



REVIEW OF THE NATIONAL LAND CODE 1965

*In transforming the legal, administrative and procedural framework
for enhancement of the land administration delivery system
in Peninsular Malaysia*

CONSULTATION PAPER

Prepared by:

Jabatan Ketua Pengarah Tanah dan Galian Persekutuan
Kementerian Sumber Asli dan Alam Sekitar
Putrajaya

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**In Transforming the Legal, Administrative and Procedural
Framework for Enhancement of Land Administration Delivery
System in Peninsular Malaysia**

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FOREWORD

The Peninsular Malaysian land administration system is based on the Torrens system; a system of acquisition of title and interests in land by way of registration of instruments of dealings. It is a legacy of the British colonial masters that provided the people with security in dealing with land. The first legislation based on the Torrens system was passed in 1870 in South Australia and it reached the shores of Peninsular Malaysia in the 1920s. The system was, and is, a great improvement in facilitating the transfer of title and interests in land compared to the deeds system initially developed by the British colonialists in introducing land administration system in all its colonies.

The introduction of the Torrens system of registration of dealings in Peninsular Malaysia is a result of the International Bank of Reconstruction and Development's effort in consolidating the various land laws prevailing in the country. The system was embodied in the National Land Code 1965 which came into effect on the 1st January 1966. From this date a uniform system for administration on matters relating to land tenure was created for the twelve States in Peninsular Malaysia.

The National Land Code 1965 is nearly 45 years old and it is largely a re-enactment of earlier laws. A significant part of the National Land Code 1965 is out-dated and has never been reviewed. There are approximately forty piecemeal amendments to the National Land Code, made as and when the need arises to address certain pressing issues in land administration; for instance, the creation of Strata Titles Act 1985 (Act 318) which relates to registration of strata titles in respect of subdivided buildings or land; the insertion of the Fourteenth Schedule which provides for the implementation of computerized land title registration system; and the insertion of the Sixteenth Schedule for developing and implementing the electronic land administration system.

The latest amendments to the National Land Code in 2008 have heralded the basic platform for evolution of electronic land administration system for the States in Peninsular Malaysia. It is timely to establish an efficient and effective electronic land administration system to be adopted by the Land Registries as it is identified that the overall legal framework prescribed by the National Land Code 1965 was drafted at a time when the Land Registry was using a paper-based system, as such it is necessary to review the existing law to cater for the legal and security issues arising from the introduction of the computer-based land registration and conveyancing system.

It is essential to identify the necessary reforms to the National Land Code 1965 to provide the framework for regulating the electronic land administration system efficiently. Most of the provisions prescribed by the National Land Code 1965 are out-dated and may not be able to support the evolution of land administration system in Peninsular Malaysia. The National Land Code 1965 needs clarification in many areas to avoid uncertainties and ambiguities in its language as well as resolving conceptual, technical, procedural and operational issues encountered. This is necessary to facilitate the evolution of the land administration system to meet the globalization and technological advancement of the 21st century where simplicity, customer centric and efficient service delivery is imminent.

The Department of the Director General of Lands and Mines (Federal) or Jabatan Ketua Pengarah Tanah dan Galian (Persekutuan) JKPTG has taken the initiative to lead the review of the National Land Code in collaboration with the International Islamic University Malaysia (IIUM) Entrepreneurship and Consultancies Sdn. Bhd.

This review is aimed at identifying the inadequacy in the National Land Code 1965 and to suggest appropriate recommendations for the necessary changes towards creating a reformed legal and institutional framework. The central aim of this review is to identify the changes necessary to resolve various technical and procedural issues encountered in order to recommend appropriate changes for implementation of a workable electronic land administration system and enhance service delivery.

In line with the government aspiration to engage public participation in establishing the people-centric development policy, JKPTG has proposed a consultation paper to accommodate the people needs in reforming the National Land Codes 1965 and land administration delivery system in Peninsular Malaysia. This consultation paper has been approved by the Minister of Natural Resources and Environment as a mechanism to obtain public comments and feedbacks.



(DATO' HAJI AZEMI BIN KASIM)

Director General of Lands and Mines (Federal),
Department of Director General of Lands and Mines (Federal),
Ministry of Natural Resources and Environment,
Putrajaya

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The following individuals have dedicated their time generously for this review:–

Research Team of JKPTG, NRE

- Mr. Mohd Shukri Bin Hj. Ismail, Director of Research and Development Section, Chairman of Research Team
- Mr. Yusri Bin Zakariah, Principal Assistant Director I
- Mr. Anesh Ganason, Principal Assistant Director II (2010 – 2011)
- Mdm. Roziana Bt. Omar, Principal Assistant Director II
- Mdm. Nazratul Ain Bt. Mohamad Ali, Assistant Director I
- Mdm. Rahayu Binti Maspan, Assistant Director II (2010 – 2011)
- Mdm. Norbaini Bt. Yusof, Assistant Director II
- Mr. Mohd Solehuddin Bin Hanafiah, Assistant Director III
- Tn. Haji Mohd Supuddin Bin Awang, Retired Land Administrator (2010)

Research Team of IIUM

- Associate Professor Dr. Ainul Jaria Maidin, Senior Consultant of IIUM Entrepreneurship and Consultancies Sdn. Bhd., Director of Project, Consultant for Legal, Procedural & Administrative Framework of Land Administration and electronic land administration; Capacity Building & Benchmarking; Comparative Perspective)
- Associate Professor Dr. Nor Shahriza Abdul Karim, IIUM Entrepreneurship and Consultancies Sdn Bhd, (ICT Component)
- Dato' Mohamed Hashim Kasmon, Subject Matter Expert (SME) in State Land Administration System
- Tn. Haji Zainal Abidin Nordin, Subject Matter Expert (SME) in Electronic Land Administration System – Computerization, Procedures & Work Processes in Land Office
- YM Raja Azrina Raja Osman - Subject Matter Expert (SME) for Security Aspects for ICT Component).
- Mdm. Nurul Fatimah Waziruddin, Project Secretary, ICT Research Officer
- Mr. Mohamad Faiezzad Razali, Legal Research Officer
- Ms. Nuru Farhina Abdul Rahim, Legal Research Officer
- Ms. Raja Habibatul Raja Chulan, Legal Research Officer
- Ms. Aishath Muneeza, Legal Research Officer

1. INTRODUCTION

- 1.1 As part of our constant efforts to refine the legislation to be a responsive and to develop a trusted regulatory environment for land administration service delivery and businesses, JKPTG is reviewing the conceptual, technical and procedural matters prescribed under the National Land Code 1965 (Act No 56 of 1965).
- 1.2 In January 2010, JKPTG appointed IIUM Entrepreneurship and Consultancies Sdn. Bhd. To conduct the First Stage of the Review. The First stage of the Review focuses on the immediate needs to provide adequate legal framework to transform the land administration delivery system.
- 1.3 The terms of reference for the first stage of the review are set out below.

Theme: **Transformation of land administration delivery system**

Timeline: **January – December 2010**

Scope:

- 1.3.1 Creating user friendly and electronically compatible statutory forms.
 - Examine the statutory forms of the National Land Code 1965 (‘the Code’) and provide simpler, user friendly and compatible in both manual and electronic environments.
- 1.3.2 Enhancing regulatory framework for developing electronic land transactions.
 - Identify measures to be introduced in ensuring integrity of the electronic land registration system and provide appropriate recommendations for its improvements; and
 - Analyse the existing legal and institutional framework regulating electronic land administration system through comparative analysis of various models from countries implementing Torrens system.
- 1.3.3 Resolving conceptual, procedural and technical issues in the land administration system.
 - Address the conceptual, technical and procedural issues posed by some of the antiquated provisions of the Code that has rendered the procedures cumbersome, time consuming and redundant; and
 - Iron out the discrepancies in the Code and make it more proactive in addressing the developments in various other legislation, judicial interpretation of the provisions and other administrative constraints.
- 1.3.4 Review of the institutional framework for capacity building in meeting the needs of the global challenges.
 - Suggest reforms to the Professionalism of Land Administration to be prescribed in the Code and make it relevant in delivering

efficient and high-quality people-centric services to the citizens and businesses.

- 1.4 We would like to invite your organisation and all interested persons to comment on the issues or proposals highlighted in this consultation paper. Respondents are also welcome to propose other suggestions or make recommendations that can enhance the land administration system. We would appreciate if all responses can be sent in before **18 May 2012**.

2. OBJECTIVES OF REVIEW

- 2.1 A key objective of the review is to analyse and identify the legislations pertaining to land registration and regulatory regime in Peninsular Malaysia is progressive, able to contribute to an efficient land administration delivery system and to achieve a trusted and pro-enterprise business environment. In addition, our land tenure registration and regulatory regime should also be comparable to those of the developed countries, in view of international trends and developments. Through this review, we also seek to examine the relevance of the provisions of the Code and its compatibility in meeting the needs of the current business environment, globalization and electronic environment of land administration system.
- 2.2. Strategically, this review is part of a larger programme undertaken to reform the legal and administrative framework which has its ultimate goal to introduce an integrated and adequate legal framework for implementation of an Electronic Land Administration System in Peninsular Malaysia. Its primary aim is to modernize the Code which underpins the land registration system and, in doing so, to replace the number of provisions, some of which are out dated and not compatible to the current technology needs. It is the intention of this review to establish a foundation for the creation of a restructured the Code (proposal for creation of a New Model) in the immediate future.

3. BACKGROUND

- 3.1 The proposals and recommendations contained in this document are the outcome of a review of the Code carried out by IIUM Entrepreneurship and Consultancies Sdn. Bhd. In carrying out this review the Consultants have taken into account the suggestions made by the Land Administrators from the land Registries and land offices from the Peninsular Malaysian States. The purpose of the review is to make recommendations to amend the Code to provide for:
 - 3.1.1 Proper and exact interpretation of the legal provisions which carries the original intentions of the drafter;
 - 3.1.2 Incorporating administrative practices that are not included or regulated by the Code which are successfully implemented and benefits the users into legislative provisions within the Code; and
 - 3.1.3 Reduce the administrative burden hampering the efficient delivery of services in the land administration system by improving the practices and procedures in conducting businesses in the land Office/Registry.

- 3.2 Besides proposing amendments to the existing legal procedures and practice, the review also seeks to introduce new practices. Some of the proposed new practices are as follows:
- (a) Proposal to merge Form 12A and Form 12B to create a single statutory Form for purposes of making application for surrender of land, partly or wholly, for development purposes.
 - (b) To introduce legal provision and statutory Form to facilitate matters relating to renewal of leasehold land tenure.

4. APPROACH TO CONSULTATION

A. Stakeholders' Consultation

- 4.1 The findings of the review were presented to the principal stakeholders of the land administration system from all the States land Registry and selected land offices to obtain the feedback for all the scopes as part of this review. Feedback from the consultation was incorporated in the findings in the Final Report. Table 1 below sets out the Stakeholders consultation sessions.

Table 1: Stakeholders Consultation and Feedback Sessions

Date	Venue	Note/Activities
January 2010	JKPTG State Land Registries	The consultants briefed the members of the meeting comprising of the representatives from various government agencies relating to land. Department of Lands and Mines, State of Penang Timur Laut District Land Office in Penang Department of Lands and Mines, State of Perak District Land Office in Kuala Kangsar Department of Lands and Mines, State of Kelantan District Land Office in Kota Bahru
February 2010	JKPTG	Meeting with the Research and Development Section, presentation of initial findings based on literature review and State visits. Department of Lands and Mines in State of Sarawak Department of Lands and Mines in State of Johore Department of Lands and Mines in State of Malacca
March 2010	JKPTG	Presentation of initial findings based on literature review and State visits and presentation of progress report and consultation with the JKPTG, Department of Research and Development. Department of Lands and Mines in State of Negeri Sembilan
April 2010	State Land Administrators Director General of JKPTG Federal Officers	Presentation of field trip both local and overseas findings. Presentation of progress report and consultation with the JKPTG, Department of Research and Development.

Date	Venue	Note/Activities
May 2010	JKPTG	Presentation of progress report and consultation with the JKPTG, Department of Research and Development.
June 2010	JKPTG	Presentation of progress report and consultation with the DG of JKPTG and State Land Administrators. Meeting with JUPEM to discuss on proposed reform and identify their views. Presentation of progress report and consultation with the JKPTG, Department of Research and Development.
July 2010	JKPTG	Presentation of progress report and consultation with the JKPTG, Department of Research and Development.
August 2010	JKPTG	Presentation of progress report and consultation with the JKPTG, Department of Research and Development.
September 2010	JKPTG	Presentation of progress report and consultation with the JKPTG, Department of Research and Development.
4-5 th October 2010	Klana Resort, Seremban, Negeri Sembilan	Consultation with all State Land Administrators and Federal agencies.
19 th October 2010	JKPTG	Presentation of findings to KSU, DG of JKPTG, Directors and Section heads.
19 th November 2010	JKPTG	Submission of final report. Meetings discussing final report with the JKPTG, Department of Research and Development.
1st week of December 2010	JKPTG	Meetings discussing final report with the JKPTG, Department of Research and Development.
14 th December 2010		Presentation of findings and consultation with Land Administrators for purposes of finalizing of review findings and submission of final report.

B. Public Consultation

- 4.2 This consultation document seeks to obtain views on the proposals in accordance with the scopes undertaken in this review. The related proposals are grouped under suitable subject headings for ease of reference.
- 4.3 Each proposal is accompanied by explanatory notes providing the background information and describing the effect of the proposed changes to the present system.
- 4.4 A series of questions have been developed to obtain views of all stakeholders and users. The questions are formulated to enable the application of various analytical techniques, allowing for the measurement of the responses. For this reason we prefer responses to be submitted using the online system specified under the heading 'How to respond', but nevertheless responses in any other formats are most welcome.

- 4.5 This public consultation is aimed primarily at conveyancers, academicians, lenders, banking and financial institutions, regulatory and representative bodies (such as the Malaysian Bar Council, Real Estates and Housing Developers Association, Housing Buyers Association, Real Estate Agents, and etc.), politicians, and various other professional groups such as Surveyors and Valuers.
- 4.6 We would appreciate if there are more views on the proposals set out in this consultation paper and would encourage the recipients to pass copies of this document to all persons or bodies having an interest in the review of the National Land Code 1965. Respondents do not need to comment on all questions; we equally welcome responses concentrating on just one particular aspect of this consultation paper.
- 4.7 This consultation process is fixed for a period of **16 weeks** commencing **from 1 February 2012 and ending on 18 May 2012**.

5. REVIEW OF STATUTORY FORMS FOR CREATING USER FRIENDLY AND ELECTRONICALLY COMPATIBLE USE

Issue 1 | **The Statutory Forms prescribed in the Schedules to the National Land Code 1965 are not easy to use, out-dated and does not meet the requirements for electronic environment of land administration system.**

5.1 Statutory Forms are an important feature of the Torrens System of land administration as section 207 of the National Land Code 1965 provides that registration of dealings, non-dealings and all other types of transaction to be conducted with the land office/Registry is to be made using the prescribed stereotype Statutory Forms.

5.2 The essence of the Torrens System is registration. The forms are instrumental in the process because it is used to collect the relevant information of the land and to announce to the whole wide world the intention of the transaction to avoid legal, judicial or administrative obstacles and to maintain the conclusiveness of the Register Document of Title (RDT). The need to examine all the Forms provided in the National Land Code 1965 is timely to reduce repetitions, overlapping, confusion and creation of new Forms to suit the evolution of the land administration system.

5.3 The Statutory Forms are found to be cumbersome and confusing. The modern society requires simplified, less technical and user friendly Statutory Forms. The forms are in need of improvements and enhanced to provide for features that can promote speedier service delivery and make it customer centric. This review identified the following weaknesses in the existing forms:

- The forms are not simple and very technical, rendering it difficult to be understood by layman and requires the assistance of professionals with payment of a considerable amount of professional fees;
- The forms are not available as one single document, users are required to combine few Forms to create an instrument for registering a dealing;
- The size of form is limited to a width of 420 millimetres and a length of 297millimetresas prescribed in the Tenth Schedule. Currently the form cannot be converted into A4 size to be made available on the internet;
- There are forms designed to cater for a single purpose and not meant to be used for multiple purposes;
- In the First Schedule do not meet the requirements of an electronic land administration system environment; and
- Confusion as to the type of form to be used such as Form 16A and 16B (Charge Forms) due to the lack of clarity in the language used in the form and the provisions of the National Land Code 1965.

5.4 It is observed that there are no clear defined policy directions in guiding the preparation of the forms in the previous amendments to the National Land Code 1965. For instance, the Statutory Forms in the First Schedule were not reviewed in the course of inserting the Fourteenth Schedule for the purposes of regulating the

Computerized Land Registration System (CLRS). This is due to the objective of CLRS was aimed at 'registration of title or interest' to land only, and it was not intended to cover matters prior to registration of title to land. These forms currently remain unchanged and it has to be used by manual intervention (pen and ink). The position remains the same even with the introduction of Electronic Land Administration System under the Sixteenth Schedule of the National Land Code 1965 where changes are necessary to make the Forms compatible to be used in electronic environment. It is clear that the nature of the existing Forms does not meet the flexibility required for use by electronic means.

- 5.5 It is essential to ensure that any proposed changes to the forms must be made without compromising the ability of the forms to capture all the information necessary to maintain the Torrens register.

Proposal for Reform:

- 5.6 This review recommends the following proposals:

- (a) To design forms that will be compatible in both manual and electronic land administration system;
- (b) To amend or repeal the corresponding legal provisions in the National Land Code 1965 to streamline the changes to the Forms;
- (c) To comply with the requirements of statutes made to regulate electronic commerce, electronic government activities in Malaysia such as Digital Signature Act 1997 (Act 562), Evidence Act 1950 (Act 56), Electronic Government Activities Act 2007 (Act 680), Computer Crimes Act 1997 (Act 563) and all other related written law;
- (d) Forms in the First Schedule to be made available using web-based services for easy access;
- (e) Forms to be amended, modified, amalgamated or repealed depending on the circumstances and exigencies of the web based registration system;
- (f) To provide cheaper and speedier services by facilitating presentation of instruments of dealings using web based services;
- (g) Forms in the First Schedule to be printed or reproduced using A4 size plain white paper with added attributes of durability and sufficiently glazed to prevent the blurring of ink;
- (h) To incorporate security features into the forms such as barcode, digital signature, to ensure safety and confidence in the system and to counter the criticism of electronic title being vulnerable;
- (i) To insert provisions for regulating aspects relating to registration, document of title, imaging of hard copy of documents for safe keeping, storing and retrieving of the stored images in event required to be produced as evidence in circumstances where allegations of fraud or forgery needs to be established;
- (j) To prepare simple and user friendly guidelines to assist users to complete the forms;

- (k) To examine some Statutory Forms in the State Land Rules those have been identified as capable of being incorporated into the National Land Council for making it available to all States. This will prevent the lack of uniformity in the use of the forms; and
- (l) Redesign the forms to meet the flexibility required for use of technology (see recommended improvements to the Statutory Forms set out in length in **Annex – A**).

Affected Provisions:

5.7 The following provisions have been identified for amendments to cater for the abovementioned reforms:

- (a) Section 207 – Form of instrument of dealing;
- (b) Section 208 – Instruments to contain description, etc., of parties;
- (c) Section 209 – Instruments to contain proper description of land affected;
- (d) Section 210 – Execution of instruments of dealing;
- (e) Section 211 – Attestation of instruments of dealing;
- (f) Section 209 – Documents to accompany instruments of dealing;
- (g) Section 436 – Supplementary provisions proscribed in Tenth Schedule on the manner of filling the Forms and related procedures;
- (h) First Schedule prescribing the relevant Statutory Forms to be used;
- (i) Fifth Schedule prescribing the attestation of instruments;
- (j) Tenth Schedule– Supplementary Provision as to Forms and Procedures;
- (k) Fourteenth Schedule – Regulations made to regulate Computerized Land Registration System;
- (l) Sixteenth Schedule –Regulations made to regulate the Electronic Land Administration System;
- (m) State Land Rules; and
- (n) All provisions relating to the respective forms.

