

Customary Tenure Enactment - Cap. 215

Readings in Malay Adat Laws.

Appendix II 1 December 1926.

APPENDIX II

STATUTES

Customary Tenure Enactment. Chapter 215 of the revised laws of the F.M.S. 1936.

Customary Tenure (Amendment) Ordinance No. 23 of 1949.

Customary Tenure (State of Negri Sembilan) Ordinance No. 33 of 1952.

Customary Tenure (Lengkongan Lands) Enactment No. 4 of 1960.

Undang of Rembau (Lands) Enactment No. 2 of 1949.

Small Estates (Distribution) Ordinance No. 34 of 1955.

Small Estates (Distribution) (Amendment) Ordinance No. 26 of 1959.

N.S.

1 of 1926.

1 of 1930.

N.S.O.C.

1 of 1932.

1 of 1934.

Short title.

CUSTOMARY TENURE ENACTMENT (Cap. 215)

An Enactment to consolidate and amend the law relating to Customary Tenure.

[1st December, 1926.]

1. (i) This Enactment may be cited as the Customary Tenure Enactment.

(ii) This Enactment shall be read and construed with the Land Code, but so that nothing in that Enactment shall be deemed to prevail against the provisions hereof.

(iii) Except as herein specially otherwise enacted, nothing shall affect the past operation of the Customary Tenure Enactment, 1909, or of any order made thereunder or invalidity of anything done or suffered under that Enactment before the commencement hereof.

Interpretation.

N.S.O.C.

1 of 1932.

2. In this Enactment—

'custom' shall mean the customary land law of Malays resident in the districts of Kuala Pilah, Tampin and Jelebu, who are members of one of the tribes mentioned in Schedule B;

'customary land' shall mean land held by any entry in the mukim register which has been endorsed under the provisions of sub-sections (i) and (ii) of Section 4 of this Enactment or under Section 2 of 'The Customary Tenure Enactment, 1909';

'customary estate' shall mean and include customary land and charges and leases of customary land, which are registered in the name of a deceased person;

'customary heir' shall mean the person who is in accordance with the custom entitled to be registered as owner of the customary estate of a deceased person;

'maternal' when used in connection with brothers or sisters means born of the same mother but not necessarily by the same father;

'lembaga' includes any person appointed to act as lembaga under the provisions of Section 2A.

'Principal Chief' includes the Tengku Besar Tampin and the Penghulus, Ulu Muar, Terachi, Jempol, Gunong Pasir, Gemenchich and Inas.

*Appointment
of acting
lembagas.
N.S.O.C.
1 of 1932.*

2A. (i) If it shall at any time appear to any Undang or Principal Chief that

- (a) the office of any one of his lembagas is vacant, or
- (b) any one of his lembagas is unable by reason of sickness or mental or physical infirmity or absence from the district to carry out his duties as lembaga,

such Undang or Principal Chief may appoint any other person to act as lembaga for the purposes of exercising the powers and carrying out the duties conferred and imposed on a lembaga by this Enactment.

(ii) Any appointment made in the circumstances specified in paragraph (a) of sub-section (i) shall lapse when the office of lembaga ceases to be vacant and any other appointment made under sub-section (i) may at any time be revoked by the Undang or Principal Chief, as the case may be.

(iii) The Undang or Principal Chief, as the case may be, shall notify the Collector of the district in writing whenever he makes or revokes an appointment under this section.

*Male
registered
owners of
customary
land:
temporary
provisions.*

3. (i) In any case where prior to the coming into force of this Enactment any male shall have been registered as owner of any land, the title for which shall have been endorsed as customary land under the provisions of 'The Customary Tenure Enactment, 1909', such male registered owner may make application to the Collector, within the period of one year from the date of the coming into force of this Enactment or within such further period as the Resident may in special cases allow, for the cancellation of such endorsement on the ground that it was made in error or was made contrary to the custom.

(ii) In any such case as is referred to in sub-section (i) hereof if application shall not have been made by any male registered owner within six months from the date of the coming into force of this Enactment application may be made by any adult relative of such registered owner or by any public officer who is subordinate to the Collector of the District wherein such land is situated and who has been directed by such Collector to make such application.

(iii) On receipt of any application under the provisions of sub-sections (i) and (ii) hereof the Collector shall cause notice of such application to be served on the occupier if any of the land in respect whereof such application is made and on the lembaga of the tribe of the registered owner and also published locally in the district and posted on the land for a period of thirty days and shall make such enquiry as is necessary.

(iv) If after such notice and enquiry the Collector is satisfied that the endorsement in respect whereof application is made, was made in error or was made contrary to the custom, he shall cancel the endorsement and the land shall thereupon cease to be subject to the custom.

(v) Any decision of the Collector under this section shall be subject to appeal as provided by Section 15 of this Enactment.

(vi) From and after the commencement of this Enactment and subject to the provisions of this section the customary heir of a deceased male registered owner of

customary land shall be his nearest female relative who is also a member of his tribe.

*Record of
customary
tenure in
mukim
register.
N.S.
1 of 1930.*

4. (i) In the case of any land particulars of which have been or may hereafter be entered in any of the mukim registers of the districts of Kuala Pilah, Jelebu and Tampin in accordance with the provisions of the Land Code or of any previous Land Enactment it shall be lawful for the Collector, at the instance of himself or of any interested party, to enquire whether or not such land is occupied subject to the custom. If he be satisfied that such land is occupied subject to the custom and that it is registered in the name of a female member of one of the tribes included in Schedule B the Collector shall add to the entry in the mukim register the words 'Customary Land' and authenticate them by his signature; and the addition of such words so authenticated to any entry in the mukim register shall, subject to the result of any appeal to the Resident under Section 15, be conclusive proof that the land to which such entry relates is occupied subject to the custom.

. If the Collector is not satisfied that such land is occupied subject to the custom he shall record his decision to that effect and such decision shall, subject to the result of any appeal to the Resident under Section 15, be conclusive proof that the land to which the entry relates is not occupied subject to the custom.

(ii) It shall also be lawful for the Collector in the case of the alienation of lands by the State in the districts referred to in sub-section (i) of this section to female members of the tribes included in Schedule B, to add with the consent of the alienee, to the entry in the mukim register the words 'Customary Land' and for him to authenticate the same by his signature, and the addition of such words so authenticated to any entry in the said mukim register shall, subject to the result of any appeal to the Resident under Section 15 of this Enactment, be final and conclusive proof that the land to which such entry relates is occupied as land subject to the custom under this Enactment.

(iii) Whenever the words 'Customary Land' shall have been added under sub-sections (i) or (ii) to any entry in a

mukim register, it shall be lawful for the Collector to add the same words to any extract from the register issued pursuant to the said entry and he shall authenticate the same with his signature.

(iv) The Collector may by notice under his hand require any person in whose possession such extract as is referred to in sub-section (iii) is, to produce such extract within such period (not being less than 14 days) after the service on him of the notice as may be therein specified and the person so required shall be legally bound to produce the same accordingly.

(v) Any person who shall wilfully neglect to comply with the requirements of any notice duly served on him under sub-section (iv) shall be liable on conviction to a fine not exceeding fifty dollars.

(vi) Where any entry in the mukim register has been endorsed by the Collector under sub-sections (i) or (ii) the land to which such entry relates shall be deemed to be subject to the custom with effect from the date of such endorsement, notwithstanding the fact that no action has been taken under sub-sections (iii) and (iv).

*Maintenance
of the custom.
N.S.O.C.
1 of 1934.
Enactment.*

5. Subject to the provisions of this Enactment, no customary land or any interest therein shall be transferred, charged, transmitted or otherwise dealt with except in accordance with the custom;

Provided that nothing in this Enactment contained shall prevent the surrender to the State of any customary land in a town or village by the registered owner thereof for the construction of roads or public ways or the demarcation of road reserves or for other public purposes.

