native District Court or the Native High Court, as the case may be;
- (b) take additional evidence;

- (c) order the native court from which the matter originates to take additional evidence;
- (d) order that a rehearing or a new trial be held by the same or by another native court of co-ordinate jurisdiction or otherwise;
- (e) draw inferences of facts, give any judgment, make any order which ought to have been given or made, and make such further or other orders as the case may require; or
- (f) dismiss the appeal.

(2) The parties to the appeal shall be present when additional evidence is taken under paragraph (1)(b) or (c).

(3) Where additional evidence is taken under paragraph (1)(c), such native court shall certify the evidence and write its opinion on the case with due consideration of such additional evidence and submit its opinion to the appellate court and the appellate court shall then proceed to determine and dispose of the appeal.

(4) A new trial under paragraph (1)(d) shall not be ordered on the ground of improper admission or rejection of evidence unless the appellate court is satisfied that such improper admission or rejection of evidence has caused substantial wrong or miscarriage of justice.

(5) The powers conferred to the appellate court in subsection (1) may be exercised notwithstanding that the notice of appeal relates only to part of the decision, and the powers may also be exercised in favour of all or any of the respondents or parties, although the respondents or parties have not appealed from or complained of the decision.

(6) Nothing in this section shall be deemed to limit or affect the inherent powers of the appellate court to make any order, not expressly provided for in this Enactment but which is otherwise recognized under *adat* or native customary law, as may be necessary to prevent injustice or abuse of process of the court.

Immaterial errors

20. (1) No judgment or decision of the native court shall be reversed or substantially varied on appeal, nor shall a new trial be ordered to be held, on account of any error, defect or irregularity not affecting the merits or the jurisdiction of the native court.

(2) No order shall be varied or declared void solely by reason of any defect in procedure or want of form.

Supervisory and revisionary jurisdiction

21. (1) The Native Court of Appeal shall have supervisory and revisionary jurisdiction over all Native High Courts, and the Native High Court shall have supervisory and revisionary jurisdiction over all Native District Courts within its local jurisdiction.

(2) The appellate court may, on its own motion or on the application of any party or interested person, at any stage of a proceeding, call for and examine any record of such proceeding.

(3) Upon examining the record of the proceeding under subsection (2), the appellate court may transfer such proceeding to itself or give such directions as to the further conduct of such proceeding as justice may require.

(4) Upon the appellate court calling for such record under subsection (2), all proceedings in question in the native court from which the record is called shall be stayed pending further order of the appellate court.

Discretion as to hearing parties

22. Subject to any written law, the appellate court shall, in exercising its powers of supervision and revision, have the discretion to allow any

party to be heard or not, but no final order to the prejudice of any person shall be made unless that person has had an opportunity of being so heard.

PART V

NATIVE JUDICIAL APPOINTMENT ADVISORY COMMITTEE

Native Judicial Appointment Advisory Committee

23. (1) There shall be established a Native Judicial Appointment Advisory Committee for the purpose of selecting and recommending the Judges to be appointed under section 24.

(2) The Committee shall consist of —

- (a) the Chief Justice, who shall be the Chairman of the Committee;
- (b) the Chief Judge;
- (c) the State Attorney General or his representative;
- (d) the Permanent Secretary of the Ministry of Local Government and Housing or his representative;
- (e) the President of the Council or his representative; and
- (f) two eminent persons, who are not members of the executive or other public service, appointed by the Chief Justice.

(3) The functions, duties and other matters relating to the Committee shall be as may be prescribed.

(4) The Committee may determine its own procedures.

(5) The members of the Committee shall be paid such allowances as the Minister may determine.

PART VI

APPOINTMENT OF JUDGES, REGISTRARS AND OTHER OFFICERS

Appointment of Judges

24. (1) The Yang di-Pertua Negeri shall —

- (a) on the recommendation of the Chief Minister, appoint the Chief Justice of the Native Court of Appeal and the Chief Judge of the Native High Court; and
- (b) on the recommendation of the Committee, appoint Judges of the Native High Court and Judges of the Native District Court.

(2) The appointment of the Judges in subsection (1) shall be published in the *Gazette*.