Question 1:

In your view, what are the appropriate suggestions and input relating to the Statutory Forms used in the State Land Registry/District Land Office that could be adopted for use at national level to create uniformity of practices and improving efficiency of delivery system?

Question 2:

Can you identify any specific Statutory Forms that are cumbersome and requiring reforms?

Question 3:

Are there any other suggestions for enhancing the quality and features of the Statutory Forms based on personal experiences and public user complaints?

Question 4:

Do you agree for the form prescribed for entry of Lien-Holders Caveat to secure the interest in the Lien to be deleted or repealed and replaced with a Form designed to register Lien as security dealing?

Question 5:

Do you agree with the proposed changes to the Statutory Forms as examples attached to this consultation paper?

Question 6:

Do you agree whether the instruments of dealings (transfer, lease, charge) should maintain the need of providing the column annexure for enclosing supporting documentations like sales and purchase, lease or charge agreements when executing the transaction or just provide a column within the form that specifies the consideration of the agreement only?

6. REVIEW OF REGULATORY FRAMEWORK FOR DEVELOPING ELECTRONIC LAND TRANSACTIONS

Issue 2	The existing legal regulatory framework introduced via the National Land Code Amendment 2008 (Act A1333) is unable to meet the needs and requirements for providing an integrated electronic land administration and registration system
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- 6.1 The National Land Code 1965 was amended in 2008 via Amendment Act A1333 to insert section 5D and the Sixteenth Schedule (Electronic Land Administration System) to address the regulatory and institutional needs of the electronic land administration system. Prior to this the National Land Code 1965 was amended in 1992 via Amendment Act A832 to provide the legal framework for regulating the Computerised Land Registration System (CLRS/SPTB). The 1992 Amendment Act inserted section 5A and the Fourteenth Schedule to provide for the manner of carrying out registration under the computerised land registration system. The changes made in the Fourteenth Schedule (Computerized Land Registration System) and the introduction of the Sixteenth Schedule (Electronic Land Administration System) of the National Land Code 1965 is inadequate to support future developments of Electronic Land Administration System (eLAS) where a fully automatic system is proposed to be introduced.

- 6.2 It is observed that there is lack of clear policy directions and in-depth studies on the legal regulatory needs of an electronic system which is proposed to be migrated from a manual system into electronic environment without compromising the unique concepts of the Torrens system.

Proposal for Reform:

- 6.3 Subsection 5D(4) of the National Land Code 1965 has anticipated for the future expansion of eLAS provided in the Sixteenth Schedule, by providing the space for expanding the regulatory framework in circumstances as '*necessary, desirable or expedient*'.
- 6.4 This, *inter alia*, includes:
- (a) Improvements to the land administration system in addressing the continuous evolution and expansion to meet changing needs of society;
 - (b) Regulating all future web-based application systems such as online forms, online attestation, electronic submission, electronic presentation, electronic land dealings, electronic official land searches, electronic attestation, electronic transmission of land upon death, electronic strata titles, and online auction;
 - (c) Addressing continuous enhancement of electronic security measures at all significant levels of operation in eLAS to instil and promote confidence in the system;
 - (d) Incorporating the following aspects into the legal provisions in order to provide a regulatory framework that can create an efficient and reliable electronic land administration system:
 - Conversion of titles from manual to electronic and adopting the Statutory Forms and the Register from a semi-automated into a fully electronic system;
 - Changing the manner of presentation of instruments in the Land Office/Registry: incorporating security aspects and the preservation of data in the Register;
 - Access to land information via official search of information through web based facilities by creating interlinking gates for providing information from survey, planning authorities, valuation, Inland Revenue Board and all other relevant agencies to deliver speedier services;
 - Incorporating security features at all levels of processing to tighten security requirements to prevent fraud, forgery or misrepresentation;
 - To extend the power of the Registrar to correct errors in the electronic system and maintaining an electronic correction book to record all the errors and wrongful entries made to the electronic register by the Registry and Land Office personnel;
 - To extend the powers of the Registrar in verifying the fitness of the instrument presented for registration;

- Regulating agencies involved in providing information must set standards for interoperability of data needed for purposes of integration and sharing of data between all agencies having interests in land and property development; and
- Streamline the requirements, stipulations and restrictions in the following legislations; Computer Crimes Act 1997(Act 563),Electronic Government Activities Act 2007(Act 680), Digital Signature Act 1997(Act 562), Electronic Commerce Act 2006 (Act 658),Consumer Protection Act 1999 (Act 599), Communications and Multimedia Act 1998 (Act 588), Malaysian Communications and Multimedia Commission Act 1998(Act 589), Copyright (Amendment) Act 1997 (Act A994),National Archives Act 2003(Act 629),Evidence Act 1950(Act 56), Contracts Act 1950 (Act 136), Penal Code (Act 574), Rules of High Court 1980; Town and Country Planning Act 1976 (Act 172), Local Government Act 1976 (Act 171), Streets, Drainage and Building Act 1974 (Act 133),Anti Money Laundering and Anti-Terrorism Financing Act 2001 (Act 613),and other related laws.

Affected Provisions:

6.5 The following provisions are identified as requiring amendments to reflect the proposed changes to the statutory Forms:—

- (a) First Schedule – Form
- (b) Fifth Schedule – Prescribing the attestation of instruments
- (c) Tenth Schedule – Supplementary provision as to forms and procedures
- (d) Fourteenth Schedule – Computerized Land Registration System
- (e) Sixteenth Schedule – Electronic Land Administration System
- (f) Section 83-92 –Alienation Under Final Title
- (g) Section 157A-157B – Powers of Attorney
- (h) Section 158-160C – The Registers
- (i) Section 164-175C – Final Title and Replacement of Register Document of Title
- (j) Section 176-179 – Qualified Title
- (k) Section 180-182 – Alienation under Qualified Title
- (l) Section 189-194 – Conversion of Qualified Title into Final Title
- (m) Section 205-213 – Dealings
- (n) Section 215 – Transfer Forms
- (o) Section 242 – Form of Charges
- (p) Section 260 – Application to Land Administrator for order of Sale
- (q) Section 266A – Statement of payment due
- (r) Section 267A-268A – Application of Purchase money

- (s) Sections 292-308 – Registration of Dealings
- (t) Sections 309-311 – Powers of Attestation
- (u) Sections 312-315 – Cancellation of Registration
- (v) Sections 319-333 – Caveats
- (w) Sections 340-341 – Indefeasibility of Title and Interest
- (x) Section 344 –Registration of Trustee
- (y) Sections 346-350 – Transmission on death and bankruptcy
- (z) Sections 375-383 – General powers and duties of Registrar
- (aa) Sections 384-386 – Searches
- (ab) Sections 410-413 – Deposited plans
- (ac) Section 414-416E – Registration of Statutory Vesting
- (ad) Section 420 – Registration of Vesting Order
- (ae) Section 430-433 – Service and Publication of Notices
- (af) Section 436 – Supplementary provision as to forms and procedures
- (ag) Section 437 – Form of Presentation Book

6.6 The abovementioned provisions will be amended accordingly to ensure the proposed amendments to the Statutory Forms are adequately addressed.

Question 7:

What is the suitable/appropriate electronic land administration system framework to be adopted for the States in Peninsular Malaysia; is it semi-electronic with manual intervention or fully electronic or both systems to be implemented concurrently to accommodate the lack of ICT infrastructure in rural and interior areas?

Question 8:

Whether amendments to the National Land Code 1965 to incorporate the necessary provisions to regulate an electronic system is sufficient or would it be more appropriate to make specific law to regulate the electronic land administration system?

Question 9:

Are we ready to introduce e-conveyancing like Australia and New Zealand or from any other country implementing Torrens system?

Question 10:

Can you share your experiences in dealing with the Computerised land Registration System (CLRS/SPTB) and electronic land administration system and please provide the comparison between the two systems (if any)?

7. REVIEW OF CONCEPTUAL, PROCEDURAL AND TECHNICAL ISSUES IN LAND ADMINISTRATION

- 7.1 The National Land Code 1965 was made to provide a uniform law for Peninsular Malaysia. The land administration system has been facing some technical, procedural and conceptual issues that must be reformed in order to enhance the efficiency of the land administration system to meet the needs of the modern society.
- 7.2 A selection of land registration and associated issues were examined and it is deduced that it is essential to review the conceptual, technical and procedural issues prescribed in the National Land Code 1965 in meeting the rapidly changing technological and business environment in the country. Preservation of the principles and concepts of the Torrens System within the context of technological evolution has to be established to enable us to meet the needs of a futuristic land administration system.
- 7.3 Research has proven that the 'Torrens' ideal qualities are still desirable and relevant to the modern digital era. The five qualities that are desirable for any administration system are reliability, simplicity, cheap, speed and suitable. Sir Robert Richard Torrens, the founder of the Torrens system, aimed for these five qualities in a revolutionary land registration and transfer system (Ruoff, 1957)¹. Torrens system is a system of land administration and registration of land dealings has survived for over one hundred and thirty years without significant amendments, despite substantial changes in the Australian society. Thus, this can be interpreted to mean either, the Torrens system is a system that works or that the law and the land registration system have been strong enough to resist the changes and reforms.
- 7.4 The issue at present is whether the Torrens system is:
- (a) Appropriate;
 - (b) Able to achieve its objectives;
 - (c) Requires modifications of concepts, procedures and technical issues to survive the needs of the 21st century where globalisation and electronic system is dominating the scene; and
 - (d) Able to integrate with the surveying and legal professions in addressing the changing needs.
- 7.5 The National Land Code 1965 provides legal, administrative and procedural framework for regulating the land administration and registration of dealings. The provisions of the National Land Code 1965 were examined thoroughly to identify the necessary changes to create effective and efficient procedures that will ensure the aims, principles and objectives of the Torrens system are preserved and remain intact in an electronic environment. The proposed reforms are necessary to ensure the land administration system will be able to meet the market demands, boost confidence of property owners and investors and efficiently provide for regulating the electronic land administration system needs.

¹ Ruoff, T., 1957, An Englishman looks at the Torrens System, Sydney.

- 7.6 The following issues were examined and root causes that have had the impact of reducing the efficiency in the land administration system were identified with the objective of proposing reforms to enhance the delivery system.

Issue
3

Implementation of Single Title System

- 7.7 The National Land Code 1965 provides for issuance of two types of land titles, namely Registry Title (i.e. GRANT, STATE LEASE, Q.T. (R)) and Land Office Title (i.e. MUKIM GRANT, MUKIM LEASE, Q.T. (M)). The land administration system at present is administered at two strategic levels, District Land Offices (to have control over administration of land office titles registers); and creation of Registry Title Office—that is the State Director of Lands and Mines Office (to have control over administration of registry titles registers).
- 7.8 Subsection 292(2) of the National Land Code 1965 requires the lodgement of instrument of dealing relating to land held under land office title to be presented at the respective Land Office where the Register document of title is kept, whilst the instrument of dealing relating to land held under registry title shall be presented at the respective Registry Title Office of the State.
- 7.9 Section 375 of the National Land Code 1965 requires the Land Registry (that is District Land Offices or the State Director of Lands and Mines Office) to ensure the continuous safe keeping of land registers which fall under their respective jurisdiction.
- 7.10 This leads to the creation of numerous land Registers database at State level and cannot be located in one centralized database in the State Director of Lands and Mines Office as the law requires it to be distributed or decentralized and maintained at the District where the title was issued and registered.
- 7.11. The current institutional framework and legislation creates a hindrance of implementing an electronic land administration system. The existing of decentralized register databases does not facilitate in the area of efficient monitoring and sharing of information. There will always be a lack in real time information and the need of replicating information has to be done which creates the need for larger servers and data spaces. This increases the cost and also the need for extra security aspects to be implemented for the success and the conclusiveness of the data.
- 7.12. Having a dual titling system reduces the efficiency in doing business. People want an easy and simple way to do their dealings. It can be a hassle, when someone wants to deal with the respective Land Office. This indicates that the land administration has to provide various type services for titles issued in that particular state at the any nearest land office. This will enhance service delivery and provide better implementation of land administration reforms.

Proposal for Reform:

- 7.13 The present system of issuing two types of title, Land Office (Mukim) and Registry is cumbersome. In view of promoting an efficient service delivery and an electronic land administration system, it is proposed that a centralized database is created at the State Director of Lands and Mines Office which consolidates and maintains both the Mukim and Registry Registers of Titles.
- 7.14. The proposed concept will see all Land Office Titles converted to Registry Titles and this will provide the platform for a single title system which will make doing business in the land administration much easier and fast. This concept will not only be a precursor for legislative amendments but it will be an impetus for transforming the fundamentals of the land administration institutional structure towards a global change to enhance service delivery.

Affected Provisions:

- 7.15 In order to meet the objectives of creation of a single land title system, Part Ten of Division III of the National Land Code 1965 is proposed to be reviewed by inserting after Chapter 4 a new provision, section 175G to prescribe clearly the method of creating the single title system.

Sample of the Proposed Provision:

“Chapter 5 – Conversion of Land Office Titles Into Registry Titles

Coming into force of the conversion of Land Office Title into Registry Title

175G. (1) For the purpose of section 5A or section 5D of this Act, as the case may be, the State Authority may, by notification in the *Gazette*, make conversion of any Land Office Title in any office of the Land Administrator to be held under Registry Title as he may consider necessary for the purpose of Electronic Land Administration System.

(2) Upon the coming into operation of the conversion in subsection (1), the State Authority may, by notification in the *Gazette*, in accordance with section 12 of the Code, appoint for the State—

- (a) a State Director of Lands and Mines as a Registrar of Titles;
- (b) all Land Administrators as Deputy Registrars of Titles;
- (c) all Land Offices as branch offices of the Registry Title office.

(3) In the circumstance of subsection (2), any reference to “Land Office Title” or “Land Administrator” appeared in this Act shall be read as Registry Title or Deputy Registrar of Titles respectively.

(4) Any conditions or restrictions or memorials or endorsements or encumbrances for the time being in force to the Land Office Title shall, but subject to any direction in contrary by the State Authority or by operation of law, continue to have effect in the converted register document of title pursuant to subsection (3).

(5)Provisions in this Chapter shall apply, *mutatis mutandis*, to any strata title of document in Form 4 in the First Schedule of the Strata Titles Act 1985 in which it's corresponding to the Land Office Title thereof.

(6)Nothing in this Chapter shall have the effect of conversion of any Land Office Title into Registry Title–

Provided that there shall be an online registration system in force pursuant to section 5A in respect of Computerized Land Registration System or pursuant to section 5D in respect of Electronic Land Administration System in any land Registry.”

Question 11:

Do you agree with the proposal to insert a new provision into the National Land Code 1965 to facilitate the creation and introduction of a single land title system to be used in the electronic land administration system?

Issue 4

Abolishment of Qualified Title (QT)

- 7.16 The practice of issuing qualified title in Malaysia was introduced to provide an interim issue document of title for a land, to enable it to be alienated for development in advance prior to detailed land survey. In term of status, it confers upon the proprietor similar and equal right as that of a final title with the exception, that applications for subdivision, partition and amalgamation of land held under qualified title is not permitted. The latest amendment to the National Land Code 1965 *vis a vis* Act A1104 introduced section 79, 135, 140, 146, Chapter 3 Part Eleven and amended section 204B relating to the issuance of qualified title. At the same time, sections 183A, 184A and 185A were incorporated. Consequently, the land office can straightaway issue final title instead of qualified title. The Land Administrator or Registrar can issue final title without having to issue qualified title in continuation where it appears just and expedient to do so by virtue of sections 183A, 184A and 185A.
- 7.17 In accordance with the proposed abolishment of the provisions on registration and issuance of qualified title abovementioned, provisions relating to qualified title in continuation should be repealed to ensure issuance of final title throughout the country without wasting resources in issuing qualified title. Subsection 79(2) of the National Land Code 1965 regarding the determination of forms or types of qualified title has been repealed by virtue of the National Land Code (Amendment) 2001 and as such provision of subsection 204G(1) regarding surrender and alienation of land are also subject to this amendment.

Proposal for Reform:

- 7.18 In view of enhancing the land administration delivery system, the abolishment of the practice of issuing qualified title (and accordingly issuance of final title) is a significant step to avoid duplication of work processes and wastage of resources.
- 7.19 This proposal requires the process-owners to establish an efficient coordination mechanism between JUPEM and land offices to effectively coordinate all matters involved in preparation and issuance of survey plan for issuance of title.

Affected Provisions:

- 7.20 The whole of Part Nine, Chapter 1, 2 and 3 albeit sections 135 to 150 are proposed to be repealed. The whole Part Eleven is proposed to be repealed.

Question 12:

Do you agree with the proposal to abolish the practice of issuing the Qualified Title (QT) to land in order to enhance efficiency of land administration delivery system?

Issue 5

One Day Title Delivery

- 7.21 The land administration delivery system has been experiencing some challenges in completing registration of instrument of dealings in accordance with the targeted schedule. Despite the Client's Charter promises that titles will be delivered within 14 days, inordinate delay ranging from 3 to 18 months have been reported in various parts of the Peninsular Malaysian states.
- 7.22 The land offices and registries visited throughout the country is in agreement that they can deliver the duly registered instrument of dealings within the targeted time provided some weaknesses in the system are addressed and overcome. The weaknesses identified as hampering the delivery system and requiring immediate attention are the lack of trained and experienced manpower to work faster and efficiently; insufficient manpower; work culture; lack of workspace and infrastructure. It is necessary to make improvements to the performance of the land office delivery system, to instil confidence in the investors on the land administration system and its efficiency in delivering services in areas of security transactions, development planning, valuation and other business areas.

Proposal for Reform:

- 7.23 It is proposed that a new Part under Part Eighteen is inserted, numbered as Chapter 4A – Delivery Of Registered Documents with provisions specifying a reasonable duration for delivering of the registered titles to the landowners.
- 7.24 Alternatively to issue circulars to the Land Office and Registry to adopt the standard operating procedure setting out the steps to be adopted in title registration to speed the delivery process.

Question 13:

Do you support the proposal for the National Land Code 1965 to be amended to provide expressly the time frame for delivering the duly registered title in one day?

Issue

6

Renewal of Leasehold Tenure

- 7.25 Currently leasehold title holders are facing difficulties in obtaining credit facilities if the remaining duration of the lease is less than 30-50 years. This circumstance will have a direct affect on value of the property and its marketability in the open market. The landowner will face problems in securing financing by using the land as security if the duration of the remaining terms of the lease is lesser than the duration of the loan repayment period. In fact the Banks are only intended to grant loans provided the tenure of the leasehold is longer than the loan repayment period.
- 7.26 A landowner is required to make an application to the State Authority for fresh alienation of the land using the current legislative and administrative standard operating procedures which are cumbersome.
- 7.27 Section 46 of the National Land Code 1965 provides that “alienated land shall revert to and vest in the State Authority upon the expiry of the terms specified in the document of title thereto”. Even though the land owner has to surrender the lease over the land before the expiry of its term of lease to the State Authority in order to secure a new leasehold term, but there is no legal guarantee provided in the National Land Code 1965 that the landowner will be guaranteed to regain the land through fresh alienation or re-alienation process. Current practices show that the matter is within the discretion of the State Authority as to whether to alienate the surrendered land to the original proprietor or any new applicant. This matter though pertinent has long been managed by merely adopting administrative measures only and not by legal-force by virtue of any specific provisions in the National Land Code 1965.
- 7.28 There are no express provisions in the National Land Code 1965 providing for the procedure to extend or renew the duration of the lease to be granted automatically upon its expiry by the Registrar or Land Administrator. The National Land Code 1965 provides that the procedure for extending or renewing the duration of a leasehold tenure is to be made by surrendering the land to the State Authority and apply for “fresh-alienation” of the land.