Any such surrender shall be subject *mutatis mutandis* to the provisions of sub-sections (iv) and (v) of Section 7 so far as they may be applicable.

*Prohibition
of grant.*

6. No grant shall be issued for any customary land.

*Limited
right of
dealing.*

7. (i) No customary land or any interest therein shall be transferred or leased to any person other than a female member of one of the tribes included in Schedule B.

READINGS IN MALAY ADAT LAWS

(ii) Subject to the provisions of this section customary land shall not be charged except to

- (a) A female member of one of the tribes included in Schedule B;
- (b) The Collector of the district wherein the same is situate;
- (c) Subject to the provisions of sub-section (iii) a Co-operative Society duly registered under Section 9 of the Co-operative Societies Enactment.

(iii) Customary land shall not be charged to a Co-operative Society unless

- (a) Such Society habitually carries on business in the district wherein such land is situate;
- (b) The Society has been generally authorised by the Registrar of Co-operative Societies with the consent of the Collector of the district wherein such land is situate to hold charges over customary land.

Such authority may be subject to such limitation as the Registrar of Co-operative Societies may direct and may be withdrawn or varied at any time.

(iv) No customary land or any interest therein shall be transferred, charged or leased except with the assent of the lembaga of the tribe of the registered owner thereof and unless such notice, in writing or otherwise, of the intention to transfer, charge or lease as the Collector may deem sufficient, shall have been published for a period of not less than one month immediately preceding the execution of such transfer or charge or lease.

(v) No instrument of transfer or charge or lease of customary land or of any interest therein shall be valid unless—

- (a) the same be executed in the presence of such lembaga as aforesaid and of the Collector; and

- (b) the execution thereof by the parties and the assent thereto of such lembaga be evidenced by the certificate of the Collector upon the face of the instrument that such execution and assent were made and given in his presence; and
- (c) such instrument be in conformity with the requirement of any Rule made under Section 24 for the regulation of such instruments.

Provided that in any case where the Collector after due enquiry shall find that the assent of the lembaga to any such transfer or charge or lease as is in this section referred to is given contrary to the custom, the Collector shall record such finding in writing, with the grounds therefore, and shall not give the certificate mentioned in subparagraph (b) hereof, except by order of the Resident made under Section 15.

Provided further that in any case where the lembaga shall refuse his assent to such transfer or charge or lease as aforesaid or shall absent himself after being duly notified of the place and time arranged for the execution thereof, the Collector, if after enquiry he shall find no reasonable or proper cause for the refusal of assent by the lembaga or for his absence, as the case may be, shall record such finding in writing, with the grounds therefore, and thereupon the provisions of this section prescribing the assent and the presence of the lembaga shall cease to apply to the said transfer or charge or lease.

(vi) The provisions of this section shall not apply to leases of customary land for a period not exceeding twelve months.

(vii) In any case where it is desired to transfer a charge or lease which has been registered before the date of the coming into force of this Enactment, the following provisions shall apply:

- (a) If the registered chargee or lessee is a female member of one of the tribes

included in Schedule B the foregoing provisions of this section shall be complied with.

- (b) If the registered chargee or lessee is not a female member of one of the tribes included in Schedule B, the foregoing provisions of this section shall not apply and there shall be no restriction on transfer of any such charge or lease.

*Execution
sales, charge
sales and
sales for
arrears of
rent.*

8. (i) In the case of a sale of customary land or any interest therein, whether by order of Court or in accordance with the provisions of the Land Code, the following provisions shall apply notwithstanding anything in any other Enactment contained:

- (a) The bidding shall in the first instance be confined to the female members of the tribe of the judgment-debtor, chargor or defaulter as the case may be.
- (b) If no bids are forthcoming from the female members of the tribe of the judgment-debtor, chargor or defaulter the sale shall be postponed and at the postponed sale all female members of the tribes included in Schedule B shall be entitled to bid.
- (c) Save as hereinbefore provided and subject to the provisions of sub-sections (ii) and (iii) no persons shall be entitled to bid.

(ii) (a) In the case of any sale under Section 141 to 144 of the Land Code, where the charge has been registered before the date of the coming into force of this Enactment in the name of any person who is not a female member of one of the tribes included in Schedule B the provisions of sub-section (i) hereof shall not apply.

(b) To any such case the provisions of Section 6 of 'The Customary Tenure Enactment, 1909', shall continue to apply notwithstanding the repeal thereof.

(iii) In the case of any sale by order of Court of an interest in any charge or lease registered before the date of the coming into force of this Enactment in the name of any

person who is not a female member of one of the tribes included in Schedule B the provisions of sub-section (i) hereof shall not apply.

*Claims to
registration
as owner.*

9. (i) Any person asserting that she is entitled otherwise than by right of succession to a deceased owner, to be registered as the owner of any customary land may, whether such land shall have been alienated to any other person or not, apply to the Collector to record her as such in the register of the mukim in which the land is situate. The Collector shall thereupon cause a notice of such application substantially in the Form of Schedule C, to be served on the occupier (if any) of such land and also to be published locally in the district and posted on the land for a period of thirty days and shall make such enquiry as may be necessary.

(ii) If after such notice and enquiry the Collector is of opinion that such application ought to be granted or in the course of such enquiry it shall be proved to his satisfaction that some person other than the applicant is entitled to be registered as the owner of such land, then, in either of such cases, he shall make an order substantially in the Form of Schedule D, in accordance with his decision and shall thereupon make any necessary entry in the mukim register.

(iii) A copy of the order above mentioned shall be furnished on application by the Collector to the person in favour of whom such order is made and to any other party to the proceedings or, at the discretion of the Collector, to any other person.

*Claims to
registration
by right of
succession.*

10. (i) Any person claiming to succeed to the ownership of a customary estate which is registered in the name of a deceased person may apply to the Collector to record her in the mukim register as owner of the customary estate so claimed. The Collector shall thereupon cause a notice of such application substantially in the Form of Schedule E, to be served on the occupier (if any) of the land affected and also to be published locally in the district and posted on such land for a period of thirty days and shall make such enquiry as may be necessary.

(ii) If after such notice and enquiry the Collector is of

opinion that such application ought to be granted, or if in the course of such enquiry it shall be proved to his satisfaction that some person other than the applicant is entitled to succeed to the ownership of such customary estate, then in either such case, he shall make an order, substantially in the Form of Schedule F, in accordance with his decision and shall thereupon make any necessary entry in the mukim register.

(iii) A copy of the order above mentioned shall be furnished on application by the Collector to the person in favour of whom such order is made and to any other party to the proceedings or, at the discretion of the Collector, to any other person.

(iv) None of the provisions of the Probate and Administration Enactment shall apply to any customary estate or any part thereof and no customary estate of a deceased person shall vest in his executor or administrator.

(v) In any case in which a registered owner of customary estate shall have died and no application under sub-section (i) shall have been made within six months of the death of the deceased, the Collector may direct any public officer subordinate to him to apply that such customary estate be transmitted to the person entitled thereto and the Collector shall thereupon proceed as if application had been duly made under the provisions of sub-section (i).

(vi) If in the course of any enquiry under this section it shall appear to the Collector that any minor would but for the disability of minority be entitled to be registered as owner of any customary estate the Collector may appoint any fit and proper person to be trustee for the said minor and shall register such person as owner of such estate as trustee and shall at the same time lodge a caveat against the title for the land affected to protect the interests of the said minor. The Collector may at any time on good cause being shewn revoke the appointment of a trustee under this section and appoint a new trustee.

*Debts and
contracts of
deceased
person.*

11. No objection to any application made under Section 10 shall be maintained on the ground of any debt, contract or thing incurred, made or done or alleged to have been

incurred, made or done by or on behalf of the deceased, subject to the following exceptions:

- (i) Where the objection is based on a contract made by the deceased to sell a customary estate or part thereof to any female member of one of the tribes included in Schedule B such estate may with the assent of the lembaga of the tribe of the deceased be transmitted to the person who contracted to acquire the same or to her customary heir.