Qualification to be appointed as Judge of Native Superior Court

25. (1) A person is qualified to be appointed as a Chief Justice, Chief Judge or Judge of the Native High Court if —

- (a) he is a citizen;
- (b) he is a native born and domiciled in Sabah;
- (c) he is not an undischarged bankrupt or subject to any bankruptcy proceeding within Malaysia;
- (d) he had not been convicted of a charge in respect of —
 - (i) any offence involving fraud, dishonesty or moral turpitude;
 - (ii) any offence under any law relating to corruption;
 - (iii) any offence under *adat* or native customary law; or
 - (iv) any other offence punishable with imprisonment;

- (e) he has sufficient knowledge of *adat* and native customary law; and
- (f) he has been —
 - (i) a member of the Judicial and Legal Service of Malaysia or of the State legal service;
 - (ii) a native court advocate in active legal practice; or
 - (iii) an academician at a faculty of law or a law school at a university duly recognized by the Committee,for a period of not less than ten years.

(2) Any person who is qualified under subsection (1) may apply to the Committee for selection for appointment as a Chief Justice, Chief Judge or Judge of the Native High Court.

Qualification to be appointed as Judge of Native District Court

26. (1) A person is qualified to be appointed as a Judge of the Native District Court if —

- (a) he is a citizen;
- (b) he is a native born and domiciled in Sabah;
- (c) he is not an undischarged bankrupt or subject to any bankruptcy proceeding within Malaysia;
- (d) he had not been convicted of a charge in respect of —
 - (i) any offence involving fraud, dishonesty or moral turpitude;
 - (ii) any offence under any law relating to corruption;
 - (iii) any offence under *adat* or native customary law; or
 - (iv) any other offence punishable with imprisonment;

- (e) he has attended and successfully completed a native judicial course conducted by any institution recognized by the Committee; and
- (f) he is —
 - (i) a District Chief, Native Chief or Headman; or
 - (ii) an Elder.

(2) Any person who is qualified under subsection (1) may apply to the Committee for selection for appointment as a Judge of the Native District Court.

(3) A person who holds the office of District Chief, Native Chief or Headman shall resign from such office upon his appointment as a Judge of the Native District Court.

Tenure of office

27. (1) A Judge shall hold office until he attains the age of sixty-six years or until such later time as the Yang di-Pertua Negeri may approve.

(2) A Judge may at any time resign his office by notifying his intention in writing to the Committee and by writing under his hand addressed to the Yang di-Pertua Negeri.

Removal from office

28. (1) If the Chief Minister, or the Chief Justice after consulting the Chief Minister, represents to the Yang di-Pertua Negeri that a Judge ought to be removed on the ground of —

- (a) breach of any provision of the code of ethics issued under this Enactment; or

- (b) inability, from infirmity of body or mind or any other cause, to properly discharge the functions of his office,

the Yang di-Pertua Negeri shall refer the representation to the Committee and may, on the recommendation of the Committee, remove the Judge from office.

(2) The office of a Judge shall be vacated if —

- (a) he dies;
- (b) he is removed under subsection (1);
- (c) he becomes disqualified under this Enactment; or
- (d) he resigns under subsection 27(2).

(3) The recommendation under subsection (1) may only be made after the Judge has been given an opportunity to be heard.

(4) The vacation of office under subsection (2) shall not affect the validity of any judgment, decision or order made by the Judge before the date of such vacation of office.

Appointment of Registrars, etc.

29. (1) The Yang di-Pertua Negeri may, on the recommendation of the Chief Justice, appoint the Chief Registrar of the Native Court of Appeal, Registrar of the Native High Court and Assistant Registrars of the Native District Court from amongst the members of the State public service.

(2) There shall be such number of bailiffs, process servers and other officers, from amongst the members of the State public service, as may be necessary or expedient to assist the native court in the exercise of its jurisdiction and powers.

(3) The Registrar and other officers of the native courts shall be subject to any directions as the Chief Justice may issue.

(4) The Registrar of the Native High Court or any other officer as may be assigned by the Chief Judge shall be the Sheriff.

(5) The Sheriff shall —

- (a) execute all writs, summonses, subpoenas, warrants, orders, rules, notices, commands and other processes of any native court which are given to him by such native court for that purpose; and
- (b) make a return of such writs, summonses, subpoenas, warrants, orders, rules, notices, commands and other processes of the native court together with the manner of execution to the native courts from which the process issued.

