

NATIVE COURTS ENACTMENT 1992

NATIVE COURTS (REGISTRATION OF NATIVE COURT OF APPEAL ADVOCATES) RULES 1995

In exercise of the powers conferred by section 30 of the Native Courts Enactment 1992 [En. No. 3 of 1992.], the Yang di-Pertua Negeri has made the following Rules:

PART I PRELIMINARY

Short title and commencement.

1. These Rules may be cited as the Native Courts (Registration of Native Court of Appeal Advocates) 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 -

“Committee” means the Registration of Native Court of Appeal Advocates Committee established under rule 3;

“Native Court of Appeal Advocate” means the Native Court of Appeal advocate registered in accordance with the provisions under these Rules;

“Permanent Secretary” means the Permanent Secretary of the Ministry which is for the time being responsible for the administration of native affairs.

PART II
ESTABLISHMENT OF THE REGISTRATION OF NATIVE COURT
OF APPEAL ADVOCATES COMMITTEE

Establishment of Committee.

3. There shall be established a Committee to be called the Registration of Native Court of Appeal Advocates Committee which shall regulate the registration of Native Court of Appeal advocates in the State of Sabah.

Membership of Committee.

4. (1) The Committee shall consist of -

- (a) The Permanent Secretary as Chairman;
- (b) the State Attorney-General or his representative;
- (c) the Director of Pejabat Hal-Ehwal Anak Negeri Sabah as Secretary; and
- (d) two District Chiefs appointed by the Minister.

(2) Members of the Committee appointed under rule 4 (1) (d) shall hold the office for a period not exceeding 3 years and they shall be eligible for re-appointment.

Termination of service and resignation.

5. (1) The appointment of members under rule 4 (1) (d) may be terminated at any time by the Minister without assigning any reason thereto.

(2) Any member of the Committee appointed under rule 4 (1) (d) may resign at any time by giving a notice thereof to the Minister.

Meeting of Committee.

6. (1) The Chairman shall preside over any meeting of the Committee and if he is absent, the members present may elect any one amongst them to chair the meeting.

- (2) Three members shall form a quorum for a meeting.
- (3) The resolution of every meeting of the Committee shall be unanimous or that of the majority of its members.
- (4) Subject to this rule and any directive of the Minister, the Committee shall regulate its own procedure.

PART III
QUALIFICATIONS FOR NATIVE COURT OF APPEAL ADVOCATE

Qualifications.

- 7. No person shall be registered as a Native Court of Appeal advocate unless he -
 - (a) possesses a valid certificate to practise as an advocate in the High Court in Sabah and Sarawak;
 - (b) is a Malaysian citizen of Sabah origin and normally resident in Sabah;
 - (c) has attained the age of twenty-one years;
 - (d) is a person of good character;
 - (e) is fluent in Bahasa Malaysia;
 - (f) has not been convicted in Malaysia or elsewhere of a criminal offence indicating fraud, dishonesty or moral turpitude; and
 - (g) has not been adjudicated bankrupt or is not subject to any bankruptcy proceedings.

PART IV
APPLICATION AND REGISTRATION

Application.

8. (1) An application for registration as a Native Court of Appeal advocate shall be made by -

- (a) submitting an application in Form 1;
- (b) submitting a certified true copy of the current certificate to practise as an advocate of the High Court in Sabah and Sarawak;
- (c) furnishing such additional information as may be required by the Committee.

(2) An applicant shall attend an interview to be conducted by the Committee at such place and time as may be fixed by the Committee.

Registration.

9. (1) The Committee may, in its discretion, approve an application and register a person as a Native Court of Appeal advocate and issue a certificate in Form 2.

(2) Any person whose application has been rejected may appeal to the Minister for reconsideration whose decision shall be final.

(3) The name of any person registered as a Native Court of Appeal advocate under this rule shall be published in the *Gazette*.

Revocation.

10. (1) The Committee may, in its discretion, revoke any registration as a Native Court of Appeal advocate at any time without assigning any reason thereto.

(2) The registration of any person as a Native Court of Appeal advocate shall automatically be revoked upon his conviction for any criminal offence or upon his adjudication as a bankrupt.

Fee.

11. The fee payable on registration or re-registration as a Native Court of Appeal advocate by any person shall be 120 ringgit per annum.

PART V
TENURE AND RE-REGISTRATION

Registration and tenure.

12. The registration of any person as a Native Court of Appeal advocate shall be for a period not exceeding two years.

Application for re-registration.

13. (1) An application for re-registration as a Native Court of Appeal advocate shall be made by submitting an application in Form 3.

(2) The application shall be made not less than one month before the date of expiry of the current registration, and any application received after that date shall be rejected.

(3) An applicant for re-registration, if so required by the Committee, shall make himself available for an interview by the Committee.

Re-registration.

14. (1) The Committee may, in its discretion, grant or refuse any application for re-registration as a Native Court of Appeal advocate.

(2) In granting an application for re-registration the Committee may, in its discretion, impose such conditions and limitations as it thinks fit:

Provided that no person shall be re-registered before the expiration of one year from the date his registration is revoked under rule 10.

PART VI
REGISTER

Native Court of Appeal advocates register.

15. The Secretary of the Committee shall keep a Native Court of Appeal advocates register and enter therein -

- (a) the name of every Native Court of Appeal advocate;
- (b) the name of his legal firm;
- (c) his correspondence address;
- (d) date of his registration or re-registration.

Application to remove name from register.

16. Any Native Court of Appeal advocate may at any time apply in writing to the Committee to have his name removed from the register.

PART VII
GENERAL PROVISION

No action against Committee.

17. No action or proceedings shall lie against the Committee or any member thereof for any act or thing done under these Rules unless it is proved to the Court that the act or thing was done in bad faith or with malice.

SCHEDULE

FORM 1
(Rule 8 (1) (a))

APPLICATION FOR REGISTRATION AS A
NATIVE COURT OF APPEAL ADVOCATE

To:

The Chairman,
Registration of Native Court of Appeal,
Advocates Committee,
KOTA KINABALU.

I hereby apply for registration as a Native Court of Appeal advocate in accordance with the Native Courts (Registration of Native Court of Appeal Advocates) Rules 1995 and submit the following:

1.
 - (a) two recent passport-sized photographs;
 - (b) one photocopy of I.C. (both sides) and change of address card (if applicable);
 - (c) a money order/crossed cheque for RM120.00 for one year; and
 - (d) two certificates of good character.
2. Particulars of applicant (to be filled by applicant):
 - (a) Name (in capital letters):
 - (b) Identity Card No:
 - (c) Date of Birth:
 - (d) Place of Birth:
 - (e) Name and address of Employer/Firm:

FORM 3

(Rule 13 (1))

APPLICATION FOR RE-REGISTRATION AS
A NATIVE COURT OF APPEAL ADVOCATE

To:

The Chairman,
Registration of Native Court of Appeal,
Advocates Committee,
KOTA KINABALU.

I hereby apply for re-registration as a Native Court of Appeal advocate in accordance with the Native Courts (Registration of Native Court of Appeal Advocates) Rules 1995 and submit the following:

1. A money order/crossed cheque for RM120.00.
2. Particulars of applicant (To be filled by applicant):
 - (a) Name (in capital letters):
 - (b) Identity Card No.:
 - (c) Date of current registration:
 - (d) Date of expiration of current registration:
 - (e) Name and address of Employer/Firm:

Telephone:
 - (f) Residential address:

Made this 21st day of December, 1995.

By His Excellency's Command,

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Datuk Stephen Foo Kiat Shin
State Attorney-General, Sabah

Sabah LawNet