Provided that the Collector shall give such notice in writing or otherwise of the claim of the objector as the Collector shall deem sufficient in which the land affected is situate, for a period of not less than one month after the recording of the objection, and the Collector shall record and consider any counter-objections to the claim of the objector before ordering that the estate be transmitted to the objector.

Provided further that in any case where the Collector after due enquiry shall find that the assent of the lembaga is given contrary to the custom the Collector shall record such finding in writing and shall refuse to transmit the land to the objector.

Provided further that in any case where the lembaga shall refuse his assent or shall absent himself after being duly notified of the place and time arranged for the hearing of the application the Collector if after enquiry he shall find no reasonable or proper cause for refusal of assent by the lembaga or for his absence as the case may be, may order the transmission of the land to the objector.

- (ii) (a) Where the objection is based on a debt which is properly chargeable in accordance with the custom on customary land owned by the deceased, the Collector, if after enquiry he is of opinion that such debt is due and owing, may in

lieu of transmitting all or any part of such customary land to the customary heir of the deceased direct by order under his hand that the land or any part thereof be auctioned in accordance with the provisions of this sub-section.

(b) The date of the sale shall be not less than six months after the date of the order of sale.

(c) The order of sale shall specify the amount due to the objector and if such sum is paid to him at any time before the sale the order of sale shall be cancelled and the land transmitted to the customary heir of the deceased.

(d) The upset price shall be not less than the amount specified as due to the objector together with an estimated amount to cover the expenses of the sale and all costs.

(e) Copies of the order of sale shall be posted on the land, at the Land Office and in such other places as the Collector may direct.

(f) At the sale only the female members of the tribe of the deceased shall be entitled to bid. If no bids are forthcoming the Collector shall adjourn the sale. At the postponed sale all female members of the tribes included in Schedule B and no others shall be entitled to bid. If at such postponed sale no bids are forthcoming the Collector may at his discretion reduce the upset price.

(g) Any sale under this sub-section shall be conducted by the Collector or by such member of his staff as he may direct.

(h) From the proceeds of sale the Collector shall be entitled to retain and to pay into Government revenue a commission on sale in accordance with the scale laid down for sales under the Land Code.

(i) The order of sale and of transmission to the purchaser may be in the Form provided in Schedule G.

(j) Out of the purchase money the Collector after deducting the commission on sale shall pay to the objector the amount of his debt and the balance, if any, shall be paid to the customary heir of the deceased.

Provision for life-occupancy 12. If in the case of any application under Section 10 it shall appear to the Collector that the deceased has left

(a) a female customary heir and a lawful son but no female issue or

(b) a female customary heir and a lawful maternal brother but no issue or maternal sister

It shall be competent for the Collector, in so far only as the customary land owned by the deceased is concerned, to order the transmission of the land to such customary heir subject to beneficial occupancy by and for the life of such lawful son or maternal brother, as the case may be, provided that, where more than one person is entitled to such a life-occupancy, the occupancy shall be a joint occupancy with survivorship.

(ii) The order of the Collector shall be in the Form provided in Schedule H.

(iii) The registered owner and the life-occupant of land subject to life-occupancy shall be jointly and severally liable for the rent due to the State in respect of such land but so that as between the registered owner and the life-occupant the rent shall be payable by the life-occupant.

(iv) The interest of a life-occupant in land under this section shall not be capable of being transferred, charged, leased or otherwise dealt with, provided that a life-occupant may at any time execute a surrender of his interest in favour of the registered owner of the land whereof he is life-occupant or in favour of a joint life-occupant of the land.

(v) The interest of a life-occupant under this section shall not be capable of being attached or sold in execution of a decree.

(vi) Whenever after enquiry it shall appear to the Collector that a life-occupant or, where there are more than one, all the joint life-occupants of any land have abandoned the land for a period exceeding one year the Collector may

by order under his hand cancel the order creating the life-occupancy and the beneficial occupancy of the land shall thereupon vest in the registered owner of the land.

(vii) On proof that a sole life-occupant or all the joint life-occupants of any land are dead the Collector may by order under his hand declare that the life-occupancy affecting the said land has lapsed and the beneficial occupancy of the said land shall thereupon vest in the registered owner thereof with effect from the date of the death of the life-occupant or of the last surviving life-occupant, as the case may be.

(viii) On presentation of an order under this section the Collector shall enter in the mukim register a memorial of the life-occupancy, and in like manner shall record in the mukim register the cancellation or lapse of any life-occupancy under sub-sections (vi) or (vii).

*Failure of
customary
heirs.*

13. (i) If any person shall die and leave a customary estate and it shall appear to the Collector that the deceased has left

- (a) a lawful son but no customary heir
- (b) a lawful maternal brother but no customary heir or lawful son
- (c) no customary heir or lawful son or maternal brother

it shall be lawful for the Collector after such enquiry as he may deem fit, either of his own motion or on the application of such lawful son or brother, to direct by order under his hand that such customary estate be auctioned on such date being not less than one month from the date of such order as may be specified on such order.

(ii) The provisions of Section 11(ii) (e) (f) (g) and (h) with the exception of the words 'If at such postponed sale no bids are forthcoming the Collector may at his discretion reduce the upset price', in Section 11(ii) (f) shall apply to sales under this section.

(iii) The net proceeds of sale shall be paid:

- (a) In the case mentioned in sub-section (i)(a) hereof to the lawful son or sons of the deceased.

(b) In the case mentioned in sub-section (i) (b) hereof to the lawful maternal brother or brothers of the deceased.

(iv) In any other case such net proceeds of sale shall be paid into the District Treasury to the credit of the fund referred to as the 'Muhammadian Religious Fund' in Section 16 of the Muhammadian Laws Enactment, and shall thereupon form part of such fund.

14. The jurisdiction and powers which are by Section 172 of the Land Code vested in the Court shall in so far as customary land is concerned be vested in the Collector.

15. (i) From any order of a Collector under this Enactment and from any refusal of a Collector to make an order under this Enactment, an appeal shall lie to the Resident; provided that no such appeal shall except with the leave of the Resident be admitted after the expiration of thirty days from the date of the order or refusal appealed against.

(ii) Any person who conceives that a right to or interest in any land which he claims to have is injuriously affected by any such order or refusal as aforesaid, may apply to the Resident within three months after the registration of such order or of the date of such refusal or within such further period as the Resident may allow, to set aside or vary such order, or, where an order has been refused, to make an order, and the Resident shall try the question whether such order be or be not inconsistent with the rights of the applicant; and if the Resident shall decide that the said order is inconsistent with such rights he shall set aside or vary such order or himself make an order, as he may think just, and the Collector shall on receiving notice thereof make any necessary entry in the mukim register.

(iii) In hearing any appeal under this section the Resident shall sit with one or more assessors as follows:

(a) If the land in respect whereof the appeal is lodged is situate in one of the territories of Johol, Jelebu or Rembau the Resident shall sit with one assessor only who shall be the Undang of such territory.

(b) In any other case there shall be two assessors of whom one shall be nominated by His Highness the Yang di Pertuan and the other shall be the Principal Chief of that part of the State wherein the land in respect whereof the appeal is lodged is situate.

(iv) (a) In the case of any appeal subject to the provisions of paragraph (a) of sub-section (iii), if the office of the Undang concerned is vacant or if for any other reason such Undang is unable to act, some other person shall be appointed by the Council of the Yang di Pertuan Besar and Undang to act as assessor in lieu of such Undang.

(b) In the case of any appeal subject to the provisions of paragraph (b) of sub-section (iii), if the office of the Principal Chief concerned is vacant or if for any other reason such Principal Chief is unable to act, some other person shall be appointed by His Highness the Yang Di-pertuan Besar to act as assessor in lieu of such Principal Chief.