(6) The Sheriff may, in executing any writ of seizure and sale or any other writ of execution of judgment of the native court, effect an entry into any building and use such force as is reasonably necessary to effect an entry.

PART VII

REGISTER OF ELDERS

Register of Elders

30. (1) There shall be established a Register of Elders which shall be kept and maintained by the Chief Registrar for the purposes of this Enactment.

(2) The Chief Justice may, on the recommendation of the Council, appoint any persons as he may think fit as Elders and cause the particulars of such persons to be entered in the Register of Elders.

(3) The Chief Justice shall, after consultation with the Judge of the Native Superior Court hearing a proceeding, assign two Elders to assist the Native Superior Court in such proceeding.

(4) Where a question of *adat* or native customary law of a particular native community arises in any proceeding before a Native Superior Court, the Chief Justice shall, in assigning the Elder for the purposes of subsection (3), select the Elder who is a member of such native community or who, in the opinion of the Chief Justice, has sufficient knowledge of the *adat* or native customary law of such native community.

(5) The Elders assigned to assist the Native Superior Court under subsection (3) shall be paid such allowances as may be prescribed.

PART VIII

NATIVE COURT ADVOCATE

Native court advocate

31. (1) The Chief Justice may, upon payment of the prescribed fee, admit and enroll any person as a native court advocate if —

- (a) he is a native born and domiciled in Sabah;
- (b) he is an advocate;
- (c) he has a valid certificate to practise under the Advocates Ordinance; and
- (d) he has sufficient knowledge of *adat* and native customary law.

(2) Subject to subsection (3), no person, other than a native court advocate may appear on behalf of any party in any proceeding.

(3) No native court advocate shall appear on behalf of any party in a proceeding before the Native District Court.

PART IX
PROCEEDINGS IN NATIVE COURTS

Proceedings to be in open court

32. (1) All proceedings shall, subject to any other written law, be heard in open court to which the public may have access.

(2) Notwithstanding subsection (1), a native court may, in the interest of justice, order the whole or any part of any proceeding before it be held in chambers.

Proceedings through remote communication technology

33. (1) Without limiting section 32, the native courts may, in the interest of justice, conduct any proceeding through a remote communication technology.

(2) The place in which the native court is held to conduct the proceeding through a remote communication technology shall be deemed to be within the local jurisdiction of such native court.

(3) For the purposes of this section —

“place” includes cyberspace, virtual place or virtual space; and

“remote communication technology” includes a live video link, a live television link or other digital or electronic means of communication.

Applications

34. (1) Whenever an application may be made either to the Native District Court or the Native High Court, it shall be made in the first instance to the Native District Court.

(2) Whenever an application may be made either to the Native High Court or the Native Court of Appeal, it shall be made in the first instance to the Native High Court.

Incidental directions and interim orders

35. (1) The Judge of the Native Superior Court may, at any time in any proceeding pending before the Native Superior Court, make —

- (a) any direction incidental to but not involving the decision of the proceeding;
- (b) any interim order to prevent prejudice to the claims of parties pending the hearing of the proceeding;
- (c) any order for security for costs; and
- (d) any order for the dismissal of a proceeding for default in furnishing security so ordered under paragraph (c).

(2) Every order made under subsection (1) may, upon application by the aggrieved party made within fourteen days after the order is served, be affirmed, varied or discharged by the Native Superior Court.

Continuation of proceedings

36. (1) If, in the course of any proceeding or in the case of a reserved judgment, at any time before the delivery of the judgment, any Judge hearing the proceeding is unable, through illness or any other cause, to attend the proceeding or otherwise exercise his functions as a Judge, the hearing of the proceeding shall continue before, and judgment or reserved judgment, as the case may be, shall be given by —

- (a) in the Native Court of Appeal, the remaining Judges sitting in the Native Court of Appeal;
- (b) in the Native High Court, a Judge of the Native High Court as may be assigned by the Chief Justice; or

- (c) in the Native District Court, the remaining Judge sitting in the Native District Court,

and such native court shall, for the purposes of the proceeding, be deemed to have been duly constituted.