Proposal for Reform:

- 7.29 It is pertinent to insert a new provision in the National Land Code 1965 to provide a procedure to assist in application and processing for renewal of land leases before the expiry of the duration of the lease.

Affected Provisions:

- 7.30 This proposal involves amendment of the National Land Code 1965 by inserting the proposed new section 76A.

Sample of the Proposed Provision

“Extension of Term of Land Leases

76A.(1) The proprietor of alienated land in which it subject for a term not exceeding ninety nine years may, in the absence of contrary provision contained in the document of title or any written law, may apply for an extension of the term of lease of the alienated land thereby secured:

Provided that, subject to any rules which may be prescribed, the State Authority may, upon such terms and conditions as it may impose, extends such a term not exceeding ninety nine years for the land covered by the document of title to the person who is the registered proprietor.

(2) For the purpose of subsection (1), an application for the approval of the State Authority shall be made before or upon the expiration of the leasehold term.

(3) Where the State Authority has approved any application made under subsection (1), he shall notify the Registrar or Land Administrator, as the case may be, of the approval and direct him to collect from the proprietor, any fees or further premium imposed thereof.

(4) As soon as may be after the fees or further premium referred to in subsection (3) have been duly paid, the Registrar or Land Administrator shall, as the case may be, make or cause to be made, an endorsement to effect such extended term on the register document of title to the land.”

Question 14:

Do you agree with the proposal to insert a new provision into the National Land Code 1965 to facilitate the renewal of leasehold land tenure?

Issue

7

Position of Overriding Statutes

- 7.31 There are other written laws besides the National Land Code 1965 that creates legal rights, powers or charges that affect land held under that Act. In some cases when there have been conflicts between the provisions of the National Land Code 1965 and the other written law, the provisions of that law have been held to override the provisions of the National Land Code 1965. Concerns have been raised about the implications of this effect on the principle of indefeasibility of title underpinning the Malaysian land transfer system. Statutory rights affecting the title to land under the National Land Code 1965, which are not noted on the Register, can prevail against the title of a registered proprietor. However, to have priority over the

interests of registered proprietors, these rights must be set out in statutory provisions in which there is an express direction, or clear implication, that the National Land Code 1965 provisions are not applicable.

Proposal for Reform:

- 7.32 To set out in the National Land Code 1965 the position of the statutes that contain provisions that appear to provide exceptions to the principle of indefeasibility of title *inter alia* are Contract Act (Act 136), Dangerous Drugs (Forfeiture of Property) Act 1988 (Act 340), Bankruptcy Act 1967 (Act 360), Anti Money Laundering and Anti Terrorism Act 2001 (Act 613) and others.

Affected Provisions:

- 7.33 To insert new provision into National Land Code 1965 to provide for this matter.

Question 15:

Do you agree with the proposal to insert a new provision into the National Land Code 1965 to provide for resolving the position of overriding statutes?

Issue 8

Creation of Torrens Insurance Principle for Compensation of Loss of Innocent Proprietors

- 7.34 In all other Torrens jurisdictions, the title compensation regime was originally supported by an assurance fund that was created from the small levy paid on bringing land under the Torrens system. Because the fund became quite large, and was rarely called upon, it was abolished and the proceeds paid into the “Crown Bank Account” or the consolidated fund from which claims are now paid. If the cost of maintaining or adjusting the compensation regime is a concern, one option could be the re-establishment of a levy.
- 7.35 In view of the decision in *Adorna Properties Sdn Bhd v. Boonsom Boonyanit (2001)* and *Tan Ying Hong v Tan Sian San & Anors (2010)*, it is pertinent for the provisions of the National Land Code 1965 to be reviewed to provide for compensation for losses suffered by innocent proprietors and *bona fide* purchasers for value victimized in consequence of fraud or forgery committed against them without their actual knowledge.
- 7.36 In a system of Torrens title under the National Land Code 1965, the State Authority is responsible for the administration of the register document of title. In this regard, the State Authority should provide compensation as a method for recovering the loss caused by errors in the Land Registry Office. Indefeasibility of title also has the potential to be unfair in blocking access to actions for recovery of land. There are suggestions especially from the public that would be appropriate to compensate for loss caused by this change.
- 7.37 In the absence of adequate provisions in the National Land Code 1965 relating to this matter, a right for recovery of damages against the State Authority where the

claimant has been deprived of land, or an estate or interest in land, and is barred by the National Land Code 1965 from bringing an action for recovery of that land or interest. There must be an actual deprivation.

- 7.38 The Malaysian government's decision to adopt a modified Torrens system by excluding the implementation of Torrens Assurance Fund must be revised. It is pertinent to highlight that "the principles of 'indefeasibility' and 'guarantee' are complementary: the former gives security against deprivation; the latter assumes the possibility of such deprivation and grants financial assistance if it occurs".

Proposal for Reform:

- 7.39 With the idea of enhancing service delivery it also comes with the ability to provide a secure and well guaranteed system of registration of titles. Before the concept of Torrens Insurance Principle is introduced in Malaysia, the land administration has to achieve certain prerequisites on preserving integrity of titles or interests by registration, such as:

- (a) The act of registration is generally accurate, transparent and rarity of mistakes;
- (b) Fraud and forgery are adequately policed by the criminal justice system;
- (c) Conveyance lawyers reliably verify a person purporting to convey an instrument is identical to the owner; and
- (d) Rules and regulation pertaining to land disputes are clear and consistently applied by the courts to minimize competing interests.

- 7.40 The proposal for remedy for losses of rights and interests in land is deemed to be last resort for seeking compensation. It is restricted to be disbursed to innocent persons or bodies deprived of their rights on land or interests under circumstances stipulated in subsection 340(2) of the National Land Code 1965:

- (a) In consequence of fraud or misrepresentation to which the person or body, or any agent of the person or body was a party or privy; or
- (b) In consequence of registration was obtained by forgery, or by means of an insufficient or void instrument; or
- (c) In consequence of the title or interests unlawfully acquired by persons or body in the purported exercise of any power or authority conferred by any written law.

- 7.41 A claimant shall make a claim for compensation to the State Authority through the arbitration process of determining the losses or damages were caused by the elements of fraud or forgery within the prescribed time in the Limitation Act 1953 (Act 254). The procedures and regulations for processing of the claims will be prescribed in the respective State Land Rules

Affected Provisions:

- 7.42 To insert provision under Part Twenty – section 340A to set out the administration and management of the compensation for loss in relation to section 434.

Question 16:

Do you agree with the proposal to adopt the Torrens Insurance Principle which was not adopted in Malaysia when the Torrens system was introduced for providing the basis for creation of an assurance fund and incorporation express provisions into the National Land Code 1965 to regulate and facilitate payment of compensation to innocent persons victimized for loss of indefeasible title or interests in land in consequence of fraud?

Issue 9

Defining Exceptions to Indefeasibility of Title

- 7.43 Torrens system advocates the conferment of indefeasible title and interests upon registration of dealing. This is embodied in section 340 of the National Land Code 1965. Subsection 340(2) of the National Land Code 1965 provides for what is commonly referred to as statutory exceptions to the concept of indefeasibility of title and interests in Peninsular Malaysia. Although with certain controversy, a good number of academics believe that “deferred indefeasibility” is applied in Peninsular Malaysia. This inherently raises the importance of the instrument used for registration (Sihombing, J, *National Land Code: A Commentary*, p816). It is important to point out in this connection that the nature of indefeasibility varies from one Torrens jurisdiction to another. There exists a number of instances leading to statutory exceptions under the paragraph 340(2)(a), (b), (c) of the National Land Code 1965 through fraud and misrepresentation; forgery, void or an insufficient instrument; and lastly if a title was acquired unlawfully. This means that after registration, if a person comes forward and establishes that such a registration was acquired through one of the above means, then such a title or interest “shall not be indefeasible” and would thus be held vulnerable to attacks and challenges by others, (*Kassarmal & Anor v Valliappa Chettiar* [1954] 1 MLJ 119, PC) and if the claimant succeeds then the registration may be liable to be set aside.
- 7.44 Subsection 340(2) of the National Land Code 1965, provides several exceptions to indefeasibility of title and these represent situations when a registered title or interest may be open to attack. The exceptions are as follows:
- (a) in any case of fraud or misrepresentation to which the person or body, or any agent of the person or body, was a party or privy;
 - (b) where registration was obtained by forgery, or by an insufficient or void instrument; and
 - (c) where the title or interest was unlawfully acquired through purported exercise of any power or authority conferred by law.

Proposal for Reform:

- 7.45 It is proposed for inserting the meaning of the terms “fraud”, “misrepresentation”, “forgery” and “insufficient instrument” in section 5 of the National Land Code 1965.

Affected Provisions:

7.46 Amendment to section 5 of the National Land Code 1965.

Question 17:

Do you agree to the proposal to insert the meaning of the terms “fraud”, “misrepresentation”, “forgery” and “insufficient instrument” in section 5 of the National Land Code 1965?

Issue

10

Establishment of a Land Court

- 7.47 Land administration is interplay of various aspects such as land use, development, conservation and preservation. The tension between economic development and protection of natural resources requires inter disciplinary expertise to achieve a balance decision.
- 7.48 In Malaysia various legislation regulates these aspects such as National Land Code 1965, Strata Titles Act 1985 (Act 315), Town and Country Planning Act 1976 (Act 172), Street, Drainage and Building Act 1974 (Act 133), Local Government Act 1976 (Act 171), Public Authorities Protection Act 1948 (Act 198) and Environmental Quality Act 1976 (Act 127). These legislations provide an avenue to make an appeal through its own establishment or by virtue of court.
- 7.49 Having many competing jurisdiction to adjudicate for land matters makes service delivery rather slow and creates redundancy.
- 7.50 Land administration is an interplay of various aspects, that is land use, development, conservation and preservation, and the tension between economic development and protection of natural and other resources as such requires inter disciplinary expertise to achieve balance decision. In Malaysia, there are various legislation regulating land use, land tenure, administration, land development, land acquisition and environmental regulation such as the National Land Code 1965 (Act 56), Strata Titles Act 1985 (Act 315), Town and Country Planning Act 1976 (Act 172), Street, Drainage and Building Act 1974 (Act 133), Local Government Act 1976 (Act 171), Public Authorities Protection Act 1948 (Act 198) and Environmental Quality Act 1976 (Act 127) that provides for establishment of Appeal Board pursuant to section 35 and section 36 to deal with appeal. The appeal can be from any person aggrieved by:
- (a) a refusal to grant a licence or transfer of a licence;
 - (b) the imposition of any condition, limitation or restriction on his licences;
 - (c) the revocation, suspension or variation of his licences;
 - (d) the amount which he would be required to pay under section 47;
 - (e) any decision of the Director General under subsection (3) or (4) of section 34; and

- (f) any decision of the Director General or any officer under subsection (2) or (5) of section 48A.

7.51 It is essential to consider the establishment of a specialised Land Court. The system if implemented should be made more transparent and with enhancement of avenues for public participation. Rules should be developed properly so that the discretion is not exercised in an arbitrary manner, because land use planning is crucial to the delivery of sustainable development due to its ability to manage growth and change, link national and local goals, examine issues in the round, and encourage public participation.

Proposal for Reform:

7.52 The various dispute resolution tribunals established in Malaysia to resolve land use and environmental disputes discussed above have to a certain extent been proved useful especially the Homebuyers and Consumer Tribunals. It would be beneficial to examine the establishment of a specialized land court to resolve disputes arising from land administration and related aspects. The underlying assumption is that all government powers whether the sovereign powers of legislatures or the delegated powers of officials are held on behalf of the community and therefore they are accountable for their actions.

Affected Provisions:

7.53 Insertion of new Part 30A into the National Land Code 1965 to provide for establishment and administration of a Land Court.

Question 18:

Do you agree to the proposal for establishing of a Land Court under the National Land Code 1965 as a specialised forum for managing all disputes arising in the land administration and development regime?

Issue
11 | **Registrar's Power to Correct Errors**

7.54 The registering authority assumes an important role in ensuring that the registration of instruments of dealings is carried out accordingly. However, in recent years, complaints about land fraud have increased and this will have an adverse impact on confidence on the Malaysian property market as well as the socio-economic development of the nation. The weaknesses within the land registration departments have been cited as the major cause of land fraud.

Proposal for Reform:

7.55 It is proposed—

- (a) to provide clear guidelines in relation to the power of Registrar in correcting errors permitted prescribed in section 380 of the National Land

Code 1965 in electronic environment where the chances of making mistakes can increase. This is very crucial in the electronic environment where mistakes can occur in the process of keying information at land office/registry. The Correction Note-Book maintained pursuant to Rule 12(1) of the Sixteenth Schedule in the National Land Code 1965 provides for the Registrar to maintain records, to be called the “Correction Note-Book”, in which there shall be entered a short description of every matter corrected. Rule 12(2) provides that the Correction Note-Book shall consist of the presentation number given by the computer in respect of each matter presented.

- (b) to identify issues relating to the circumstances in electronic system which requires the Registrars to exercise their powers to correct errors in the Register.

Affected Provisions:

7.56 This reform is administrative in nature.

Question 19:

Do you agree with the proposal to provide guidelines in relation to the power of Registrar in correcting errors as permitted in section 380 of the National Land Code 1965 for the electronic system where the chances of committing mistakes is said to be higher than the manual environment?

Issue

12

Introduce Certificate of Correctness to Curb Fraud and Forgery

- 7.57 Challenges are faced in detecting fraud due to certain procedural and technical issues hampering the land administration system. Despite the preamble to the National Land Code 1965 manifesting the Code as amongst others providing for uniform law and policy for registration of dealings, there is a certain amount of resistance within the Land Offices. Land Offices resort to using special guidelines, rules and procedures unique to their own office for their convenience.
- 7.58 The Registrar has limited powers in registering the land dealings. His duties are limited to examining whether an instrument is fit for registration as prescribed in section 298 of the National Land Code 1965. So long as the instrument is “fit for registration” he is duty bound to register the dealing. He is not required to examine the instrument to identify fraud or improper dealings.

Proposal for Reform:

- 7.59 It is important to revisit the rationale for introducing the Torrens system of registration in Malaysia especially as there is evidence of risks to the system posed by fraud and other threats that have impacted the system so as to reduce its effectiveness.

- 7.60 To study the practice of using the Certificate of Correctness in curbing fraud and forgery in Torrens jurisdictions. The certificate of correctness is an important development in other Torrens jurisdiction where the legal professional is required to be jointly responsible in verifying the identity of the persons executing instruments of dealing. Refer to **Annex – B** for the proposed Certificate of Correctness.

Affected Provisions:

- 7.61 To introduce new provisions relating to applicability of Certificate of Correctness.

Question 20:

Do you agree that the Certificate of Correctness is useful in curbing fraud and forgery in Torrens jurisdictions and to impose an obligation on the legal professional to be jointly responsible in verifying the identity of the persons executing instruments of dealing?

**Issue
13**

Power of Registrar in Making Inquiries

- 7.62 The duty of the Registrar in registration of instrument of dealings is to determine the fitness of the instrument for registration according to the provisions of Chapter III. Registration can be carried out in the manner prescribed in Chapter IV if the instrument is fit for registration, and accompanied by all documents required by section 294 of the National Land Code 1965. Otherwise, he can proceed in accordance with the provisions of section 289 or 299 as of the National Land Code 1965 as appropriate. As long as an instrument of dealing is in order and fit for registration according to the requirements of section 301, it is the duty of the Registrar to register it.
- 7.63 The power of the Registrar is administrative in nature in which he will proceed with the registration if he finds that the applicant had complied with all the necessary requirements and procedures. However, if he finds that such procedures had not been complied with, he then has a right to suspend or reject that application (section 300 of the National Land Code 1965).
- 7.64 Registrar can make enquiries, and require the production of evidence, oral or documentary, as he may consider necessary or desirable for the purpose of determining the fitness of any instrument for registration. The powers conferred by section 302 of the National Land Code 1965 are exercisable subject to the limitations imposed by section 303 and, in the case of any instrument executed under a power of attorney, paragraph (b) of section 311. The Registrar is not required to go outside the terms of the transaction if it otherwise seems fit for registration.
- 7.65 The powers of Registrar are limited and may not be able to detect fraud or forgery as the Registrar has no opportunity to verify the identity of the parties to a transaction.

Proposal for Reform:

- 7.66 The powers conferred by section 302 of the National Land Code 1965 are exercisable subject to the limitations imposed by section 303 and, in the case of any instrument executed under a power of attorney, paragraph (b) of section 311. To amend sections 302 and 303 of National Land Code 1965 for purposes of giving more powers to the Registrar to examine and curb fraud and forgery dealings to promote and enhance land administration services in Malaysia especially in the electronic environment.
- 7.67 To introduce an administrative procedure to be called as “closing session”. The closing session would enable the parties to a land dealing to present the instruments in ‘fit for registration’ condition to the Land Administrator or Registrar who will verify the identity of the parties and take their thumbprint (using biometrics). The legal firm clerk (runners) will not be allowed to present the dealing. The clerk can accompany the parties to meet the Registrar. This is an important *modus operandi* to reduce incidences of fraud and forgery where the Land Administrator/Registrar can verify the identity of the parties and register the instrument if the dealing is straightforward and not complicated. This will help reduce the time in processing the instrument presented for registration.

Affected Provisions:

- 7.68 To amend sections 302 and 303 of the National Land Code 1965.

Question 21:

Do you agree that amendment to sections 302 and 303 of National Land Code 1965 for purposes of conferring more powers to the Registrar to examine and curb incidences of fraud and forgery in land dealings to promote and enhance land administration services in Malaysia especially in the electronic environment is necessary?

Question 22:

Do you agree to the introduction of the closing session to enable Registrar to verify the identity of the parties seeking to deal with land to reduce incidences of fraud and forgery?

Issue 14

Separation of Substantive and Procedural Law and Restructure the National Land Code 1965

- 7.69 The National Land Code 1965 is a complete and comprehensive law and is enacted to regulate the land administration system based on the Torrens system. The National Land Code 1965 is very detailed and it prescribes, the conceptual, technical and procedural aspects to ensure the principles and characteristics of the Torrens system is preserved. The provisions in the National Land Code 1965 are lengthy, and confuses the readers, it is proposed for the provisions to be analysed to remove the obsolete and redundant provisions. The Stakeholders in land administration and management fraternity have been facing difficulties in interpreting the legislation. It

is proposed for a detailed review of the National Land Code 1965 to be carried out to ensure it:

- (a) is well structured;
- (b) is written in plain English (and Bahasa Malaysia);
- (c) is limited to tenure creation matters;
- (d) promotes standardisation of processes and requirements; and
- (e) is user friendly.

7.70 Legislation should be effective, clear and accessible. Good design is important in ensuring that the policy objectives underlying the legislation are achieved. Towards achieving this, the legislation should be structured in a logical way that makes it easy for readers to follow and understand. It is proposed for the National Land Code 1965 to be reorganized and to take into consideration of the followings:

- (a) substantive matters should come before procedural matters;
- (b) the provisions providing for general aspects to be set out before the specific aspects; and
- (c) provisions that have wider application should come before provisions that have limited application.