(v) If after hearing the appeal the Resident and the assessor or both assessors (as the case may be) are agreed their order shall be final and there shall be no appeal therefrom.

(vi) If the Resident and the assessor or one or both the assessors (as the case may be) are not agreed the case shall be referred to the State Council whose decision shall be final.

(vii) A copy of any order made by the Resident under sub-sections (ii) or (v) shall be furnished on application to the person in favour of whom such order is made and to any other party to the proceedings or, at the discretion of the Collector, to any other person.

(viii) In filing an appeal under sub-section (i) or an application under sub-section (ii) the appellant or applicant shall pay a fee of three dollars to the Collector, provided that the Resident may at his discretion remit the whole or any part of such fee.

*Procedure
on appeal.*

16. (i) Any person desiring to appeal to the Resident under Section 15(i) or to make application under Section 15(ii) shall, within the period prescribed in each case, deliver

to the Collector for transmission to the Resident, a memorandum of appeal substantially in the Form of Schedule I, or an application substantially in the Form of Schedule J, as the case may be, together with a certified copy of the order in question and shall also pay to the Collector the prescribed fee.

(ii) The Collector shall thereupon cause notices substantially in the Form of Schedule K to be served upon all parties directly affected by the appeal or application and shall without delay forward the documents to the Resident together with a copy of the notes of enquiry and a report upon the matter.

*Rectification
of register.*

17. (i) Any person claiming any estate or interest in customary land, not being an estate or interest in respect whereof an application can under the provisions of subsection (i) of Section 10 be made to the Collector, may, at any time, if his claim cannot be properly dealt with under Section 9, apply to the Resident that any register book or journal kept at the Land Office of the district wherein such land is situated shall be rectified, or that any entry may be made or interpolated in any such register book or journal, or that any entry therein may be cancelled: and the Resident may either refuse such application or, if satisfied as to the justice of the case, may make such order in reference thereto as he may think just.

(ii) The Collector and every other person affected by such order of the Resident shall obey the same upon being served with a copy of such order.

(iii) Section 107 of the Land Code shall not apply to land subject to the custom.

(iv) Any order made by the Resident under this section shall be final and there shall be no appeal therefrom.

*Procedure
under
section 17.*

18. Any person desiring to apply to the Resident under Section 17 shall deliver to the Collector, for transmission to the Resident, an application substantially in the Form of Schedule L together with a statutory declaration in support of the alleged facts. Thereupon the Collector shall cause service of notices substantially in the Form of Schedule M and copies of such statutory declaration upon every person

whose rights would be directly affected by the order applied for, and shall without delay transmit the application and the statutory declaration to the Resident together with a report upon the matter.

*Power to
enforce
attendance
of witnesses.*

19. (i) For the purpose of any enquiry or appeal made or heard by the Collector or by the Resident under this Enactment, the Collector may require by summons under his hand any person being within the State to attend before him or before the Resident, as the case may be, and, if necessary, to produce all documents in his possession relating to any right or interest in any land which forms the subject of any such enquiry or appeal.

(ii) The Collector or Resident as the case may be, may also examine upon oath, or solemn affirmation having the force of an oath, any person so summoned touching any right to such land or interest in the same.

(iii) Any person so summoned or examined who fails to attend as required by the summons or to produce all such documents as aforesaid or to answer on oath or affirmation any lawful questions put to him shall be liable on conviction to a fine not exceeding fifty dollars.

*Registers of
enquiries and
appeals.*

20. The Collector shall keep in the Form of Schedule O, a register of enquiries held by him under Sections 9 and 10, and shall take notes in writing of all evidence given before him in the course of any such enquiry and shall also keep in the Form of Schedule P a register of all appeals decided by the Resident under Section 15.

*Registration
of orders.*

21. All orders under Sections 9, 10, 11, 12, 13, 15 and 17 shall be registered in the Land Office of the district wherein the land affected is situated.

*Solicitors
not entitled
to appear.*

22. No advocate or solicitor shall be entitled to appear or any person at the hearing of any enquiry or appeal under this Enactment.

*Interpretation
of Enactment.*

23. If doubt shall arise as to the mode of operation of this Enactment or the manner in which the provisions thereof are to be construed or carried into effect or otherwise in relation thereto, the same may be referred through the Resident to the State Council who shall decide the same and

such decision shall be final and shall not be questioned or revised by any Court.

Rules.

24. (i) The State Council by resolution may from time to time, make Rules to embody the custom, to prescribe the extent to which and the manner in which dispositions of lands which are subject to the custom may be made and recorded, and generally for the purpose of giving effect to this Enactment; and may also alter, add to or rescind any of the Forms contained in Schedule C to P.

(ii) Any such Rules or alteration of, addition to or rescission of the said Schedule shall be published in the *Gazette*.

Exception of non-customary estate.

25. Nothing in this Enactment contained shall affect the distribution of the estate, not being customary estate, of any deceased person.

SCHEDULE B

List of Tribes

- | | |
|-----------------------------------|-----------------|
| 1. Biduanda (Waris and/of Dagang) | 7. Tiga Batu* |
| 2. Batu Hampar* | 8. Tiga Nenck |
| 3. Sri Melenggang | 9. Paiah Kumboh |
| 4. Tanah Datar* | 10. Anak Malaka |
| 5. Sri Lemak* | 11. Anak Achih |
| 6. Mungkal | 12. Batu Belang |

* Excluding the division known as 'Ayer Kaki pada Yam Tuan'.

* Excluding the division known as 'Lengkongan Yam Tuan'.

[See schedule Q to amendment no 3/1960—below at 292]

CUSTOMARY TENURE (AMENDMENT)

ORDINANCE (1949) No. 23

An Ordinance to amend the Customary Tenure Enactment of the State of Negri Sembilan.

[30th August, 1949.]

IT IS HEREBY ENACTED by the High Commissioner of the Federation of Malaya and Their Highnesses the Rulers of the Malay States with the advice and consent of the Legislative Council as follows:

Short title.

1. This Ordinance may be cited as the Customary Tenure (Amendment) Ordinance, 1949, and shall be read as one with the Customary Tenure Enactment of the State of Negri Sembilan, hereinafter referred to as the principal Enactment.

F.M.S.

Cap. 213

*Amendment of
section 2 of
principal
Enactment.*

2. Section 2 of the principal Enactment is hereby amended by the insertion, immediately after the word 'Tampin' in the definition of 'custom', of the word, 'Rembau'.

3. Section 4 of the principal Enactment is hereby amended—

- (a) by the deletion of the word 'Resident' wherever it occurs and the substitution therefor of the words 'Ruler in Council'; and
- (b) by the insertion, immediately after the word 'Jelebu' in line 3 of sub-section (i), of the word, 'Rembau'.

*Amendment of
section 7 of
principal
Enactment.*

4. Sub-section (v) of section 7 of the principal Enactment is hereby amended by the deletion of the word 'Resident' in line 6 of the first proviso and the substitution therefor of the words 'Ruler in Council'.

*Amendment of
section 15
of principal
Enactment.*

5. (1) Sub-section (i) of section 15 of the principal Enactment is hereby amended by the deletion of the word 'Resident' wherever it occurs and the substitution therefor of the words 'Ruler in Council'.

(2) Sub-section (ii) of section 15 of the principal Enactment is hereby amended—

- (a) by the deletion of the word 'Resident' wherever it occurs in lines 3 and 5 and the substitution therefor of the words 'Ruler in Council';
- (b) by the deletion of the words 'Resident shall try' in line 7 and the substitution therefor of the words 'Ruler in Council shall appoint a Committee to consider';
- (c) by the deletion of the words 'the Resident' in lines 8 and 9 and the substitution therefor of the words 'upon receipt of the report of such Committee the Ruler in Council'; and

- (d) by the deletion of the word 'he' wherever it occurs in lines 10 and 11 and the substitution therefor of the words 'the Ruler in Council'.