(2) If, in the case of a proceeding before the Native Court of Appeal or the Native District Court, more than one Judge are unable, through illness or any other cause, to attend the proceeding or otherwise exercise their functions as Judges, the proceeding shall be reheard.

Judgment of Native Superior Court

37. The Native Superior Court shall give judgment after having recorded and considered the opinion of the Elders.

Adat fine, compensation, etc.

38. (1) The native court may order that any *adat* fine, compensation, damages, penalty, restitution or *sogit* be payable in cash or in kind, in accordance with *adat* or native customary law and in such manner as may be prescribed.

(2) When a native court imposes any *adat* fine, compensation, damages, penalty, restitution or *sogit* under subsection (1), such native court shall have the power to direct by its order that in default of payment of such *adat* fine, compensation, damages, penalty, restitution or *sogit*, the person so ordered shall be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) The term of imprisonment imposed under subsection (2) shall terminate when the *adat* fine, compensation, damages, penalty, restitution or *sogit* is paid or levied by the due process of law.

Mediation

39. At any stage of any proceeding, the native court may, if it thinks fit, direct that the dispute between the parties be referred to mediation before a District Chief, Native Chief or Headman, as the case may be.

Cognizance of offence

40. (1) Where it appears to the Judge, in the course of any proceeding, that an offence may have been committed against *adat* or native customary law, the Judge shall record the facts and circumstances relating to such offence and shall refer the matter to the *Adat* Officer for investigation.

(2) Where a proceeding is instituted for the offence referred to the *Adat* Officer under subsection (1), the Judge taking cognizance of such offence shall be recused and such proceeding shall be heard by another Judge.

PART X MISCELLANEOUS

Language and record

41. (1) Every documentary record of proceedings in a native court shall be in the national language or in the English language, but the conduct of proceedings may be in the national language, English language or any native dialect as the circumstances of the particular case may require.

(2) Each native court shall keep and have in custody a complete and correct record of all proceedings before it and shall submit such record to the Chief Justice in such form and manner as may be determined by the Chief Justice.

Account

42. Each native court shall keep and maintain full and proper records relating to its finances and shall account for all monies received in accordance with this Enactment or the rules made under section 48.

Protection of Judges and officers

43. (1) No Judge shall be liable to be sued in any court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, provided that at the time he in good faith believed himself to have jurisdiction to do or order the act complained of.

(2) No officer of any native court or other person bound to execute the lawful warrant or order issued by any Judge shall be liable to be sued in any court for the execution of such warrant or order which he would be bound to execute if such warrant or order were within the jurisdiction of the Judge issuing such warrant or order.

(3) No Elder shall be liable to be sued in any court for any act done by him in the discharge of his duties under this Enactment.

(4) For the purposes of this section, “court” includes the native court, the civil court and the Syariah Court.

Restriction on discussion of conduct of Judge

44. The conduct of a Judge shall not be discussed in the Legislative Assembly except on a substantive motion of which notice has been given by not less than one quarter of the total numbers of the members of the Legislative Assembly.

Limitation period

45. (1) Subject to subsection (2), no proceeding shall be heard before any native court if such proceeding is instituted after the limitation period as prescribed under the Second Schedule.

(2) Where the limitation period prescribed for any proceeding expires on a weekly or public holiday, such proceeding may be instituted on the day immediately after such weekly or public holiday.

(3) In computing the limitation period prescribed for any proceeding, the day from which such limitation period is to be computed shall be excluded.

Power to issue code of ethics and practice directions

46. The Chief Justice may, on the recommendation of the Chief Judge, issue —

- (a) code of ethics which may include provisions on the procedure to be followed and sanctions which shall be imposed in relation to a breach of any provisions of the code of ethics; and
- (b) such practice directions, not inconsistent with this Enactment, as may be necessary for the purpose of carrying into effect the provisions of this Enactment.

Rules Committee

47. (1) There shall be established a Rules Committee for the purpose of making the rules under section 48.

(2) The Rules Committee shall consist of —

- (a) the Chief Justice, who shall be the Chairman of the Committee;
- (b) the Chief Judge;

- (c) the State Attorney General or his representative;
- (d) the President of the Council or his representative; and
- (e) persons appointed by the Chief Justice for such period as he may specify in writing as follows:
 - (i) a Judge of the Native High Court;
 - (ii) a Judge of the Native District Court;
 - (iii) a native court advocate; and
 - (iv) three other persons who the Chief Justice may deem fit and suitable.