7.71 Administrative and procedural provisions should be located after the provisions on concepts and substantive aspects so as to provide readers with a user friendly Code.

Proposal for Reform:

7.72 A proposed restructuring of the National Land Code 1965 by separating the provisions prescribing substantive aspects and procedures, including the incorporation of the provisions from the Strata Titles Act 1985 (Act 318) that provided for issuance of strata title. It is essential to revise the National Land Code 1965, part by part, section by section, guided by the Torrens features and principles.

7.73 It is also proposed for the review to adopt the drafting principles set out above to create a simple and user friendly legislation. This is aimed at modernizing the language, clarify meanings and settle doubts, remove obsolete provisions, reposition key provisions so they are all in the same part and rearrange the parts so that less important or little-used ones come at the end of the Act or in schedules.

Affected Provisions:

7.74 The entire National Land Code 1965.

Question 23:

Do you agree with the proposal to restructure the National Land Code 1965 by separating the provisions prescribing substantive aspects from procedures?

Issue 15 | Reversion of Provisions Prescribing for Application and Issuance of Strata Titles from the Strata Titles Act 1985 into the Restructured National Land Code

- 7.75 The Strata Titles Act 1985 provides the legal and institutional framework for establishing the Management Corporation to administer and regulate the management and maintenance of the strata scheme. The Strata Titles Act 1985 by-laws and the State Strata Titles Rules ensure efficient and effective administration of the building maintenance and management as well as administration of the management corporation for the benefit of all parcel owners.
- 7.76 Subsection 3(2) of the Building and Common Property (Maintenance and Management) Act 2007 empowers the Commissioner of Buildings to discharge his functions as stipulated in Parts VI and Part VII of the Strata Titles Act 1985. This provision provides that the Commissioner of Buildings must administer all matters pertaining to the management of subdivided buildings after the issuance of strata titles. The role of the Director of Lands and Mines in this matter is restricted to issuing of the strata titles and is not involved in maintenance and management of the buildings. Thus, this simplifies the process of separating the functions of building maintenance and management from that of issuing of strata titles.

Proposal for Reform:

- 7.77 It is recommended for Parts VI and VII of Strata Titles Act 1985 to be repealed and incorporated into the Building and Common Property (Maintenance and Management) Act 2007. This is to create an enabling legal framework for establishing the position of the Commissioner for Building as the sole authority entrusted to oversee the management of the functioning of the Management Corporation.
- 7.78 This can iron out the differences and create uniformity in the management of stratified properties in the following areas:
- (a) a uniform legislation governing the standard practice and procedures for application, processing and issuance of strata titles presently incorporated into the Strata Titles Act 1985; and
 - (b) a uniform legislation governing the standard practice and procedures for the maintenance and management of a strata scheme and placed under the jurisdiction of the Building and Common Property (Maintenance and Management) Act 2007 at the stages of pre-issuance and post-issuance of strata titles.
- 7.79 To enable the Land Office to focus on processing the application for subdivision of building and strata titles by removing all the provisions relating to subdivision and issuance of strata titles from the Strata Titles Act 1985 and incorporate these provisions into the National Land Code 1965.
- 7.80 The existing legislation for management of building and common property must be enhanced to provide clear rules for building maintenance and management. It is projected that by the year 2020, 75% of Malaysian population will be living in urbanized areas. High rise livings will be essential and unavoidable feature of urban living due to insufficient supply of land bank. This requires the creation of an

efficient building maintenance and management system to promote improved high rise living environment which is of world class.

- 7.81 Presently the management and supervision of the Management Corporation (MC) is under the jurisdiction of the Director of Lands and Mines (DLM). A Management Committee could only be established and is operational after the registration of strata titles. The post of Building Commissioner established under the jurisdiction of the Ministry of Housing and Local Government entrusted with the responsibility of overseeing the functioning of the Management Corporation must be entrusted with the power of supervising all bodies and agencies involved in building maintenance and management.
- 7.82 A Joint Management Committee (Developer/original proprietor/purchaser) is established prior to the registration of the strata title. This arrangement is feasible and would benefit the Land Administration and the Local Authority. The Local Authorities have advantage in term of officers and supporting technical staff for the supervision and management of building. This arrangement will also enable the management and maintenance of building to be done systematically with the involvement of the interested parties. This proposal is made based on preliminary review of the system implemented in Singapore and further study is needed to identify the effectiveness and efficiency in dealing with the stratified (high rise) buildings.

Affected Provisions:

- 7.83 Part VII (ss.39-55) and other provisions in the Strata Title Act 1985 to be amended.

Question 24:

Do you agree for with the proposal for restructuring of the Strata Titles Act 1985 and reversion of the provisions prescribing for application and issuance of strata titles from the Strata Titles Act 1985 into the proposed restructured National Land Code 1965?

Issue 16

Implementation of Single Title Search

- 7.84 The provisions for conducting search on register document of title is included in the National Land Code 1965 to enable any person to obtain from the Registry or Land Office particulars of a certain land title and of a certain document pertaining to the entries on a land title. Although a title to land consists of the register document of title and the issue document of title, it is only the information in the register document of title that is always up-to-date. Latest particulars regarding a land title are often required before dealing in respect of the land is affected. Before a person buys a piece of land, he would, for example, like to know whether the vendor is the registered proprietor, the land is subject to a caveat or prohibitory order, the land is to be acquired compulsory by the State Authority or it is subject to a forfeiture action. The Register must be updated to provide all latest information that is accurate and reliable for use in land transactions.

- 7.85 There are two (2) types of search which can be conducted under the National Land Code 1965, namely, private search and official search. By virtue of section 384 of the National Land Code 1965, a private search can be made by the person himself during the normal office hours of the Registry or the Land Office upon payment of a fee as prescribed in the various State Land Rules. During the search, he can inspect, take notes and extracts from any Register Document of Titles, Presentation Book, or Correction Note-Book and any instrument of dealing or application presented or made to, or in the custody of the Registrar of Titles or Land Administrator.
- 7.86 Based on the provision of section 385 of the National Land Code 1965, if a person does not wish to make the search himself, he can apply to the Registrar of Titles or Land Administrator for an official search. On receipt of the application together with the fee as prescribed in the various State Land Rules, the Registrar of Titles or Land Administrator shall issue to the applicant a certificate of search. The form of the certificate is as prescribed in the State Land Rules.

Proposal for Reform:

- 7.87 With the rapid advancement of electronic technology today, it is pertinent to enhance accessibility of land information to fulfil the needs of customer-centric environment in delivering services to peoples. Thus, it is recommended for section 384 and section 385 to be re-drafted in order to enable a single title search to be introduced in the land administration.
- 7.88 In order to implement the above proposal, the provision of section 384 and 385 of the National Land Code 1965 need to be amended in having a system of single title search, as well as, to accommodate the introduction of a legal valid electronic search. This is due to facilitate the public in accessing particulars of land titles, and, in obtaining accurate and fast information. However, sufficient security measures must be incorporated to prevent tampering of records and information.
- 7.89 In exercising single title search via on-line, there would be no issuance of certificate of search under the Registrar's hand and seal to the applicant. This application for electronic search is accompanied by a prescribed fee as stated in the State Land Rules.

Affected Provisions:

- 7.90 Sections 384 and 385 of the National Land Code 1965.

Question 25:

Do you agree with the proposal to amend Part Twenty-Seven to consolidate two (2) types of search i.e. private search and official search to be practised as single title search via electronic search i.e. on-line search?

Question 26:

Do you agree with the proposal to amend sections 384 and 385 of the National Land Code 1965 regarding the time and place where the application is made to be amended to accommodate the services offered by the Land Registries?

- 7.91 The availability of multiple options has caused confusion to the public and to certain extent some of the officers and staffs of the land office, because they could not even distinguish between one of the option to the others. This is a result of the differences in each existing provisions, which allowed the landowner (either sole proprietor or co-proprietors) to choose the provision that best suits the proposed development plan or problems and encumbrances on the title or any other circumstances. Currently there are nine (9) types of options on application for land development as provided in the National Land Code 1965, namely:
- (a) Application for variation of conditions, restrictions and categories of land – section 124;
 - (b) Simultaneous applications for subdivision and variation of conditions, restrictions and categories in respect of the proposed subdivisinal portions of land – section 124A;
 - (c) Application for subdivision of land – section 137;
 - (d) Application for partition of land – section 142;
 - (e) Application for amalgamation of lands – section 148;
 - (f) Application for surrender of whole land – section 197;
 - (g) Application for surrender of part only of the land – section 200;
 - (h) Application for surrender and re-alienation of contiguous lots held under Land Office Title – section 203; and,
 - (i) Application for surrender and re-alienation of lands by special provisions – section 204D.
- 7.92 For instance, section 124 of the National Land Code 1965 is applicable in respect of application to alter minor conditions such as to alter category of land use or express conditions to the category of land use or any other express conditions which does not require multiple categories of land use for a large scale housing development project with various infrastructure. The application under this provision in some cases does not require subdivision as it only involves alteration of express condition of the categories of the same land.
- 7.93 Likewise, there are other provisions in the National Land Code 1965 that regulates land development processes such as application for subdivision, partition and amalgamation under Part Nine, Chapter 1, 2 and 3. It seems that the said provisions are simple but somehow difficult to understand their differences especially to the public, for example, the differences between an application for subdivision and partition. Similarly in case of an application for amalgamation, where problem would arise when in certain circumstances it involves two level of approval albeit section 147, whereby the sanction of the State Authority is required before the

Director of Lands and Mines or Land Administrator may approve any such applications.

- 7.94 An application for surrender and re-alienation under sections 203 and 204 of the National Land Code 1965 are only applicable for contiguous lots held by the same proprietor under Land Office Title. The purpose of this provision is to enable the land to be re-alienated in the form and unit different from its original form, the form it was prior to alienation. In line with the proposed implementation of a single title system and the abolishment of the land office title, the provision of sections 203 and 204 of the National Land Code 1965 would eventually become irrelevant and obsolete. Furthermore, this type of application is not common and hardly used and the requirement of this provision is not clear and difficult to comprehend.

Proposal for Reform:

- 7.95 As such it is easy and practical if the above mentioned options to be limited into three (3) options:
- (a) by retaining the provision of section 124 for an application to alter conditions that involved either alteration, amendment, cancellation or imposition of conditions, category of land use or restriction in interest which does not involve subdivision or partition or amalgamation or any variation of land boundaries;
 - (b) by creating a single reference of provisions relating to surrender of whole land which solely involves reversion of the land to the State Authority, regardless of the requirements for issuance of title in continuation to the affected land. This certainly involves readjustment of provisions of sections 195 to section 199 with some modifications; and accordingly re-instated for easy reference in the National Land Code 1965; and
 - (c) by introducing a new approach called “RE-ESTABLISHMENT OF LAND BOUNDARIES – SPECIAL PROVISIONS” to replace the term of “Surrender and Re-alienation: Special Provisions”. This new approach would certainly involves the issuance of titles in continuation to the land which intended for development in all form of options either relating to subdivision of land, or partition of land, or amalgamation of land, or surrender of part only of the land, or any other circumstances of land development. The land owner is usually in a position of “mind boggling” with the present term of “surrender” as to whether he will get back his land after it was being surrendered and vested in the State Authority. Technically under this new approach, the land owner will be required to furnish the pre-computation plan or other appropriate plan for re-establishment of land boundaries by using a single unified statutory form prescribed in the National Land Code 1965. Instead, the provision of sections 204A to section 204GA can be applied with some modifications and adjustments as substitute to the provisions of sections 124A in Chapter 4 of Part Seven relating to simultaneous applications for subdivision and variation of conditions, sections 135 to section 150 in Chapter 1, 2 and 3 of Part Nine relating to subdivision, partition and amalgamation, sections 200 to section 204 in Part Twelve relating to partial surrender of land and

surrender and re-alienation of contiguous lots held under Land Office Title is proposed to be repealed.

7.96 Amendments to sections 204A to 204GA are essential to cover any *lacuna* in the provisions as a result of the repealed provision, *inter alia*;

- (a) to incorporate all relevant provision from the repealed provisions;
- (b) in case of title in continuation, any encumbrances, which are valid and enforceable, may continue in the new title by virtue of section 170 (whichever relevant) after the completion of the “re-establishment of land boundaries” processes. This proposal has taken into consideration the recent amendments to the National Land Code 1965 albeit section 204G of National Land Code (Amendment) 2001; and
- (c) to permit landowners of two or more contiguous lot, even if held by different proprietor to jointly develop the land or held by different term of tenure or by different locations of the land as for purposes of developing housing projects, industrial, commercial or mixed developments.

Affected Provisions:

7.97 Provision of sections 204A to section 204GA can be applied with some modifications and adjustments as substitute to the provisions of sections 124A in Chapter 4 of Part Seven relating to simultaneous applications for subdivision and variation of conditions, sections 135 to section 150 in Chapter 1, 2 and 3 of Part Nine relating to subdivision, partition and amalgamation, sections 200 to section 204 in Part Twelve relating to partial surrender of land and surrender and re-alienation of contiguous lots held under Land Office Title which are to be repealed.

Question 27:

Do you agree to the proposal for the provision of sections 204A to section 204H; sections 200, 202, 203, 204, 124A and the provisions relating to subdivision, partition and amalgamation in Chapter 1, 2 and 3 of Part Nine to be repealed in order to create a single point of contact of application for land development under the proposed new approach called ‘RE-ESTABLISHMENT OF LAND BOUNDARIES – SPECIAL PROVISIONS’?

Issue

18

Introducing ‘Strata Rent’ For individual Strata Title

7.98 The word “rent” was inserted into the statutory forms without clearly being supported with any enabling provisions under the 2007 amendments of the Strata Titles Act 1985. It is the intention of the amendment to introduce a separate “rent” for each parcel to facilitate parcel owners to deal with their parcels. As the Strata Titles Act 1985 is construed as part of the National Land Code 1965, the imposition of “rent” allocated for each parcel was observed to be contradicting with the provisions of section 93, 94, 95, 96, 97, 98, 99 and 100 of the National Land Code 1965. In fact these provisions fail to allow the imposition of “rent” for each parcel upon registration of the strata titles.

7. 99 Section 14 of the National Land Code 1965 sets out that rent shall be prescribed in the State Land Rules before it can be imposed for each land title. However, the allotment of “rent” to the parcels in strata subdivision is not covered under the “general rule” of this section. Thus, the legality of imposing of rent for each parcel or strata title is uncertain and questionable as there is no specific legal provision authorizing the collection.
- 7.100 It was also observed that there are no express provisions in the 2007 amendment to the Strata Titles Act 1985 to provide directions to the State Authority in this matter. This raises concern as to what are the proper legal procedures that is to be adopted by the State Authority if the “rent for parcel” remains unpaid by the parcel owners. If the parcel concerned reverts to the State Authority due to non-payment of rent, the question arises as to whether the State Authority is capable of being appointed as member of the Management Corporation. The lack of provisions explaining the nature of “rent” to be imposed on a strata title after successful registration of the titles causes inconveniences to the individual parcel owners.
- 7.101 Annual land rent, or commonly known as “quit rent”, in respect of the land on which a strata scheme is developed must be paid before presentation of any dealings (transfer, charge, lease, and easement). This is also applicable in respect of each parcel owned by individual proprietors. As provided in section 45 of the Strata Titles Act 1985, the obligation is imposed upon the Management Corporation to pay the full sum of rent for the entire lot and this amount could be disbursed from the management fund. If there are parcel proprietors who have failed to pay the rent payable for their respective parcel to the management fund of the Management Corporation, the Management Corporation may not be in a position to settle the rent due. This raises the difficulty in presenting an instrument of dealing in respect of an individual parcel for registration as it cannot be made until the rent for all lots are paid by the Management Corporation or in particular, by all the parcel proprietors.
- 7.102 This situation poses difficulty to all parcel proprietors in dealing with their parcel despite them having paid their proportionate rent in respect of their parcels. They are being penalised for the errant behaviour of other inconsiderate parcel proprietors.

Proposal for Reform:

- 7.103 This review identified that there are two (2) options to be considered in order to facilitate dealings in respect of strata titles—

First Option:

7.103.1 It is assumed that the term “strata rent” may not requires for a separate new interpretation to be inserted in the National Land Code 1965 as the position of strata title were being subsidiary title to the land title in which the strata titles was registered. Even though the strata titles been issued, the position of affected land title is still in existence to be operative under custody of Strata Management Corporation. In view of section 5 of the National Land Code 1965, the term “strata rent” is thus included within the ambit of “rent” interpretation, that is to say –to be part of:

- (a) any annual sum payable to the State Authority by way of rent;

- (b) any other annual payment due to the State Authority which by any written law is to be collected as if it were rent or land revenue; and
- (c) any fee due to the State Authority in respect of arrears of rent by virtue of rules under section 14 of the National Land Code 1965.

7.103.2 What need to be done in order to legalise the imposition of “strata rent” into each strata title is certainly to provide an exclusive enabling provisions to enable the “strata rent” works effectively and legally binding. Thus, the Code has to be amended:

- (a) by inserting new paragraph (ea) in subsection 14(1) to allow the State Authority to prescribe the rates (being rates per share unit of strata parcel) at which the strata rent to be reserved on, in the State Land Rules, to be calculated.
- (b) by inserting a new PART SIX (A) to provide the procedural matters relating to performance of “strata rent” for each strata title:
 - Upon strata titles duly registered, the performance of rent in master title shall cease to be operative but then it is transmitted into each strata title to be continued in operative in proportionate sum of rent which equivalent to the rate of per share unit of the numbers share units allotted to the parcel (this proportionate sum of rent may be termed as “strata rent” and it stands as a condition to registration of strata title);
 - Upon strata titles duly terminated due circumstances specified in the Strata Titles Act 1985, the total amount of proportionated sums of rent of all parcels shall be reverted into master title of the lot; and it continues to perform as usual as currently applied to individual document of title to land;
 - Where any strata rent payable in respect of any strata parcel of the land is in arrear, the Land Administrator may cause to be served on the parcel proprietor a notice of demand in prescribed Form of the First Schedule.
 - If the demanded sum of strata rent has not been tendered, the Land Administrator shall by order declare the strata parcel forfeit to the State Authority. Accordingly the Land Administrator shall publish in the *Gazette* a notification of forfeiture in Form prescribed in the First Schedule of the Code; and upon such publication, the forfeiture shall take effect;
 - The State Authority may vest the forfeiture of any parcel (including provisional block) for non-payment of strata rent in corporations or bodies expressly empowered to hold land under a written law in force or authorised to act on behalf of him;
 - For the purpose of section 301A of the Code, any instrument of dealing affecting any parcel held under a strata title shall not be performed for registration unless any strata rent due in respect of the parcel has been paid at the time of presentation

Second Option:

- 7.103.3 Another suggestion to resolve this issue is to incorporate a new provisions relating to imposition of “strata rent” into the Strata Titles Act 1985, instead of making amendments to the National Land Code 1965. This suggestion is raised forward due to the concept of “strata rent” is very much inter-related to the procedures on registration of strata titles which solely governed by the Strata Titles Act 1985 at present. It is rather appropriate to incorporate this concept into Strata Titles Act 1985 for easy reference of legislation to the strata practitioners including Registrar of Titles and Land Administrators. In fact, as envisaged in subsections 5(1) and (2) of the Strata Titles Act 1985, the current position of Strata Titles Act 1985 was previously came from the provisions of the National Land Code 1965; and now it was enacted exclusively as an Act that shall be read and construed with the National Land Code 1965 as if it forms part of the National Land Code 1965, with some desirable and expedient modifications of the Code which applicable in all respects to parcels held under the strata titles.
- 7.103.4 Under this option, the Strata Titles Act 1985 has to be amended to provide an exclusive enabling provisions to enable the “strata rent” works effectively and legally binding. Thus, the “To-Be” amendments of the Strata Titles Act 1985 may include the following:
- (a) By inserting new interpretation of “strata rent” in section 4 of the Strata Titles Act 1985 as an extension to interpretation of “rent” of the Code. For instance:
- “strata rent” includes—
- any proportionate sum allotted to a parcel held under a strata title or a provisional block held under a provisional strata title which payable annually to the State Authority by way of rent;
 - any other annual payment due to the State Authority which by any written law is to be collected from a parcel held under a strata title or a provisional block held under a provisional strata title as if it were rent or land revenue; and
 - any fee due to the State Authority in respect of arrears of rent to a parcel held under a strata title or a provisional block held under a provisional strata title by virtue of strata rules made in accordance with section 81 of the Strata Titles Act 1985.
- (b) by inserting a new PART IIIA to provide the procedural matters relating to performance of “strata rent” for each strata title and provisional strata title which includes all aspects as mentioned in paragraphs 7.103.2 (b) above.