(3) Sub-section (iii) of section 15 of the principal Enactment is hereby repealed and the following sub-section substituted therefor—

'(iii) In appointing a Committee under sub-section (ii) of this section the Ruler in Council shall have regard to the following principles—

- (a) if the land in respect whereof the appeal is lodged is situate in one of the territories of Johol, Jelebu or Rembau the Committee shall consist of two members, one of whom shall be the Undang of the territory and the other of whom shall be a person having special knowledge of the custom of such territory;
- (b) in any other case the Committee shall consist of three members, of whom one shall be appointed by the Ruler in Council, one shall be nominated by His Highness the Yang di-Pertuan Besar and one shall be the Principal Chief of that part of the State wherein the land in respect of which the appeal is lodged is situate.'

(4) Sub-section (iv) of section 15 of the principal Enactment is hereby amended—

- (a) by the deletion of the words 'Council of the Yang di Pertuan Besar and Undang to act as assessor' in paragraph (a) and the substitution therefor of the words 'Ruler in Council to act as a member of the Committee'; and
- (b) by the deletion of the words 'appointed by His Highness the Yang di-Pertuan Besar to act as assessor' in paragraph (b) and the substitution therefor of the words 'nominated by His Highness the Yang di-Pertuan Besar to act as a member of the Committee'.

(5) Sub-section (v) of section 15 of the principal Enactment is hereby repealed and the following sub-section substituted therefor—

'(v) The order of the Ruler in Council shall be final and there shall be no appeal therefrom.'

(6) Sub-section (vi) of section 15 of the principal Enactment is hereby repealed.

(7) Sub-section (vii) of section 15 of the principal Enactment is hereby amended by the deletion of the word 'Resident' and the substitution therefor of the words 'Ruler in Council'.

(8) Sub-section (viii) of section 15 of the principal Enactment is hereby amended by the deletion of the word 'Resident' and the substitution therefor of the words 'Mentri Besar'.

Amendment of section 16 of principal Enactment. 6. (1) Sub-section (i) of section 16 of the principal Enactment is hereby amended by the deletion of the word 'Resident' wherever it occurs and the substitution therefor of the words 'Ruler in Council'.

(2) Sub-section (ii) of section 16 of the principal Enactment is hereby amended by the deletion of the word 'Resident' and the substitution therefor of the words 'State Secretary for submission to the Ruler in Council'.

Amendment of section 17 of principal Enactment. 7. Section 17 of the principal Enactment is hereby amended by the deletion of the word 'Resident' wherever it occurs and the substitution therefor of the words 'Ruler in Council'.

Amendment of section 18 of principal Enactment. 8. Section 18 of the principal Enactment is hereby amended -

(a) by the deletion of the word 'Resident' wherever it occurs in lines 1 and 2 and the substitution therefor of the words 'Ruler in Council';

(b) by the deletion of the word 'Resident' in line 9 and the substitution therefor of the words 'State Secretary for submission to the Ruler in Council'.

Amendment of section 19 of principal Enactment. 9. (1) Sub-section (i) of section 19 of the principal Enactment is hereby amended—

(a) by the deletion of the words 'the Resident' in line 2 and the substitution therefor of the words 'a Committee appointed by the Ruler in Council';

(b) by the deletion of the word 'Resident' in line 4 and the substitution therefor of the word 'Committee'.

(2) Sub-section (ii) of section 19 of the principal Enactment is hereby amended by the deletion of the word 'Resident' and the substitution therefor of the word 'Committee'.

*Amendment
of section 20
of principal
Enactment.*

10. Section 20 of the principal Enactment is hereby amended by the deletion of the word 'Resident' and the substitution therefor of the words 'Ruler in Council'.

*Amendment
of section 23
of principal
Enactment.*

11. Section 23 of the principal Enactment is hereby amended by the deletion of the words 'Resident to the Council of the Yang di-Pertuan Besar and Undang' and the substitution therefor of the words 'Mentri Besar to the Ruler in Council'.

*Amendment
of section 24
of principal
Enactment.*

12. Section 24 of the principal Enactment is hereby amended by the deletion of the words 'Council of the Yang di-Pertuan Besar and Undang' and the substitution therefor of the words 'Ruler in Council'.

*Amendment
of schedules
to principal
Enactment.*

13. Schedules I, J, K, L, M and P to the principal Enactment are hereby amended by the deletion of the word 'Resident' wherever it occurs and the substitution therefor of the words 'Ruler in Council'.

CUSTOMARY TENURE (STATE OF NEGRI SEMBILAN) ORDINANCE (1952) No. 33.

An Ordinance to confer upon the Council of State of the State of Negri Sembilan authority to pass laws relating to customary tenure of land and to rights and usages connected therewith.

[12th August, 1952.]

IT IS HEREBY ENACTED by the High Commissioner of the Federation of Malaya and Their Highnesses the Rulers of the Malay States with the advice and consent of the Legislative Council as follows:

Short title.

1. This Ordinance may be cited as the Customary Tenure (State of Negri Sembilan) Ordinance, 1952.

Council of
State of Negri
Sembilan
empowered to
legislate on
matters affect-
ing customary
tenure of laws
in Negri Sem-
bilan.

Saving for,
Legislative
Council.

2. The Council of State of the State of Negri Sembilan is hereby empowered to pass laws relating to the customary tenure of land within such State and to the rights and usages connected therewith and to any other matter incidental thereto or consequential thereupon.

3. Nothing in this Ordinance shall affect the rights and powers of the Legislative Council to pass such laws as it may think fit relating to any of the matters referred to in section 2 of this Ordinance.

CUSTOMARY TENURE ENACTMENT (AMEND- MENT) ENACTMENT (1960) No. 3

*An Enactment to amend the Customary Tenure Enactment
F.M.S.*

[, 1960.]

IT IS HEREBY ENACTED by His Highness and the Ruling Chiefs of Negri Sembilan with the advice and consent of the Legislative Assembly as follows:

Short title.

1. This Enactment may be cited as the Customary Tenure Enactment (Amendment) Enactment, 1960.

F.M.S. Cap.
215. Amend-
ment to
section 2.

2. The Customary Tenure Enactment is hereby amended as follows:

(a) by inserting the following definitions immediately after the definition 'Principal Chief' in Section 2—

'Lengkongan Land' means land held under Entry in the Mukim Register registered in the names of Malays who are members of one of the tribes specified in the Schedule.

'Lengkongan Custom' means the customary land law of Malays who are members of one of the tribes specified in the Schedule;

(b) by inserting the following section between sections 15 and 16—

15A. (a) Any person claiming any estate or interest in customary land, the title to which, in addition to the endorsement 'Customary Land', contains one of the following endorsement or variants thereof, namely—

Lengkongan Land or Tanah Lengkongan
Lengkongan Ayer Kaki or Ayer Kaki
Lengkongan Ayer Kaki Orang Empat
Astana

Lengkongan Orang Empat Astana
Lengkongan To' Besar or Lengkongan
Ayer Kaki To' Besar, or which is claim-
ed to be subject to Lengkongan custom,
may apply to the Collector to have
the endorsement 'Customary Land'
expunged from such title.

(b) Upon receiving such application the Collector shall hold an enquiry at which in addition to any person claiming an interest in the land, the Lembaga of the Tribe concerned shall be present.

(c) If at such enquiry the Collector is satisfied that the land in question is Lengkongan Land or subject to Lengkongan Custom and the Lembaga assents to the removal of such endorsement from such title the Collector shall make an order expunging such endorsement from such title.

(d) If no appeal against the Collector's order is received by him within 30 days from the date of such order the Collector shall present the order to the proper registering authority who shall make a memorial upon the register and issue

document of title, recording the expunging of such endorsement from such title.