(3) The Chief Registrar shall be the Secretary to the Rules Committee.

(4) The Rules Committee may determine its own procedure.

(5) The members of the Rules Committee shall be paid such allowances as the Minister may determine.

(6) Rules of native courts which have financial implications shall be referred to the Government for approval.

(7) All rules made by the Rules Committee shall be published in the *Gazette*.

Rules of native courts

48. The Rules Committee may make rules of native courts for the following purposes:

- (a) for regulating and prescribing the procedure and practice of the native courts including —
 - (i) the procedure and practice to be followed in any proceeding through a remote communication technology;

- (ii) the forms to be used for the purposes of this Enactment;
- (iii) the taking and giving of evidence;
- (iv) the proceedings which may be heard and the jurisdiction which may be exercised by the Judges in open court or in chambers;
- (v) the manner of enforcement and the modes of execution of the decrees, judgments and orders of the native courts;
- (vi) the records to be kept by native courts;
- (b) to prescribe the manner of payment of any *adat* fine, compensation, damages, penalty, restitution and *sogit*;
- (c) to prescribe the fees payable under this Enactment and for any matter relating to the costs of proceedings;
- (d) to prescribe the procedure for mediation;
- (e) to prescribe the jurisdiction, powers and duties of the Registrars;
- (f) to prescribe the functions, duties and other matters relating to the Committee;
- (g) to prescribe the selection process and method to be applied by the Committee in making its recommendation for the appointment of Judges;
- (h) to prescribe the rates and scales of allowances to be paid to any Elder assigned to assist the Native Superior Court;
- (i) for regulating the admission and enrollment of native court advocate; and
- (j) to prescribe any other matters required to be prescribed under this Enactment.

Power to make rules in relation to *adat* and native customary law

49. (1) The Yang di-Pertua Negeri may, on the recommendation of the Council, make rules to prescribe the *adat* and native customary law relating to the matters within the jurisdiction of the native courts.

(2) Any rules made under this section may prescribe any act or omission in contravention of the rules to be an offence and may prescribe penalties of a fine not exceeding five thousand ringgit or imprisonment for a term not exceeding two years or to both.

PART XI

REPEAL, SAVING AND TRANSITIONAL

Repeal, saving and transitional

50. (1) The Native Courts Enactment 1992 is repealed.

(2) Any proceeding pending before —

- (a) the Native Court established under the repealed Enactment shall continue to be heard and determined by the Native District Court established under this Enactment;
- (b) the District Native Court established under the repealed Enactment shall continue to be heard and determined by the Native High Court established under this Enactment; and
- (c) the Native Court of Appeal established under the repealed Enactment shall continue to be heard and determined by the Native Court of Appeal established under this Enactment.

(3) Any judgment, decision or order made under the repealed Enactment shall be valid and enforceable under this Enactment as if such

judgment, decision or order were made by the native courts of co-ordinate jurisdiction established under this Enactment.

(4) Any rules, directions, notices, forms, appointments, authorizations or other instruments made, issued or granted under the repealed Enactment and subsisting immediately before the coming into operation of this Enactment shall, so far as they are not inconsistent with this Enactment, continue in force as if made, issued or granted under this Enactment until amended, revoked, replaced or otherwise terminated under this Enactment.

(5) Any *adat* fine, compensation, damages, penalty or *sogit* imposed under the repealed Enactment and remaining unpaid immediately before the coming into operation of this Enactment shall be deemed to have been imposed under this Enactment and may be enforced accordingly.

(6) Any advocate duly registered as a Native Court of Appeal advocate under the repealed Enactment shall be deemed to have been admitted and enrolled as a native court advocate under this Enactment.

(7) Notwithstanding subsection 4(3), for the period of five years after the coming into operation of this Enactment, any proceeding in the Native District Court may be heard and presided over by any Judge of the Native District Court as may be assigned by the Chief Justice.