Affected Provisions:

- 7.104 For the purpose of first option, it is proposed that the National Land Code 1965 be amended by inserting all respects of matters in the abovementioned paragraphs 7.103.2 (b).
- 7.105 Whereas for the purpose of second option, it is found that this proposal requires significant amendments by introducing new PART IIIA to the Strata Titles Act 1985.

Question 28:

In your view;

- (a) What is the best option to facilitate dealings in respect of each strata title?
- (b) Upon proportioning the rent of the land to be paid to each individual parcel in the subdivided building or “land parcels”, will the rent on the existing land title continue to have effect even after the completion of strata titles registration?
- (c) The National Land Code 1965 provides that where the rent computed in respect of land in any circumstances is or includes a fraction of ringgit, it shall be rounded up to one ringgit or, as the case may be, to the nearest ringgit above the amount computed. The similar approach applies to computation of rent in respect of any parcel held under strata title in which it is computed by dividing the amount of rent of the land title over the total share units of the said land. If the total amount so computed is exceeding the original amount of rent to the land, what is the best approach to resolve it?
- (d) Is the imposition of separate rent involving the provisional strata titles in respect of provisional block necessary even though the provisional strata titles are prohibited from being involved in any dealing?
- (e) By virtue of the National Land Code 1965, where any rent in respect of any strata title is in arrears, can the Land Administrator serve on the proprietor a notice of demand using existing statutory form in the National Land Code 1965 or by creating a new statutory form in the STA?
- (f) If by the end of the period notified in that statutory form, the whole of the sum has not been paid by the proprietor, can the Land Administrator declare, by order, to forfeit the parcel or provisional block to the State Authority? If so, can the forfeiture of parcel or provisional block be defined to be “the State parcel” or “the State provisional block” and can this position be considered as reversion of forfeited land to State and becomes State land?
- (g) When the forfeiture of parcel or provisional block is vested in the State Authority’s ownership-
 - i. Will the State Authority be considered as the registered proprietor and subsequently a member of the Management Corporation?
 - ii. Is the State Authority obliged with the responsibilities to pay contribution to the management fund, maintenance and management of the common properties administered by the Management Corporation?
 - iii. If not, how to treat the State Authority differently from the other parcel owners who are required by law to be members of the Management Corporation?

- (h) To avoid double taxation, rent to the land will cease to be operative upon issuance and registration of the strata titles to the provisional block. The procedure to reinstate rent for the land title when the strata scheme is terminated under section 57 of the Strata Titles Act 1985 need to be clearly set out. Do you agree?
- (i) Is there a need to amend or modify the State Land Rules to enable the imposition of rent in respect of each individual parcel or provisional block?

Issue 19

Partitioning of Agricultural land measuring less than 2/5 hectare is Permitted But Dealing with the Partitioned portions is Restricted

- 7.106 Prior to the 2008 amendments, the National Land Code 1965 has set out under paragraph 141(1)(c) that a partition of land cannot be approved in respect of land subject to the category of “agriculture” or to any condition requiring its use for agricultural purposes if the area of any portion resulting from the partition is less than 2/5 hectare (in Kelantan, as stated in the Twelfth Schedule of the National Land Code 1965, it should be not less than 1/5 hectare). This situation has created tension among co-proprietors who seeks for an exclusive right of enjoyment over agricultural land by able to have separate title to evidence the ownership over the undivided share.
- 7.107 This requires the provisions of sections 140, 141, 141A, 142 and 147 of the National Land Code 1965 to be amended to remove the inconsistencies created by the 2008 amendment law. In addition, section 143A was inserted in the National Land Code 1965 conferring power to the State Authority to consider approval of application for partition of land subject to the category “agriculture”. With these amendments, each co-proprietor can have the benefit of evidencing their ownership with a document of title to facilitate the dealing with agricultural land.
- 7.108 The 2008 amendment act has given rise to problems for proprietors of partitioned portions where they are not able to transfer their respective portion if the area is less than 2/5 hectare as the present law prohibits them from doing so. This gives rise to conflicting position.

Proposal for Reform:

- 7.109 The provision of section 205 of the National Land Code 1965 is proposed to be amended by deleting the provisions of subsection 205(3) and (4).

“Dealings capable of being effected and persons capable of taking thereunder

205.(1) ...;

(2) ...;”

Affected Provisions:

- 7.110 Deletion of subsection 205(3) and (4) of the National Land Code 1965.

Question 29:

Do you agree with the proposal to repeal subsection 205 (3) and (4) of the National Land Code 1965 to facilitate dealings of agricultural land measuring less than 2/5 hectare which is now capable of being partitioned to remove the conflicting position?

Issue 20

Harmonizing Islamic Financing Transaction and Land Law

- 7.111 In facing the remarkable growth of Islamic finance system in our country, there is a need to accommodate few Islamic finance products to be incorporated into the National Land Code 1965. At present, the provisions for safeguarding the registration manner of Islamic Financing products in Malaysia are unavailable in the National Land Code 1965; as such, there is a need to clarify the process and procedure for these products to be registered under the document of titles.
- 7.112 The Islamic Financing products are formed based on the Shariah principles of mua'malah. Generally, the Islamic finance products offered by our banking institutions² nowadays can be divided into several categories namely the al-bai' bithaman ajil (credit sale), musharakah (partnership), musharakah mutanaqisah (diminishing partnership), ijarah (leasing), murabahah (set profit sale), mudharabah (profit-sharing), Istisna' (commissioned manufacture) and others.

7.112.1 Ijarah (leasing)

Ijarah is a contract according to which a party purchases and leases out equipment required by the client for a rental fee. The duration of the rental and the fee are agreed in advance and ownership of the asset remains with the lessor (Bank Muamalat; 2007). The service that the asset is supposed to provide and for which it is being rented should be definitely and clearly known to both parties. As the asset remains in the ownership of the lessor who is responsible for its maintenance, so that it continues to give the service for which it was rented. The leasing contract is terminated as soon as the asset ceases to give the service for which it was rented. If the asset becomes damaged during the period of the contract, the contract will remain valid. The price of an asset that may be sold to the lessee at the expiry of the contract cannot be pre-determined. It can be determined only at the time of the expiry of the contract.

7.112.2 Musharakah (partnership)

A Musharakah is an agreement whereby the customer and the bank agree to contribute an agreed proportion of financial resources to construct any

² Law and Practice of Islamic Banking and Finance, Nik Nozrul Thani, Mohamed Ridza Mohamed Abdullah, Megat Hizaini Hassan, Sweet & Maxwell Asia, Malaysia 2003, Page 77-79, mentions Islamic Banking Act (IBA) 1983 was enacted by Parliament and came into force on March 10, 1983. The Act seeks to provide for the licensing and regulation of Islamic banking business...Section 2 of IBA 1983 defines banking business as a business whose aims and operations do not involve any element which is not approved by the religion of Islam.

type of business venture and manage the business according to the terms of the agreement. Losses are shared in proportion to the respective capital contributions. This applies also to profits unless mentioned otherwise in the agreement (Abu Dhabi Islamic Bank; 2007). According to Taqi Usmani (2006), every partner in *musharakah* normally has a right to take part in business management. However, the partners may agree upon a condition that the management shall be carried out by one of them and no other partner shall work for the joint-venture. But in this case the 'sleeping' partner should be entitled to the profit only to the extent of his investment, and the ratio of the profit allocated to him should not exceed the ratio of his investment as discussed earlier. Furthermore, if all the other parties agree to work for the joint venture, each of them shall be treated as the agent of the other in all the matters of the business and any work done by one of them in the normal course of business shall be deemed to be authorized by all the partners.

7.112.3 **Musharakah Mutanaqisah (diminishing partnership)**

The Muslims scholars are unanimously agreed with the application of *musharakah mutanaqisah* transactions as it is based on the principles of *al-masalih al-mursalah* (the unprecedented judgment motivated by public interest to which neither the Quran nor the Sunnah explicitly refers)³. According to Shariah Resolutions in Islamic Finance, Bank Negara Malaysia (2007), *musharakah mutanaqisah* means a contract of partnership between a financier and a recipient of financing to own an asset in which one of the partners give the right to the other partner to buy his equity of share of the asset either by one payment or several payments based on agreed conditions. Taking into the argument of prohibition of *musharakah mutanaqisah* transaction which consist two sales in one sale contract, the Council resolves that *musharakah mutanaqisah* is a contract recognized in Islamic *muamalat*. In implementing this contract, it is permissible for the contracting parties to combine the two contracts of *musharakah* and *ijarah* in one document of agreement, as long as both contracts are concluded separately and clearly not mixed between each other; and, imposition of a pledge on the shares owned by the customer because the right of beneficial ownership is recognized by Shariah⁴.

7.112.4 **Murabahah (set profit sale)**

As defined by Taqi Usmani (2006), *Murabahah* is a contract that refers to the sale and purchase transaction for the financing of an asset whereby the cost and profit margin (mark-up) are made known and agreed by all parties involved. The settlement for the purchase can be settled either on

³ Law and Practice of Islamic Banking and Finance, Nik Nozrul Thani, Mohamed Ridza Mohamed Abdullah, Megat Hizaini Hassan, Sweet & Maxwell Asia, Malaysia, 2003, page 56.

⁴ Resolution of the Security Commissioner Shariah Advisory Council, Second Edition, First Reprint 2007, Malaysia, Page 14-16, resolved to accept *musharakah mutanaqisah* as a concept that can be used to develop instruments for an Islamic capital market due to its features that do not contradict with the *nas* and general principles of the Shariah. These features are as follows: (a) '*Inan* company (form of partnership, in which each partner contributes both capital and work); (b) Promise from the financial institution to sell its share of the company to its partners; and (c) The institution sells all of its shares to its partner fully or partially'.

a deferred lump sum basis or on an instalment basis, and is specified in the agreement. Another issue with Murabahah is that if the client defaults in payment of the price at the due date, the price cannot be changed nor can penalty fees be charged. In order to deal with dishonest clients who default in payment deliberately. They are made liable to pay compensation to the Islamic Bank for the loss suffered on account of default.

7.112.5 Istisna' (commissioned manufacture)

Meezan Bank (2007) defined Istisna' as a contract to sell a manufacturable item with an undertaking by the seller to present it manufactured from his own material, according to specified description and at a determined price. Istisna' can be used as home financing product and other projects like building a bridge or a highway. The suitability of Istisna' for financial intermediation is based on the permissibility for the contractor in Istisna' to enter into a parallel Istisna' contract with a subcontractor. Thus, a financial institution may undertake the construction of a facility for a deferred price, and sub contract the actual construction to a specialized firm. Based on Istisna' concept, for instance the client who owns a land seeks financing for the construction of a house, the financier may agree to construct the house on the basis of an Istisna'. If the client does not own the land and wants to purchase a house, the financier can provide a constructed house on a specified piece of land. The financier does not have to construct the house himself, but will enter into a parallel Istisna' with a third party or hire the services of a contractor. The financier will calculate his cost and fix the price that allows him to make a reasonable profit over the cost, with the client. The payment of instalments by the client may start from the day when the contract of Istisna' is signed by both parties. In order to secure the payment of instalments, the title deeds of the house or land, or any other property of the client may be kept by the financier as security until the last instalment is paid by the client.

Proposal for Reform:

- 7.113 In harmonizing of Islamic Banking Act 1983 and the National Land Code 1965, the approachable method is by way of modification to the National Land Code 1965 to insert an enabling provisions with the intention to facilitate the implementation of IBA in respect of Islamic financing facility and manner of registration of Islamic-based financing products or transactions in the document of title.
- 7.114 Procedurally, the insertion of new Seventeenth Schedule is proposed in order to explain the practice on how Islamic-based financing products or transactions which employed in land can be safeguarded into document of title by registration process.
- 7.115 These modifications are estimated to be possibly affecting 62 provisions of the National Land Code 1965 which seek to provide the following:
 - (a) to replace the words "loan" and "debt" in subsection 200(3) with the words "indebtedness" to make it suitable for Islamic finance transactions;

- (b) to express recognition of Murabahah, Musharakah, Ijarah and Istisna' as a financing tool in respect of transfers (including undivided shares), leases, charges, etc of land (currently the National Land Code 1965 recognizes interest based financing only);
- (c) to express recognition of non-registration of transfer of title of the land upon sale and purchase concluded in accordance with the National Land Code 1965 (for each and every step of Islamic contracts.);
- (d) to express recognition of calculating the amount due under subsection 257(1) of National Land Code 1965 as rebate is calculated and given at the point of demand instead of after payment pursuant to an Order for Sale;
- (e) to express recognition of Islamic financing product of Ijarah is one of leases that capable of being registered in the document of title (currently National Land Code 1965 has no provision to enable registration of Ijarah);
- (f) to express recognition of the validity of charge made pursuant to execution of Islamic financing transaction. The words "debt" should be replaced with the words "indebtedness". (Currently National Land Code 1965 has no express provision that states the provision on charges are applicable *mutatis mutandis* to transactions for the purpose of financing facility based on Shariah principles);
- (g) to express the provision which allows beneficial ownership under Islamic transaction to take a charge over the land. (Currently National Land Code 1965 has no provision on this matter);
- (h) to express recognition of the term "loan" is to be extended in definition to include "a financing facility based on Shariah principles". (Currently National Land Code 1965 recognizes lien is created as security only for a loan, whereas Islamic financing facility is not a loan; and short term financing is commonly secured by lien-holder's caveat);
- (i) to express the provision that allows foreign licensed Islamic banks to "acquire" land for the purposes of offering Islamic finance. Thus, the provisions of section 433A, 433B and 433E of the National Land Code 1965 have to be reviewed to expand the exemption to include Islamic financing transactions or to exclude Islamic finance institutions from such requirement. (It is observed that the present National Land Code 1965 has possibly led to difficulty for foreign owned banks to structure Islamic finance products due to the restriction);
- (j) to incorporate the specified uniform statutory forms with modifications to related Forms of the First Schedule of the National Land Code 1965 to be used and facilitate the registration process for any transaction made under operation of Islamic financing facility.

Affected Provisions:

7.116 The affected provisions including sections 200(3), 257(1), 433A, 433B and 433E.

Question 30:

Do you agree with the proposal to amend the National Land Code 1965 by way of modification to insert new Section 5E in which procedurally reflected in Seventeenth Schedule?

8. REVIEW OF CAPACITY BUILDING IN COORDINATING THE EFFICIENCY OF LAND ADMINISTRATION SYSTEM

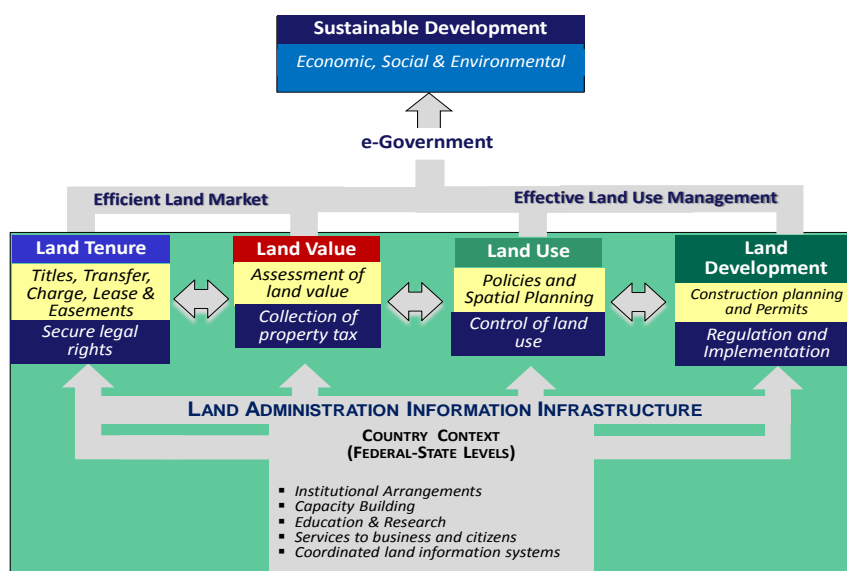
Issue

21

Enhancing capacity building and professionalism of land administration services

- 8.1 Modern Land Administration Systems should facilitate sustainable development, social and environmental sustainability - through public participation. The land administration functions are based on and are facilitated by appropriate land information infrastructures that include cadastral and topographic datasets and provide access to complete and up-to-date information of the built and natural environment. (*see* Figure 1).

Figure 1



- 8.2 A modern Land Administration System is concerned with providing detailed information at the individual land parcel level. It should service the needs of both the individual and the community at large. Benefits arise through its application in guaranteeing of ownership, security of tenure and credit; facilitating efficient land transfers and land markets; supporting management of assets; and providing basic information in processes of physical planning, land development and environmental control. The system, this way, acts as a backbone for society.
- 8.3 These ambitious goals will not be achieved unless there is a commitment to designing and implementing effective land administration infrastructures. These may be described as the organizations, standards, processes, information and dissemination systems and technologies required to support the allocation, transfer, dealing and use of land (UN-FIG, 1999). Information and communications technology (ICT) will play an increasingly important role both in constructing the necessary infrastructure and in providing effective citizen access to information. There must be absolute commitment from all stakeholders to maintain and upgrade the land administration infrastructure, the highest level of capacity building that

capable in sustaining the efficiency co-ordination of land administration system, either at the Federal level or State level. Hence, capacity building is defined as “the development of knowledge, skills and attitudes in individuals and groups of people relevant in the design, development and maintenance of institutional and operational infrastructures and processes that are locally meaningful” (Groot and Moolen, 2001).

- 8.4 It is pertinent to address that an important aspect that must not be neglected in creating a world class land administration service is capacity building of the personnel involved in all levels of land administration. Towards achieving this, the Review of the National Land Code in 2010 has recommended that there must be a **Specialized Centre for Accreditation and Professionalism Development of Land Administrators** to assume its position as the sole institution for developing human capital in the discipline of land administration. Collaboration by smart partnership with local and international institutions of higher learning will assist in improving the capacity building that will help in creation of land administration entity as a professional discipline and leads to production of adequate numbers of professionals or accredited consultants in land administration continuously. The basis of this idea is not entirely new but then it had been promulgated in the Report of Land Administration Commissioners 1958 prior to operation of the National Land Code 1965 in Peninsular Malaysia.
- 8.5 A combination of the recommendations included in the Report has envisaged the reality of Malaysian land administration discipline as below:

Recommendation No. 111.

“Sound land administration is intricate work requiring experience, knowledge, vigour and skill. It can truly be called a ‘specialist’ service, and ideally the staff would consist of officers qualified in the varied aspects of land administration. Because of this, we gave careful consideration to the question of establishing separate Lands Departments in each of the States, and providing a lands service career for officers in such departments. We are agreed that this is entirely correct in principle.”