(c) If it is desired to appeal against the Collector's order, the appellant shall within the period prescribed deliver to the Collector for transmission to the Ruler in Council a memorandum of appeal substantially in the Form of Schedule I together with a certified copy of the order in question and shall also pay a fee of three dollars therefor to the Collector, provided that the Mentri Besar may at his discretion remit the whole or any part of such fee.

(f) Upon receipt of such appeal the Ruler-in-Council may appoint a Committee to consider the same whose composition shall be as specified in paragraph (b) of subsection (iii) of section 15 and the order of the Ruler-in-Council thereon shall be final.

SCHEDULE 'Q'

NAMES OF LONGKONGAN TRIBES (SECTION 2)

- I. *Lengkongan Astana Tribes (Ayer Kaki pada Yam Tuan).*
 Batu Hampar (Ayer Kaki Yang Jernch)
 Tanah Datar (Lengkongan Yam Tuan) including
 Tanah Datar Kampong Pauh, Gunong Pasir
 Sri Lemak Pahang (Lengkongan Yam Tuan)
 Sri Lemak Minangkabau (Lengkongan Yam Tuan)
 Tiga Batu (Lengkongan Yam Tuan)
 Anak Acheh
- II. *Other Lengkongan Tribes.*
 Sri Lemak Pahang (Senaling)
 Sri Lemak Minangkabau (Peraku) -
 Batu Hampar Empat Puloh (Pelangci)
 Tanah Datar (Gunong Pasir)
 Batu Hampar (Telapak)
 Batu Hampar (Kampong Tengah)

Passed this 21st day of June, 1960.

**CUSTOMARY TENURE (LENGKONGAN LANDS)
ENACTMENT (1960) No. 4**

**An Enactment to secure the maintenance and observance of
Lengkongan Custom in the District of Kuala Pilah,
Negri Sembilan, in regard to dealings in Lengkongan
Land.**

[1960.]

IT IS HEREBY ENACTED by His Highness and the
Ruling Chiefs with the advice and consent of the Legislative
Assembly as follows:

Short title. 1. (i) This Enactment shall be cited as the Customary
Tenure (Lengkongan Lands) Enactment, 1960.

(ii) This Enactment shall be read and construed with the
Land Code, but so that nothing in that Enactment shall be
deemed to prevail against the provisions hereof.

Interpretation. 2. In this Enactment:-

'Lengkongan Custom' shall mean the customary land
law of Malays resident in the District of Kuala Pilah, who
are members of one of the tribes having tribal chiefs as
specified in Schedule 'A'.

'Lengkongan Land' shall mean land held under Entry
in the Mukim Register, registered in the names of Malays
who are members of one of the tribes specified in Schedule
'A', the title of which contain [sic] one of the following
endorsements or variants thereof:

Lengkongan Land or Tanah Lengkongan

Lengkongan Ayer Kaki or Ayer Kaki

Lengkongan Ayer Kaki Orang Empat Astana

Lengkongan Orang Empat Astana

Lengkongan 'To' Besar or Lengkongan Ayer To'
Besar.

'Lengkongan estate' shall mean and include lengkon-
gan land and charges and leases of lengkongan land, which
are registered in the name of a deceased person.

'Lengkongan heir' shall mean the person who is in
accordance with lengkongan custom entitled to be regis-
tered as owner of the lengkongan estate of a deceased person.

'Lengkongan Tribes' shall mean those tribes specified in Schedule 'A'.

'Lembaga' shall mean a tribal chief, and shall include any person to act as a lembaga under the provisions of section 3.

'Orang Empat Astana' shall mean the Dato' Amar di-Raja, Dato' Raja di-wangsa, Dato' Panglima Dagang and Dato' Akhirzaman.

'Supervisor of Chiefs' shall mean the officer appointed by His Highness the Yang di-Pertuan Besar to exercise powers and perform duties under this Enactment.

'The Collector' means the Collector of Land Revenue, Kuala Pilah.

*Appointment
of acting
Lembagas or
Orang Empat
Astana*

3. (i) If it shall at any time appear that
 - (a) the office of any one of the Lembagas or Orang Empat Astana is vacant, or
 - (b) any one of the Lembagas or Orang Empat Astana is unable by reason of sickness or mental or physical infirmity or absence from the District to carry out his duties as Lembaga or Orang Empat Astana as the case may be, it shall be competent for the Supervisor of Chiefs to appoint any other person to act as Lembaga or one of the Orang Empat Astana as the case may be for the purpose of exercising the powers and carrying out the duties conferred and imposed on a Lembaga or Orang Empat Astana by this Enactment.

(ii) Any appointment made in the circumstances specified in paragraph (a) of sub-section (i) shall lapse when the office of Lembaga or Orang Empat Astana ceases to be vacant and any appointment made under sub-section (i) may at any time be revoked by the Supervisor of Chiefs.

(iii) The Supervisor of Chiefs shall notify the Collector in writing whenever he makes or revokes an appointment under this section.

*Record of
lengkongan
tenure in
Mukim
Register.*

4. (i) In the case of any land particulars of which have been or may hereafter be entered in any of the mukim registers of the district of Kuala Pilah in accordance with

the provisions of the Land Code or of any previous Land Enactment, it shall be lawful for the Collector, at the instance of himself or of any interested party, to enquire whether or not such land is occupied subject to the lengkongan custom. If he is satisfied that such land is occupied subject to the lengkongan custom and that it is registered in the name of a member of one of the tribes specified in Schedule 'A', the Collector shall add to the entry in the Mukim Register the words 'Lengkongan Land' or 'Tanah Lengkongan' and authenticate them by his signature; and the addition of such words so authenticated to any entry in the Mukim Register shall, subject to the results of any appeal to the Ruler-in-Council under section 14, be conclusive proof that the land to which such entry relates is occupied subject to the lengkongan custom. If the Collector is not satisfied that such land is occupied subject to the lengkongan custom, he shall record his decision to that effect and such decision shall, subject to the result of any appeal to the Ruler-in-Council under section 14, be conclusive proof that the land to which the entry relates is not occupied subject to the lengkongan custom.

(ii) Whenever the words 'Lengkongan Land' or 'Tanah Lengkongan' shall have been added under sub-section (i) to any entry in the Mukim Register, it shall be lawful for the Collector to add the same words to any extract from the register issued pursuant to the said entry and he shall authenticate the same with his signature.

(iii) The Collector may by notice under his hand require any person possessing such extract as is referred to in sub-section (ii) to produce such extract within such period (not being less than 14 days) after the service on him of the notice as may be therein specified, and the person so required shall be legally bound to produce the same accordingly.

(iv) Any person who shall wilfully neglect to comply with the requirements of any notice duly served on him under sub-section (iii) shall be liable on conviction to a fine not exceeding one hundred dollars.

(v) Where the entry in the Mukim Register has been endorsed by the Collector under sub-section (i), the land to

which such entry relates shall be deemed to be subject to the lengkongan custom with effect from the date of such endorsement, notwithstanding the fact that no action has been taken under sub-section (ii) and (iii).

*Maintenance
of the
lengkongan
custom.*

5. Subject to the provisions of this Enactment, no lengkongan land or any interest therein shall be transferred, charged, or transmitted or otherwise dealt with, except in accordance with the lengkongan custom:

Provided that nothing in this Enactment shall prevent the surrender to the State of any lengkongan land in a town or village by the registered owner thereof for the construction of roads or public ways or the demarcation of road reserves, or for purposes of drainage works or for other public purposes.

*Prohibition
of Grant.*

6. No grant shall be issued for any lengkongan land.

*Limited
right of
dealing.*

7. (i) No lengkongan land or any interest therein shall be transferred or leased to any person other than a member of one of the tribes specified in Schedule 'A'.