(8) Notwithstanding subsection 27(1), for the period of ten years, or such earlier period not being earlier than five years, as may be determined by the Minister, after the coming into operation of this Enactment, a person who has attained the age of sixty-six years may be appointed as a Judge of the Native Superior Court if he otherwise qualifies to be appointed under this Enactment, and a person so appointed shall hold office until he attains the age of seventy-five years or until he is removed or his office is vacated in accordance with section 28.

FIRST SCHEDULE

[Subsection 14(3)]

ADDITIONAL POWERS OF THE NATIVE COURTS

***Res judicata* and multiplicity of proceedings**

1. Power to dismiss or stay proceedings where the matter in question is *res judicata* between the parties, or where by reason of multiplicity of proceedings in any court the proceedings ought not to be continued.

Service out of jurisdiction

2. Power to allow service of its process outside Sabah.

Service

3. Subject to any written law, power to order service of its process at any place or time and in any manner, and to order that service be deemed to have been effected at any time.

Stay of proceeding

4. Power, on its own motion or on application, to stay any proceeding.

Set-off and counterclaim

5. (1) Power to allow a defence of set-off in any case.

(2) Where in any action a set-off or counterclaim is established as a defence against the plaintiff's claim, the native court may, if the balance is in favour of the defendant, give judgment for the defendant for the balance or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case, but no relief exceeding that which the native court has otherwise jurisdiction to award shall be given to the defendant upon set-off or counterclaim.

Discovery and interrogatories

6. Power to order discovery of facts or documents by any party or person in such manner as may be prescribed.

Process to compel attendance

7. (1) Subject to the provisions of this paragraph, power to issue process to secure the attendance of any person in native court for any purpose, whether by warrant of arrest or summons, and to require any person to give security for his appearance or to meet any claim or demand, in accordance with such manner as may be prescribed.

(2) In default of compliance with any such order for security, or in order to ensure the attendance in native court of any person, the native court may order that the person be committed to prison for such period not exceeding six months and in accordance with such manner as may be prescribed.

(3) No proceeding shall be commenced to compel the attendance of any person who, by virtue of any written law, is exempted from personal attendance in the native court.

(4) The native court may by notice addressed to the officer in charge of the prison require any person in prison be brought before it for any purpose relating to any matters within the jurisdiction of such native court.

Committal

8. (1) Power to commit to prison for such period, not exceeding six months, and in such manner as may be prescribed, any person who willfully disobeys or fails to comply with any order of the native court, or who, with a view to defeating the ends of justice or preventing or delaying the satisfaction of a decision or order passed, or which may be passed against him, flees or attempts to flee the jurisdiction, or disposes or attempts to dispose of any property, or evades or attempts to evade the service on him of any process of the native court.

(2) No order for arrest or committal under this paragraph or paragraph 7 shall operate to discharge or satisfy any debt.

Certified copies

9. Power to issue and use for any purpose certified copies of any proceeding in the native court, and to use and act upon certified copy issued by another native court.

Costs

10. Power to award costs of any proceeding including proceeding which have been stayed.

Execution of documents

11. Power to execute, or direct the Registrar to execute, any transfer or conveyance which any person has been ordered by the native court to execute, if he has neglected or refused to execute the transfer or conveyance, and such transfer or conveyance shall operate to all intents as if executed by that person.

Execution

12. (1) Power to examine any person as to his or any other person's property or as to any disposal of such property.

(2) Power to act in aid of another native court by executing or carrying out any judgment or order of such native court in like manner as it could itself have done to the extent and in accordance with such manner as may be prescribed.

(3) Power, in the course of, or in connection with, the execution of a judgment or order, to make all proper orders, deal with property and award damages or compensation, arising out of the execution, notwithstanding the value of the property or amount of the damages or compensation exceed the pecuniary limit of jurisdiction of the native court.

Discharge of orders

13. Power to discharge, vary or suspend the enforcement of any of its judgment or orders to the extent and in the manner as may be prescribed.

Interest

14. Power to direct interest to be paid on debts, including judgment debts.

Enlargement or abridgement of time

15. Power to enlarge or abridge the time prescribed in this Enactment or by any written law in relation to *adat* or native customary law for doing any act or taking any proceeding, but such enlargement shall not be made after the expiration of the time prescribed.

Interpleader

16. Power to grant relief by way of interpleader and to order the sale of any property subject to interpleader proceedings.