Recommendation No. 115.

“Land experience and administration inculcates a wide outlook and should lead to more general efficiency. Training in a Land Office should, therefore, be regarded as a qualification for subsequent promotion to other Officers and other Departments. Now, it seems to be regarded as a disadvantage. A Land Office clerk, however, after becoming proficient should not be transferred too soon and should remain in a Land Office for a minimum period of about 5 years.”

Recommendation No. 118.

“It is essential that the personal efficiency of everybody working in a District Land Office be maintained at the highest possible level, and this should be kept in mind constantly by Officers supervising and inspecting Land Offices.”

Recommendation No. 135.

“Any tendency to discriminate against the needs of land administration must be abandoned once and for all. Land administration must have a high priority otherwise all efforts to progress will be frustrated.

The fact should be accepted that land administration is one of the most important functions in Malaya, and that its activities come second to those of no other department.”

- 8.6 Ironically, it is observed that all these recommendations have been gradually left behind; not even put forward to be given the highest priority among the priorities concerning delivery of services to peoples. Therefore there have been numbers of critics and comments on slow moving of changes in land administration service delivery. Even though there have been numbers of efforts has been taken to improve service delivery, but the changes done were believed to unable to satisfy the high expectation and perception of general public. Meanwhile the land administration remained in a ‘silo’ in delivering their routine job service and suffering with the remark for not having an amazing or ‘wow’ factors in serving the public. In his article entitled “A National Land Code?”, which was published in INSAF Journal in 2006, Seah Choon Chye has challenged the land administration with the following provocation:

“if the authorities concerned continue to drag their feet and refrain from implementing appropriate measures to clean up the mess at the land registries and land offices, irreparable damage will be done to the Torrens System under the Code and the objective of ensuring *uniformity of law in the registration of dealings and other land matters* under the Code can never be fulfilled, thereby confirming the views of many conveyancing practitioners that **there is in actual fact no *national (or rational)* land code governing the administration of land in Peninsular Malaysia, notwithstanding the declarations expressed in the preamble to the Code.**”

- 8.7 What has been highlighted here is the fact that the land issue is of growing interest in our country, including the aspect of land administration. The ICT providers are increasingly interested to invest in loans and grants for the establishment of appropriate land administration systems. Capacity building (in a broad sense, including institutional building) is a major prerequisite for successful establishment of people-friendly land administration systems, and there is a growing demand. Also the influence of business developments and IT opportunities urge land administrations to change substantially.
- 8.8 However nowadays the number of personnel who are called ‘specialist’ with experience, knowledge, vigour and skills are getting scarce. The **real land administration experts are few in number**. The present land administration in Peninsular Malaysia is facing the scarcity of expert resources. It requires not only more expert capacity to teach, to conduct research and to deliver efficient services, but also more capable leadership in delivering a “wow” factor service delivery of the land administration.

- 8.9 In comparison to other land administration in the countries of the Torrens jurisdiction, the position of Malaysian land administration system is far behind from the global standard especially in terms of integration of data for delivering efficient land administration services to the nation. The Malaysian land administration system is strategically handled at two levels of government, Federal and State; and therefore it requires effective coordination between the two levels of government so as to promote an effective and efficient land administration services throughout the country. Thus, there is also a need for building the organizational capacity in response to the global drivers of change in land administration.
- 8.10 Land administration is an interdisciplinary field comprised of four interlinking tracks: economics, law, land administration and surveying (geodesy and geoinformatics). On the basis of the demand from the community, land administration is required to offer for simple and people-centric services. Generally, the capability of Land Administrators and staffs are expected to deliver the following outcomes:
- (a) Capable of understanding and solving land administration related problems.
 - (b) Equipped with professional capabilities in land administration and willing to actively participate in community affairs (such as population, environment and gender)
 - (c) Able to advice the federal and state legislature on legislation and economic policies relating to land.
 - (d) Able to resolve land-related disputes based on the relevant legislation of the country.
 - (e) In a position to involve land-related reform tasks, land development activities and rendering rights-based solutions to the country development needs.
 - (f) Able to develop and conduct research and provide continuous learning in the field of land administration.
 - (g) Able to serve their community by developing and offering various relevant skills such as land administration, surveying, economics and law.
 - (h) Capable of working cooperatively for the common good of society.

Proposal for Reform:

- 8.11 It is timely for the capacity building of land administration be reformed and transformed by legal force to accommodate the needs of the government delivery system, society's advancements and global commercial needs. This proposal requires changes to be made to the roles of the Department of Director General of Lands and Mines (Federal) as a lead agency in promoting a sustainable coordination of land administration between Federal and States level. The proposed amendments are requires changes to legal framework of the National Land Code 1965 as tentatively suggested below:

8.8.2 Amendment of section 8

Subsection 8 (1) of the National Land Code 1965 is proposed to be amended by inserting after paragraph (e) the following paragraphs—

- “(f) with the concurrence of the State Directors, conduct periodical review of the legal framework and suggest amendments to the legislation and procedures to be adopted in the land Registry;
- (g) with the concurrence of the State Directors, reengineer the procedures involved in land administration to promote a continuous enhancement of delivery of services;
- (h) with the concurrence of the State Director, provide accreditation services to land administrators, support for capacity building and create a sustainable pool of experts in land administration;
- (j) advice the Federal Government on aspects relating to formulation of land policies taking into consideration any issues relating to land administration prevalent during the particular period.”

8.8.3 Insertion of new section 8A

The National Land Code 1965 provisions is proposed to be inserted after section 8 the following new section—

“Establishment of Land Administrators Board, regulation of accreditation procedures, etc.

8A.(1) There shall be a Land Administrators Board established in the Department of Director General of Lands and Mines (Federal) for the purpose of providing accreditation services to land administration in the States of Peninsular Malaysia.

(2) The Minister may, after consultation with the National Land Council, by order notified in the *Gazette* of the Federation, prescribe—

- (a) the requirements and procedures to be adopted in providing professional accreditation development services by the Department of Director General of Lands and Mines (Federal);
- (b) the fees, costs and other sums to be charged for any accreditation services commissioned to private land administration practitioners;
- (c) the conditions upon which, and the authorities by whom, any such fees, costs or other sums may be varied or remitted, either in whole or in part.”

Affected Provisions:

8.12 Section 8 of the National Land Code 1965 and insertion of new section 8A.

Question 31:

Do you agree on the proposed establishment of Land Administrators Board? If not, what are your views or further suggestions to enhance the capacity building of land administration and its accreditation services in respect of producing Professional Land Administrators?.

9. HOW TO RESPOND

- 9.1 JKPTG invites comments and feedback on the issues or proposals and questions raised in this consultation paper, as well as views on any other issues or proposals relating to the registration, administration, management and regulatory requirements for improving the land administration system. To assist us in giving due consideration to your feedback, we would appreciate if you provide the reasons and basis for your opinions. All submissions received will be regarded as public documents unless otherwise indicated.
- 9.2 Any views and comments may be sent by using a specified format in **Annex – C** or in any other format as the respondent may think appropriate.
- 9.2 The questions requiring views and comments are as follows:–
- Q1: In your view, what are the appropriate suggestions and input relating to the statutory Forms used in the State Land Registry/District Land Office that could be adopted for use at national level to create uniformity of practices and improving efficiency of delivery system?
- Q2: Can you identify any specific Statutory Forms that are cumbersome and requiring reforms?
- Q3: Are there any other suggestions for enhancing the quality and features of the Statutory Forms based on personal experiences and public user complaints?
- Q4: Do you agree for the Form prescribed for entry of Lien-Holders Caveat to secure the interest in the Lien to be deleted or repealed and replaced with a Form designed to register Lien as security dealing?
- Q5: Do you agree with the proposed changes to the statutory Forms as examples attached to this consultation paper?
- Q6: Do you agree whether the instruments of dealings (transfer, lease, charge) should maintain the need of providing the column annexure for enclosing supporting documentations like the sales and purchase, lease or charge agreements when executing the transaction or just provide a column within the form that specifies the consideration of the agreement only?
- Q7: What is the suitable/appropriate electronic land administration system to be adopted for the States in Peninsular Malaysia; is it semi-electronic with manual intervention or fully electronic or both systems to be implemented concurrently to accommodate the lack of ICT infrastructure in rural and interior areas?
- Q8: Whether amendments to the National Land Code 1965 to incorporate the necessary provisions to regulate electronic system is sufficient or would it be more appropriate to make specific law to regulate the electronic land administration system?
- Q9: Are we ready to introduce e-conveyancing like Australia and New Zealand or from any other country implementing Torrens system?
- Q10: Can you share your experiences in dealing with the Computerised land Registration System (CLRS/SPTB) and electronic land administration system and please provide the comparison between the two systems (if any)?

- Q11: Do you agree with the proposal to insert a new provision into the National Land Code 1965 to facilitate the creation and introduction of a single land title system to be used in the electronic land administration system?
- Q12: Do you agree with the proposal to abolish the practice of issuing the Qualified Title (QT) to land in order to enhance efficiency of land administration delivery system?
- Q13: Do you support the proposal for the National Land Code 1965 to be amended to provide expressly the time frame for delivering the duly registered title in one day?
- Q14: Do you agree with the proposal to insert a new provision into the National Land Code 1965 to facilitate the renewal of leasehold land tenure?
- Q15: Do you agree with the proposal to insert a new provision into the National Land Code to provide for resolving the position of overriding statutes?
- Q16: Do you agree with the proposal to adopt the Torrens Insurance Principle which was not adopted in Malaysia when the Torrens system was introduced for providing the basis for creation of an assurance fund and incorporation express provisions into the National Land Code 1965 to regulate and facilitate payment of compensation to innocent persons victimized for loss of indefeasible title or interests in land in consequence of fraud?
- Q17: Do you agree to the proposal to insert the meaning of the terms Fraud, Misrepresentation, Forgery and Insufficient instrument in section 5 of the National Land Code 1965?
- Q18: Do you agree to the proposal for establishing of a Land Tribunal under the National Land Code 1965 as a specialised forum for managing all disputes arising in the land administration and development regime?
- Q19: Do you agree with the proposal to provide guidelines in relation to the power of Registrar in correcting errors as permitted in section 380 of the National Land Code 1965 for the electronic system where the chances of committing mistakes is said to be higher than the manual environment?
- Q20: Do you agree that the Certificate of Correctness is useful in curbing fraud and forgery in Torrens jurisdictions and to impose an obligation on the legal professional to be jointly responsible in verifying the identity of the persons executing instruments of dealing?
- Q21: Do you agree that amendment to sections 302 and 303 of National Land Code 1965 for purposes of conferring more powers to the Registrar to examine and curb incidences of fraud and forgery in land dealings to promote and enhance land administration services in Malaysia especially in the electronic environment is necessary?
- Q22: Do you agree to the introduction of the closing session to enable Registrar to verify the identity of the parties seeking to deal with land to reduce incidences of fraud and forgery?
- Q23: Do you agree with the proposal to restructure the National Land Code 1965 by separating the provisions prescribing substantive aspects from procedures, and to incorporate the provision of the Strata Titles Act 1985 providing for issuance of Strata titles into the Code?

- Q24: Do you agree for with the proposal for restructuring of the Strata Titles Act 1985 and reversion of the provisions prescribing for application and issuance of strata titles from the Strata Titles Act 1985 into the proposed restructured National Land Code 1965?
- Q25: Do you agree with the proposal to amend Part Twenty-Seven to consolidate two (2) types of search i.e. private search and official search to be practised as single title search via electronic search i.e. on-line search?
- Q26: Do you agree with the proposal to amend sections 384 and 385 of the National Land Code 1965 regarding the time and place where the application is made to be amended to accommodate the services offered by the Land Registries?
- Q27: Do you agree to the proposal for the provision of sections 204A to section 204H; sections 200, 202, 203, 204, 124A and the provisions relating to subdivision, partition and amalgamation in Chapter 1, 2 and 3 of Part Nine to be repealed in order to create a single point of contact of application for land development under the proposed new approach called ‘RE-ESTABLISHMENT OF LAND BOUNDARIES – SPECIAL PROVISIONS’?
- Q28: In your view;
- (a) What is the best option to facilitate dealings in respect of each strata title?
 - (b) Upon proportioning the rent of the land to be paid to each individual parcel in the subdivided building or “land parcels”, will the rent on the existing land title continue to have effect even after the completion of strata titles registration?
 - (a) The National Land Code 1965 provides that where the rent computed in respect of land in any circumstances is or includes a fraction of ringgit, it shall be rounded up to one ringgit or, as the case may be, to the nearest ringgit above the amount computed. The similar approach applies to computation of rent in respect of any parcel held under strata title in which it is computed by dividing the amount of rent of the land title over the total share units of the said land. If the total amount so computed is exceeding the original amount of rent to the land, what is the best approach to resolve it?
 - (b) Is the imposition of separate rent involving the provisional strata titles in respect of provisional block necessary even though the provisional strata titles are prohibited from being involved in any dealing?
 - (c) By virtue of the National Land Code 1965, where any rent in respect of any strata title is in arrears, can the Land Administrator serve on the proprietor a notice of demand using existing statutory form in the Code or by creating a new statutory form in the STA?
 - (d) If by the end of the period notified in that statutory form, the whole of the sum has not been paid by the proprietor, can the Land Administrator declare, by order, to forfeit the parcel or provisional block to the State Authority? If so, can the forfeiture of parcel or provisional block be defined to be “the State parcel” or “the State provisional block” and can this position be considered as reversion of forfeited land to State and becomes State land?

(e) When the forfeiture of parcel or provisional block is vested in the State Authority's ownership-

- i. Will the State Authority be considered as the registered proprietor and subsequently a member of the Management Corporation?
- ii. Is the State Authority obliged with the responsibilities to pay contribution to the management fund, maintenance and management of the common properties administered by the Management Corporation?
- iii. If not, how to treat the State Authority differently from the other parcel owners who are required by law to be members of the Management Corporation?
- iv. To avoid double taxation, rent to the land will cease to be operative upon issuance and registration of the strata titles to the provisional block. The procedure to reinstate rent for the land title when the strata scheme is terminated under section 57 of the Strata Titles Act 1985 need to be clearly set out. Do you agree?
- v. Is there a need to amend or modify the State Land Rules to enable the imposition of rent in respect of each individual parcel or provisional block?

Q29: Do you agree with the proposal to repeal subsection 205 (3) and (4) of the National Land Code 1965 to facilitate dealings of agricultural land measuring less than 2/5 hectare which is now capable of being partitioned to remove the conflicting position?

Q30: Do you agree with the proposal to amend the National Land Code 1965 by way of modification to insert new Section 5E in which procedurally reflected in Seventeenth Schedule?

Q31: Do you agree on the proposed establishment of Land Administrators Board? If not, what are your views or further suggestions to enhance the capacity building of land administration and its accreditation services in respect of producing Professional Land Administrators?.

9.3 All comments and feedback may be sent, **by 18May 2012**, to:

Ketua Pengarah Tanah dan Galian Persekutuan,
Jabatan Ketua Pengarah Tanah dan Galian Persekutuan,
Kementerian Sumber Asli dan Alam Sekitar,
Aras 4, Blok Menara, Wisma Sumber Asli,
No. 25, Persiaran Perdana, Presint 4,
62574 Putrajaya
(u.p.: Seksyen Kajian Penyelidikan dan Pembangunan)

E-mail: nlcreview@kptg.gov.my
Fax: 03-8881 0802

9.4 For general information about the Review of the National Land Code 1965, please visit our website at www.jkptg.gov.my

10. CONCLUSION

- 10.1 The review identified that the proposed changes to the National Land Code 1965 discussed above will affect at least 75% of its contents. It is thus, proposed for the National Land Code 1965 to be reformed and not merely modified on *ad hoc* basis with patchwork effects that has been causing confusions and problems.
- 10.2 There is a legitimate public expectation that the change to a comprehensive ICT based system such as electronic land administration system (eLAS) for dealings with land will produce clear and demonstrable benefits to the society. Besides the eLAS, many countries have developed e-Conveyancing system to promote and enhance service delivery of the land administration system. There is considerable difference in the institutional framework within which these countries operate and the approaches they adopt. What is common in all the countries despite having merits and demerits, all developments are heading towards one common goal of ensuring transparency, accountability and efficiency in land dealings by making use of the emerging ICT advancements to provide reliable, cheaper and efficient services to all stakeholders.
- 10.3 It is timely for the National Land Code 1965 to be restructured to address the needs of the government delivery system to meet the society's advancements and global commercial needs. At this stage it is apt to quote Sir Robert Torrens, "(it) could not be patched or mended: the very foundation was rotten, therefore the entire fabric must be razed to the ground and a new super-structure substituted. Like a blundered calculation on a slate, it was in too much confusion for correction, so he would take a sponge and rub the whole out." (*Torrens, 1858-9*).

Prepared by:

**Research and Development Section,
Department of Director General of Lands and Mines (Federal)
Ministry of Natural Resources and Environment,
Putrajaya.**

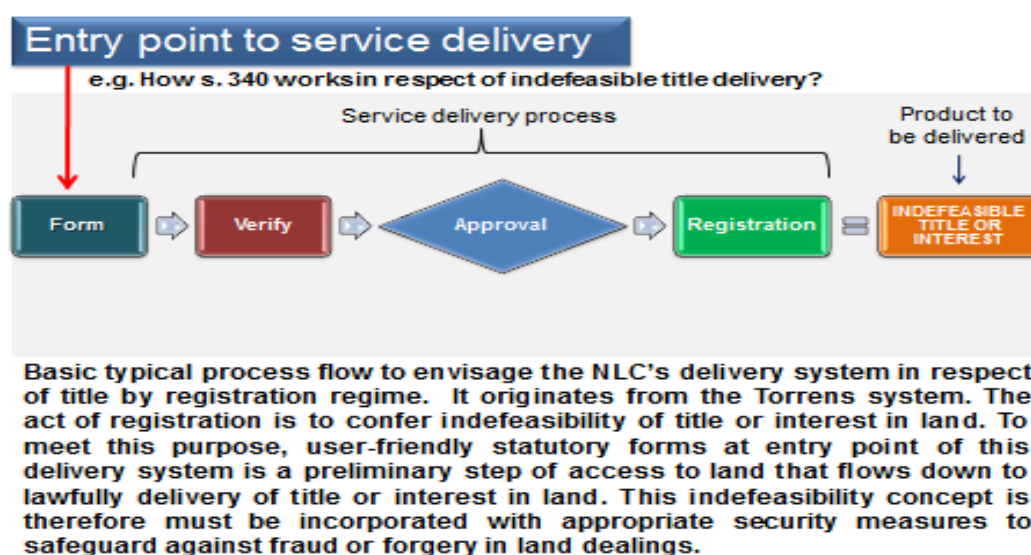
22 April 2011 (Updated on 31 January 2012).

RECOMMENDED IMPROVEMENTS TO THE STATUTORY FORMS PRESCRIBED BY THE NATIONAL LAND CODE 1965

1. Preamble

- 1.1 The statutory Forms prescribed by the National Land Code 1965 to be used as instruments for use for registration of title, registration of dealings, entry of non-dealings and all other administrative transactions are provided in the First Schedule to the National Land Code 1965. As envisaged in Figure A-1, every Form has similar impact from the legal perspective in respect of all matters to be dealt with in the land office and Registries. The Forms are the legally recognized entry point to access the land administration service delivery system. Section 207 of the National Land Code 1965 expressly provides for the use of statutory Forms in the following terms.

Figure A-1: Typical process flow of title registration regime.



“Section 207. Form of instruments of dealing.