(ii) Subject to the provisions of this section, lengkongan land shall not be charged, except to

(a) a member of one of the tribes included in Schedule 'A'; or

(b) a Co-operative Society duly registered under section 9 of the Co-operative Societies Enactment, subject to the provisions of sub-section (iii).

(iii) Lengkongan land shall not be charged to a Co-operative Society, unless

(a) such Society habitually carries on business in the District wherein such land is situate;

(b) the Society has been generally authorised by the Registrar of Co-operative Societies, with the consent of the Collector of the District wherein such land is situate, to hold charges over lengkongan land.

Such authority may be subject to such limitation as the Registrar of Co-operative Societies may direct and may be withdrawn or varied at any time.

(iv) No lengkongan land or any interest therein shall be transferred, charged or leased, except with the assent:-

(a) in respect of the lengkongan astana tribes of one of the Orang Empat Astana, save that the To' Nesar may also give his assent in respect of the Tiga Batu tribe;

(b) in respect of other lengkongan tribes of the respective Lembagas of the tribes concerned.

It shall be sufficient for the assent to be recorded if the documents of transfer, charge or lease, as the case may be, are witnessed by the Lembaga or the Orang Empat Astana as shewn in Schedule 'A'.

*Execution
Sales, charge
sales and
sales for
arrears of
rent.*

8. In the case of a sale of lengkongan land or any interest therein, the following provisions shall apply notwithstanding anything contained in any other Enactment:

(a) In respect of the lengkongan astana tribes, the bidding shall be confined to the members of the tribe of the judgment-debtor, chargor or defaulter as the case may be. If no bids are forthcoming from the tribe of the judgment-debtor, chargor or defaulter, the sale can be made to members of the other lengkongan astana tribes;

(b) in respect of the other lengkongan tribes, the biddings shall be confined only to the members of the respective tribes concerned.

*Claims to
registration
as owner.*

9. (i) Any person asserting that he is entitled otherwise than by right of succession to a deceased owner, to be registered as the owner of any lengkongan land may, whether such land shall have been alienated to any other person or not, apply to the Collector to record him as such in the Mukim Register in which the land is situate. The Collector shall thereupon cause a notice of such application substantially in the form of Schedule 'B', to be served on the occupier (if any) of such land and to be published locally in the District and posted on the land for a period of 30 days and shall make such enquiry as may be necessary.

(ii) If after such notice and enquiry the Collector is of opinion that such application ought to be granted or in the

course of such enquiry it shall be proved to his satisfaction that some person other than the applicant is entitled to be registered as owner of such land, then, in either of such cases, he shall make an order substantially in the Form Schedule 'C', in accordance with his decision and shall thereupon make any necessary entry in the Mukim Register.

(iii) A copy of the order above mentioned shall be furnished on application by the Collector to the person in favour of whom such order is made or to any other party to the proceedings, or at the discretion of the Collector, to any other person on payment of the prescribed fees.

*Claims to
registration
by right of
succession.*

10. (i) Any person claiming to succeed to the ownership of a lengkongan estate which is registered in the name of a deceased person may apply to the Collector to record his name in the Mukim Register as owner of the lengkongan estate so claimed. The Collector shall thereupon cause a notice of such application substantially in the Form of Schedule 'D' to be served on the occupier (if any) of the land affected and also to be published locally in the District and posted on such land for a period of 30 days and shall make such enquiry as may be necessary.

(ii) If after such notice and enquiry the Collector is of opinion that such application ought to be granted, or in the course of such enquiry it shall be proved to his satisfaction that some person other than the applicant is entitled to succeed to the ownership of such lengkongan estate, then in either such case, he shall make an order, substantially in the Form Schedule "E", in accordance with his decision and shall thereupon make any necessary entry in the Mukim Register.

(iii) A copy of the order above-mentioned shall be furnished on application by the Collector to the person in favour of whom such order is made or to any other party to the proceedings or, at the discretion of the Collector, to any other person on payment of the prescribed fees.

(iv) None of the provisions of the Probate and Administration Enactment or the Small Estates (Distribution) Ordinance shall apply to any lengkongan estate or any part

thereof and no lengkongan estate of a deceased person shall vest in his executor or administrator.

(v) In any case in which the registered owner of a lengkongan estate shall have died and no application under sub-section (i) shall have been made within six months of the death of the deceased, the Collector may direct the Lembaga, or the Orang Empat Astana of the tribe concerned or the Penghulu Mukim to make application for such lengkongan estate to be transmitted to the person entitled thereto, and the Collector shall thereupon proceed as if the application had been duly made under the provisions of sub-section (i).

(vi) If in the course of any enquiry under this section it shall appear to the Collector that any minor would, but for the disability of minority, be entitled to be registered as owner of any lengkongan estate the Collector may appoint any fit and proper person to be trustee to the said minor, and shall register such person as owner of such estate as trustee and shall at the same time lodge a caveat against the title for the land affected to protect the interests of the said minor. The Collector may at any time on good cause being shewn revoke the appointment of a trustee under this section and appoint a new trustee.

*Debts and
contracts of
deceased
person.*

11. No objection to any application made under section 10 shall be maintained on the grounds of any debt, contract or thing incurred, made or done or alleged to have been incurred, made or done by or on behalf of the deceased, subject to the following exceptions:

(i) Where the objection is based on a contract made by the deceased to sell a lengkongan estate or part thereof to any member of one of the tribes shewn in Schedule 'A', such estate may, with the assent of the Lembaga or the Orang Empat Astana of the tribe of the deceased as the case may be, be transmitted to the person who contracted to acquire the same or to his lengkongan heir.

(a) Provided that the Collector shall, by writing under his hand, or in such other way as he shall deem sufficient, give notice of such objection in the mukim in which the land is situate, for a period of not less than one month after the

recording of the objection, and the Collector shall record and consider any counter-objection to the claim of the objector before ordering that the estate be transmitted to the objector.

(b) Provided further that in any case where the Collector after due enquiry shall find that the assent of the Lembaga or the Orang Empat Astana as the case may be is given contrary to the lengkongan custom, the Collector shall record such finding in writing and shall refuse to transmit the land to the objector.

(c) Provided further that in any case where the Lembaga or the Orang Empat Astana as the case may be refuses his assent or shall absent himself after being duly notified of the place and time arranged for the hearing of the application, the Collector, if after enquiry he shall find no reasonable cause for such refusal of assent or absence may order the transmission of the land to the objector.

(ii) (a) Where the objection is based on a debt which is properly chargeable in accordance with the custom on lengkongan land owned by the deceased, the Collector, if after enquiry he is of opinion that such debt is due and owing, may in lieu of transmitting all or any part of such lengkongan land to the lengkongan heir of the deceased direct by order under his hand that the land or any part thereof be auctioned. The procedure for auction shall be, *mutatis mutandis*, in accordance with the provisions of section 11 of the Customary Tenure Enactment, save that the biddings shall be confined to the persons as laid down in section 8 *supra*.

(b) The order of sale and of transmission to the purchase may be in the Form provided in Schedule 'F'.

*Failure of
lengkongan
heirs.*

12. (i) If any person shall die and leave a lengkongan estate with no lengkongan heir, it shall be lawful for the Collector after such enquiry as he may deem fit, either of his own motion or on the application of the Lembaga or Orang Empat Astana, or the Penghulu mukim, to direct by order

under his hand that such estate be auctioned on a date being not less than one month from the date of such order.

(ii) The procedure for auction shall be, *mutatis mutandis*, in accordance with the provisions of section 11 of the Customary Tenure Enactment, save that the biddings shall be confined to the persons as laid down in section 8.

(iii) The net proceeds of sale shall be paid to the President of the Religious Council, Department of Religious Affairs, who shall credit it to the account of the State Baitul Mal.

Caveats.

13. The jurisdiction and powers which are by section 172 of the Land Code vested in the Court shall in so far as longkongan land is concerned be vested in the Collector.

Appeal.