Sale of native title land

17. Power to direct a sale instead of partition in any action for partition of native title land, and where it appears necessary or expedient, to order such land or any part of the land to be sold, and to give all necessary and consequential directions.

Writ of seizure and sale

18. Power to enforce judgment of the native court for the payment of money to any person by writ of seizure and sale, under which all properties, movable or immoveable, of whatever description, of a judgment debtor may be seized, except properties which are exempt from seizure and sale under any written law.

Other execution

19. Power to enforce a judgment of the native court in the manner as may be prescribed.

Contempt

20. Power to take cognizance of any contempt of court and to punish such contempt with a fine not exceeding fifty ringgit or imprisonment for a term not exceeding one week, to such extent and in such manner as may be prescribed.

Interim payments

21. Power to order interim payments.

Powers under other laws

22. Any power as may be conferred upon the native courts by any written law.

SECOND SCHEDULE

[Section 45]

PART I

SUITS FOR WHICH THE LIMITATION PERIOD IS ONE YEAR

1. For *sogit* payable by any person who remarries before the bereavement period of his or her spouse's death is over;

Limitation period begins when the remarriage becomes known to the aggrieved person.

2. For *sogit* payable by any person who commits *lapau*;

Limitation period begins when the *lapau* becomes known to the aggrieved person.

FOR REFERENCE ONLY (OCTOBER 2026)

3. For *sogit* payable by a woman who gives birth in the house belonging to or in the lawful possession of another person;

Limitation period begins when the woman gives birth.

4. For *adat* fine, *sogit* or compensation payable by any person who commits an offence in respect of —

- (a) burning, digging or damaging a grave;
- (b) burying a corpse;
- (c) the death of a person in a house or farm land belonging to or in the lawful possession of another person who is not a relative of the deceased;

Limitation period begins when the offence becomes known to the plaintiff.

5. For defamation —

- (a) for *sogit* for libel, limitation period begins when the libel is published;
- (b) for *sogit* for slander, limitation period begins when the words and gestures are spoken or expressed.

6. For *sogit* payable by the defendant for offence in respect of *mianu-anu* or adultery;

Limitation period begins when the *mianu-anu* or adultery becomes known to the plaintiff.

7. For *adat* fine or compensation for offence in respect of indecent assault or sexual harassment;

Limitation period begins when the offence is committed.

FOR REFERENCE ONLY (OCTOBER 2026)

8. For *sogit* and *adat* fine payable by a person who entices or elopes with a person's daughter or son;

Limitation period begins when the enticement or elopement becomes known to the plaintiff.

PART II

SUITS FOR WHICH THE LIMITATION PERIOD IS THREE YEARS

1. For *sogit* payable by the defendant in respect of the offence of incest;

Limitation period begins when the incestuous act becomes known to the plaintiff.

2. For *adat* fine payable in respect of —

- (a) returnable dowry;
- (b) betrothal gift;
- (c) expenses incurred during the betrothal negotiation or arrangement;
- (d) breach of promise to marry;
- (e) enforcement of a term in a collateral agreement to a betrothal;

Limitation period begins when the betrothal is terminated or deemed to be terminated or when the contract to marry is breached.

3. For compensation of *solod* payable by a person who entices an engaged or married person;

Limitation period begins when the enticement becomes known to the plaintiff.

4. For *adat* fine or return of dowry and wedding expenses from an enticed married person;

Limitation period begins when the enticement becomes known to the plaintiff.

PART III

SUITS FOR WHICH THE LIMITATION PERIOD IS SIX YEARS

1. For monthly maintenance from a spouse where a separation or divorce is granted by the native court as a result of a breach of any *adat* or native customary law;

Limitation period begins when the separation or divorce is granted by the native courts.

2. Any suit for which no limitation period is provided in this Schedule;

Limitation period begins when the right to sue or claim arises, or when the offence becomes known to the plaintiff, or when any payment due becomes payable.

PART IV

SUITS FOR WHICH THE LIMITATION PERIOD IS TWELVE YEARS

1. Execution of judgment or order of the native courts;

Limitation period begins when the judgment or order is awarded.

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Wednesday, the 22nd day of July, 2026.

DATUK SERI PANGLIMA HAJI KADZIM BIN HAJI M. YAHYA,
Speaker,
State Legislative Assembly.