- (1) ...;
- (2) The Headings and Schedules to be inserted in instruments of dealing as indicated by the relevant forms in the First Schedule shall, except where otherwise indicated in any particular form, be those shown in Form 13A.
- (3) The provisions of section 211 shall have effect with respect to the inclusion of attestation clauses in instruments of dealing, and the form of such clauses.”

- 1.2 In addition, the State Land Rules also prescribe Forms, specifically drafted to cater to the unique and special requirements of each individual State. The use of the State Land Rules are limited to matters relating to land revenue such as rent, premium, fees and some other matters relating to land administration at State level.

2. Identification of Forms in the First Schedule

- 2.1 Every instrument affecting any dealing under the National Land Code 1965 shall be in such Forms as in the First Schedule specified in relation to the dealing in question. Provided that the Form so specified for any dealing may, be used in any particular case with such adaptations, alterations or additions as may be rendered necessary. The Arabic numeric of any Form in the schedule indicates the relevant Part of the National Land Code 1965 from which it is derived. For example Form 2A is a Form referred to in Part Two.

3. Reviewing The Tenth Schedule

- 3.1 The provisions relating to **Forms** under the Tenth Schedule in National Land Code 1965 are proposed to be retained or amended:

Table A-1:

Provisions Relating To Forms in the Tenth Schedule to Be Retained or Amended

No.	Provisions of Tenth Schedule of NLC	Remarks
1.	When a Form printed under section 376 is used, an alternative not appropriate to the case is required to be struck out.	Retained with modifications to accommodate electronic environment.
2.	A person intending to use the form can, instead of using a Form printed under section 376, use a Form which he has reproduced in print or typescript form and, where he does so, he can omit the alternatives which are not appropriate to the case in the reproduction.	Retained with modifications to accommodate electronic environment.
3.	The blank spaces in a Form can be filled either in typescript form or in the form of a manuscript.	Retained with modifications to accommodate electronic environment.
4.	A signature on a Form shall be in a manuscript form, but a typescript copy can be added below the signature.	Retained with modifications to accommodate electronic environment by using digital signatures.
5.	Forms shall be printed or typed on plain white paper which is strong, durable and being sufficiently glazed to prevent the blurring of ink, and it shall be 420 millimetres wide and the length is 297 millimetres.	To be amended - Forms shall be printed or typed by using A4 plain white paper which is strong, durable and sufficiently glazed to prevent the blurring of ink.

No.	Provisions of Tenth Schedule of NLC	Remarks
6.	A Form may be printed or typed on more than one sheet of paper if its length so requires.	Retained.
7.	All writing on a form shall be on the right angles to the form's long axis.	Retained.
8.	All entries in the Schedule to a Form must be completed and a horizontal line must be drawn immediately after the last line of such entries: and the rectangle so formed, being the rectangle enclosing the remaining space in the schedule must be transversed by a diagonal line joining the two opposite angles of the rectangle, and the word denoting the number of title of titles affected by the dealing shall be written as "Satu (1) or Dua (2) HAKMILIK SAHAJA" and this entry must be duly initialled by the person attesting the instrument.	Retained.
9.	Where a Form is reproduced in typescript, carbon copies can be used for any purpose for which a copy of the form is required, but only if the typing is legible and not blurred.	Proposed to be repealed.
10.	Print or typescript on a Form (including typescript in a carbon copy) must be in black font.	Retained.
11.	Manuscript writing on a Form (including a signature) must be written using permanent black or blue black ink.	Proposed to be amended—Use of manuscript writing on the Form (including a signature) must be made using permanent black ink only.
12.	Erroneous entries are to be neatly cancelled so as not to be rendered illegible and are to be duly initialled by the attesting officer. No correction, deletion or cancellation of any entry in the form shall be made by erasing any words or figures or otherwise rendering them illegible.	Retained.

- 2.2 The provisions on **Procedures** prescribed under the Tenth Schedule of the National Land Code 1965 proposed to be retained or amended are as follows:

Table A-2:
Procedures of the Tenth Schedule to Be Retained or Amended

No	Provisions of the Tenth Schedule	Remarks
1.	The procedures set out in issuing the documents of qualified title corresponding to the Registry title must be followed in order to facilitate the preparation, registration and issue by the Registrar of Titles (RT) pursuant to section 178 of the NLC.	The provision is to be retained.
2.	Before the registration of any document of qualified title under Chapter 2 of Part Eleven, or upon receiving under Chapter 3 of Part Eleven an application relating to qualified title corresponding to the Registry Title, the Land Administrator shall prepare a single loose document in Form 11A (referred as “the draft document”) which he shall complete as much as possible.	Proposed to be repealed. The preparation of document in Form 11A corresponding to the Registry Title is generated by eLAS.
3.	The plan being prepared by the Land Administrator under paragraph (b) of sub-section (1) of section 181 or, as the case may be, under paragraph (c) of sub-section (4) of section 183 (referred as “the plan”) shall be drawn either on the draft document under the heading “Sketch Plan” or on a separate sheet of paper which shall be attached to the draft document.	Proposed to be repealed. The Plan to land prepared in Form B1 or B2 is produced by electronic land administration system (eLAS) upon registration process at land Registry.
4.	The draft document and the plan, together with a copy of the plan on a separate sheet of paper, shall be transmitted by the Land Administrator to the Registrar of Titles.	Proposed to be repealed. The draft document of title and the plan to land in Form B1 or B2 respectively is generated by electronic land administration system upon registration processes at land Registry.
5.	The Registrar of Titles shall – (a) Make use of the information	Proposed to be repealed. The draft document of title and the plan to land

No	Provisions of the Tenth Schedule	Remarks
	<p>contained in the draft document for preparing the Register Document of Title (RDT):</p> <p>(b) Affix to the RDT a copy of the plan transmitted under paragraph 15; and</p> <p>(c) Retain the draft document and the plan for record purposes.</p>	<p>in Form B1 or B2 respectively is generated by electronic land administration system upon registration processes at land Registry. The original RDT is kept in the land database of eLAS.</p>
6.	When registration is completed, the RT shall transmit a copy of the RDT to the Land Administrator, who shall retain it for record purposes.	To be retained. The definition of “transmit a copy” should be defined as “online transmission” under e-LAS.

4. Forms under the Sixteenth Schedule

4.1 Forms for Registry Title

- 4.1.1 The computer-generated for RDT shall consist of a grant in Form 5B_e or a State lease in Form 5C_e, contains the material fact on nature of tenure to land to be alienated whether in perpetuity or for a number of years. The computer generated for IDT must be in the same style as Form 5B_e or Form 5C_e, respectively.

4.2 Forms for Land Office title

- 4.2.1 The computer-generated for RDT shall consist of a Mukim grant in Form 5D_e or a Mukim lease in Form 5E_e, contains the material fact on nature of tenure to land to be alienated whether in perpetuity or for a number of years; and the computer-generated for IDT must be in the same style as Form 5D_e or Form 5E_e, respectively.

4.3 Forms for Qualified Title

- 4.3.1 The computer-generated for RDT in Form 11A_e or 11B_e, contains the material fact whether the land in question is to be held under the Form of qualified title corresponding to Registry title or Land Office title; and the computer-generated for IDT must be in the same style as Form 11A_e or 11B_e, respectively.

4.4 Plan to land for Computer-Generated Document of Title

- 4.4.1 The plan of the land alienated under the final title to be held under Registry title, shall be issued by the RT in Form B1_e separately to the proprietor and the RT is required to authenticate the Form by using digital signature; or in the case of land alienated under Land Office title, it shall be issued by the Land Administrator in Form B1_e separately to the proprietor, and the Land

Administrator is required to authenticate the Form by using his digital signature. Accordingly the authenticated plan of the land in Form B1*e* shall be virtually stored in the land database by the RT or the Land Administrator.

- 4.4.2 The plan of the land alienated under qualified title to be held under the Registry title, shall be issued by the RT in Form B2*e* separately to the proprietor and duly authenticate by using digital signature; or in the case of land alienated under Land Office title, it shall be issued by the Land Administrator in Form B2*e* separately to the proprietor and duly authenticated by using digital signature. Accordingly the authenticated plan of the land in Form B2*e* shall be virtually stored in the land database.

4.5 Forms for Computer-Generated Document of Licence or Permit

- 4.5.1 The computer-generated document of a temporary occupation licence or a combination of a temporary occupation licence and permit for removal of rock material shall be prepared in Form 4A*e* or Form 4B*e* respectively. In the case of land to be issued a permit for removal of rock material or a permit for the use of air space above State land or reserved land, the computer-generated document of permit shall be prepared in Form 4C*e* or Form 4D*e* respectively.

4.6 Plan to land for a Computer-Generated Document of Licence or Permit

- 4.6.1 The plan of the affected land is required to be issued separately to the licensee or permit holder in Form L1*e* or Form L2*e* or Form P1*e* or Form P2*e*, as the case may be. The Land Administrator must store in the land database, a copy of the plan of the land to which it relates as approved by the Director or by the State Authority, as the case may be. A copy of the plan in Form L1*e* or Form L2*e* or Form P1*e* or Form P2*e* must be duly authenticated by the Land Administrator using digital signature.

5. Forms to be Merged, Repealed and Retained

- 5.1 The statutory Forms need to be revised and simplified accordingly. The Forms are found complicated and not user friendly. It would be useful if the size of the Forms could be standardized for ease of binding and safekeeping.
- 5.2 It is necessary to simplify the forms to meet the requirements of transaction conducted by electronic means. In view of technology advancement, the electronic version of forms needs to be made accessible via Internet to facilitate the public and all persons dealing with land administration system. This review is therefore focuses on the need to examine all the statutory Forms provided in the National Land Code 1965 to avoid repetitions, overlapping, and confusion. In addition it is suggested that new Forms to be created with consideration of the needs of changes upon evolution of the land administration system.
- 5.3 This review identified those 95 existing statutory forms of the National Land Code 1965 can be streamlined and reduced to 77 Forms, representing of 19% reduction. In summary, the statutory forms that proposed to be merged, retained or repealed are explained in details, in the following paragraphs.

5.3.1 Forms to Be Merged

Table A-3:
List of Forms to Be Merged
(Note: 42 Forms to be merged into 16 Forms)

No.	Forms Identified To Be Merged	Form Identification No.	NLC Provisions (sections)	Purpose of Form	Proposed New Merged Identification No.
1.	9A, 9B, 9C, 12B, 12C, and 12D	7D	124A	Application for Variation of Conditions, Restrictions and Categories in respect of Proposed Subdivisional Portions of Land	12B
		9A	137	Application for Subdivision of Land	
		9B	142	Application to Partition Land	
		9C	148	Application for Amalgamations of Lands	
		12B	200	Application for Surrender of Land (Relating to the part of the land)	
		12C	203	Application for Surrender and Re-alienation	
		12D	204A	Application for Surrender and Re-alienation	
2.	10D and 11C	10D	168	Notice of Intention to Issue Title in Continuation (or New Issue of Document in lieu Thereof)	10D
		11C	187B	Notice of Intention to issue New Issue Document of Qualified Title	

No.	Forms Identified To Be Merged	Form Identification No.	NLC Provisions (sections)	Purpose of Form	Proposed New Merged Identification No.
3.	14A and 14B	14A	215,217 & 218	Transfer of Land, Share or Lease	14A
		14B	218	Transfer of Charge	
4.	15A and 15B	15A	221	Lease of Land	15A
		15B	222	Sub-Lease of Land	
5.	16A and 16B	16A	242	Charge (to secure payment of a principal sum)	16A
		16B	242	Charge (to secure payment of a periodic sum)	
6.	16F and 16I	16F	259	Certificate of Sale by Court	16F
		16I	272	Certificate for Sale by Land Administrator	
7.	16L and 16M	16L	276	Cancellation of Notice Entry into Possession (Form 16J)	16L
		16M	276	Cancellation of Notice Entry into Possession (Form 16J)	
8.	17A and 17B	17A	286	Grant of Easement	17A
		17B	286	Grant of Cross-Easements (In respect of a Party-Wall)	
9.	18A and 18B	18A	313	Application for Cancellation of Lease	18A
		18B	314	Application for Cancellation of Charge	
10.	19B, 19D and 19E	19B	323	Application for Entry of a Private Caveat	19B
		19D	330	Application for Entry of a Lien-Holder's Caveat	

No.	Forms Identified To Be Merged	Form Identification No.	NLC Provisions (sections)	Purpose of Form	Proposed New Merged Identification No.
		19E	333	Application for Entry of a Trust Caveat	
11.	19G and 19H	19G	325	Notice to Withdraw Private Caveat	19G
		19H	326	Application for Removal of Private Caveat	
12.	23A and 23B	23A	351	Notice of Reversion of Vesting of Land where Proprietor Had Died	23A
		23B	352	Notice of Reversion where title has been abandoned	
13.	28A and 28C	28A	390	Application for a Private Right-Of-Way	28A
		28C	394	Application to share in a Private Right-of-Way	
14.	30A and 30B	30A	415(1)(a)	Application for Registration of a Statutory Vesting of a Registered Interest in Land	30A
		30B	415(1)(b)	Application for Registration of a Statutory Vesting of a Registrable Interest in Land	

5.3.2 Forms To Be Repealed

Table A-4:

Forms To Be Repealed

(**Note:** Involving 10 Forms of the First Schedule, and all Forms in the Fourteenth Schedule and Fifteenth Schedule)

No.	Form Identification No.	NLC Provisions (sections)	Purpose of Form
1.	3A	60 and 61A	Notice of Objection to Intended State Works
2.	7C	124	Memorandum of Variation of Conditions, Restrictions and Categories
3.	10E	175A	Notice Relating to the Preparation of a Provisional RDT
4.	10F	175B(1)	Application for Registration of Proprietor of Land or Interest in Provisional RDT
5.	10G	175B(2)	Receipt for IDT
6.	10H	175D	Notice that the Provisional RDT is Open for Inspection
7.	10I	175E	Objection to an Entry or Omission thereof in the Provisional RDT
8.	13A	207	Heading and Schedule (For insertion in all Forms of Dealing)
9.	13B	211	Form of Attestation Clause
10.	28B	391	Memorial of A Land Administrator's Right of Way
11.	A	Fourteen Schedule	Verification of Document
12.	B1		Plan of the Land (Final Title)
13.	B2		Plan of the Land (Qualified Title)
14.	5BK		Grant
15.	5CK		State Lease
16.	5DK		Mukim Grant
17.	5EK		Mukim Lease
18.	11AK		Qualified Title Corresponding to Registry Title
19.	11BK		Qualified Title Corresponding to Land

No.	Form Identification No.	NLC Provisions (sections)	Purpose of Form
			Office Title
20.	1(B)A	Fifteenth Schedule	Transfer of Lien-holder's Caveat, Private Caveat or Prohibitory Order
21.	1(B)B		Certificate of Sale By Private Treaty

5.3.3 Forms To Be Retained

Table A-5:
Forms To Be Retained
(Note: Involving 50 Forms)

No.	Form Identification No.	NLC Provisions (sections)	Purpose of Form
1	2A	27	Notice of Enquiry
2	2B	15	Notice to Produce a Document
3	4A	67	Temporary Occupation Licence (General Form)
4	4B	69	Temporary Occupation Licence (Special Form)
5	4C	72	Permit to Remove Rock-Material
6	4D	75A	Permit for the Use of Air Space above State Land/Reserved Land
7	4E	63	Lease or Reserved Land
8	5A	81 and 82	Notice that Land Revenue is Due
9	5B	86	Grant
10	5C	86	State Lease
11	5D	87	Mukim Grant
12	5E	87	Mukim Lease
13	5F	90	Notice to Take out IDT
14	6A	97 and 98	Notice of Demand: Arrears of Rent
15	7A	128	Notice of Remedying a Breach of Condition
16	7B	129	Breach of Condition: Notice to Show Cause
18	7E	127(1A)(a)	Breach of Condition: Notice to Show Cause for Imposition of Fine

No.	Form Identification No.	NLC Provisions (sections)	Purpose of Form
19	7F	127(1c)	Continuing Breach of Conditions: Notice of Intention to Secure Remedy for Breach or to Enforce Forfeiture of the Land
20	7G	124	Notice that Payment is Due
21	8A	130	Notice of Reservation to the State
22	11A	177	Qualified Title Corresponding to Registry Title
23	11B	177	Qualified Title Corresponding to Land Office Title
24	12A	197	Application for Surrender of Land (Relating to the whole of the land)
25	14D	214A	Application for a Certificate of Approval of Transfer, Conveyance or Disposal of Estate Land
26	15C	239	Surrender of Lease
27	16C	247	Postponement of a Charge
28	16D	254	Notice of Default with Respect to a Charge
29	16E	255	Demand for Payment of a Principal Sum
30	16G	260	Application by Chargee for Order for Sale
31	16H	263	Order for Sale at the Instance of Chargee
32	16J	272	Notice of Entry into Possession: By Receiving Rents
33	16K	272	Notice of Entry into Possession: By Going into Occupation
34	16N	278	Discharge of Charge
35	16O	264A	Application for Postponement or Cancellation of an Order for Sale by Public Auction
36	16P	264A	Notice of *Postponement/Cancellation of A Sale by Public Auction
37	16Q	266A	Statement of Payment due in connection with Sale by Public Auction
38	17C	289	Release of Easement
39	19A	321	Notice of the Entry of a Caveat
40	19C	326	Notice of Intended Removal of Caveat
41	19F	320	Entry of Registrar's Caveat

No.	Form Identification No.	NLC Provisions (sections)	Purpose of Form
42	26A	379	Notice of Change of Address
3	29A	400	Notice to Attend Survey
44	29B	400	Summons to Give Information or Produce Documents
45	29C	401	Notice to Clear Lines for Survey
46	29D	398A	Notice to Produce Survey Documents
47	30D	416A(1) and (4)	Application for Reservation of State Land to be Recorded in favour of Applicant
48	30E	416A(2)	Notification of a Recording of a Statutory Vesting of a Reservation of Land
49	30F	416E(4)	Notification of the Preparation and Issue of a Fresh IDT/Document of Entitlement
50	30G	416E(6)	Notification of a Memorial on RDT of a Statutory Vesting of a Registered/Registrable Interest in Land
	34A	437	Presentation Book

5.3.4 Forms of the Sixteenth Schedule

Table A-6:

Form of 16th Schedule To Be Retain and Modify Format
(Note: Retain 12 forms and 4 Type of Plan)

No	Form Identification No.	Purpose of Form	Remark
1.	B1 _e	Plan of the Land (Final Title)	Retain and Modify Format
2.	B2 _e	Plan of the Land (Qualified Title)	Retain and Modify Format
3.	5B _e	Grant	Retain and Modify Format
4.	5C _e	State Lease	Retain and Modify Format
5.	5D _e	Mukim Grant	Retain and Modify Format
6.	5E _e	Mukim Lease	Retain and Modify Format

No	Form Identification No.	Purpose of Form	Remark
7.	11Ae	Qualified Title Corresponding to Registry Title	Retain and Modify Format
8.	11Be	Qualified Title Corresponding to Land Office Title	Retain and Modify Format
9.	4Ae	Temporary Occupation Licence (General Form)	Retain and Modify Format
10.	4Be	Temporary Occupation Licence (Special Form)	Retain and Modify Format
11.	4Ce	Permit to Remove Rock Material	Retain and Modify Format
12.	4De	Permit for The Use of Air Space above State Land/Reserved Land	Retain and Modify Format
13.	L1e	Plan of Temporary Occupation Licence	Retain and Modify Format
14.	L2e	Plan Of A Combined Temporary Occupation Licence and Permit for Removal of Rock Material	Retain and Modify Format
15.	P1e	Plan of Permit to Remove Rock Material	Retain and Modify Format
16.	P2e	Plan of Permit for the Use of Air Space Above State Land/Reserved Land	Retain and Modify Format

6. Incorporating The State Land Rules Forms Into the National Land Code 1965

- 6.1. Lists of Forms in the State Land Rules (SLR) to be incorporated into the National Land Code 1965 are:

Table A-7:
List of Forms under State Land Rules Proposed To Be
Included Into the National Land Code 1965

No.	Schedule	Form Identification No.	Rule of SLR	Section of NLC	Purpose of Form
1.	1	1	4(1)	76	Application for Alienation of State Land
2.	1	3	10	65	Application for Temporary Occupation Licence
3.	1	5	13	67(3)	Application for Renewal of

No.	Schedule	Form Identification No.	Rule of SLR	Section of NLC	Purpose of Form
					Temporary Occupation Licence
4.	1	6	17	71	Application for Permit to Extract and Remove Rock Material
5.	1	7	18	75(B)	Application for Permit to Use Air Space Above State Land/Reserved Land
6.	1	9	20(1)	75E	Application For Assignment Of Air Space Above State Land Or Reserved Land
7.	1	10	22(1)	427	Application for Grazing Permit
8.	1	12	23(1)	63(1)	Application for Lease of Reserved Land
9.	1	17	48(1)	-	Application for Variation of Conditions, Restrictions and Categories
10.	1	23	59 (b)	127(1A) (b)	Order Of A Fine By District Land Administrator
11.	-	-	-	76(e)	Application for consent from State Authority relating to restriction in interest of the land.