14. (i) From any order of a Collector under this Enactment and from any refusal of a Collector to make an order under this Enactment, an appeal shall lie to the Ruler-in-Council; provided that no such appeal shall, except with the leave of the Ruler-in-Council, be admitted after the expiration of thirty days from the date of the order or refusal appealed against.

(ii) Any person who conceives that a right to or interest which he claims to have in any land is injuriously affected by any such order or refusal as aforesaid, may apply to the Ruler-in-Council within three months after the registration of such order or of the date of such refusal or within such further period as the Ruler-in-Council may allow, to set aside or vary such order, or, where an order has been refused, to make an order.

(iii) On receipt of an appeal under sub-sections (i) and (ii), the Ruler-in-Council shall appoint a Committee consisting of two members one of whom shall be appointed by the Ruler-in-Council and the other shall be nominated by the Yang-di-Pertuan Besar to consider the appeal.

(iv) The Committee shall report and make its recommendations to the Ruler-in-Council on the question whether the Collector's order be or not consistent with the rights of the appellant; and if the Ruler-in-Council shall decide that the said order is inconsistent with such rights, the Ruler-in-Council shall set aside or vary such order or

make an order as the Ruler-in-Council may think just, and the Collector shall on receiving notice thereof make any necessary entry in the mukim register.

*Procedure
of appeal.*

15. Any person desiring to appeal to the Ruler-in-Council under section 14(i) or to make application under section 14 (ii) shall within the prescribed period deliver to the Collector for transmission to the Ruler-in-Council a memorandum of appeal substantially in the Form of Schedule 'G', or an application substantially in the Form of Schedule 'H', together with a certified copy of the order in question and shall also pay to the Collector the prescribed fees. The Collector shall without delay forward the documents to the Ruler-in-Council together with a copy of notes of enquiry (with a Malay translation) and his grounds of decision of the case appealed against.

*Rectification
of register.*

16. (i) Any person claiming any estate or interest in lengkongan land, not being an estate or interest whereof an application can under the provisions of sub-section (i) of section 9 be made to the Collector may, at any time if his claim cannot be properly dealt with under section 9, apply to the Ruler-in-Council that any register book or journal kept at the Land Office of the District shall be rectified, or that any entry may be made or interpolated in any such register book or journal, or that any entry therein may be cancelled; and the Ruler-in-Council may either refuse such application or, if satisfied as to the justice of the case, may make such order in reference thereto as the Ruler-in-Council may think just.

(ii) The Collector and every other person affected by such order of the Ruler-in-Council shall obey the same upon being served with a copy of such order.

(iii) Section 107 of the Land Code shall not apply to land subject to lengkongan custom.

(iv) Any order made by the Ruler-in-Council under this section shall be final and there shall be no appeal therefrom.

*Procedure
under
section 15.*

17. Any person desiring to apply to the Ruler-in-Council under section 16 shall deliver to the Collector, for transmission to the Ruler-in-Council, an application sub-

stantially in the Form of Schedule 'H' together with a statutory declaration in support of the alleged facts.

Thereupon the Collector shall cause service of notices substantially in the Form of Schedule 'I' and copies of such statutory declaration upon every person whose rights would be directly affected by the order applied for, and shall without delay transmit the application and the statutory declaration to the Ruler-in-Council together with a report upon the matter.

*Power to
enforce
attendance
of witnesses.*

18. (i) For the purpose of any enquiry or appeal made or heard by the Collector or the Ruler-in-Council under this Enactment, the Collector may require by summons under his hand any person *being within the State* to attend before him or before the Appeal Committee appointed by the Ruler-in-Council as the case may be, and, if necessary, to produce all documents in his possession relating to any right or interest in any land which forms the subject of any such enquiry or appeal.

(ii) The Collector or the Appeal Committee appointed by the Ruler-in-Council as the case may be, may also examine upon oath, or solemn affirmation having the force of an oath, any person so summoned touching any right to such land or interest in the same.

(iii) Any person so summoned or examined who fails to attend as required by the summons or to produce all such documents as aforesaid or to answer on oath or affirmation any lawful questions put to him shall be liable on conviction to a fine not exceeding one hundred dollars or one month's imprisonment.

*Registers
of enquiries
and appeals.*

19. The Collector shall keep a register of enquiries held by him under sections 9 and 10, and shall take notes in writing of all evidence given before him in the course of such enquiry and shall also keep a register of all appeals decided by the Ruler-in-Council under section 14.

*Registration
of orders.*

20. All orders under sections 9, 10, 11, 12, 14 and 16 shall be registered in the Land Office.

*Solicitors
not entitled
to appear.*

21. No advocate or solicitor shall be entitled to appear for any person at the hearing of any enquiry or appeal under this Enactment.

*Interpreta-
tions of
Enactment.*

22. If doubt shall arise as to the mode of operation of this Enactment or the manner in which the provisions thereof are to be construed or carried into effect or otherwise in relation thereto, the same may be referred through the Ruler-in-Council to the Legislative Assembly who shall decide the same and such decision shall be final and shall not be questioned or revised by any Court.

Rules.

23. (i) The Ruler-in-Council may from time to time, make Rules to embody the lengkongan custom to prescribe the extent to which and the manner in which dispositions of lands which are subject to the lengkongan custom may be made and recorded, and generally for the purpose of giving effect to this Enactment; and may also alter, add to or rescind any of the Forms contained in the Schedules.

(ii) Any such Rules or alteration of, addition to or rescission of the said Schedules shall be published in the Gazette.

*Exception
of non-
lengkongan
estate.*

24. Nothing in this Enactment contained shall affect the distribution of the estate, not being lengkongan estate, of any deceased person.

SCHEDULE 'A'

NAMES OF LENGKONGAN TRIBES (SECTION 2)

I. *Lengkongan Astana Tribes:-*

Tribal Chiefs

Ayer Kaki pada Yam Tuan	}	Orang Empat Astana
Batu Hampar (Ayer Kaki		
Yang Jerneh		
Tanah Datar (Lengkongan		
Yam Tuan) including		
Tanah Datar, Kampong	}	Dato' Andatar [see
Pauh and Gunong Pasir		
Sri Lemak Minangkabau		
(Lengkongan Yam Tuan)		
Sri Lemak Pahang (Leng-		
kongan Yam Tuan) ...		Note (b) below]

Anak Achch	}	Dato' Besar [see Note
Tiga Bate (Lengkongan		
Yam Tuan)		(a) below]

II. *Other Lengkongan Tribes:-**Tribal Chiefs*

Sri Lemak Pahang (Sena- ling)	Dato' Andika
Sri Lemak Minangkaban (Peraku)	Dato' Sutan Bendahara
Batu Hampar Empat Puloh Pelangi)	Dato' Raja Panglima
Tanah Datar (Gunong Pa- sit)	Dato' Johan
Batu Hampar (Telapak) ...	Dato' Maharaja
Batu Hampar (Kampung Tengah)	Dato' Panglima Besar

NOTE (a) The Dato' Besar is the tribal chief of this tribe, but the Orang Empat Astana have equal say with him in the jurisdiction of its tribal affairs.

(b) The Dato' Andatar is the tribal chief Sri Lemak (Pahang) Tribe, but the Orang Empat Astana have equal say with him in the jurisdiction of its tribal affairs.

UNDANG OF REMBAU (LANDS) ENACTMENT (1912) No. 2.

An Enactment to vest certain lands in the Undang of Rembau and his successors in office and to regulate the disposal thereof.

IT IS HEREBY ENACTED by His Highness the Yang di-Pertuan Besar and the Ruling Chiefs of Negri Sembilan with the advice and consent of the Council of State, as follows:

Short title. 1. This Enactment may be cited as the Undang of Rembau (Lands) Enactment, 1912.

Interpretation. 2. In this Enactment—
 'the lands' means the lands described in the Schedule to this Enactment;
 'Undang' means the Undang of Rembau.