7. PROPOSED FEATURES OF THE ELECTRONIC STATUTORY FORMS

7.1 “IMPORTANT NOTICE”

7.1.1 A box with heading “IMPORTANT NOTICE” is inserted at the top of the Form as shown in Table A-8 below:

Table A-8: Important Notice

<p>IMPORTANT NOTICE</p> <p>The information contained in this instrument forms part of the public records available for inspection and search by members of the public upon payment of a fee. The information is collected and used for the purpose of maintaining the land register pursuant to National Land Code (Act 56 of 1965)</p>
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7.1.2 The insertion of this notification is intended to inform the users that the information contained in the Form will be considered as public record available for inspection payment of duty and public search. This is due to importance of safe keeping of the information to be maintained in the land registry as required by the National Land Code 1965. For example, this notification can be

incorporated in the Form used for issuance of Temporary Occupation Licences, Permits to extract rock materials and a Notice of Objection to Intended State Works (Form 3A).

7.2 Barcode

7.2.1 The Barcode is generated by the system and printed-out on the top right side of every page of the form upon:

- Online Submission; or
- Presentation of Registration of Dealings.

7.3 Online Submission Form

7.3.1 Online Submission is a submission of a document for registration of instruments of dealing or non-dealings in land via online application to the Registrar of Title's Office or the Land Office respectively. Users are instructed by the system to fill up the necessary details of information into the selected Form made accessible through Registrar of Title's Office or the Land Office's Website. However the online submission does not require any supporting documents to the accessible Form to be uploaded into the system. These supporting documents shall be manually furnished by hand or by post to the relevant Registrar of Title's Office or the Land Office in the State. The system will assign a Barcode reference number to the form. This Barcode number is called "Online Submission Barcode Number" which can be generated by the system on the printed online form; and it is **NOT** considered as an official Barcode Presentation Number of a Dealing or Non-Dealing in land as legally required by the National Land Code.

7.3.2 The Online Presentation Barcode Number will be printed out by the clerk upon receiving the required supporting documents that manually furnished by the users at the presentation counter of the relevant Registrar of Title's Office or the Land Office's. At this point, the clerk at the Presentation Counter will retrieve the information submitted earlier into the system by using the Barcode Reader.

7.3.3 The online submission form will only be officially processed if the information generated by the system is acceptable as legally fit for registration. If the submission is capable of being registered in the land title, the online system will print out the Presentation Barcode Number. In view of electronic land administration system, this Presentation Barcode Number is considered legally valid and applicable as the ordinary presentation number as may be defined by the provisions of the National Land Code 1965.

7.4 Heading of Form

7.4.1 The heading of the form is generally comprised of information relating to the form identification number, the provision of the National Land Code (NLC) in which it relates; the purpose of form is intended to be used and the standard size of font. The sample of this heading can be seen in Table A-9 below.

Table A-9: Title of Form.

National Land Code FORM 14 (Sections 215, 217, 218) TRANSFER OF LAND, SHARE, LEASE OR CHARGE

7.5 Stamp Duty

- 7.5.1 Where stamp duty is imposed for execution of land dealings, a special space is provided in the form to facilitate the applicant to insert the reference identification number issued by the Inland Revenue Department which represents the amount of stamp duty is duly paid. If the form is intended to be processed manually, the reference identification number of stamp duty duly paid is evidenced by affixing on the Form the official receipt of e-stamping system issued by the Authorized Stamp Duty Collector.

7.6 Information on Transferor/Chargor/Lessor/Sub-lessor/Owner/Caveator

- 7.6.1 Information on **Transferor/Chargor/Lessor/Sub-Lessor/Owner/Caveator** comprises the name, identification number and address. The name of the person or body is inserted into the space provided such as the MyCard identification number, the Corporation Number, or the Passport Number. The address of the person or body must be the address within Malaysia for ease of servicing of notice.

7.7 Table for Schedule of Land or Interests in Land

- 7.7.1 Table for schedule of land or interests in land as shown in Table A-10 below is placed in the form immediately after the space provided for the applicant's information. Unlike previous traditional forms, this table of schedule is placed at the first page of the form body as the material information about land or interests therein considered a prominent part of the form, and most important information to any land transaction by registration regime.

Table A-10: Table of Schedule

*Town/ Village/ Mukim	*Lot/ Parcel/L.O.No,	Title No.	Share of land (if any)	Registered Number of *Lease / Sublease (if any)	Registered Number of Charge (if any)

7.8 Space for Addressing the Consideration

- 7.8.1 A space for addressing the 'consideration' is provided in the form to facilitate the insertion of statement on valid causes of transactions affecting the land. This consideration could be emphasized in the form of monetary or non-monetary reasons as agreed by the parties involved as stipulated the form.

7.9 Space for Attestation

- 7.9.1 A space for ‘attestation’ is provided in the form to facilitate the insertion of information relating to name, identification, address and qualification of the Attestor (see Table A-11).

Table A-11: Attestation Table

Name	
Identification	
Address	
Qualification	

- 7.9.2 The Attestor is required to attest the followings:

- That the Transferor/s and Transferee/s executing the Form by handwriting signature or by affixing thumb print before him.
- That the information on the Transferor/s and Transferee/s entered in the document is correct and accurate.
- That the Transferor/s and Transferee/s had acknowledged to him that he/she is of full age and had voluntarily executed the instrument and understood the contents and the effect of the dealing.

- 7.9.2 The officer or other person attesting any execution of land transaction pursuant to provision of the National Land Code 1965 is required to verify and certify the transaction by attestation clause under his signature and seal (if any).

7.10 Heading for Administrative Forms

- 7.10.1 The administrative forms are the Forms prepared and issued by the Registrar of Title’s Office or the Land Office, as the case may be. In view of electronic environment, information in this Form is printed by electronic land administration system. The Form is required to be signed by the Registrar of Title or Land Administrator using Digital Signature. Example of the Form is shown in Table A-12.

Table A-12:
Heading for Administrative Form

National Land Code FORM 4Ae (Sixteenth Schedule) TEMPORARY OCCUPATION LICENCE (Administrative Form)

7.11 Fees

- 7.11. A space is provided in the Form to facilitate applicant to fill up the information relating the amount of fees payable in respect of application made. The information on Register of Fees is determined by the State Land Rules and it may be accessible through websites of the State Director of Lands and Mines Office and electronic land administration system.

7.12 Identification of Electronic Forms

- 7.12.1 Under the Sixteenth Schedule of the National Land Code 1965, the electronic identification of the forms can be set out as Forms 5B_e, 5C_e, 5D_e, 5E_e, 11A_e and 11B_e respectively, where 'e' stands for 'electronic environment' generated by the system. Changes to these Forms are allowable to be made by altering the heading of the form, and inserting the Barcode on each form for Computerized Issue Document of Title (CIDT). The Computerized Register Document of Title (CRDT) does not need for a Barcode due to CRDT is not printed out. The Barcode in the CIDT is derived from the Barcode which is virtually registered with CRDT stored in the land database.

7.13 Forms for Plan of the land

- 7.13.1 Table A-13 below shows the list of forms for plan of the land which is usually attached to land title.

Table A-13:
Forms for Plan of the land in the Sixteenth Schedule

Form	Purpose
B1 _e	Plan of the Land (Final Title)
B2 _e	Plan of the Land (Qualified Title)
L1 _e	Plan of Temporary Occupation Licence
L2 _e	Plan Of A Combined Temporary Occupation Licence and Permit for Removal of Rock Material
P1 _e	Plan of Permit to Remove Rock Material

Form	Purpose
P2e	Plan of Permit for the Use of Air Space Above State Land/Reserved Land

7.13.2 Changes to the Form can be made by altering the heading of the Form and by inserting the Barcode on each page of the Form.

7.14 “Delete as appropriate”

7.14.1 A note for ‘Delete as appropriate’ with an asterisk (*) as shown in Table A-14 is associated in the Forms for providing guidance to the users to select an appropriate option as to whether ‘to strike off’ or ‘not to strike off’ of the particular statement of conditions embodied in the form. In electronic system operated in land Registry, only appropriate statements will appear in the Forms upon printout. In the event of failure to select any option relating to it in which it is supposed to be ‘strike off’, all relevant statement of conditions will appear on the screen and also the printout.

Table A-14:
Schedule of Land and Interest

SCHEDULE OF LAND *AND INTEREST					
*Town/ Village/ Mukim	*Lot/ Parcel/L.O.No,	Title No.	Share of land (if any)	Registered Number of *Lease / Sublease (if any)	Registered Number of Charge (if any)

**Delete as appropriate.*

7.14.2 For instance, upon completing of Form 14A, the following statements are accessible in the Form for the user to select;

- (i) “Transfers to the transferee named below, the *land described in the schedule...”

If the word “share/charge/or lease” is strike off (deleted as appropriate) by the transferor, it would means that the transferor agreed to transfer his land to the transferee and all such title is vested in Transferee.

- (ii) “Transfers to the transferee named below, the *lease described in the schedule...”

If the word “land/share/charge” is strike off (deleted as appropriate) by the transferor, it would means that the transferor agreed to transfer his interest by lease in land to the transferee and all such lease registered in the said land is vested in Transferee.

7.14.4 As example in Table A-15 below, the user must decide to select either:

- SCHEDULE OF LAND or AND INTEREST
- Town or Village or Mukim
- Lot or Parcel or L.O.No.
- Registered Number of Lease or Sublease (if any),and
- Thereafter key-in the correct information into the specific column provided in the form. Upon printing it out through the system, the Schedule will then produce accurate information if appropriate option is selected.

Table A-15: Schedule of Land
(generated by the system)

Town	Lot	Title No.	Share of land (if any)	Registered Number of Lease	Registered Number of Charge (if any)
Alor Setar	1234	6789	1/2	1234/2010	2345/2010

8. EXAMPLES OF PROPOSED NEW STATUTORY FORMS

- 8.1: Example of the consolidated Form 7D, 9A, 9B, 9C, 12B, 12C, and Form 12D into a new Form 12E in respect of application for re-establishment of land boundaries.

IMPORTANT NOTICE

The information contained in this instrument forms part of the public records available for inspection and search by members of the public upon payment of a fee. The information is collected and used for the purpose of maintaining the land register pursuant to National Land Code (Act 56 of 1965)

Dated this.....day of.....,20.....

.....
Registrar/Land Administrator
State/District

National Land Code
FORM 12E

BAR CODE

APPLICATION FOR RE-ESTABLISHMENT OF LAND BOUNDARIES

Fees: RM

Applicant:

Name		Here specify Name of person or body Here specify My Card No/Corporation Reg. No/Pass. No
Identification		
Address		Within Malaysia for service of notice

Hereby apply for approval of re-establishment the boundaries of these lots on the terms that the land comprised therein be immediately re-allocated to me under qualified title or final title in the different units, shown on the attached plan. In the said plan the boundaries of the existing lots as scheduled are shown in black and the boundaries of the proposed new units, where different from the old, are shown in red as in the schedule below:

SCHEDULE

*Town/Village/ Mukim	*Lot/Parcel/ L.O. No	Description and No. of Title	Area

Here specify particulars of the land

*I/We now submit –

A letter of consent from each of the following is received:	(i) (ii) (iii)
*the issue document of title to the title	
*a copy of the my request to *charge/lien holder to produce the issue document of title to the land at the Land Office	
* Rent for the current year paid	<i>Receipt No:</i>
*the sworn statement in respect of unavailability of IDT	(i) (ii) (iii)

*I / We hereby declare that, as shown on the attached plan, a satisfactory means of access to each portion (other than any portion from which there will be direct access to a road, a river, a part of the foreshore or a railway station, or to a point within the land from which such a means of access is capable of being obtained by application for a Land Administrator's right-of-way) is to be provided –

- * (i) over land which is to be treated as surrendered to the State Authority.
- * (ii) by a right of way to be declared by the Land Administrator.
- * (iii) by private road to which a separate title is to be issued;

*With respect to the land to be treated as surrendered in accordance with the paragraph above I/we hereby undertake to make up a road to the standard specified by the State Authority.

*With respect to the land to be treated for the use of public purpose shown in the attached plan is duly surrendered to the State Authority.

		-			-				
(dd)			(mm)						

BAR CODE

- Dated this

.....
Proprietor.

 * Delete as appropriate

8.2: Simplified Form 14A in respect of transfer of land, share or lease for electronic use under the Sixteenth Schedule of the National Land Code 1965.

IMPORTANT NOTICE

The information contained in this instrument forms part of the public records available for inspection and search by members of the public upon payment of a fee. The information is collected and used for the purpose of maintaining the land register pursuant to National Land Code (Act 56 of 1965)

Dated this.....day of.....,20.....

.....
Registrar/Land Administrator
State/District

National Land Code

FORM 14A

(Section 215, 217, 218)

TRANSFER OF LAND, SHARE, LEASE OR CHARGE

BAR CODE

STAMP DUTY

--

Certified
Identification
no. of Payment
of stamp duty

TRANSFEROR/S:

Name	
Identification	
Address	

Here insert
Name of
person or body

Here insert
My Card
No./Corporation
Reg. No/Pass. No

Here insert
address within
Malaysia for
service of notice

Hereby transfer the said title or interest as is vested in me in the schedule below:

SCHEDULE

*Town/ Village/ Mukim	*Lot/ Parcel/L.O.No,	Title No.	Share of land (if any)	Registered Number of *Lease / Sublease (if any)	Registered Number of charge (if any)

***IN CONSIDERATION / FOR NO CONSIDERATION:**

--

Here specify the
consideration and
from whom it moves

TRANSFeree/S:

Name	
Identification	

Here insert
Name of person
or body

Here insert
My Card
No./Corporation
Reg. No/Pass. No

Address	
---------	--

} Here insert address within Malaysia for service of notice

The Transferor transfers the said *land/share/charge/ or lease described in the schedule to the Transferee for the *consideration/ no consideration and in the case of monetary consideration acknowledges receipt thereof from the Transferee. The Transferor declares that the information in the Transferor column is true and correct. The Transferee declares that the information in the Transferee column is true and correct.

BAR CODE

.....
Signature of Transferor/s

.....
Signature of Transferee/s

Dated this

--	--

 -

--	--

 -

--	--	--	--

(dd) (mm)

ATTESTATION

NAME	
QUALIFICATION	

} Here specify the Qualification of Attestor

Hereby testify the information of the Transferor in this document is correct for the execution of this purpose of the National Land Code 1965 and has acknowledged to me that he/she is of full age, has voluntarily executed this instrument and understands the contents and the effect thereof.

.....
Attestor

Dated this

--	--

 -

--	--

 -

--	--	--	--

(dd) (mm)

*Delete as appropriate.

9. Conclusion

- 9.1 It is the intention of this review to propose the standardized format for the statutory Forms to be made accessible by using electronic means for all various business areas in the land administration system. Upon operating the electronic land administration system in land Registry, the applicants or general public, businesses and all other users are guided by the system to select the type of business area as required; and accordingly complete the Form systematically; and validate the Form seamlessly in which it contains all relevant inputs in logical sequence. Interactive signposts and updated User Guidelines (Guidance Notes) will be provided in a plain English language and Bahasa Malaysia to assist the Users to navigate the website for accessing and completing the Form electronically.
- 9.2 This approach is aimed at creating and offering user friendly services in land administration system. The electronic Forms will comprise of the following principal features:
- Customer-friendly interactive approach where answers to specific questions will generate a personalized Form.
 - Option to view and print blank and completed Forms in Adobe Portable Document Format (PDF) using Acrobat software (which is free from Adobe)
 - Facility to Save information keyed in and able to retrieve at later time
 - Facility to enter postcode for address conversion
 - Checklist to ensure inclusion of necessary documentation (including fees statement)
 - Identification and attachment of supporting information
 - Mandatory completion fields to ensure that the application contains sufficient information
- 9.3 The applicant will be able to complete and submit the standard electronic Form by adopting several different methods. The methods to be made available are by downloading Forms and printing the same to be completed and submitted manually; or to complete the Form online and to print the Form and submit manually; or the most efficient method is for the Form to be completed and submitted using online facilities. The statutory Form made available online is required to comply with the electronic Government Interoperability Framework standards that define the technical policies and specifications governing collection and sharing of information between various government agencies and the public sector including the availability of such information as public documents.

**PROPOSED CERTIFICATE OF CORRECTNESS IN THE NATIONAL
LAND CODE 1965**

Figure B-1: Sample Certificate of Correctness

<p style="text-align: center;"><u>CERTIFICATE OF CORRECTNESS</u></p> <p>I, the solicitor for the Transferor hereby certify that this instrument is correct for the purposes of the National Land Code 1965 and that I hold a practising certificate which is in force as at the date of the instrument.</p> <p style="text-align: center;">_____ NAME & SIGNATURE OF SOLICITOR FOR THE TRANSFEROR</p> <p>I, the solicitor for the Transferee hereby certify that this instrument is correct for the purposes of the National Land Code 1965 and that I hold a practising certificate which is in force as at the date of the instrument.</p> <p style="text-align: center;">_____ NAME & SIGNATURE OF SOLICITOR FOR THE TRANSFEE</p>

SAMPLE FORMAT FOR PUBLIC/RESPONDENTS FEEDBACKS AND COMMENTS

Director,
 Research and Development Section,
 Department of Director General of Lands and Mines,
 Ministry of Natural Resources and Environment,
 Level 4, Wisma Sumber Asli,
 No.25, Persiaran Perdana, Presint 4,
 62574 Putrajaya
 (e-mail: nlcreview@kptg.gov.my)

Review of Statutory Forms for Creating User Friendly and Electronically Compatible Use
ISSUE 1 : The Statutory Forms prescribed in the Schedules to the National Land Code 1965 are not easy to use, out-dated and does not meet the requirements for electronic environment of land administration system.
QUESTIONS
<p><u>Question 1:</u></p> <p>In your view, what are the appropriate suggestions and input relating to the statutory Forms used in the State Land Registry/District Land Office that could be adopted for use at national level to create uniformity of practices and improving efficiency of delivery system?</p>
COMMENTS

RESPONDENT NAME :
 CONTACT NUMBER :
 E-MAIL :

